

A Review of Members' Allowances for the Royal Borough of Windsor & Maidenhead

The Ninth Report by the Independent Remuneration Panel

Air Vice-Marshal Andrew Vallance (Chairman)
Chris Stevens
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Introduction: The Regulatory Context

1. This report is a synopsis of the deliberations and recommendations made by the statutory Independent Remuneration Panel (IRP / the Panel) appointed by the Royal Borough of Windsor & Maidenhead to advise the Council on its Members' Allowances scheme.
2. The Panel was convened under *The Local Authorities (Members' Allowances) (England) Regulations 2003 (SI 1021)* (the 2003 Regulations) to make recommendations to the Council on a number of amendments to the scheme of Members' Allowances. These regulations, arising out of the relevant provisions in the *Local Government Act 2000*, require all local authorities to maintain an IRP to review and provide advice on the councils' Members' Allowance Scheme. All councils are required to convene their Independent Remuneration Panel and seek its advice before they make any changes or amendments to their Members' Allowances Scheme and they must 'pay regard' to the Panel's recommendations before setting a new or amended Members' Allowances Scheme. This is in the context whereby Full Council retains powers of determination regarding Members' allowances, both the levels and scope of remuneration and other allowances/reimbursements.

Terms of Reference

3. The Panel was convened on 25 July 2018 to consider:
 - Payment of Basic and Special Responsibility Allowances during periods of maternity, adoption or paternity leave
 - The definition of 'immediate family' in relation to Dependant's Carers' Allowance

The Panel

4. The Panel comprised:
 - Air Vice-Marshal Andrew Vallance CB OBE MPhil FRAeS
 - Served in the RAF for 38 years, and from December 2004 to February 2017 was Secretary of the UK's Defence Press and Broadcasting Advisory Committee (now known as the Defence and Security Media Advisory Committee). He is the Chairman of the Services' Sound and Vision Corporation and is actively involved in his local church of St Michael and All Angels, Sunninghill, in addition to several local charitable bodies.
 - Chris Stevens
 - Was born in Sunningdale, schooled at Windsor Grammar and has lived in Windsor for the past 36 years. He worked at The Sun for 30 years where he was Assistant Editor, and is now Senior Sub-Editor at the Daily Mail. Married with two daughters,

he is a keen supporter of the Alexander Devine Children's Hospice Service.

- Karnail Pannu
 - Chairperson of Windsor and Maidenhead Community Forum, President of the local Sikh temple and a governor of Newlands Girls' School. He has served as member of Housing Solutions, the Royal Borough's Standards Board as independent member for 18 years, a governor of East Berks College and Berkshire College of Agriculture for 8 years each. He taught for 37 years in Buckinghamshire.
- 5. The Panel was supported by Karen Shepherd, Service Lead – Information Governance and Democratic Services at the Royal Borough of Windsor & Maidenhead.
- 6. The Panel was addressed by Nikki Craig, Head of HR and Corporate Projects, and Elaine Browne, Interim Head of Law and Governance at the Royal Borough of Windsor and Maidenhead. The written report presented to the Panel included comments, questions and feedback from Members, submitted by the Leader on behalf of the Conservative Group, and by the Opposition Group Leader on behalf of Not the Administration.

Background

7. In July 2017 the Local Government Commission, with support from the Fawcett Society, published a report entitled '[Does local government work for women?](#)', looking at the representation of women in elected roles and identifying ways in which representation could be improved. One area that was identified was the provision for elected Members to take maternity and other types of family friendly leave.
8. The Panel noted that, at present, around 20% of elected Members at the Royal Borough were female. With council elections scheduled for 2019, consideration needed to be given to action that the council could take to encourage diversity amongst future candidates. The only current family friendly provision for elected Members in the Royal Borough was the Dependants' Carers' Allowance for childcare or care for dependants on social/medical grounds to enable members to perform an 'Approved Duty'.
9. The Panel noted that a review of the available elected Member family friendly provision policies adopted by other council's had identified in all cases that:
 - Leave was given to elected Members on the same basis as employees
 - Payment of the elected Members' Basic Allowance continued for the period of absence
10. However, the arrangement for the payment of the Special Responsibility Allowances varied across local authorities and included it being :

- Not paid
- Paid in line with employee entitlements
- Paid for the whole leave period

11. The Panel noted the current leave and pay entitlements for paid family friendly leave for employees of the Royal Borough (Table 1):

Table 1: RBWM Employee family friendly leave and pay provisions

Type of leave	Duration entitlement	Pay entitlement	Qualifying criteria
Maternity/adoption	Up to 52 weeks.	39 weeks statutory maternity pay only.	Less than 26 weeks continuous local government service.
Maternity/adoption	Up to 52 weeks.	<ul style="list-style-type: none"> • Six weeks at 90% of actual pay • 12 weeks at half pay plus statutory maternity pay • 21 weeks at statutory maternity pay only. • Must return for minimum of three months to qualify for half pay. 	More than 26 weeks continuous local government service.
Paternity	Two weeks.	Full pay.	40 weeks continuous service at expected week.

Findings and Recommendations

12. The Panel, whilst noting that Elected Members were not employees, were of the opinion that the entitlement for employees was the most suitable comparator available and therefore took this into account in their deliberations.

Basic Allowance during periods of maternity, adoption and paternity leave

13. The Panel considered the payment of the Basic Allowance during periods of maternity, adoption and paternity leave.

14. The Panel were of the opinion that the Basic Allowance should continue to be paid during any period of maternity, adoption or paternity leave, given the Member in question would continue to undertake Ward-related work on behalf of their constituents.

15. The Panel noted that any period of absence from qualifying meetings greater than six months required special dispensation by Full Council.
16. **RECOMMENDATION 1: The Panel recommends that the Basic Allowance should continue to be paid during any period of maternity, adoption or paternity leave, noting that any period of absence from qualifying meetings greater than six months would require special dispensation by Full Council.**

Special Responsibility Allowances during periods of maternity, adoption and paternity leave

17. The Panel considered the payment of Special Responsibility Allowances during periods of maternity, adoption and paternity leave.
18. The Panel were of the opinion that, as the most suitable comparator, the entitlements for employees should be reflected in the scheme for Members, therefore payments should be made as detailed in Table 2:

Table 2: Member SRA payments for maternity, adoption and paternity leave

Type of leave	SRA entitlement
Maternity/adoption	<ul style="list-style-type: none"> • Six weeks at 90% of actual SRA level • Twelve weeks at 50% of actual SRA level
Paternity	<ul style="list-style-type: none"> • Two weeks at 100% of actual SRA level

19. **RECOMMENDATION 2: The Panel recommends that:**
- i) **For maternity and adoption leave, the Member to continue to receive SRA payments on the following basis:**
- **Six weeks at 90% of actual SRA level**
 - **Twelve weeks at 50% of actual SRA level**
- ii) **For paternity leave, the Member to continue to receive SRA payments in full for a period of two weeks**
20. The Panel noted that if a Member receiving a SRA took maternity, adoption or paternity leave for a sufficient period of time to require another Member to undertake the role, a replacement could be appointed as follows:
- Member of Cabinet – replacement appointed by the Leader
 - Chairman of O&S Panel – replacement appointed by the relevant O&S Panel
 - Chairman of other Committee, Panel or Forum – replacement appointed by Full Council

The Panel noted that for short periods of time, the Chairmanship of a Panel, Committee or Forum could be undertaken by the Vice Chairman, without any impact on SRAs.

21. The Panel took into consideration that the current Members' allowance scheme included the principle that an elected Member could only receive payment of one SRA, even if they were undertaking more than one role that attracted such an allowance; in this instance they received the highest SRA only.
22. The Panel considered whether an exception should be made to allow the Member appointed to cover the role temporarily vacated by the Member on maternity, adoption or paternity leave, to receive more than one SRA for this period (if they already held an SRA position). The Panel took into consideration that in relation to maternity or paternity leave this would be for a fixed period only. The Panel noted example additional costs to the Members' budget if the one SRA rule were to be dis-applied for this element of the Members' Allowance Scheme (Table 3):

Table 3: Example costs if the one SRA rule were dis-applied

Position	SRA for full year	6 weeks at 90% plus 12 weeks at 50%
Leader of the Council	£24,428	£5355
Cabinet/Principal Members	£12,215	£2,678
Deputy Lead Members	£2,443	£536
Chairman Development Management Panel	£6,107	£1,339
Chairman Overview & Scrutiny Panels	£6,107	£1,339

23. The Panel recalled its discussion during the full review of the Members' Allowance Scheme undertaken in 2015, subsequent discussions in 2017 during an interim review, and the conclusion that the principle of any Member being eligible to receive only one SRA should remain.
24. The Panel noted that approximately 80% of councils applied the one SRA only rule. However, it was purely an internal rule and the 2003 Regulations did not prohibit the number of SRAs a Member may be paid.
25. The Panel noted there were a number of reasons why the rule was normally adopted, including: transparency, to avoid the anomalous situation where a councillor could receive more in allowance payments than the Leader, or to prevent the concentration of SRAs in the hands of a small group of Members.
26. The Panel expressed significant concern that allowing the principle to be disregarded for this element of the scheme could attract negative publicity, would set a precedent, and could encourage further requests for multiple SRA payments, thereby undermining a fundamental principle of the scheme.
27. **RECOMMENDATION 3: The Panel recommends that the principle of one SRA only per Member be retained.**

Qualifying periods

28. The Panel noted that employees were required to have a minimum of 26 weeks continuous local government service before being eligible for any entitlement (other than statutory maternity/adoption pay) and a minimum of 40 weeks continuous service at expected week before being eligible for paternity pay.
29. The Panel considered whether a qualifying period of service should apply for Members. The Panel concluded that as the aim was to increase diversity, no qualifying period should apply.
30. The Panel noted that employees receiving maternity pay were required to return to work for a minimum of three months to qualify for the period of 50% entitlement. The Panel considered whether a similar rule should apply to Members.
31. The Panel concluded that if a Member chose to resign in the three month period following a return from maternity or adoption leave, they should be required to pay back the 50% allowance, thereby mirroring the rules for employees. If the individual ceased to be a Member in the three months following a return from maternity leave because they stood, but were not selected as a candidate by their party, or stood as a candidate in a local election but did not win their seat, they would not be required to repay the 50% allowance.
- 32. RECOMMENDATION 4: The Panel recommends that:**
- i) No qualifying period to apply for entitlement to receive either the Basic Allowance or SRA payments during a period of maternity, adoption or paternity leave.**
 - ii) If a Member chose to resign in the three month period following a return from maternity or adoption leave, they would be required to pay back the 12 weeks at 50% allowance.**
 - iii) If the individual ceased to be a Member in the three months following a return from maternity or adoption leave because they stood, but were not selected as a candidate by their party, or stood as a candidate in a local election but did not win their seat, they would not be required to repay the 12 weeks at 50% allowance.**

Shared Parental Leave

33. The Panel considered whether shared parental leave should be covered by the Members' Allowance Scheme. It was noted that shared parental leave allowed employees to share up to to 50 weeks of leave and up to 37 weeks of pay in the first year after a child was born or placed with a family, subject to various eligibility criteria.
34. The Panel noted that as Members were not employees, it would not be possible to share leave between a Member of a local authority and an employee of a private company, or between Members of differing local authorities. The only scenario in which shared parental leave could apply would be if both parents/legal guardians were Members of the Royal Borough.

35. The Panel therefore concluded that shared parental leave should be available if both parents/legal guardians were Royal Borough councillors. In this scenario, both Members would continue to receive the Basic Allowance no matter which took parental leave.
36. In relation to SRAs however, unless both Members received an SRA of the same amount, only the Member in receipt of the SRA would be eligible for continued SRA payments (at the reduced levels detailed above in Recommendation 2) if they took leave.
37. **RECOMMENDATION 5: The Panel recommends that:**
- i) **Shared parental leave should only apply if both parents/legal guardians are Royal Borough councillors; the Basic allowance would continue to be paid whichever Member took the parental leave.**
 - ii) **Shared parental leave does not apply to Special Responsibility Allowances unless, at the time of the child's birth or placement with a family, both Members receive a Special Responsibility Allowance of the same value. In this scenario the Members could chose to share the parental leave related to their SRAs.**

Definition of 'immediate family' in relation to the Dependants' Carer's Allowance

38. The Panel considered a request to clarify the definition of 'immediate family' contained in the scheme in relation to the Dependant's Carers' Allowance (specific extract below):

Councillors wishing to claim the allowance will need to complete a Dependants' Carers' Allowance claim form and sign a declaration that states:

- *the carer provided a babysitting/carer service to the Member in order that the Member could attend the meetings listed in the claim.*
- *the carer is 16 years of age or over and not an immediate member of the claimant's family or person residing with the Councillor who has provided the care.*

39. The Panel noted that there was no equivalent entitlement for employees to claim back costs of childcare / carer services to enable them to undertake their role. The only entitlement related to time off to deal with a specific emergency situation in relation to the care of a child or other dependent.
40. The Panel noted a specific request had been made that a grandparent would not be considered 'immediate family' under the scheme and could therefore receive payment for childcare or carer services that could then be claimed back by the Member
41. The Panel were of the view that the council could be criticised for payments to family members such as grandparents as it could be perceived that a councillor was 'employing' the family member, albeit for the provision of childcare / dependant's care only.
42. The Panel were therefore of the opinion that 'immediate family' in the

context of the scheme should include spouse/partner, parent/legal guardian, sibling and grandparent (including step- and half- designations where relevant). Payments to such individuals could therefore not be claimed back by Members

- 43. RECOMMENDATION 5: The Panel recommends that the definition of 'immediate family' in the Dependant's Carers' section of the scheme be clarified to include: spouse/partner, parent/legal guardian, sibling and grandparent (including 'step-' and 'half-' designations where relevant).**

Implementation

44. The Panel were of the opinion that any changes to the scheme should be made with immediate effect following consideration by Full Council on 25 September 2018, to support the recruitment of candidates for local elections scheduled for May 2019.
- 45. RECOMMENDATION 6: The Panel recommends that, following consideration of the IRP's recommendations by Full Council on 25 September 2018, any changes to the scheme be made with immediate effect.**