

To: Council

Date: 28 January 2019

Report of: Head of Law and Governance

Title of Report: Report of the Independent Remuneration Panel and Draft Councillors' Allowances Scheme 2019-23

Summary and recommendations	
Purpose of report:	To present the recommendations of the Council's Independent Remuneration Panel (IRP) and a Draft Councillors' Allowances Scheme 2019-23
Key decision:	No
Lead Member:	Councillor Susan Brown, Leader of the Council
Corporate Priority:	N/A
Legislation:	Local Authorities (Members' Allowances) (England) Regulations 2003
Recommendation(s): That Council resolves to:	
<ol style="list-style-type: none"> 1. Thank the Independent Remuneration Panel for their work. 2. Agree to include in the Councillors' Allowances Scheme 2019-23 the following provisions from the Councillors' Allowances Scheme 2015-19, as recommended by the Independent Remuneration Panel: <ol style="list-style-type: none"> a) A basic allowance payable to all councillors of £5079 in 2019-20; b) Indexation of the basic allowance in accordance with the annual percentage uplifts provided for in the local pay deal for council employees; c) The following Special Responsibility Allowances (SRAs): <ol style="list-style-type: none"> i. Leader - 3 x basic allowance (£15,237) ii. Deputy Leader – 1 x basic allowance (£5,079) iii. Non-statutory Deputy Leader - 1 x basic allowance (£5,079) iv. Lord Mayor –1 x Basic Allowance (£5,079) v. Deputy Lord Mayor – 0.25 x basic allowance (£1,270) vi. Sheriff - 0.25 x Basic Allowance (£1,270) vii. Board Members with particular responsibilities – 1.5 x basic allowance (£7,619) viii. Board Members without particular responsibilities – 0.5 x basic allowance (£2,540) ix. Chair of Scrutiny Committee – 1x basic allowance (£5,079) x. Chair of Audit & Governance Committee – 0.25 x basic allowance (£1,270) 	

- xi. Chair of Scrutiny Panel – 0.25 x basic allowance (£1,270) (Panel must meet at least 5 times to qualify. A maximum of 2 SRAs will be available (£2,508) to be shared by the Chairs of the qualifying Standing Panels)
 - xii. Opposition Group Leader – 1 x basic allowance (£5,079) to be shared between the group leaders equally;
 - d) The rule that councillors will receive a maximum of two special responsibility allowances (excluding civic office holders);
 - e) The rule that where a member of the Council is also a member of another council, that councillor may not receive allowances from more than one council in respect of the same duties;
 - f) The rule that a 15% reduction to a special responsibility allowance will be applied for councillors who attend less than two thirds of the scheduled meetings required within a special responsibility, with the additional clarifications explained in paragraphs 14-16.
 - g) No allowances to be paid to co-opted members;
 - h) The ability for councillors to elect to forgo any part of their entitlement to an allowance;
 - i) The rule that where allowances have been paid in advance for a period during which a councillor is no longer a councillor, those allowances should be repaid;
 - j) Allowances for maternity or adoption leave, with the additional clarifications explained in paragraph 17;
 - k) Allowances for child and other dependants' care subject to a maximum of £1,000 per councillor per year (which can be increased by the Head of Law and Governance in special circumstances), with the additional clause explained in paragraph 18;
 - l) Allowances for travel to be paid for travel outside the City of Oxford boundary with the prior agreement of the Head of Law and Governance;
 - m) Reasonable adjustments for councillors with a temporary or permanent disability;
 - n) The rule that all claims for repayment must be made on the forms provided and should be accompanied by receipts/invoices as appropriate before payment can be authorised;
3. **Agree** that the special responsibility allowance for chairs of planning committees will be reduced to 0.5x basic allowance (previously 1.0x basic allowance).
 4. **Agree** to include in the scheme an application process for members who are in receipt of working age benefits (excluding Child Benefit) to claim for up to a maximum of £1,000 per year for travel expenses incurred within the City of Oxford boundary whilst on Council business as an exception to the normal rule (which is that allowances cannot be claimed for journeys within the City of Oxford boundary) and to allocate additional funding of £3,000 to the budget for travel allowances.
 5. **Agree** to allocate funding of £1,500 to allow for the £35 data protection fee payable to the Information Commissioner's Office for members to register as a "data controller" to be reimbursed to members, as recommended by the

Independent Remuneration Panel (assuming this fee is retained for councillors following a government consultation).

6. **Agree** that councillors will forgo part of their future allowance payments in the following circumstances:
- (a) A 15% reduction to the basic allowance will be applied for:
 - i. Members who fail to attend more than four meetings of Full Council in any municipal year except when a serious medical condition is the reason for absence;
 - ii. Members who fail to attend the induction training for newly elected councillors. A newly elected Councillor is any Councillor who was not holding City Council office before the election in question.
 - (b) A 10% reduction to the basic allowance will be applied for:
 - i. Members who fail to attend compulsory planning and development control training (held every two years).
 - ii. Members who fail to attend compulsory code of conduct training (held annually).
 - iii. Members who are appointed to a Licensing Committee who fail to attend the compulsory licensing training (held annually).
7. **Adopt** the Draft Councillors' Allowances Scheme 2019-23 the Councillors' Allowances Scheme 2019-23 attached as Appendix 2.

Appendices

Appendix 1	Report of Oxford City Council's Independent Remuneration Panel, November 2018
Appendix 2	Draft Councillors' Allowances Scheme 2019-23

Introduction

1. The Council's Councillors' Allowances Scheme for 2015-19 was adopted by Council on 1 December 2014 with effect from 1 April 2015. The scheme expires on 31 March 2019.
2. This report outlines the recommendations of the Oxford City Council Independent Remuneration Panel (IRP) in respect of a replacement councillors' allowances scheme and proposes a Draft Councillors' Allowances Scheme 2019-23.

Legislative framework

3. The Local Authorities (Members' Allowances) (England) Regulations 2003 ("the Regulations") require the Council to agree a new scheme before the expiry of the current scheme, having regard to the recommendations of an IRP. The Regulations stipulate that such a scheme shall provide for:

- The payment of a basic allowance of the same amount to all councillors (limited to the duration of a councillors' term of office);
 - Councillors electing to forgo their entitlement to any part of their allowances;
 - A time limit during which any claims for travel, carers' and co-optees' allowances must be made;
 - Councillors not receiving allowances from more than one authority in respect of the same duties;
 - The publication of records of the allowances paid, at the end of each year.
4. The Regulations also stipulate that a scheme may provide for:
- The payment of special responsibility allowances (SRAs) to members with special responsibilities (including to at least one councillor who is not a member of the controlling group);
 - The payment of a dependants' carers' allowance;
 - The payment of travelling and subsistence allowance;
 - The payment of co-optees' allowance;
 - Annual adjustment of allowances by reference to an index (for a maximum period of four years);
 - An authority requiring the repayment of allowances paid in advance where a member ceases to be entitled to those allowances;

Independent Remuneration Panel (IRP)

5. The Council's IRP comprises representatives from the voluntary, public and business sectors appointed by the Head of Law and Governance (in accordance with the delegation from Council). The members of the IRP are:
- Professor Alistair Fitt, Vice-Chancellor, Oxford Brookes University;
 - Kathy Shaw, Chief Executive, Oxfordshire Community & Voluntary Action;
 - Prisca Bradley, Director and Head of Employment, Hedges Law.
6. The IRP met on 30 October 2018 to carry out an independent review of councillors' allowances and make recommendations about a new Oxford City Council councillors' allowances scheme. Recommendation 1 asks Council to thank the IRP for their work.

IRP report and recommendations

7. The report of the IRP is attached as Appendix 1 and a summary of the evidence considered is provided in paragraphs 15 & 16 of that report. This included written representations made by nine councillors.
8. The IRP was particularly focused on ensuring that the role of elected representative can be open to people from a wide range of backgrounds and that potential barriers to participation, including financial barriers, should as far as possible be removed or mitigated. The IRP recognised that these considerations must be balanced against the overall affordability of councillors' allowances, which should represent value for money for local residents and reflect the fact that the role of councillor is at least partly a voluntary public service. The IRP

concluded that a significant increase in the rate of the basic allowance would not be an effective means of achieving this outcome. Instead the IRP explored the option of establishing specific provisions for supporting councillors with limited financial means (see paragraphs 20-22 below).

9. The IRP concluded that the provisions in the Councillors' Allowances Scheme 2015-19 remain appropriate and should be retained on the current basis in the new scheme, with a small number of clarifications and changes explained below.
10. The IRP recommend that the local pay deal for Council employees is retained as the index for the annual uplifting of allowances. As the Regulations stipulate that schemes can rely on an index for the annual uplifting of allowances for no more than four years, it is proposed that the new councillors' allowances scheme will span from 1 April 2019 to 31 March 2023. Applying this index (currently 1.25%) to the basic allowance for the financial year beginning 1 April 2019 increases the rate of the basic allowance to £5,079 (from £5,016 in 2018/19). The 1.25% uplift will also be applied in year two of the scheme, increasing the rate of the basic allowance to £5142 for 2020/21. It is not yet known what uplifts Council employees will receive in the latter two years of the new councillors' allowances scheme as this will be subject to a future pay negotiation.
11. The IRP recommend that special responsibility allowances (SRAs) are retained for the same roles as in 2015-19 and that the levels of SRAs continue to be set as multiples of the basic allowance.
12. The IRP support the retention of allowances for child and other dependants' care, maternity and adoption leave, reasonable adjustments for councillors with a disability and travel outside of the City of Oxford boundary.
13. Recommendation 2 of this report details all of the existing provisions that the IRP recommends the Council retains in its Councillors' Allowances Scheme 2019-23, including the points of clarification set out in paragraphs 14-19 below.

Reductions to special responsibility allowances

14. An internal audit of councillors' allowances in 2018 resulted in a recommendation that Council clarifies the intended application of the rule that a 15% reduction will be applied to a special responsibility allowance for councillors who attend less than two thirds of the scheduled meetings required within that special responsibility. The issues were that the Councillors' Allowances Scheme 2015-19 did not provide clarity about how or when councillors' attendance would be calculated or for how long any reductions would be applied.
15. The IRP suggest that there should be an audit at a fixed point in the municipal year. Committee and Member Services undertake to review councillors' attendance records mid-way through each council year and to contact any councillors at risk of being penalised for non-attendance. It is proposed that any reductions to allowances will be based on attendance at the end of each council year and applied for the duration of the subsequent council year. The Draft Councillors' Allowances Scheme for 2019-23 sets out how attendance at meetings, training and induction events will be calculated for these purposes.

16. It is also proposed that Shareholder meetings are excluded from the special responsibility meeting attendance calculation for members of the City Executive Board. Unlike Council and committee meetings, which are scheduled annually, Shareholder meetings will often be scheduled in response to the changing needs of the companies and the Shareholder and as such meetings will occasionally take place at relatively short notice and at times that will be inconvenient or impossible for some members (e.g. during school holidays or pre-arranged commitments).

Allowances for maternity and adoption leave

17. The IRP support the continuation of allowances for maternity and adoption leave, which were introduced by the Council in February 2018. Some other local authorities have also introduced similar provisions, although they are not explicitly provided for in the Regulations. To ensure that these new arrangements are as clear and robust as possible it is proposed that the Councillors' Allowances Scheme for 2019-23 provides additional clarity in respect of:

- The need for full Council to first grant a dispensation to any councillor wishing to take a break of six months or more from attending qualifying meetings, as required by the Local Government Act 1972 (Section 85);
- Allowances for maternity and adoption leave not being contingent on a councillor returning to their previous duties at the end of their period of leave (which would be at the discretion of Council, a committee or the Leader), to reflect Council's intentions;
- The informal duties that are recognised in the payment of allowances for maternity and adoption leave, which are highlighted in the IRP report.

Allowances for child and other dependants' care

18. The IRP received representations that the requirement that carers must be paid at least the Oxford Living Wage has presented a barrier for some councillors, resulting in these provisions being under-utilised. The IRP recommend that Council allows some flexibility within the scheme for councillors to make "top-up" payments to the care provider up to the level of the Oxford Living Wage.

Special responsibility allowance for chairs of planning committees

19. Having reviewed the descriptions of different councillor responsibilities and representations made by councillors about the amount of time they commit to these, the IRP recommend that the SRA for chairs of planning committees should be reduced from 1.0x basic allowance to 0.5x basic allowance. This would make the level of the SRA for planning committee chairs lower than that for roles such as Lord Mayor and Chair of Scrutiny Committee (which are both recommended to remain at 1.0x basic) but higher than the SRA for the Chair of the Audit and Governance Committee, which meets less frequently than planning committees. Council is asked to agree this change in recommendation 3.

Allowances for travel

20. The Councillors' Allowances Scheme for 2015-19 limits travel allowances to expenses incurred for journeys outside the City of Oxford Boundary with the prior agreement of the Head of Law and Governance. Exceptions may be made by the

Head of Law and Governance for councillors with a permanent or temporary disability as a “reasonable adjustment”.

21. The IRP concluded that to make a difference to serving councillors and potential future councillors on low incomes, a fund would most usefully be used to make a similar exception for councillors on low incomes. It is proposed that funding of up to £1,000 is made available to councillors in receipt of working age benefits (excluding Child Benefit, which is not limited to low income households) to claim for travel expenses incurred within the city whilst on council business, such as travelling to and from council meetings. Linking this fund to working age benefits is intended to reach councillors on low incomes whilst limiting the burden of proof on them when submitting claims to the Head of Law and Governance. Councillors’ entitlement to these allowances would be reviewed annually but councillors would be expected to inform the Head of Law and Governance if they stopped receiving a qualifying benefit. Recommendation 4 invites Council to agree this proposal and allocate additional funding of £3,000 to the budget for travel allowances.
22. Travel allowances for journeys outside of the UK are not allowed within the Scheme other than for two trips per year for the Lord Mayor. The IRP received representations that allowances should be available to councillors on low incomes for travel outside the UK to ensure that all councillors have the opportunity to represent the city and learn from the experiences of cities abroad. The IRP noted that the current scheme explicitly limits foreign travel to the Lord Mayor and that the Lord Mayor’s travel would normally be funded by the civic office budget rather than from councillors’ allowances. City Executive Board members may also occasionally travel abroad on council business but funding for this would be a matter for decision by the relevant head of service based on business need. The IRP decided against recommending allowances for foreign travel for councillors on low incomes as this should be based on an identified business need.

New data protection requirements

23. The IRP noted that under the Data Protection Act 2018 and the Data Protection (Charges and Information) Regulations 2018, councillors who hold electronic personal data on individuals as part of their local councillor role are required to register with the Information Commissioner’s Officer and pay a data protection fee of £35 (assuming payment by Direct Debit, otherwise the fee is £40).
24. This applies to all councillors who hold electronic personal data (for example on their personal email accounts) in their capacity as a local representative or case worker and it is the responsibility of the individual councillor to ensure they are registered if they need to be and have paid the data protection fee. This will exclude councillors who hold such data only for the purposes of undertaking formal council business (i.e. on their cllr@oxford.gov.uk email account). Similarly, councillors who hold electronic personal data for party political purposes only are likely to be covered by their political party’s registration.
25. The IRP considered that councillors who are required to pay this data protection fee (which is likely to be the majority of councillors) should not be out of pocket

for doing so and recommend that the Council agrees to reimburse this fee (as it has done since 2018). It should be noted that the government is currently consulting on the option of removing the fee for councillors but as the outcome of the consultation is not yet known, recommendation 5 asks Council to make budgetary provision of £1,500.

Reductions to the basic allowance

26. The Councillors' Allowances Scheme 2015-19 states that the basic allowance will be reduced for failure to attend four meetings of Council per year, as well as for not attending compulsory training and new member induction sessions. These rules are primarily intended to encourage attendance and deter non-attendance but reductions have been applied in a small number of cases in previous years. The IRP has recommended the retention of these rules.
27. The Regulations stipulate that the amount of the basic allowance shall be the same for every member but the Regulations are also clear that councillors can elect to forgo their entitlement to any part of their allowances. To deliver the expressed sentiments of the IRP and maintain the current practice, recommendation 6 invites the Council to make a collective resolution that the basic allowance will be reduced in these circumstances.

Draft Councillors' Allowances Scheme 2019-23

28. The Draft Councillors' Allowances Scheme 2019-23, incorporating the recommendations and points of clarification set out above, is attached as Appendix 2. The substantive changes from the previous scheme are highlighted. Recommendation 7 asks Council to adopt the Draft Councillors' Allowances Scheme 2019-23, subject to any amendments agreed by Council.

Legal implications

29. The legal implications, including the need for Council to adopt a new councillors' allowances scheme before 31 March 2019 and the parameters of the Regulations governing councillors' allowances are set out in paragraphs 3 and 4.

Financial implications

30. Provision has been made within the Council's Draft Medium Term Financial Plan for councillors' allowances including annual uplifts to allowances. An additional £3,000 can be allocated to the budget for travel allowances (recommendation 3) and £1,500 to reimbursing the costs of the data protection fees payable by councillors (recommendation 4). These allocations can be funded by the reduction in the SRA paid to planning committee chairs (recommendation 2).

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Background Papers: None

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