



Full Council
18 May 2009

Report from the Borough Solicitor

For Action/Information

Wards Affected:
None

The Members' Allowance Scheme

1.0 Summary

- 1.1 This report sets out recommended changes to the Brent Members' Allowance Scheme.

2.0 Recommendations

- 2.1 Agree that the following changes to the Brent Members' Allowance scheme should take effect from 1 June 2009;
- 2.1.1 remove the allowance for the Vice Chair of Planning Committee.
- 2.1.2 increase the number of allowances for the independent members of the Standards Committee to three.
- 2.1.3 reduce the allowance for Chair of General Purposes Committee from £6,102 to £2,092.
- 2.2 Note that there are other changes to the Members' Allowance scheme discussed in the report which the Political Groups will be consulted on before a further report is brought to the Council later this year

3.0 Detail

Introduction

- 3.1 The Constitutional Working Group (CWG) conducted a review of

Meeting
Date

Version no.
Date

allowances which was never fully completed. An interim report was presented to the Council in May 2007 by the Borough Solicitor but it was always intended that another report would be presented following further consideration of the issues by CWG.

- 3.2 However CWG has not met since May 2007 and a review of the allowances scheme was part of the Council's Corporate Governance Action Plan for 2008.
- 3.3 Following that review the Borough Solicitor proposes that a number of non controversial amendments be made to the existing scheme and it is recommended that these take effect from 1 June 2009.
- 3.4 This report also discusses other allowances which in the Borough Solicitor's view should be considered for amendment. Members will be consulted on these further changes and a further report made to Council following that consultation.

The Legislative Framework

- 3.5 The legal framework for members' allowances is established by section 18 of the Local Government and Housing Act 1989 and governed by the Local Government (Members' Allowances) (England) Regulations 2003.
- 3.6 Every local authority must have a scheme providing for payment of a basic allowance of the same amount to every councillor. A scheme may also provide for special responsibility allowances to be paid to councillors for certain types of roles specified in regulations and described in the scheme.
- 3.7 The amount of each special responsibility allowance need not be the same for each identified category of responsibility but can vary depending upon the demands of the particular role, e.g. not all committee chair posts need attract the same allowance. Further, no ceiling is imposed on the amount of basic or special allowances but they need to be reasonable in the context of the nature of the responsibilities involved.
- 3.8 Allowances schemes can be amended at any time but may normally only be revoked with effect from the start of a financial year. Whether changes amount to a revocation or are just an amendment is a question of fact and degree but the changes recommended in this report are considered to be amendments to an existing scheme rather than a revocation of the scheme. Any new or amended scheme must be published in the local press together with details of the recommendations of the Independent Panel and certain other specified information.

- 3.9 The Brent scheme provides that no member shall be paid more than one Special Responsibility allowance. Although this is not a statutory requirement of the scheme it is recommended by the Independent Panel and officers also recommend that this provision be retained.

The Independent Panel

- 3.10 Since 4th May 2001 local authorities have had to have regard to the recommendations of an independent remuneration panel in respect of the allowances payable to their Members when making or amending an allowances scheme. The Regulations provide for London Councils to establish an Independent Remuneration Panel to make recommendations to London borough councils on their allowances schemes. The Council decided some time ago to adopt this panel as its independent remuneration panel.
- 3.11 Officers have in the past resisted any requests for further independent reports because the Independent Remuneration Panel already provides an independent analysis of allowances across London and the Council by and large follows their recommendations in relation to banding if not the levels of the allowances.
- 3.12 Members will already be aware that the Brent allowances are generally lower than the average across London and lower than that recommended by the Independent Remuneration Panel. For example the Independent Remuneration Panel recommends the package for the leader should be £61,155 and at Brent the package is £42,768.
- 3.13 Another independent report will incur further cost and is likely to simply highlight these differences again. Members would still have to consider the report and adopt any recommendations of the report in the same way as with the Independent Remuneration Panel.
- 3.14 The most recent Independent Remuneration Panel Report ('IPR') was published in December 2006 and the next is not expected to be until May 2010 at the earliest. The summary of the IPR is attached to this report at **Appendix 1**. The recommendations contained in that report must be taken into account by members when determining the Members' Allowances Scheme or amendments to it but the recommendations do not have to be adopted in their entirety. They are an important guide for members but should not be regarded as a rule.
- 3.15 Members may recall that the broad approach taken in the IPR is to recommend bands of allowances. These are based on the basic allowance and an SRA for the Leader of the Council (Band 4) which then gives a total package for the Leader. Other posts then fall within the three lower bands which are calculated as a percentage of the Leader's overall package. Table 1 shown below calculates how the

Bands should be applied in Brent.

Table 1 – IPR Methodology as it applies to Brent

Band	Calculation	Brent Package	Brent SRA
Band 4 (Leader)	SRA + Basic = "Total"	£42,768	£34,873
Band 3	SRA + Basic = 70% - 80% of Total	£29,937 - £34,214	£22,043 - £26,319
Band 2	SRA + Basic = 40% - 60% of Total	£17,107 - £25,661	£9,212 - £17,766
Band 1	SRA + Basic = 20% - 30% of Total	£8,554 - £12,830	£659 - £4,935

3.16 The IPR states that

"Special allowances should come into play only in positions where these are significant differences in the time requirements and levels of responsibility from those generally expected of a Councillor"

3.17 The IPR also recommends that not more than 50% of members should normally be in receipt of an SRA. The current Brent scheme provides for 51 elected members to receive an SRA (even taking into account the rule that a member can only receive one SRA). This is significantly higher than the 50% recommended by the IPR and is largely due to an allowance being paid to all members of the A&E Licensing Sub-Committee (15) and the Planning Committee (8). If these were taken out of the equation then the percentage of members receiving an SRA would be 52%.

Allowances that are recommended for change in this report

3.18 This part of the report recommends that the following allowances be changed;

- Chair of General Purposes Committee
- Vice Chair of Planning Committee

- Independent member of the Standards Committee

Chair of General Purposes

- 3.19 This committee only meets on an infrequent ad hoc basis and there is a limited time commitment required of the Chair outside of these meetings. Officers consider that the allowance for the Chair of General Purposes should be the same as the Chair of other comparable committees such as the Audit Committee, Service User Forums and the Pension Fund Sub-Committee. The allowance for the Chairs of these committees is £2,092 and these posts are considered to be band 1 posts.
- 3.20 Officers therefore recommend that the allowance for the Chair of General Purposes be reduced from £6,102 to £2,092.
- 3.21 In reality, this reduction is unlikely to have any effect on the costs of the scheme because the post has in the past always been held by the Leader of the Council and is now held by the Leader of the Opposition. Both of these roles attract a higher allowance. For these reasons, members may want to consider deleting this allowance altogether as not all Chairs of Council committees receive an SRA. This could be considered a part of the further review. There would be no financial impact from this change.

Vice Chair of Planning

- 3.22 The scheme currently provides an allowance for the Vice Chair of Planning of £2,092 and, since May 2007, an allowance for a member of the Planning Committee of £3,139. The allowance for the Vice Chair is therefore redundant.
- 3.23 There is no allowance paid for any other Vice Chairs of Council Committees and officers do not consider that the workload of the Vice Chair of Planning should attract an SRA greater than the other members of the committee.
- 3.24 Members are asked to agree to remove the allowance for the Vice Chair of Planning Committee. There would be no financial impact from this change as the allowance is not currently claimed and this has not been claimed for the past 2 years.

Additional Member of the Standards Committee

- 3.25 A third independent member was appointed to the Standards Committee in September 2008 to ensure that the Standards Committee and its sub-committees had enough members to properly exercise their new statutory functions.

- 3.26 The Allowances scheme currently only provides for payment of two independent member allowances and members are asked to agree to amend the scheme to provide for the payment of a third allowance. There would be an additional cost to the members' allowance scheme of £411 per annum.

Allowances that will be the subject of a consultation with the Political Groups

- 3.27 Members will recall that following the election in May 2006, when there was no Administration, an amendment was made to the allowances scheme to provide an allowance for all three group leaders. This was intended by officers to be an interim measure which would address the absence of a Leader, Deputy Leader and Leader of the Opposition at that time.
- 3.28 We now have members in the positions of Leader, Deputy Leader and Leader of the Opposition and so the allowance for group leaders should be deleted. An allowance for the Leader of the Largest Opposition Group would then be created at the same level and there would be no financial impact from such a change.
- 3.29 Prior to May 2006 the scheme provided for an allowance of £3,974 for the deputy leader of the first opposition group and there was no allowance for the deputy leader of the second opposition group. Following the May 2006 elections members agreed a motion to allocate an allowance of £9,522 for all three deputy leaders. Arguably, this should have been regarded as an interim measure, like the group leaders allowance, designed to reflect the absence of an Administration and should therefore have been changed after an Administration was appointed. However the allowance for the deputy group leaders has also remained.
- 3.30 Members should note that the deputy leader of a group is not considered by the IPR to fall into any of the bands that attract an SRA. The role of leader of the opposition falls within band 2 and so, if an allowance for the deputy leader of the opposition falls anywhere, then it must fall below that level and within band 1. The recommended range in the IPR for a band 1 allowance is £659 – £4,935 and the current allowance of £10,026 is more than twice the maximum amount recommended by the IPR for band 1 position. This allowance should be reviewed.
- 3.31 The allowance for the group whips is currently £5,419 and is the same for the whip of each of the three largest political groups.
- 3.32 Members will recall that prior to the election in May 2006 the allowances for the group whips were £8,280, £5,175 and £1,987 respectively, according to size of group. Up until this time differential allowances for group whips had been the traditional arrangement.

Following the election, and in recognition of the fact that there was no Administration for a time, the Council agreed to change the allowances for the whips making them all the same, at £5,174. The financial effect of this overall was neutral.

- 3.33 Like the Group Leader and Deputy group Leader allowances this approach could be considered temporary and the Council could revert back to having differential allowances for the group whips i.e. similar to the approach taken pre-May 2006.
- 3.34 The only Group Whip position referred to in the IPR is the whip of the opposition and is considered to be a Band 1 post. The IPR also refers to a group secretary of the majority group which is considered to be analogous to the group whip of the largest party. This is also considered a Band 1 post. There is a case therefore that at all group whip allowances should be within Band 1 which at Brent is £659 – £4,935. The current allowance is above this level and should therefore be reviewed.
- 3.35 The allowance for the Chair of Planning is currently £13,077 which falls within the range of Brent allowances based on the IPR recommendations for a band 2 post of £9,212 – £17,766.
- 3.36 However this allowance is the highest allowance outside of the Executive and is only slightly less than the allowance for a member of the Executive of £14,821 and higher than the allowance for the leader of the opposition of £12,533. The current allowance is also higher than the average allowance paid for the Chair of Planning across the London boroughs of £11,517 (2008/9 level).
- 3.37 The allowance for the Chair of Planning has been at a similar level since the introduction of this allowances scheme in 2002 when it was set at £12,000 and is high when compared with other allowances.
- 3.38 One option could be to reduce the allowance and bring it more into line with the other allowances in the scheme or to freeze it at its current level until such time as it comes more into line with the other allowances. This will be considered as part of the further review.
- 3.39 The allowance paid to the Deputy Mayor is a civic responsibility payment made under the 1972 Local Government Act and not under the Regulations that cover member's allowances. These provisions permit the Council to pay the Mayor and Deputy Mayor such allowances as the Council think reasonable for the purposes of enabling them to meet the expenses of their office. This is different in nature from a special responsibility allowance which is remuneration for carrying out a particular role.
- 3.40 The Deputy Mayor currently receives an allowance of £5,550 and the

Mayor £7,541. Given that the allowance is to cover the expenses of their office members are asked to consider whether the allowance for the Deputy Mayor is too high. The allowance is higher than the average allowance paid to Deputy Mayors across London of £4,882 (2008/9 average across the Boroughs that pay this allowance) and 11 Boroughs do not even pay a civic allowance to the Deputy Mayor.

- 3.41 One option could therefore be to reduce the civic allowance for the Deputy Mayor to 50 percent of the Mayor's allowance which would be £3,771. This will be considered as part of the review.

4.0 Financial Implications

- 4.1 The estimated cost of the members' allowances for 2009/10 is £844,488 which covers only the allowances and does not cover the payroll, travel and other costs which are budgeted for separately and are not addressed here as they remain unchanged as a result of the recommendations in this report.
- 4.2 If the changes that are recommended in this report are all agreed then the budget for members allowances (excluding payroll, travel and other costs) would be increased to £844,899.
- 4.3 The actual cost of the members' allowances scheme is difficult to predict though as the payment of special responsibility allowances varies as members roles change.

5.0 Legal Implications

- 5.1 These have been addressed in the body of the report

6.0 Staffing Implications

- 6.1 There are no implications for staff arising out of this report.

7.0 Equality and Diversity Implications

- 7.1 The IPR recommends that allowances should continue during maternity or paternity absence and during periods of sickness absence and that an allowance scheme should provide for this. The Brent scheme does not provide for this but this is something that the Council may want to consider in the future.
- 7.2 The IPR recommends that separate allowances should be paid in appropriate circumstances to dependant's carers as this may make it possible for people to serve as councillors who would not otherwise be able to contribute their time because of their other responsibilities. However, they caution against paying such allowances for care to be provided by someone else from the member's own family or for

multiple dependants, except in exceptional circumstances. Notwithstanding these recommendations, it is not recommended to introduce such allowances at this stage but to keep the position under review.

Background Papers

Local Government (Members' Allowances) (England) Regulations 2003
Full report of the Independent Panel on the Remuneration of Councillors in London

Contact Officers

Should any person require any further information about the issues addressed in this report, please contact Dan Bonifant, Lawyer on telephone number 020 8937 1368.

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