

COUNCIL
11 July 2019

***PART 1 – PUBLIC DOCUMENT**

TITLE OF REPORT: MEMBERS' ALLOWANCES SCHEME 2019/20 – IN YEAR AMENDMENT OF LEADER / EXECUTIVE MEMBERS SPECIAL RESPONSIBILITIES ALLOWANCES

REPORT OF THE SERVICE DIRECTOR: LEGAL AND COMMUNITY
EXECUTIVE MEMBER: LEADER OF THE COUNCIL

1. EXECUTIVE SUMMARY

- 1.1 To undertake an in-year review of Cabinet Special Responsibilities Allowances, within the Members' Allowances Scheme (the Scheme), so that these are reduced in line with Appendix B (showing tracked changes) and that this reduction is applied retrospectively from 22 May 2019 for the Leader and Executive Members.

2. RECOMMENDATIONS

- 2.1. That the Council agrees the amendments to the Scheme as set out in Appendix B;
- 2.2. That Council considers whether to apply the amendment to the Leader/ Executive Members retrospectively from 22 May 2019 until this amendment approval date.

3. REASONS FOR RECOMMENDATIONS

- 3.1 To meet the request of the Leader and new administration, so that there is no additional cost from moving back to having 7 Executive Members.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1. None, given the request was made at Annual Council on 21 May, for this matter to be brought back to Full Council for consideration.

5. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS

- 5.1. The Leader and administration have been consulted in terms of requesting that this particular issue be addressed again by Council.
- 5.2. Since the 2019/20 Scheme was approved in November 2018, a new Panel has been appointed¹. The Panel was provided with a copy of this report to consider whether they had any additional recommendations regarding the proposals. On 26 June the Panel confirmed that they had no fundamental objections to the SRAs being reduced as

¹ [Delegated Decision 5 February 2019](#)

proposed in 8.3 for the current year i.e. 22 May 2019-31 March 2020. It was, however, pointed out that in undertaking the ongoing review, they:

“.. will look at the SRA levels for 2020/21 and compare the levels paid by other similar councils for similar degrees of responsibility. Consideration will be given to setting the SRAs at a level that ensures they are neither excessive nor a disincentive to future candidates. We are also mindful that councillors have the right to reject part or all of their allowance.”

5.3. No other consultation has taken place.

6. FORWARD PLAN

6.1 This report does not contain a recommendation on an Executive key decision and has therefore 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 ('IRP') (Regulation 19). The Regulations state that before the beginning of each year the authority shall make a Scheme of basic and other prescribed Member's Allowances². This Scheme was approved by the Membership at Full Council on 22 November 2018 for 2019/20³.

7.2. Amendments may, however, be made in-year under the legislation⁴, so long as Members have regard to the recommendations of the IRP. The last time the Panel considered and made recommendations was in 2016 for 2017/18. Therefore Members should consider the report at Appendix A when determining this matter [and any made by the current Panel].

8. RELEVANT CONSIDERATIONS

Level of Leader/ Executive Special Responsibility Allowances ('SRAs')

8.1. In simple terms the Membership will note from the IRP report, that the following SRAs were recommended:

- **Leader: £15,000** (recommendation 7.6 page 3)
- **Deputy Leader: £1,500** (recommendation 8.3 page 3)
- **Cabinet – 7 Executive Members : £7,000 each** (recommendation 9.3 page 3)

8.2. This means that the budget allocation for Executive Member SRAs is £49,000. When this was reviewed for 2019/20, the Cabinet was reduced to the Leader and 6 Executive Members, but the allowance remained at £7,000 per Executive Member. This meant that the total cost of SRAs for Executive Members reduced to £42,000. The 'additional' £7,000 remained in the budget.

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

³ [CLICK HERE for report 22.11.18](#); [CLICK HERE for Council page with resolution/ minutes 22.11.18](#)

⁴ Regulation 10(3)

8.3. The request from the administration is that this is now set as follows for 22 May 2019-31 March 2020:

- **Leader: £14,000**
- **Deputy Leader: £1,500**
- **Cabinet – 7 Executive Members : £6000 each**

This means that the cost of SRAs for Executive Members continues to be £42,000, a saving of £7,000 against the budget for 2019/20.

8.4. In terms of the SRA reduction being retrospective, the legislation provides the ability to amend the scheme in-year, and that this 'may' be retrospective – albeit, it is normally to the 'beginning of the year' and ordinarily would be an increase based on an IRP recommendation. In this situation it would be unreasonable to back-date the reduction to 1 April – 21 May 2019. If approved, this would apply to the Leader and Executive Members from 22 May 2019 (effective first day post appointment) and the monies already paid, which were over and above the new allowances, will effectively be clawed back.

8.5. *It is not proposed that any other allowances are amended at this stage*, although the Membership will note:

- the changes to the Opposition group and Second largest Opposition have been updated to reflect the election results (this is just a factual update in line with the provision);
- the deletion of the paragraph under section 10 (re registration with the Information Commissioner's Office, which is no longer relevant);
- that subsistence rates (section 12) are now those in line with *HMRC*, not *NJC*; and
- that the IRP Panel has commenced its review, with the intention that the IRP recommendations report for 2020/21 comes to January's Full Council meeting. This will cover a number of factors, including the issue of indexation.

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)).

9.2. Regulation 10(6) provides:

"(6) Where an amendment is to be made which affects an allowance payable for the year in which the amendment is made, the scheme may provide for the entitlement to such allowance as amended to apply with effect from the beginning of the year in which the amendment is made."

Taking an interpretative approach, given this is to reduce an allowance, and the use of the word 'may' it would be acceptable to agree to reduce such allowances from the first new administration/ Executive appointment date of 22 May 2019. It would be unreasonable to apply this before that date, given the legal options the individual Members have under 9.3 below.

- 9.3. The alternative to this applying retrospectively would be for the Leader and individual Executive Members to elect to forgo £1,000 (pro-rated for the relevant period) from their allowances from 22 May until any approved amendment, as per their right under Regulation 13.
- 9.4. The adopted amended Scheme would have to be published in one or more newspapers "circulating" in the District area under Regulation 16.
- 9.5. 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 Leader (to cover the fact that this is now based on 22 Members at a rate of £250) i.e. a base budget of £341,350. Whilst there has been a saving against the SRAs mentioned, it is not currently recommended that the Budget is reduced at this stage.
- 10.2 The Scheme will have to be advertised in one or more local papers at a cost in the region of £200-400.

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 There are no other relevant equalities implications to this report.

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. The Committee, Member and Scrutiny Services process Councillors' allowances.

15. APPENDICES

- 15.1. App A Report of IRP Panel for 2017/18 Allowances
15.2. Appendix B – Amended Scheme with tracked changes.

16. CONTACT OFFICERS

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17. BACKGROUND PAPERS

- 17.1 Previous report to Full Council 22 November 2018: <https://democracy.north-herts.gov.uk/ieListDocuments.aspx?CId=136&MId=2010&Ver=4>