

Item No. 6.1	Classification: Open	Date: 13 July 2022	Meeting Name: Council Assembly
Report title:		Member Allowances Scheme 2022-2023 – amendment to members’ entitlement to maternity, adoption and shared parental leave and relevant allowances	
Ward(s) or groups affected:		All	
From:		Constitutional Steering Panel	

RECOMMENDATIONS

1. That council assembly agrees the amendments to the Member Allowances Scheme in the Constitution as detailed in Appendix 1, setting out members’ entitlement to maternity, adoption and shared parental leave and relevant allowances.
2. That council assembly notes that a notice of motion signed by 16 councillors has been received, as per council assembly procedure rules 1.11.1.

Consequential changes

3. That the proper constitutional officer be authorised to make any necessary consequential changes to the constitution as a result of the above.

BACKGROUND INFORMATION

Legal background

4. Under Section 18 of the Local Government and Housing Act 1989, the Secretary of State may make regulations authorising or requiring councils to make a scheme providing for the payment of allowances to members.
5. The council is required under the Local Authorities (Members’ Allowances) (England) Regulations 2003 (as amended) to agree on an annual basis a schedule of Allowances payable to members for the following financial year. Under the regulations, when making or amending a scheme, the council is required to have regard to the recommendations of an Independent Remuneration Panel (section 19).
6. The council must publish its scheme of members' allowances, dealing with basic allowances and special responsibility allowances. Payments to members of the council may only be made in accordance with this.

Current scheme and process for review

7. Southwark's member allowances scheme is comprehensive and includes basic allowances, special responsibility allowances (for posts which carry specific responsibilities) and other allowances and expenses that may be claimed.
8. The constitutional steering panel and council assembly are under a statutory duty to have regard to the advice of the London Councils Independent Remuneration Panel Report when considering the council's own scheme for member allowances.
9. In Southwark, the constitutional steering panel considers and recommends any changes to the member allowances scheme to council assembly for final adoption. The approval of the scheme and the setting of allowances are matters reserved for decision by council assembly.
10. The member allowances scheme for 2022-2023 was adopted by council assembly on 23 March 2022. The council agreed its scheme, having considered the recommendations of the constitutional steering panel and having taken into account the London Councils Independent Remuneration Panel's 2022 report.
11. As the member allowances scheme was agreed less than six months ago, in accordance with council assembly procedure rules 1.11.1, a notice of motion signed by 16 councillors has been received.

KEY ISSUES FOR CONSIDERATION

12. The Local Authorities (Members' Allowances) (England) Regulations 2003 ('the Regulations') authorise the establishment by the Association of London Government (now London Councils) of an independent remuneration panel to make recommendations in respect of the members' allowances payable by London boroughs. Such a panel ('the panel') was established and reported in 2001, 2003, 2006, 2010, 2014, 2018 and 2022. The regulations require a review of the scheme every four years as a minimum. The 2022 report is the current review: <https://www.londoncouncils.gov.uk/who-we-are/about-us/financial-information/leadership-and-expenses/remuneration-councillors-london>
13. The objective of this amendment/policy is to ensure that insofar as possible members are able to take appropriate leave at the time of birth or adoption, that both parents are able to take leave, and that reasonable and adequate arrangements are in place to provide cover for portfolio-holders and others in receipt of special responsibility allowances (SRA) during any period of leave taken.
14. There is at present no legal right to parental leave of any kind for people in elected public office. The Council's SRA scheme should encourage diversity and remove disincentives to members taking on responsibilities within the Council. For example, members giving up full time employment to be a full

time cabinet member give up the security of employment. This disproportionately impacts those without alternative financial means.

15. In recent years, a number of benefits have been extended to members who receive SRAs including maternity leave, adoption leave, paternity leave and sick leave.
16. SRAs are paid to compensate members for their special responsibilities in addition to their role as ward councillors (for which a separate basic allowance is payable). SRAs are not deemed as salary, as members are not employees of the Council.
17. Where a period of absence concerns a cabinet member, the Leader will issue a notice of variation to appoint the interim cabinet member. Where a period of absence concerns a committee chair, the vice-chair will normally chair in their place. However as absence in the case of maternity etc., will be for a known considerable length of time, nominations for a replacement should be put forward to council assembly to appoint a chair for the leave period. The provisions of paragraph 47 of the scheme will then apply: “during any period for which special leave arrangements are in place any member who is appointed to deputise for the absent member will be eligible for the full SRA payments due in the same period up to a maximum of 52 weeks”.
18. The independent remuneration panel report 2022 states “our view is that members’ allowances schemes should allow the continuance of Special Responsibility Allowances in the case of sickness, maternity and paternity leave in the same terms that the council’s employees enjoy such benefits (that is to say, they follow the same policies)”.
19. The Council has policies for employees which meet and exceed statutory provision for both leave entitlements and payments with regard to maternity/adoption, shared parental leave and maternity/adoption support leave. With respect to maternity/adoption payments, eligible employees receive in total payments for 39 weeks, made up of 6 weeks full pay, 20 weeks at half pay plus statutory lower rate maternity pay, and the balance 13 weeks at statutory lower rate maternity pay. The entitlement to maternity/adoption support leave (formerly known as paternity leave) is two weeks paid leave for eligible employees.
20. The provisions in the scheme regarding members’ entitlement to maternity, paternity, shared parental and adoption leave does not override the requirements of the law. Section 85 of the Local Government Act 1972 states that ‘if a member of a local authority fails throughout a period of six consecutive months from the date of his last attendance to attend any meeting of the authority, he shall, unless the failure was due to some reason approved by the authority before the expiry of that period, cease to be a member of the authority.’ Any exemption must be considered before the expiry of the six consecutive months’ absence.

Policy framework implications

21. This report is not considered to have direct policy implications.

Community, equalities (including socio-economic) and health impacts

22. SRAs are paid to compensate members for their special responsibilities in addition to their role as ward councillors (for which a separate basic allowance is payable). SRAs are not deemed as salary, as members are not employees of the Council.
23. Improved provision for new parents will contribute towards increasing the diversity of experience, age and background of local authority councillors. It will also assist with retaining experienced councillors – particularly women – and making public office more accessible to individuals who might otherwise feel excluded from it

Climate change implications

24. There are no immediate climate change implications arising from this report.

Legal implications

25. The council is under a duty to adopt a scheme of members' allowances by virtue of section 18 of the Local Government and Housing Act 1989 and relevant regulations. It may only pay allowances in accordance with such a scheme. Members are reminded of the need to have regard to the guidance issued in relation to members' allowance, which is referred to in the report of the London Councils Remuneration Panel attached (Appendix 1).
26. There is a general rule that members may not usually vote on matters in which they have a disclosable pecuniary interest. However, decisions relating to the member allowances scheme are an exception to this general principle, and members may vote on this issue. The monitoring officer has granted a dispensation.

Financial implications

27. Members' basic allowances and special responsibility allowances is funded from the member expenditure cost code. In the last few years only a few members were paid these allowances and it is judged that this can be contained within existing resources. Any significant increase would require a reassessment of resources available within the member expenditure budgets.

Consultation

28. Consultation is undertaken with the group whips.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Member Allowances Scheme, Southwark Constitution: Member Allowances Scheme March 2022.pdf (southwark.gov.uk)	Constitutional Team 160 Tooley Street, London SE1 2QH	Constitutional Team constitutional.team@southwark.gov.uk

APPENDICES

Appendix	Title
Appendix 1	Draft Amended Member Allowances Scheme (Excerpts)

AUDIT TRAIL

Lead Officer	Doreen Forrester-Brown, Director of Law and Governance	
Report Authors	Chidilim Agada, Head of Constitutional Services	
Version	Final	
Dated	30 June 2022	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Law and Governance	Yes	Yes
Strategic Director of Finance and Governance	Yes	No
Cabinet Member	No	No
Date final report sent to Constitutional Team	30 June 2022	