

Report to the Council

Committee: Independent Remuneration Panel

Date: 20 February 2014

Members of the Panel: D Jackman, Ms R Kelly and S Lye

MEMBERS' ALLOWANCES SCHEME REVIEW

Recommendations:

Basic Allowance

- (1) That no change be made to the amount of Basic Allowance of £4300 per member per annum currently included in the adopted Members' Allowances Scheme;

Implementation

- (2) That the level of implementation of the Basic Allowance for 2014/15 be increased from £3,150 per member per annum to £3,400 by discontinuing the IT Connectivity Allowance of £250 per member per annum and incorporating that amount in the Basic Allowance;
- (3) That, subject to adoption of (2) above, the level of implementation of the Basic Allowance be further increased from £3,400 to £3,435 to meet the cost of a member registering as a Data Controller with the Information Commissioner and members be reminded of the requirements for registration and the risks of not registering (thereby increasing the level of implementation from 73% to 80% of the full amount at "zero" cost ;
- (4) That in formulating future budgets the Council considers increasing further the level of implementation of the Basic Allowance to achieve payment of the full amount of £4,300 in the adopted Members' Allowances Scheme by either:
 - (a) increasing the level of implementation to the full amount in 2015/16; or
 - (b) phasing an increase in the level of implementation to approximately 90% (£3,870 per member) in 2015/16 and 100% (£4,300 per member) in 2016/17;

Special Responsibility Allowances

- (5) That no change be made to the current amounts of Special Responsibility Allowances;
- (6) That the Panel give further consideration to the amount of the Special Responsibility Allowance for the Chairman of the Standards Committee if the workload for that position increases from the current level;

Independent Persons – Standards Regime

- (7) That, although not part of the Members' Allowances Scheme, the Independent Persons appointed by the Council as part of its standards arrangements continue to be paid an allowance of £250 per member per annum in 2014/15;

- (8) That the Panel give further consideration to this allowance if the workload for the position increases from the current level or, if and when, the Council changes the number of Independent Persons;

Connectivity Allowance

- (9) That, subject to adoption of (2) above, the IT Connectivity Allowance be discontinued with effect from 1 April 2014;

Travel Outside of the District

- (10) That no change be made to the Members' Allowances Scheme regarding the restrictions placed on the amount that can be claimed for travel outside of the District;

HMRC Requirements

- (11) That the Members' Allowances Scheme and Guidance Note be amended to reflect the requirements of HMRC in relation to the treatment of mileage and subsistence for taxation and National Insurance purposes;
- (12) That the attention of members be drawn to their ability to challenge the HMRC requirements;

Pensions

- (13) That the Members' Allowances Scheme be amended to reflect the current entitlement of councillors to join the Local Government Pension Scheme and the Government's intention to discontinue the entitlement of councillors to join the Scheme after 1 April 2014 with existing subscribers' accrued rights protected;

Revised Scheme and Guidance Note

- (14) That, subject to the adoption of the above recommendations, the amended Members' Allowances Scheme and Guidance Note attached as an Appendix to this report incorporating changes indicated in bold type and underlined be adopted.

Current Members' Allowances Scheme

1. We have undertaken our annual review of the Members' Allowances Scheme. As part of our review we asked the officers to place an item in the Council Bulletin inviting councillors to raise issues/concerns about the current Scheme. Three responses were received and we invited those members to a meeting to give them an opportunity to expand on the submissions they had made. At the subsequent meeting a fourth member was also in attendance.

2. We would like to take this opportunity to thank those members for their submissions and attendance at the meeting at which we had a lively and very useful discussion. We have taken account of the submissions made in formulating our recommendations.

Basic Allowance

3. In the light of our meeting with councillors we believe there is a need to clarify our views on the amount of Basic Allowance. Originally several years ago, we recommended and the Council adopted our recommendation for a Basic Allowance of £4,300 per member per annum. However, the Council decided at that time not to implement payment of the full amount and to restrict it to £3,150 per member per annum. As a result, for several years, mindful that this Council's payments were one of the lowest in the country we have encouraged the Council to implement payment of the full amount. However, the Council has decided not to do so.

4. In undertaking this review we have not reviewed the amount of £4,300 per member per annum as there seemed little point in doing so whilst actual payments of £3,150 are being made. However, we have not changed our stance and are still of the view that the full amount of £4,300 should be paid although we accept the Council for political reasons and possible public reaction might find this difficult.

5. In the light of the Council's consistent stance over the years, in undertaking the current review we were initially not minded to repeat our recommendation about implementation of the full amount. However, as a result of the views expressed by councillors at our meeting with them we have revisited this issue.

6. The councillors who attended our meeting expressed support for the discontinuance of the IT Connectivity Allowance of £250 per member per annum taking account of the fact that the vast majority of councillors now have their own access to electronic means of communication and any new members are likely to have such access. The councillors also expressed support for integrating the Connectivity Allowance into the Basic Allowance so as to secure an increased level of implementation with little or no effect on the budget. We understand that of the current 57 members only six have not undertaken the training which triggers payment of the Connectivity Allowance.

7. Last year the Council adopted our recommendation to reduce the amount of the Connectivity Allowance to £250 per member per annum from the previous allowance of £500 in the first year of office and £250 in subsequent years. The Council also adopted our recommendation that the allowance be reviewed again if and when the law allows replacement of paper agenda, reports etc. with electronic tablets. The law has not changed and there seems little likelihood of this being achieved in the near future. Although we did not anticipate reviewing this allowance this year we have done so in view of the submissions made to us by councillors and we are recommending that the level of implementation of the Basic Allowance for 2014/15 be increased from £3,150 per member per annum to £3,400 by discontinuing the IT Connectivity Allowance of £250 per member per annum and incorporating that amount in the Basic Allowance.

8. Our attention has been drawn to the requirements for councillors to register with the Information Commissioner as Data Controllers under the provisions of the Data Protection Act 1998.

9. The requirement for notification relates to any personal information that members hold and process in relation to their constituency casework, which relates to living individuals. Constituency casework includes member activities such as:

- maintenance of constituents' complaints and enquiries;

- details of follow up action and outcomes; and
- case details where the councillor is acting as an agent/intermediary.

10. These activities fall outside of the data processing undertaken by the Council, and are not therefore covered by the authority's own notification as a data controller.

11. The Data Protection Act regulates the holding and processing of personal information. Organisations or individuals that obtain or process personal information covered by the Act may need to notify the Information Commissioner about such processing, following which a description of processing activities is placed on a public register of notifications. Data controllers must also comply with the data protection principles of the Act, which form a framework for the proper handling of personal information. Individuals whose personal data is held or processed have rights under the Act, for example, to a copy of the information held about them.

12. We have been advised that it is a matter for each member to determine whether they should notify as a data controller. Members should therefore consider what personal information they hold and process in relation to their own constituency casework and, if necessary, submit formal notification to the Information Commissioner.

13. We have also been advised that currently only 10 District Councillors have registered with the Information Commissioner. Officers are of the view that the majority of members should be registering and in an attempt to encourage registration it was suggested that we consider this issue from an allowances point of view. It is known that many other authorities meet the cost of registering members by either having a separate budget for this purpose or making allowance for it in setting the level of the Basic Allowance.

14. The registration fee is £35 per annum. Having regard to the comparatively small sum involved we are recommending that the level of implementation of the Basic Allowance be increased by a further £35 to £3,435 per member per annum. If the Council adopts this recommendation we suggest that members be reminded of the requirements for registration and the risks of not registering.

15. Although our recommendations will result in a limited increase in the level of implementation we remain of the view that the Council should be moving towards full implementation of the Basic Allowance of £4,300 per member per annum. In formulating future budgets we are recommending the Council to take alternative approaches to achieve this level:

- (a) increasing the level of implementation to the full amount in 2015/16; or
- (b) phasing an increase in the level of implementation to approximately 90% (£3,870 per member) in 2015/16 and 100% (£4,300 per member) in 2016/17.

16. At our meeting with councillors we discussed again the possibility of withholding part of the Basic Allowance pending a member completing the "mandatory" training required to fulfil certain functions, eg. planning, licensing. We understand that the council may shortly be giving consideration to ways of achieving the necessary training and, if necessary, we will give this matter further consideration at our next review.

Special Responsibility Allowances

17. We have given further consideration to the Special Responsibility Allowance for the Chairman of the Standards Committee as the new standards regime was in its infancy when we recommended an allowance of £500 per annum last year.

18. We understand that during the last year the role of the Chairman of the Standards Committee has in the main been chairing meetings of that Committee. As we have not been able to identify any increase in responsibility we see no reason to recommend any change in this allowance at this time. However, we will review the position in future years if there is an increase in workload.

19. We have not undertaken a review of other Special Responsibility Allowances as we understand that there has been no change in responsibilities since our last review.

Independent Persons on the Standards Committee

20. As Independent Persons on the Standards Committee are not members of the Council or of its committees or sub-committees, any remuneration falls outside of the Council's Members' Allowances Scheme. However, in order to assist the Council in determining an appropriate payment we were asked last year to consider the matter and make a recommendation to the Council.

21. At that time we found it difficult to determine the extent of this role pending the new standards arrangements being in operation for a reasonable period. However, having regard to the expected role and the number of Independent Persons appointed by the Council we recommended and the Council adopted a payment of £250 per Independent Person per annum.

22. We have been informed that the role of Independent Persons has been attendance at meetings of the Standards Committee and being consulted by the Monitoring Officer about complaints made about District, Town and Parish councillors. We have concluded, having regard to the limited number of hearings into complaints held since the new arrangements came into being that the role has not differed from the position when we last considered the matter. We are not recommending any change in this allowance and are suggesting that it be reviewed again if the workload for the position increases from the current level or, if and when, the Council changes the number of Independent Persons.

Travel Outside of the District

23. We have received further representations about the requirements of the adopted Scheme for travel outside of the District. Members may reclaim reasonable travel expenses (including rates for car travel, public transport tickets, taxi fares, parking costs where appropriate subject to submission of evidence of expenditure) in respect of approved duties.

24. In relation to travel outside of the District the adopted Scheme imposes a limit on the amount claimable. For journeys to approved meetings outside the District or by members resident outside the District, claims irrespective of mode of travel may not exceed the lower of:

(a) rail fare plus underground and other fares from station to destination at each end of the journey; or

(b) the appropriate car mileage.

25. We have discussed this issue previously and in our experience it is a common feature of expense payment schemes in both the public and private sector. **In order to avoid any misunderstanding we would emphasise to members that the Scheme does not prevent them from travelling by car by choice. The Scheme merely caps the cost to the public purse of any travel to what is reasonable bearing in mind that mileage allowances incorporate significant sums for standing charges eg. road tax, insurance, depreciation, and that claiming a mileage allowance could be viewed as profiteering.**

26. We remain of the view that there is no need to change this part of the Scheme.

HMRC Requirements

27. We were advised that in March 2013, the Council had hosted one of its regular inspections by HMRC of its payroll arrangements. The inspection had reflected HMRC's particular interest in taxation arrangements and had covered payroll arrangements for both Council employees and elected members.

28. We understand that following the inspection HMRC issued directions to the Council on how travelling and subsistence allowances were to be treated for tax and national insurance purposes. The directions were:

(a) all future taxable and non-taxable travel expenses should be reimbursed through the payroll system;

(b) the Council should differentiate between taxable and non-taxable travel expenses;

(c) deductions for tax and national insurance should apply to councillors' home to work journeys;

(d) deductions for tax/NI would not apply to business mileage incurred by councillors if the rate claimed did not exceed 45p per mile;

(e) for the purposes of (c), councillors' workplace was deemed to be the Civic Offices; and

(f) for the purposes of (d), business mileage applied to journeys undertaken from home to other venues and return in connection with Council business.

29. We are proposing amendments to the Remuneration Scheme and the Guidance Note to reflect the requirements of HMRC. We are aware that some councillors believe the HMRC ruling is flawed and that their home and not the Civic Offices is their place of work. We wish to point out to those councillors the ability for individuals to challenge the ruling with HMRC if they can provide evidence and details of expenditure to support their claim. From the Council's point of view it is clear that if the Council fails to subject the home to office mileage payment to PAYE, the Council rather than the councillor will be liable for the tax and National Insurance contributions.

Councillors' Pensions

30. We are also proposing wording amendments to the Scheme to reflect the current entitlement of councillors to join the Local Government Pension Scheme and the Government's intention to discontinue the entitlement of councillors to join the Scheme from

1 April 2014 with existing subscribers' accrued rights protected. Whilst this seems certain at the time of preparation of our report the necessary regulations had not been laid before Parliament.

Recommendations

31. We recommend as set out at the commencement of this report.