



**4th Report of the
Folkestone & Hythe District Council
Independent Remuneration Panel**

October 2019

Introduction

The Folkestone & Hythe District Council Independent Remuneration Panel (IRP) was formed to enable the Council to meet its obligations under the Local Authorities (Members' Allowances) (England) Regulations 2003.

The role of the Panel is to look objectively and independently at the allowances and expenses paid to Folkestone & Hythe District Councillors and co-optees, making recommendations relevant to the Folkestone & Hythe context. Under the regulations, it is a statutory requirement for the Council to have regard to those recommendations in determining allowances and expenses for both Councillors and co-optees.

The scheme of allowances and expenses recommended by the Panel in October 2015 was adopted by the Council on 13th January 2016 and implemented on the 25th May 2015. The operation of the scheme was reviewed by the Panel in its January 2017 report. This report is the final report of the current Panel following a further review carried out in September and October 2019.

The Panel would like to record its thanks to the Head of Paid Service, Monitoring Officer and staff of the Council and to the Councillors who have given their time to this process. A particular note of thanks also goes to Kate Clark for her practical and administrative support.

This report represents the collective view of the Panel and I would like to acknowledge the work of my fellow Panel members, David Ellerby, Michael George and Janet Waghorn.

Whilst the role of the Panel is to make recommendations, the final decisions on these matters rest with the elected members of Folkestone & Hythe District Council.

Chris Harman
Chair, Folkestone & Hythe Independent Remuneration Panel

1. Structure of Review

1.1 In carrying out this review, the approach adopted by the Panel was to:

- (a) Review documentation including the South East Employers' Members Allowances Survey 2018-19.
- (b) Interview the Head of Paid Service.
- (c) Interview a representative sample of 11 Councillors holding different roles
- (d) Solicit wider public input through use of the Council's website and social media feeds

1.2 All Councillors were given the opportunity to meet with the Panel and to make written submissions.

1.3 All Parish and Town Councils in the District were informed the Panel was sitting and asked if they would like the Panel to review their own arrangements for Member allowances as part of its work programme in its role as the Parish Remuneration Panel.

1.4 Areas considered by the Panel included:

- (a) The effectiveness of the scheme in practice taking into account the changing circumstances at the Council since its inception.
- (b) The operation of specific aspects of the scheme including provision for carers, the system of expenses and the arrangements related to the ICT allowance,
- (c) The degree to which the scheme effectively supported the democratic process and facilitated democratic participation.
- (d) The extent to which the differentials between different special responsibility allowances established by the scheme continued to be seen as appropriate in practice.
- (e) The appropriateness of the arrangements at Folkestone & Hythe with regard to the wider practices within Local Government and in particular within Kent.
- (f) The extent to which the scheme was successfully delivering a transparent and coherent framework for allowances.

2. Individuals and Roles

2.1 As with previous reviews, it was noted by several interviewees and accepted by the Panel that different individuals will bring a different level of involvement to the different roles. It is the view of the Panel that individual office holders have a degree of choice in the time commitment they give to a role and that variations in such choices should not impact on the assessment of the appropriate level of a special responsibility allowance (SRA).

2.2 This is consistent with the previously expressed view of the Panel that being a councillor is not a 'job' in the traditional sense and therefore Councillors' allowances are not 'pay'. Rather, the Panel viewed the role of a councillor as public service, carrying with it both privileges and responsibilities. Accordingly the Panel maintains the view that Councillors' allowances are primarily a means of compensating for both the time commitment and incidental financial costs of holding elected office. Having taken this view, it follows that allowances are not a 'reward' in pay strategy terms and that it would be inappropriate to allow the allowance scheme to be influenced by consideration of an individual's performance in a role, including how much time they give to it above and beyond what might reasonably be expected.

2.3 The Panel is conscious that such an approach does require an assessment of what might reasonably be expected in terms of time commitment and its conclusions on this, based on both local interviews and regional and national survey data, were detailed in previous reports. However the Panel accepts that such an approach is more difficult with unique roles, such as Leader of the Council, where the time commitment involved is heavily dependent on the individuals approach to the role.

3. Leader of the Council SRA

3.1 As part of this review the Panel again looked at the differentials between different SRAs and between those SRAs and the basic allowance. The Panel was satisfied that the basic allowance as well as the differentials were generally at the right levels other than the differential between the 'Leader of the Council' SRA and the 'Cabinet Members' SRA where a review of comparative data identified some concerns. It should be stressed however, that there was general consensus from the interviews conducted regarding the high demand of this role and the amount of work carried out by the current incumbent.

3.2 At the time of this Panel's last review this SRA was seen as being towards the higher end of acceptable values but not, in the circumstances of this Council, unreasonable. This reflects the conclusions of this Panel's 2015 review where this SRA was identified as being relatively high.

3.3 Revisiting relevant comparators suggests both in absolute and relative terms, that this SRA, set at 440 points, is now too high for the matter to remain unaddressed. Whilst it is clear to the Panel, from the interviews conducted, that the present incumbent of the role is perceived to carry significant responsibility and the role itself carries a high workload, the Panel is required to focus, not on the individual, but the allowance.

3.4 Having considered the comparators both across the South East and locally and taking into account local circumstances, the Panel is of the view that the differential between the 'Leader of the Council' and the 'Cabinet Member' SRA is set too high and should be reduced. The Panel has concluded that a point score of 400 points for the 'Leader of the Council' SRA would be appropriate. This would set the 'Leader of the Council' SRA at twice the level of the 'Cabinet Member' SRA.

3.5 Given that the recommendation involves a reduction in a current SRA, the protection arrangement, previously agreed by the Council, as detailed in the Panel's 2015 report, would apply. Under these arrangements there would be no detriment to the current incumbent as the allowance would be frozen at its current level.

3.6 In summary it is recommended that:

The Leader of the Council SRA be set at 400 points and protection arrangements be applied in accordance with existing provisions.

3.7 The Panel considered the 'Deputy Leader' SRA and also whether or not changes to the size of the Cabinet should impact the 'Cabinet Member' SRA. In both these areas the Panel reached the view that no changes be recommended. With respect to Cabinet size, the Panel accepted that this could increase workloads but concluded that this was a matter of political decision making and that the existing provisions with the scheme were adequate.

4. Leader of the Opposition SRA

4.1 The current scheme provides for an SRA set at 150 points for the role of Leader of the Opposition. This SRA is designed to support the democratic process and the Panel's reasoning has been detailed in previous reports. The scheme also provides that the Leader of the Opposition is defined as the leader of the largest minority group not forming part of the administration. Under the scheme, where there is more than one group of the same size occurring (with no one group being the largest minority group) then this SRA is divided equally between those group leaders.

4.2 The current situation at the Council has brought greater focus on this provision given that there is currently more than one minority group and two

are of the same size (with the consequence that the allowance is currently shared between those two group leaders).

4.3 The Panel appreciate that the current arrangement means there is no special responsibility allowance for leaders of smaller opposition groups not falling within the definition of 'leader of the opposition' as applied to this SRA. However, the Panel's view is that this SRA is not intended to recompense for the role of 'group leader' but to provide recompense for the democratically important role of 'leader of the opposition'. It is also the Panel's view that this role falls to the leader of the largest opposition group (or groups if more than one of equal size). Whilst leaders of groups not forming part of the administration may make political arrangements or come to political understandings which effectively share the responsibility for holding the administration to account, such arrangements being political in nature and discretionary are not matters for the Panel or that the Panel view as relevant to the distribution of SRAs. The Panel are also conscious of the importance of this SRA not becoming the equivalent of a 'group leader' SRA given that groups are essentially political creations, may or may not form part of the administration and that a 'group leader' type of SRA can have the unintended consequence of providing an incentive towards political fragmentation.

4.4 However, the panel are of the view that where the 'leader of the opposition' SRA is split between two or more group leaders in accordance with the current provisions of the scheme, then there is an argument that such responsibilities do not divide neatly and that the effect is to undervalue the additional responsibilities of each group leader. The Panel would therefore recommend that where the allowance is divided in these situations between two or more individuals, that there should be an uplift to the allowance of 50 points to 200 points prior to that division. The Panel is also of the view that the definition should refer to 'groups' not 'minority groups' given that it is possible for the largest group to become the opposition group in a Council comprising a number of groups. In summary it is recommended that:

The definition of 'Leader of the Opposition' for the purposes of the special responsibility allowance be amended to remove reference to 'minority' when referring to groups. The revised definition to read; "The Leader of the Opposition is defined as the leader of the largest group not forming part of the administration and that in the event of a number of groups of the same size occurring (with no one group being the largest group not being part of the administration) then this SRA should be divided equally between those group leaders.

Where the 'Leader of the Opposition' SRA is to be shared equally between two or more group leaders in accordance with the provisions of the scheme then the SRA is to be increased by 50 points to 200 points prior to calculating the relevant share.

5. Support for Carers

5.1 In relation to the Dependants' Carers' Allowance scheme, it continues to be the case that these provisions are not widely used. It was noted that there may be some reluctance for those eligible to make claims under the scheme because of adverse and hostile comments on social media and similar. The Panel see this as a regrettable situation which hinders democratic participation. The Panel noted that as the pool of Councillors becomes more diverse then the provisions of such a scheme increase in importance to facilitate democratic participation. In the light of this the Panel considered whether there were alternative means to deliver the objectives of the scheme which did not expose those utilising the scheme to hostile commentary. The Panel concluded that the interests of transparency and the need to effectively control the costs of the scheme make it difficult to find a viable alternative to a claims based provision. However, the Panel would recommend that:

The Council make clear both the aims of the Dependants' Carers' Allowance scheme and the importance of Councillors being able to claim under the scheme when reporting on Councillor expenses.

5.2 In reviewing the detail of the scheme the Panel noted that the requirement to base claims on the adult national living wage may be unnecessarily restrictive, particularly as the requirement for carers may lie outside normal working hours and attract premium rates of pay. The Panel therefore recommends that:

Paragraph 6 of the Dependants' Carers' Allowance scheme be amended to read: "The allowance will be paid at either: (a) an hourly rate (or proportion thereof) equivalent to the adult national living wage applicable at the time and to a total of the costs reasonably incurred or (b) paid on the basis of actual invoiced cost from a registered provider approved for the purposes of this scheme by the Monitoring Officer."

5.3 The Panel also considered whether there were appropriate further measures within its remit that could be taken to facilitate democratic participation particularly from those with carer responsibilities. The issue of parental leave was raised. Such a scheme would allow Councillors an approved leave of absence on the birth or adoption of a child. This could be with or without impact on that Councillors' remuneration. Whilst the Panel felt there was merit in the idea, it was also noted that there were practical difficulties given that the absence of a Councillor would inevitably impact on other Councillors at ward level and would also reduce the democratic representation of the electorate. However, the Panel noted that similar issues existed in relation to long term absence through ill-health and that Councillors had worked together at ward level to cover such absence. On this basis the Panel felt that the practical difficulties were not insurmountable. In considering such a scheme the Panel was conscious that there was a risk of treating the Councillor role as 'employment' but felt that such a risk was

balanced by the desirability of increased flexibility to remove barriers to democratic participation. However the Panel felt that the only aspect of such a scheme that fell within its statutory remit was whether or not such leave, if adopted by the Council, should be with or without impact on remuneration. The Panel took the view that for such a scheme to be effective any adverse economic impact on the individual should be minimised but that it was difficult to justify continuing to pay a special responsibility allowance when the associated role was no longer being performed. The Panel concluded that if such a scheme were introduced then the basic allowance and the ICT allowance should continue to be paid but that any special responsibility allowance should cease. It is the recommendation of the Panel that:

Officers be asked to bring forward a parental leave scheme for consideration by the Council which would provide leave of absence for Councillors in cases of the birth or adoption of a child and that any such scheme, if approved by the Council, should be on the basis of no detrimental impact on an individual's basic allowance and the ICT allowance but that any SRA cease to be paid during the period when the special responsibilities are no longer being undertaken.

5.4 A further issue that arose during this review was whether or not the current arrangements of primarily evening meetings was a disincentive to democratic participation and whether or not it unnecessarily added to the time commitments of all Councillors. The Panel noted that there were varying views on this and concluded that, whilst the practical matters of Council administration lay outside its formal remit, the impact on Councillor workloads, time commitment and on the application of the Dependants' Carers' Allowance scheme were relevant to remuneration. Given the differing views and the differential impact of such a change, the Panel felt that there may be some benefit to the Council in conducting a trial of daytime meetings in agreed areas to allow an assessment of the relative advantages and disadvantages and the overall impact on the Councillor role. The Panel therefore recommend that:

The Council consider the merits of conducting a trial of daytime meetings with a view to reducing the workload and time commitments for Councillors.

6. Benefit Schemes

6.1 It was brought to the Panel's attention that there might be other benefits, either proposed or existing, applicable to Council staff that could be extended to Councillors. Councillors are not employees and therefore the Panel felt that each proposal would need to be considered on its own merits. In relation to the particular case raised of an employee discount card scheme, the Panel was of the view that, if the extension of such a scheme incurred no additional cost, then it was reasonable to include Councillors within its purview provided there was no objection in principle

from the Head of Paid Service. Where there is a direct cost to the inclusion of Councillors in a scheme the Panel was of the view that the interests of transparency required such a proposal to be subject to a formal process and decision. The Panel therefore recommends that:

Where an employee benefit scheme adopted by the Council is suitable to be extended to Councillors at no additional cost then discretion should rest with the Head of Paid Service to include Councillors within such a scheme

7. Environmental Impact

7.1 The Panel's attention was also brought to the encouragement of environmentally sustainable travel through the application of the expenses scheme. The Panel took the view that this meant ensuring the scheme did not encourage unnecessary travel and positively encouraged reducing the carbon footprint of necessary travel. The Panel's view was that the current bicycle mileage allowance is set at a level sufficient to provide such encouragement and that travel by public transport is also adequately covered. The Panel considered whether the scheme should extend to the provision of interest free loans for the private purchase of bicycles but concluded that such a provision was more appropriate to employees where the processes for dealing with employee loans of various kinds are better developed and suitably robust. Given that Councillors are not employees it was felt inappropriate to recommend adoption of such a scheme. At a later date the Council may wish a future Panel to consider incentivising the use of fully electric vehicles for personal transport through the expenses scheme but the current Panel felt it was not a matter to be addressed at this time.

8. Committee Roles

8.1 It was noted that the Council is currently considering whether or not to move to new governance arrangement consisting of a committee system. The Panel's view is that this would constitute a significant change and would be a matter for the next Panel to consider.

8.2 In the meantime the Panel re-considered the unremunerated role of committee vice-chair and felt that no change was warranted to this arrangement. However should the Council move to different governance arrangements then this might be a matter for the next Panel to reconsider.

8.3 The Panel also considered the current categorisation of committees into 'tiers' for remuneration purposes. It was noted that the only remaining remunerated tier 2 committee chair role was for the chair of the Personnel Committee. It was also noted that this SRA has not been paid for some time under the rules related to the payment of only a single SRA. The Panel's view was that it was likely that this would continue to be the case and, in any event, whilst the committee dealt with substantive issues on the occasions it

did meet, the actual workload involved on a regular basis did not appear to warrant the continuation of this SRA. As this is the only tier 2 committee, removing this SRA would mean that SRA's would no longer be applicable for chairing a tier 2 committee. The Panel recommends that:

The special responsibility allowance for tier 2 committee chairs be discontinued

9. ICT Allowance

9.1 The Panel took the view that the ICT allowance is working effectively to cover the additional costs incurred by Councillors in fulfilling their responsibilities. However, there was a view expressed that the provision of a separate allowance, whilst required at the present time, may be something that has a limited lifespan. When such allowances were first introduced it was not uncommon for Councillors to have to purchase new technology, separate telephone lines, better broadband access and similar to fulfil their role. This is less often the case nowadays and the costs covered by the allowance tend to be related to consumables together with a contribution towards fixed costs. The Panel has some sympathy with this view and believes that, together with the Council issued tablet computers, the provision of a member 'business centre' in the form of a well equipped shared office facility with printing facilities might be a catalyst to phasing out the allowance. Whilst the Panel does not propose making any recommendations on this matter, the Panel believes that the continuation of this allowance should be kept under review as the Council's ICT support for Councillors develops.

10. Annual Increase

10.1 The Panel reviewed the annual up-rating provision in the scheme which currently uses CPI. This was seen as working effectively and avoided the inherent conflict of interest in using other measures such as the annual staff pay award which is itself determined by Councillors. It was noted that in the past Councillors allowances had fallen far below what was reasonable due to the lack of regular up-rating. Since the introduction of the current scheme the up-rating mechanism had prevented this re-occurring. It was also noted that during a period of fiscal restraint, the up-rating mechanism could lead to a relative increase in allowances at the Council when considered against comparator Councils where no up-rating, or a different up-rating mechanism is used. This was, in the Panel's view, an unavoidable consequence of the design of the scheme and less damaging to local democratic participation than the cumulative effect of failing to up-rate allowances over a number of years. It was also felt by the Panel that, over time, any anomalies created by different methods of up-rating between different Councils would have a tendency to even out.

11. Approved Duties for Travelling and Subsistence

11.1 It was noted that Councillors claims for travelling and subsistence for approved duties can attract negative publicity and that this can deter Councillors from making claims. It was also noted that a number of Councillors do not make claims under these provisions other than for exceptional items.

11.2 The Panel would reiterate its view that every individual's circumstances are different and that it is important the Councillors do not feel discouraged from making legitimate claims under these provisions. In this respect the Panel felt it incumbent upon the Council to make it clear in any publication of payments to Councillors in relation to travelling and subsistence claims both the legitimacy of those claims and the importance of the scheme to diversity in democratic participation.

11.3 Other than matters related to public perception, there appeared to be no substantive issues with the operation of this aspect of the scheme and no changes are recommended.

12. Conclusions of the Panel

12.1 Overall the Panel found that the scheme was functioning effectively with few negative criticisms being expressed by those interviewed, In addition no responses were received through the opportunity provided for public comment. A review of external comparator data showed that the scheme remained one of the most affordable within the region offering good value to the residents of the district whilst being perceived to offer adequate levels of compensation to Councillors. Where analysis of the comparative data has suggested amendments this is covered in the text of this report and recommendations below. Changes to the Council composition following the most recent elections have also tested the provision related to the 'leader of the opposition' SRA and an amendment to the operation of this SRA is included in the recommendations.

12.2 The Panel believe the scheme continues to operate in a transparent and coherent fashion and to support democratic participation. Some amendments are suggested to improve this aspect together with recommendations to the Council to consider issues such as parental leave and to trial daytime meetings. However, the provisions in the scheme to encourage a diversity of democratic representation can be undermined by ill-informed and unjustified negative public commentary on member expenses and allowances, particularly on the web and social media. Whilst transparency and accountability are essential in this area and public scrutiny is to be welcomed, the Panel believe it is important for the Council to be proactive in ensuring the public is properly informed about the work of Councillors and the role of the expenses and allowances scheme and to actively respond to ill-informed and unjustified public commentary on the subject.

13. Summary of Recommendations

13.1 The Leader of the Council SRA be set at 400 points and protection arrangements be applied in accordance with existing provisions.

13.2 The definition of 'Leader of the Opposition' for the purposes of the special responsibility allowance be amended to remove reference to 'minority' when referring to groups. The revised definition to read; "The Leader of the Opposition is defined as the leader of the largest group not forming part of the administration and that in the event of a number of groups of the same size occurring (with no one group being the largest group not being part of the administration) then this SRA should be divided equally between those group leaders.

13.3 Where the 'Leader of the Opposition' SRA is to be shared equally between two or more group leaders in accordance with the provisions of the scheme then the SRA is to be increased by 50 points to 200 points prior to calculating the relevant share.

13.4 The Council make clear both the aims of the Dependants' Carers' Allowance scheme and the importance of Councillors being able to claim under the scheme when reporting on Councillor expenses.

13.5 Paragraph 6 of the Dependants' Carers' Allowance scheme be amended to read: "The allowance will be paid at either: (a) an hourly rate (or proportion thereof) equivalent to the adult national living wage applicable at the time and to a total of the costs reasonably incurred or (b) paid on the basis of actual invoiced cost from a registered provider approved for the purposes of this scheme by the Monitoring Officer."

13.6 Officers be asked to bring forward a parental leave scheme for consideration by the Council which would provide leave of absence for Councillors in cases of the birth or adoption of a child and that any such scheme, if approved by the Council, should be on the basis of no detrimental impact on an individual's basic allowance and the ICT allowance but that any SRA cease to be paid during the period when the special responsibilities are no longer being undertaken.

13.7 The Council consider the merits of conducting a trial of daytime meetings with a view to reducing the workload and time commitments for Councillors.

13.8 Where an employee benefit scheme adopted by the Council is suitable to be extended to Councillors at no additional cost then discretion should rest with the Head of Paid Service to include Councillors within such a scheme

13.9 The special responsibility allowance for tier 2 committee chairs be discontinued

13.10 It is the Panel's view that the recommendations do not represent a 'package' and can therefore be considered individually. It is also the Panel's view that recommendation 13.2 falls within the existing provisions for updating and interpretation of the scheme and, together with 13.4, can be dealt with under officer delegated powers. Recommendation 13.7 is a suggestion to the Council and may not require a formal resolution to be passed.

14. Future Reviews

14.1 This will be the last review of the current Panel and any future review will be conducted by a new Panel. If changes to governance arrangements currently being considered are to proceed then it is recommended that the new Panel is convened to carry out a review at that time. Whether or not such changes proceed, it is recommended that the new Panel be reconvened to review the scheme in 2023 following the local elections.