

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> 13 <sup>th</sup> October 2003	<b>Meeting Name:</b> Standards Committee
<b>Report title:</b>		Members' Allowances	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Chief Executive (Borough Solicitor & Secretary)	

## RECOMMENDATIONS

That Standards Committee

1.
  - a. Notes the ALG Panel's reports of 2001 and 2003, copies of which have been provided to all committee members.
  - b. Considers the options in the draft revised scheme of allowances at Appendix 1.
  
2. Makes recommendations, in principle, as to the Members' Allowances scheme (subject to decisions to be taken elsewhere as to funding);
  - a. **Index Linking:** That future increases in allowances be index-linked to the Local Government Pay Scheme, for a period of no more than four years;
  - b. **The Basic Allowance:** as to level of the basic allowance for the 2003/04 Municipal Year;
  - c. **SRAs: Level of Allowances and relativity:** What the level of Special Responsibility Allowances, and their relativity to the Leader's allowance, should be for the 2003/04 Municipal year;
  - d. **SRAs: Abatement of Band 3 and 4 allowances:** In light of the ALG Panel's recommendation whether the principle of abating Band 3 and 4 allowances depending on the number of hours a member works elsewhere should continue;
  - e. **SRAs: Posts to which allowances are payable:** Whether there be any change to the posts which, in principle, should receive a Special Responsibility Allowance, and in particular consider the position of the Disciplinary Appeals Sub-Committee, the Adoption Panel, and of Community Council Chairs;
  - f. **Co-optees Allowances:** Whether Co-optees should be paid an allowance, and if so the levels for the Co-optees to Standards Committee, and the co-optees for Education and Housing Scrutiny Sub-Committees.
  - g. **Electing not to receive allowances:** To continue the current provision that Members may in writing elect not to receive allowances.

- h. **Withholding Allowances:** Whether to adopt the ALG recommendations on withholding allowances.
- i. **Travel and Subsistence Allowances**
  - i. **Level of allowances:** as to whether the amounts Members may claim in respect of Travel and Subsistence should be the same as officers who claim a casual car or cycle user allowance.
  - ii. **Basic Allowance:** Whether the Basic Allowance should continue to cover intra-borough travel and subsistence, with the exceptions that:
    - Members with mobility difficulties are able to claim the cost of taxis when on council business
    - Members are able to claim the cost of taxis where a meeting finishes after 8pm or dusk, whichever is earlier.
- j. **Childcare and Dependent Carer Allowance:**
  - i. Level of allowance: Whether to uplift the current limit of £6 per hour to a fixed amount, or to recommend that it is set from time to time by the Chief Executive in line with the amounts payable by the Council's Social Services department.
- k. **Approved Duties** – to agree that the duties for which travel, subsistence and dependent carers' allowances can be claimed should be the same.
- l. **Pensions:**
  - i. Whether Members should have the option of joining the Local Government Pension Scheme.
  - ii. Whether both basic and SRAs should be pensionable.
- m. **Annual Reports/ Accountability.** As to Member Accountability and the provision for annual reports.
- n. **Backdating of Allowances:** Whether increases in allowances should be backdated or not, and if so to which date. [1 April 2003, 1 May 2003 or Constitutional Council.]

## **BACKGROUND INFORMATION**

- 3. A revised draft of the Scheme is attached as Appendix 1, which contains options for members to consider. The remainder of this report provides the discussion of those options. The draft scheme has been updated to reflect the position under the new regulations – where substantial changes have been made they have been marked as a strikethrough. Minor textual and grammatical changes have not been marked up.
- 4. Decisions on Member Allowances are reserved by law to Council Assembly, following consideration by Standards Committee. In coming to a decision Members must take into account Standards Committee's recommendations, Government Guidance, and the advice of the ALG Independent Panel.

5. The Council's last major review was carried out at the start of the new administration in May 2002 and agreed at Council Assembly on 26 June 2002 to be effective from 1<sup>st</sup> July 2002, for the year 2002/2003.
6. Standards Committee considered the allowance scheme on 12 February and 19 March 2003, and recommended the following changes to the scheme:
  - a. Community Council Chairs should be paid a Band 2 Allowance of £7,000.
  - b. That the status quo on travel and taxi-cabs remain
  - c. That in line with government legislation for increased public accountability over the performance of members' duties and responsibilities, the practice adopted by councils elsewhere and the Leader of the Council's own public statements, be agreed in principle; that any new Members' Allowances Scheme should only be introduced in conjunction with performance indicators/standards. The indicators/standards should be transparent and comprehensive, and be particularly demanding for Executive Members. And these criteria be applied first to the Executive Members after May 2003 Constitutional Council meeting.
  - d. That payments of Childcare and Dependants' Carers' Allowances be made as and when claimed after meetings attended.
7. Following that meeting, on 7 April 2003, new regulations were made which repealed and rationalised previous provisions. The regulations required the Council to review its Allowances scheme by 30 September 2003, but that date has now been extended to 31 December 2003. This report forms the basis of that review.
8. Standards Committee's recommendations were referred to Council Assembly on 30 April 2003. At that meeting, Members agreed to defer consideration of the report, pending this review, on the basis that changes arising from Council Assembly's previous decisions, of 26 June 2002, be implemented.
9. The existing scheme provided that Council Assembly agreed that the basic allowance should be index-linked to the New Earnings Survey of the average male white-collar hourly rate in London. An index-linked increase to the basic allowance of 6.75%, and flow on increase of 1.08% to all SRA's except for the Leader of the Council, has been paid and backdated with effect from 1 April 2003.
10. No other change was made at that time, but several Members queried whether Band 1 Allowances should for the 2003/04 year be paid to the full range of posts within Band 1, in line with Council Assembly's decision the previous year. On 26 June 2002 Council Assembly had agreed that Band 1 SRAs would be payable to the posts listed below **but** that "due to budgetary constraints for the municipal year 2002/03, only the Deputy Leader of the Majority Opposition within Band 1 should receive a SRA". The posts currently in Band 1 are:
  - Deputy Leader of the Minority Opposition
  - Leader of Minority Opposition
  - Chairs of Community Councils
  - Vice Chairs of the 6 Scrutiny Sub Committees
  - Opposition Group Whip
  - Vice Chair of Planning
  - Vice Chair of Licensing.

11. A letter was sent to all members on 22 July 2003 advising that Council Assembly's decision meant that Band 1 allowances should be paid to all members in Band 1, and that that would now be done. In response, an urgent motion was agreed at Council Assembly on 23 July 2003, that "payment of all Band 1 SRA's (except for the Deputy Leader of the majority Opposition Party) be suspended in accordance with the decision of Council Assembly on 30th April 2003, until any further decision of the Council Assembly following receipt of the Southwark Standards Committee's report on ALG Member Allowance recommendations."
12. Accordingly, the only Band 1 Allowance which has been paid for the 2003/4 Municipal year is that paid in respect of the post of Deputy Leader of the Majority Opposition, currently shared between Councillor Dixon-Fyle and Councillor Friary.
13. This report was originally prepared in draft form and circulated to party group leaders, and all members of the Standards Committee on 22 September 2003, along with copies of the ALG reports. Members were given the option of asking for further information to be provided. One request was received at the time of writing, and the information will be circulated as an addendum report.
- ALG Independent Panel**
14. The ALG Independent Panel was appointed by the ALG to make recommendations to boroughs on appropriate allowance levels. The Panel has recently updated its Summer 2001 report to take account of the new allowances regulations, the new pensions regulations, and of the experience in London since their Summer 2001 report.
15. All Members of the Council and independent Members of the Standards Committee have in the past been sent a copy of the full 82 page Summer 2001 report. Electronic copies are available by e-mail. Further paper copies are available on request. All Members of the Council, will be sent a copy of the most recent report, along with a summary of the previous report, prior to their consideration at Council Assembly.

## **KEY ISSUES FOR CONSIDERATION**

- Responsibilities and Challenges of Members**
16. The breadth and complexity of Southwark's work, the nature of the demands and population means that Southwark Council is one of the most complex public authorities in London, and indeed in England. Members are overall responsible for the stewardship of an estimated turnover of around £1.2 billion (three times that estimated for some Outer London Boroughs). The Council employs around 5,000 full time equivalent staff, which rises to 8,000 when schools are included. When part time and agency staff are counted around 10,000 people carry forward the work of the Council.
17. The Borough is very diverse. Over 237,000 people live here and the population is growing by about 1,000 a year, thanks to a high birth rate and inward migration, due to new house building. It is a relatively young borough and projections suggest that by 2011 there will be 20% more people under 24 than in 1991. Just under a third of the population is from an ethnic minority, and over 100 languages are spoken in Southwark's schools.

18. The Council has one of the largest housing stocks, and faces significant challenges in delivering education and social services. Other pressures, challenges and opportunities arise due to its proximity to the City of London, and at the heart of a world city. By some estimates, Southwark (the South Bank in particular) receives more tourist visitors than Scotland. The Council is continually challenged to be creative in its solutions to problems. Change is a constant. Much of the work done is (and must be) at the leading edge.
19. This diversity and complexity places high demands on Members. For example, in 2003/04 there were over 6500 pages of reports and agenda papers produced for Executive Meetings alone and more than 2000 for Council Assembly. This excludes plans and strategies circulated as separate documents (for which the Executive is responsible for 23 in its own right and Council Assembly an additional 14 which form the policy framework.) In addition, most Members receive significant additional correspondence via e-mail and paper (e.g. forward plan notices, circulars, ward correspondence, departmental plans, tenant and resident association agendas). It would be surprising if Executive Members received fewer than 1000 pages a month for direct attention (and many other members receive copies of the agendas). In addition to mastering the paperwork, Members are expected to be proactive in representing their constituents.

#### **Index Linking Basic and SRA Allowances**

20. The new regulations make explicit provision for allowances to be automatically increased to keep up with changes in the cost of living by reference to an index. This index can then be used for a maximum of 4 years. The ALG Panel has recommended that the appropriate index is that for the Local Government Pay Settlement (LGPS), which would mean that Members are treated on the same basis as council officers. This provided for a 3% increase from 1 April 2002, a 1% increase from 1 October 2002 calculated by reference to the salary at 31 March 2002, and a 3.5% increase from 1 April 2003 – i.e. a total increase in the 2 years since the ALG Summer 2001 report of 7.64%.
21. Other than the index-linked increase, the ALG considered that its other recommendations as to the levels of the basic allowance, and the bandings of SRAs should stand, subject to the index-linked increase of 7.64% over the 2 years.

#### **Basic Allowance**

22. The ALG Panel recommended in 2001 a basic allowance based on an assumed time commitment for Councillors of 60 hours per month, of which 20 could be regarded as voluntary. The Panel considered that the most appropriate rate for payment was the average hourly rate of male white-collar workers in London, which, with rounding came to £8500.
23. The Council's Current Basic Allowance is £8,540.00 The ALG recommend a basic allowance of £9149.40 per annum.

#### **Special Responsibility Allowances (SRAs)**

24. **ALG Panel Recommendations:** The ALG Panel recommended in 2001 that special responsibility allowances should be payable only where there are significant differences in the time requirements and level of responsibility from those generally expected of a councillor and that no individual Member should receive more than one Special Responsibility Allowance. Government

guidance is that they should be paid only to members who have “significant additional responsibilities” over and above the generally accepted duties of a councillor.

25. In 2003 the Panel remains “firmly of the view” that the proportion of Councillors entitled to receive a Special Responsibility Allowance should not exceed 50 per cent of the total number of Councillors. The panel stressed the importance of a general principle of limiting tightly, as a matter of good practice, the proportion of councillors entitled to SRAs. It noted that if a Borough finds this too restrictive then it should consider whether the responsibility the Borough wishes to recognise is not already adequately catered for in the basic allowance.

**Level of Special Responsibility Allowances and relativity between them.**

26. **Leader’s SRA:** The ALG Independent Panel considered that the role of Leader of the Council was at least as demanding as that of a Member of Parliament, and that therefore the Leader’s total allowances (Basic plus SRA) should be based on a back-bench Member of Parliament’s salary. This was currently £55,118 as at 1<sup>st</sup> April 2002, and £56,358 as at 1 April 2003, and is linked to Senior Civil Service pay bands. However, the ALG Panel is now recommending that the Leader’s allowance should be based on the back-bench member salary in 2001, uplifted by the Local Government Pay Settlement, which would give a total figure of £55,972.80 per annum. Council Assembly in June 2002 agreed to pay the leader at a lower rate of £50,000, which with the increased basic allowance is currently £50,540.
27. **Band 1-3 SRAs.** The ALG Panel’s approach was to link Band 1-3 SRAs to the total amount of the Leader’s allowance, so that the total (basic +SRA) was a % of the Leader’s total (Basic and SRA), as follows. The Council in the event adopted band limits for SRAs (excluding Basic allowance) to a percentages of the leader’s allowances (including the Basic allowance). This can cause confusion when working out percentages, and Members may wish to take this opportunity to fix the total allowance levels including SRAs by reference to a percentage of the Leader’s total allowances, in line with the ALG’s approach. The current relativities are set out in column 2 of the table below.

Column	1	2	3
Band	ALG SRA+Basic as % of Leader’s Total	Southwark SRA+Basic as % of Leader’s Total (Current %)	Southwark SRA only as % of Leader’s SRA +Basic (Agreed proportionality)
Band 4	100%	100%	-
Band 3	70-80%	62%	45%
Mayor (band 2)		59%	40%
Band 2	40-60%	31%	14%
Band 1	20-30%	22%	5%

Note: All figures are rounded to the nearest decimal point). (Note: this is not suggesting any change in allowance levels – rather that the baseline percentages be taken from different figures and calculated on a more logical basis).

28. In practice, Southwark set most allowances at the lower end or below the ALG Banding. In particular, what Southwark calls “Band 2” is paid at an amount equivalent to the higher end of the ALG Panel’s recommendations for Band 1

allowances. Some, but not all of the posts Southwark places in Band 2 are in the ALG Band 2, and some are in Band 1.

The amounts set out below summarise the ALG recommendations, as they apply to Southwark, assuming that the Mayor is Southwark's current Band 2, and Southwark's Band 2 is set at the high end of Band 1.

Southwark Bands		ALG	Southwark
<b>Band 4</b>		£55,972.80	£50,540
<b>Band 3</b>	% of Leader's total SRA Total Allowance	70-80% £27,900-£33,100 £36,400-£41,000	62% <b>£22,743</b> £31,283
<b>Mayor (ALG Band 2)</b>	% of Leader's total SRA Total Allowance	40-60% £13,239.72-£24,434.28 £22,389.12-£33,583.68	59 % <b>£20,216</b> £28,756
<b>Band 2 (ALG high end of band 1)</b>	% of Leader's total SRA Total Allowance	20-30% £2,045.16-£7,642.44 £11,194.56-£16,791.84	31% <b>£7,075.60</b> £15,615.6
<b>Band 1 (ALG Lower end)</b>	% of Leader's total SRA Total Allowance	20-30% £2,045.16-£7,642.44 £11,194.56-£16,791.84	22 % <b>£2,527</b> £11,067

#### 29. Amendments to SRA Levels: Options

The options for review are almost limitless – some are set out below, with examples in the table.

1. No change to present SRAs.
2. Move now to implementing the ALG's recommendations – e.g. at the lower limits (with Southwark's Band 2 at the upper level of Band 1, and the Mayor at the upper limit of Band 2)
3. Uplift existing SRAs by a percentage – e.g. equivalent to that applied to the Basic Allowance.
4. Uplift both Basic and SR allowances to a level equivalent to the 2002 allowances, plus the LGPS uplift (i.e. by the amount the ALG recommendations have increased) since allowances were set.

	2002	No change	ALG in full – lower *	2002 + NES Index increase (6.75%)	2002+LGPS % increase
		Option 1	Option 2	Option 3	Option 4
Basic	£8,000	£8,540	£9,149.40	£8,540	£8,611.20
<b>SRA only</b>					
Band 1	£2,500	£2,527	£2,045.16	£2,668.75	£2,691
Band 2	£7,000	£7,075.60	£7,642.44*	£7,472.50	£7,534.80
Mayor	£20,000	£20,216	£24,434.28	£21,350.00	£21,548
Band 3	£22,500	£22,743	£27,900.00	£24,018.75	£24,219
Band 4	£42,000	£42,000	£46,823.40	£44,835.00	£45,208.80
<b>Basic + SRA</b>					
Band 1	£10,500	£11,067	£11,194.56	£11,208.75	£11,302.20
Band 2	£15,000	£15,615.60	£16,791.84*	£16,012.50	£16,146.00
Mayor	£28,000	£28,756	£33,583.68	£29,890.00	£30,159.20
Band 3	£30,500	£31,283	£37,049.40	£32,558.75	£32,830.20
Band 4	£50,000	£50,540	£55,972.80	£53,375.00	£53,820.00

\*This assumes Band 2 is high end of Band 1 recommendations, and Mayor is lower end of Band 1 recommendations.

### Information about London and Southwark Average Earnings

30. The Table below shows information from the New Earnings Survey, in relation to Earnings in London. The categories shown include those in professional or associate professional occupations, along with corporate managers and administrators who do not fall into the professional category, but might be expected to require a similar ability to assimilate complex information, manage a demanding workload, and provide leadership to that expected of members of the executive or the mayor.
31. The Executive and Mayoral allowances, for full time service, are currently significantly lower than the average for professional and all associate professional occupations in London, with the exception of health associate workers. One further point to note is that the Mayor's allowance is less than the average earnings of those employed in Southwark (and the average figure includes both manual and non-manual workers). The Executive allowance for full time members is close to the average figure for all people employed full time in Southwark.
32. If the lower levels of ALG level allowances were implemented (Option 2 above), would bring the Executive (£37,049.40) to around average earnings of a teaching (£36,995) or science or engineering (£37,293) professional in London, though still well below the average for all professional and associate professional occupations (£43,049, or £41,219).

<b>London Average Full Time Earnings</b>	<b>Weekly</b>	<b>Annual equivalent*</b>
All Professional Occupations	£825.60	£43,049
All Associate Professional Occupations	£790.50	£41,219
Science and Engineering Professional	£715.20	£37,293
Science and Engineering Associate	£624.70	£32,574
Health Professional	£1,115.70	£58,176
Health Associate	£516.00	£26,906
Teaching professional	£709.50	£36,995
Other professional	£932.80	£48,639
Other associate professional	£921.30	£48,039
Corporate Managers and Administrators not falling into the professional category.	£681.70	£35,545
All Non Manual	£806.70	£38,229
All Manual Occupations	£409.10	£20,508
All Male	£704.80	£34,762
All Female	£503.60	£26,259
Employed in Southwark All	£623.60	£31,130
Employed in Southwark Male	£662.90	£34,565
Employed in Southwark Female	£535.70	£27,933

\*These figures are not taken from the London earnings survey, which gave weekly figures for most earnings, but is estimated by assuming 52 1/7 weeks per year. It may overestimate slightly as a result.



**Abatement of Band 3 and Band 4 Allowances**

33. The Council's current scheme provides that the level of Allowance paid to a Band 3 or Band 4 Member is dependent on the number of hours per week the Member is employed elsewhere, as set out below:

- less than 11 hours elsewhere, full SRA
- 11 to 24 hours elsewhere, two thirds SRA
- more than 24 hours elsewhere, one third SRA

34. The ALG Panel do not recommend this approach. Their view is that "the allowance should reflect the role rather than the mode in which it is performed. We expect that the role of Leader will, in most boroughs be full-time, and the allowance takes that into account. Executive Members may or may not be full-time, but if their roles are of comparable responsibility, ***we recommend that they should be remunerated at the same rate, irrespective of whether they are actually undertaken part time or full-time mode.*** Otherwise there would be an incentive to Members to shift from part-time to full-time service for the sake of an enhanced allowance."

**Responsibilities for which SRAs are payable:**

35. ***Community Council Chairs:*** Since the allowances scheme was agreed, the delegations to Community Councils have been determined. This alters the workload of Planning and Licensing Committees and the workload of Chairs of Community Council Chairs. Standards Committee has previously considered the relative workloads and recommended that Community Councils (currently listed in Band 1, but not in payment) be paid a Band 2 allowance of £7,000 per annum (Band 2 has since moved to £7,075.60).

36. ***Members of the Adoption Panel, and Planning and Licensing Committees:*** The new regulations specifically empower councils to pay SRAs to Members who sit on an Adoption panel. The Council has 2 adoption panels, which meet fortnightly during the day. Similarly, provision can be made for Members of Planning and Licensing Committees. The ALG Panel acknowledged that some councils have a heavy workload of quasi-judicial hearings, and suggested that such Councils consider setting up a panel of non-executive Councillors consider appointing a panel of non-executive members to cover Planning, Licensing, Adoption and other quasi-judicial functions, and pay an allowance to members on that panel. Southwark Council has not taken this approach to date. Informal feedback from Members is that Disciplinary Appeals Sub-Committee and panel has a particularly heavy workload, as it is scheduled fortnightly (although not all meetings go ahead), during the day, and meetings can be quite lengthy (e.g. regularly take half a day, sometimes longer.)

**Co-optees Allowance**

37. Previously, Co-optees were able to claim a financial loss allowance subject to maxima set by the Secretary of State, which were not subject to an inflation uplift. The amounts were as follows:

- for a period not exceeding 4 hours, £27.65
- for a period exceeding 4 hours but not exceeding 24 hours, £55.31
- for a period exceeding 24 hours, the aggregate of £55.31 and such amount specified above as is appropriate to the number of hours

Experience indicates these levels may have been inadequate to reimburse for actual levels of financial loss incurred in performing the duties.

38. This provision has been replaced in the new regulations with provision for a co-optees allowance, which must be paid on an annualised basis (and not as an attendance allowance). The ALG panel considers that co-opted members have a different role from that of an elected member, and that it would have been more appropriate to allow for an attendance allowance. The ALG Panel, therefore recommend that the annualised allowance be calculated by reference to the expected number of meetings.
39. The Panel propose that boroughs adopt a standard sum per meeting, for which they suggest £100, and then multiply it by the anticipated meeting load for the year. The resulting allowance would cover not only attendance at the meetings of the committee concerned but also any related and incidental activity.
40. The regulations also provide that, where a co-opted education representative chairs a meeting, the SRA should be the same as it would be for an Councillor. Currently the chair of the Education scrutiny sub-committee is a Member, so this does not apply. There is no corresponding requirement for the chair of a Standards Committee.
41. Currently, the Council has the following co-opted members. An indicative allowance based on ALG recommendations is shown in the fourth column of the table.

<b>Committee</b>	<b>Number of co-optees and whether statutory</b>	<b>Estimated meetings per year</b>	<b>ALG rate of £100</b>
Standards Committee	4 Statutory Co-optees – Independent Members	4 ordinary – and up to 2 special meetings	£600pa
Overview and Scrutiny, and Education and Leisure Scrutiny Sub-Committee	4 Statutory co-optees – 2 Diocesan reps, and 2 Parent Governor Reps.	OSC (10, of which members could be expected to attend when education matters are on the agenda – estimated as all or part of 4 meetings) E&L SSC (10, of which members could be expected to attend all meetings).	£1400 p.a.
Housing Scrutiny Sub Committees	3 non-statutory co-optees – 2 Tenant Council, and 1 Leaseholder Council rep	10 meetings.	£1000

#### **Electing to Forego Allowances**

42. The ALG Panel recommends that the scheme should (continue to) provide that a person may by notice in writing given to the proper officer (Borough Solicitor) of the authority, elect to forego entitlement to allowances.

### **Withholding Allowances**

43. The Panel recommends that boroughs should include in their scheme provision for Standards Committee to withdraw allowances in whole or in part in the event of a member being suspended or partially suspended in the event of a member being suspended or partially suspended. All allowances should be withheld for the period of total suspension, and in the case of partial suspension the basic allowance should continue to be paid (though they would expect a member voluntarily to abate their claim according to the extent to which they were able to continue to fulfil the functions of a non-executive member), and to the extent that the partial suspension made it impossible or impracticable for a member to undertake activities in respect of which a special responsibility allowance was payable, that allowance should be withdrawn.

### **Travel and Subsistence Allowances**

44. On 26<sup>th</sup> June 2002 Council Assembly decided that the basic allowance should cover travel and subsistence costs within the borough. Members may therefore usually only claim travel and subsistence expenses incurred in the performance of "Approved Duties" for meetings held outside the borough, except that Members can claim for cabs where a meeting ends after 8pm, or dusk, whichever is the earlier. Members with mobility difficulties are able to claim for taxi fares at any time whilst on Council Business. On 22<sup>nd</sup> January 2003 Council Assembly further determined that councillors could not claim for the congestion charge.
45. Maximum levels for travel and subsistence allowances were previously set by the Secretary of State. The new regulations remove this provision, allow for payment for bicycle allowances, and require the ALG Panel to make a recommendation as to allowance levels.
46. The ALG Panel recommend that the basic allowance should be treated as covering all intra-Borough travel costs and subsistence, but with local variations to this rule to meet different local conditions. They also strongly recommend that the rules and entitlements for reimbursement of travel expenses, and for travel by bicycle should be the same for officers, members and co-opted members, as this approach offers efficiency by providing a uniform model for the handling of claims, and it also conveys equal treatment of officers and members.
47. The current rates for officers are set out in the draft scheme. It is suggested that the rates for casual car use are those, are those which are appropriate for members travelling outside the borough. Members may wish to recommend whether to remain with the current scheme or to agree that rules and entitlements for members are the same as for officers (and therefore vary as officers' conditions will).
48. Members will note that Officers cannot claim a tea allowance. The other major difference is that the current provision for travel by taxi after late meetings is more generous for Members, who are able to travel by taxi after dusk or 8pm, whereas officers normally can travel home by taxi only where a meeting finishes after 9pm (and then only at the discretion of their manager).

### **Childcare and Dependant Carers Allowance**

49. The maximum rate of Childcare and Dependant Carers Allowance claimable by Members was agreed on 30 October 2002 at £6.00 per hour, this figure to be uplifted on an annual basis. This figure was agreed at Council Assembly on

30<sup>th</sup> October 2002. Standards Committee recommended that this limitation be removed but that the maximum allowance be capped at £200 per calendar month per member.

50. The ALG Panel recommend a flexible approach to the childcare and dependent carer's allowances, but especially recommend that boroughs have regard, when setting appropriate levels to their local social services department's levels of reimbursement:

- a. A maximum rate should be set locally to reflect local costs, in accordance with social service departments levels;
- b. Payments should be subject to a maximum weekly payment of £30 equivalent to seven-and-a-half hours of care per week (this recommendation has since been withdrawn – see paragraph 51 below).
- c. Payment should be claimable in respect of children aged 15 or under or in respect of other dependants where there is medical or social work evidence that care is required;
- d. Only one weekly payment should be claimable in respect of the household of each member, except in special circumstances to be judged by the Council's Standards Committee;
- e. The allowance should be paid as a reimbursement of incurred expenditure against receipts;
- f. The allowance should not be payable to a member of the claimant's own household
- g. Any dispute as to entitlement and any allegation of abuse should be referred to the Council's Standards Committee for adjudication; and
- h. The scheme should be reviewed after not more than twelve months' operation.

51. Several boroughs have raised concerns that the ALG report recommended a maximum weekly payment of £30 for 7 ½ hours care. This equates to less than the current minimum wage of £4.20, which will increase to £4.50 in October 2003. Officers at the ALG advise that this was copied from the previous report, and a Chief Executive's circular was distributed withdrawing this recommendation.

52. Comparisons with the Social Services Department show that the amounts paid vary depending on the needs of the person receiving care. In some cases an agency is engaged, and in others, payments are made direct to the person receiving care to arrange their own support, according to their care plan. Officers in the Social Services Department advise that the rate paid to adults with Community Care needs e.g, physical disabilities who want control over their own care is around £7.00/£8.89 per hour according to the care plan. The Social Services Department does not arrange childcare ("babysitting") although payments are made to foster carers.

53. One option is for Members to agree that the rate shall be set from time to time by the Chief Executive on the advice of the Strategic Director of Social Services.

#### **Approved Duties**

54. The new regulations remove the anomaly whereby Dependant Carers' allowance could be claimed for a more limited range of duties than Travel and Subsistence Allowances. Otherwise, the range of duties for which allowances can be paid remains the same.

## **Pensions**

55. The Local Government Pension Scheme and Discretionary Compensation (Local Authority Members in England) Regulations 2003 permit the Council to allow Councillors to join the Local Government Pension Scheme subject to the following
- An eligible councillor will have to positively elect to become a member of the scheme.
  - The councillor member's pay in any year comprises (a) the basic allowance and (b) any special responsibility allowance payable
  - Pension benefits will be calculated by reference to career average pay not final salary
  - The retirement age for a councillor will be age 70
  - Councillor membership will not count towards calculating any other period of local government employment/LGPS membership
56. The ODPM view is that the provisions for pensions take into account the commitment of local councillors, and the fact that many members of local authorities may have lower personal or occupational pension provision than they could otherwise have had, due to missing out on full time employment or foregoing promotions and other opportunities on account of their public duties. The new provisions allow authorities to address this disincentive from serving in local politics.
57. The ALG Panel recommended that Allowances Schemes should provide for allowances to be pensionable through the LGPS, and that all members under the age of 70 should in principle be eligible to join the scheme in respect of all allowances paid to them (basic and special), and without reference to any qualifying service.
58. The cost to individual members would be 6% of Basic and SRA allowances. The cost to the Council for each person who elects to become a member of the scheme would be the same as the cost for officers, currently 10.5% of salary/basic and SRA allowance.
59. Travel and Subsistence Allowances are not pensionable.

## **Backdating of Allowances and Pensions**

60. As set out above, amendments to the scheme have been delayed, due to the statutory changes. Members have the option of backdating increases to the old scheme to 1 April 2003 (but not the revocation of any allowance payable from that time). In addition, Members have the option of backdating changes to 1 May 2003, or to Constitutional Council, under the terms of the new regulations, provided that any change does not mean that any person receives more under the backdating than they would have under the new scheme.

## **Performance Indicators/ Accountability**

61. Standards Committee resolved: "That in line with government legislation for increased public accountability over the performance of members' duties and responsibilities, the practice adopted by councils elsewhere, and the Leader of the Council's own public statements, that it be agreed, in principle, that any new Members' Allowances Scheme should only be introduced in conjunction with performance indicators/ standards. The indicators/ standards should be

- transparent and comprehensive, should be particularly demanding for Executive Members, and should be applied first to Executive Members after the May 2003 Constitutional Council meeting.
62. The ALG Panel's view is that the current system of Members' remuneration allowances, with its principle of annualised allowances rather than attendance allowances, places a high premium of trust. They regard accountability for the use of public money as being of the highest importance, and welcome the provisions in the regulations, which require records of allowances to be published, and to be open for inspection.
  63. The ALG Panel recommends that Members themselves should go further than the minimum publicity requirements, and consider that job descriptions for members should be used as the basis for reporting by members on their activities on behalf of their electors and their boroughs. Councillors should see making such reports as a way of broadcasting the extensive range of tasks and duties, which they undertake on behalf of the electorate. The Panel would like Councillors to give an account of what services they have provided to their constituents, what their objectives have been, and their success in achieving them, along with some record of their general industry.
  64. Officers are not aware of any other London Borough with such a reporting mechanism, although it has been adopted by Members of Tameside Council, who use a job description very similar to that used in the ALG report, and whose reports are published on their website. One possible option would be for all members to be entitled to have published on the Council's Internet site, and circulated to all residents of their ward a report setting out their activities over the preceding year. The sort of information which could be provided by members includes the positions held within the council, and the activity which arose from those positions (e.g. membership of a committee and a brief outline of the Members' work with the committee), a summary of meetings attended (both formal council meetings and in a representative role on bodies external to the council) information about the steps the member took to be accessible to his or her constituents and to represent the constituents (for example, information about surgeries or walkabouts), and the steps the member took to maintain and improve their knowledge and skills.
  65. As part of the [Forward@Southwark](#) Member Development Project, work has been done on drafting role descriptions for members, as a base for identifying training and development needs to support members to be effective in the roles. The role descriptions could be used as a basis for the reports.
  66. Any reports published would need to comply with the Council's duties on the publication of party-political material.

#### **EQUAL OPPORTUNITIES IMPLICATIONS**

67. An inadequate Members' Allowance Scheme creates too narrow a base from which to recruit Members and disadvantages certain sections of the community. The ALG recommends that the recruitment of Councillors should be drawn from across the social spectrum and not just be restricted to those people who can afford to give open-ended time commitment in return for no more than honorary remuneration. In England Councillors have disproportionately been drawn from the ranks of the retired, those with independent means, and the self employed.

Women, young people, and ethnic minorities have been proportionately underrepresented.

68. The Council has for some time chosen to set the basic allowance at a level (at one time £10,000) at which Councillors could afford to move to working part time (Southwark Council took the lead in this respect). It is notable that a number of Councillors were elected at the last election (across all 3 parties) in younger age ranges, and the Executive has the youngest average age in the country.
69. A realistic remuneration package also assists those individuals with caring responsibilities to be able to make alternative arrangements and allow them to be active in Council business, thus helping to attract a wider spectrum of Councillors from all sides of the community and reinforce the ethos of public service. Similar considerations apply to co-opted Members.

#### **POLICY IMPLICATIONS**

70. In setting the level of Childcare and Dependent Carers' Allowances, the Council's policies on low pay is a relevant consideration. In respect of travel allowances the Council's strategies for encouraging the use of public transport and green issues are also relevant.

#### **RESOURCE IMPLICATIONS**

71. It has been recognised that the move to an Executive form of governance places new demands on members, and an increased level of allowances reflects that. Similarly, the move to pensions means an increase in the cost of Members Allowances.
72. The Standards Committee's role is to make recommendations as to the principles which should underpin the allowance scheme – it is a matter for the Executive and Council Assembly to determine how to finance any additional costs arising from any proposed changes. No specific provision exists to meet additional costs arising from increases affecting 2003/4 but an estimate will be included in the 2004/5 provisional budget which is currently being drafted.

#### **SUPPLEMENTAL ADVICE FROM OTHER OFFICERS**

##### **Borough Solicitor And Secretary**

73. Much of the legal information is contained in the body of the report. This advice summarises some additional information.

##### ***Members' Interests***

74. All Members have a personal interest in this matter, as defined by paragraph 8 of the Code of Conduct, and are required to disclose this interest to the meeting under paragraph 9 of the Code.
75. Ordinarily, Members would be required to consider whether the personal interest was also a "prejudicial interest". However, paragraph 10(2)(g) of the code applies: it provides that a member may regard himself or herself as not having a prejudicial interest in a matter if that matter relates to members' allowances. Members are therefore free to remain in the meeting and to vote on this item.

##### ***Basic provisions: making and amending an allowance scheme***

76. The payment of Members' Allowances is now governed by the Local Authorities (Members' Allowances) (England) Regulations 2003, which took effect on 1 May 2003. The regulations largely consolidate and rationalise existing provisions, but do introduce a new powers to pay pensions for members, to pay allowance to statutory co-optees, to index-link allowances, and include payment for members of adoption panels.
77. The regulations initially required that Councils review existing schemes and establish new schemes of allowances under the regulations before 30 September 2003. That period has now been extended to 31 December 2003.
78. The regulations require the Council to make a scheme in accordance with these regulations which provides for the payment of a basic allowance in respect of each year to each member of an authority, and that the amount of the basic allowance should be the same for each member. An authority may also make provisions for special responsibility allowance, dependants' carers' allowance, travelling and subsistence allowance and, a new provision, co-optees' allowance.
79. Any scheme continues until revoked and replaced by a subsequent scheme. The scheme may be amended at any time, but may only be revoked with effect from the beginning of a year (for this purposes a year begins on 1 April and ends on 31 March). If an in-year amendment is made, the regulations require that the allowance is paid proportionately based on the number of days in the year.
80. The new regulations specifies the categories of Members of the Authority to whom special responsibility allowances may be payable as follows:
- (a) Acting as Leader or Deputy Leader of the political group
  - (b) membership of an executive
  - (c) Presiding at meetings of a committee or sub-committee or joint committee or sub-committee of a joint committee on which the authority is represented. (This would include area committees)
  - (d) Representing the authority at meetings of or arranged by any other body.
  - (e) Membership of a Committee or sub-committee which meets with exceptional frequency or for exceptionally long periods
  - (f) Acting as a spokesman of a political group on at Committee or sub-committee
  - (g) Acting as a member of an Adoption Panel within the meaning of the Adoption Agencies Regulations 1983 **(this is a new inclusion)**
  - (h) Acting as a member of any committee or sub-committee that deals with any function arising under any enactment authorising the authority to licence or control the carrying out of any activity.
  - (i) Such other activities in relation to the discharge of the Authority's functions as require of the Member an amount of time and effort equal to or greater



than would be required of him or her by any one of the activities mentioned in sub-paragraphs (a)-(e) above.

81. The regulations maintain the requirement that where there is a controlling political group (where half the authority's membership are of the same political group) an allowance must be paid to at least one person who is not a member of that group. However, as no political group has half the membership of the council, this section does not apply in Southwark at present.

***Co-optees Allowance***

82. Attendance Allowance was abolished by a previous amendment. Co-optees could claim Financial Loss allowance, but this has been replaced by a provision, which enables the Council to pay to a co-optees allowance "for each year " to " a member of a committee or sub-committee of an authority who is not a member of the authority".

***Approved Duties for Childcare and Dependent Carer's Allowance, Travel and Subsistence Allowances***

83. Previously, Dependent Carers' allowance could be paid for a limited range of duties, which could not be extended. This limitation has been removed, and can now be paid for the full list of duties shown in the current scheme.
84. Members are able to add additional duties or classes of duties, provided that the duties are carried out for the purpose of or in connection with the discharge of the functions of the Council, or any of its committees or sub-committees. Allowances cannot be paid for attendance at political group meetings. This is subject always to the overriding principle that Member's can claim only for expenses necessarily incurred, and cannot claim from more than one allowance system for the same duties.

***Travel Allowances and Subsistence Allowances***

85. The amount of Travel and Subsistence Allowances was previously tied to maxima set by the Secretary of State. This has been removed, and is now subject to the recommendations of the ALG Panel.
86. The ALG Panel recommended that intra borough travel and subsistence should be covered for by the Basic Allowance, but that the rates should otherwise reflect the Council's rates payable to staff. For the first time, bicycle allowances are claimable.

***Pensions***

87. The Local Government Pension Scheme and Discretionary Compensation (Local Authority Members in England) Regulations 2003 permit the Council to allow Councillors to join the Local Government Pension Scheme subject to the following
- An eligible councillor will have to positively elect to become a member of the scheme.
  - The councillor member's pay in any year comprises (a) the basic allowance and (b) any special responsibility allowance payable
  - Pension benefits will be calculated by reference to career average pay not final salary
  - The retirement age for a councillor will be age 70
  - Councillor member ship will not count towards calculating any other period of local government employment/LGPS membership

- An eligible councillor will be able to contribute to Additional Voluntary Contributions where appropriate

**Tax**

88. All Members have previously received a letter outlining LGIU advice on taxation. As a general rule, basic and SRA allowances are taxable as income, although Members can offset against that income expenses that have been wholly, exclusively and necessarily incurred in the performance of their duties as a councillor.

**Publicity**

89. Amendments to the scheme must be publicised as soon as practicable after any amendment is made. As soon as practicable after 31 March in any year, the Authority must publish the total sum paid by it to each member in respect of basic, special responsibility and dependent carer's allowances. The council is now required to publicise the amount received by Members by way of travel, subsistence, dependants' carers' allowance, and co-optees' allowance, but not telephone allowances.

**Backdating**

90. The new regulations contain express provision to backdate allowances to 1 May 2003. Under the old provisions, amendments to a scheme could be backdated, but revocations could not. In theory, some increases to allowances could be paid under the previous provisions, from 1 April 2003.

Background Papers	Held At	Contact
No unpublished papers have been relied on in drafting this report.		

Published Papers	Held At	Contact
ALG Panel Reports	Borough Solicitors' Office Town Hall Peckham Road	Rachel Prosser 020 7525 7678
Standards Committee reports	Constitutional Support Town Hall Peckham Road	Paula Thornton 020 7525 4395

List of Appendices	
Appendix 1	Options Paper

**Audit Trail**

<b>Lead Officers</b>	Bob Coomber, Chief Executive Deborah Holmes, Borough Solicitor and Secretary
<b>Report Author</b>	Rachel Prosser, Senior Lawyer, Corporate
<b>Version</b>	Final
<b>Dated</b>	23 September 2003
<b>Key Decision?</b>	Not applicable – decision reserved to Council Assembly

CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Borough Solicitor & Secretary	N/a	N/a
Chief Finance Officer	No	No
Executive Member	No	No
Date final report sent to Constitutional Support Services		3 October 2003