

WELWYN HATFIELD BOROUGH COUNCIL
COUNCIL – 16 MARCH 2022
REPORT OF THE CHIEF EXECUTIVE

INDEPENDENT PERSONS' ALLOWANCE

1 Executive Summary

- 1.1 This report considers proposals to introduce new annual allowances for Independent Persons and members of the Independent Remuneration Panel (IRP) who fulfil important statutory functions for the Council.

2 Recommendation

- 2.1 That Council agrees to introduce the following Independent Persons' Allowances from 2022/23
1. An annual sum of £500 per annum for those appointed as Independent Persons by the Council.
 2. An annual sum of £500 per annum for members of the Independent Remuneration Panel during designated review years for the Member Allowance Scheme; and £200 per annum for intervening years
 3. Reasonable travel expenses will continue to be reimbursed in line with current Council policies.

3 Explanation

Independent Persons

- 3.1 The role of an "independent person" was created by the Localism Act 2011. The Act requires all local authorities to adopt a code of conduct for their elected members and to appoint at least one independent person to assist the Council in dealing with complaints that the code of conduct may have been breached. Currently the Council can call upon three independent persons to assist in dealing with complaints of this manner. In practice, only one independent person has been required to assist the Council in the past few years.
- 3.2 An independent person would be expected to advise and potentially attend any meeting of the Standards Committee or Sub Committee which is considering an allegation of a breach of the code of conduct. The Independent Person will be expected to provide a view on the conduct of borough and parish/town councillors from an external perspective, reflecting the expectations and views of the local community on ethical standards. The Independent Person fulfils this function in accordance with the council's "Arrangements for dealing with complaints about the code of conduct for councillors" and statutory arrangements.

- 3.3 In addition to this, the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2001 (as amended) requires that a panel of at least 2 Independent Persons, is convened to advise the council in the event of the council's Investigating and Disciplinary Committee recommending the dismissal of a Statutory Officer.
- 3.4 The role of the Independent Person is voluntary and unsalaried. However, a small annual allowance is permitted under Section 28(8)(d) of the Localism Act 2011. This is in addition to reasonable expenses claimed for travel and subsistence when meetings have been attended. Currently the Council do not pay any allowance, and it is thought this has contributed to the difficulty in recruiting suitably qualified people to fulfil this important statutory role. It is proposed that an annual allowance is introduced before the Council advertises for and seek to recruit new Independent Persons.
- 3.5 A review of councils in Hertfordshire showed a range of practices. North Hertfordshire District Council advertised for an Independent Person in 2020 with an allowance of £2205 per annum, whilst Stevenage has an allowance of £1,361 for their independent person. In both these cases the Independent Person is required to attend meetings of the Standards Committee. In contrast Hertsmere provide an allowance of £300 per annum.
- 3.6 It is therefore proposed that Independent Persons receive an annual allowance of £500 in recognition of the statutory role they play and the work they undertake on behalf of the Council.

Independent Remuneration Panel

- 3.7 Local authorities are required by the Local Authorities (Members' Allowances) (England) Regulations 2003 to establish and maintain an independent remuneration panel to make recommendations on the level of basic and special responsibility allowances and associated matters that are paid to councillors. The Council is therefore required to recruit for and appoint suitably qualified people to sit on the Independent Remuneration Panel (IRP). Currently the Council's Independent Remuneration Panel has five members.
- 3.8 In order for the IRP to make recommendations to Council, it must assess the 'value' of the respective member roles within the wider and overall Council political structure, taking account of changes it considers appropriate and relevant, without any preconceived result or directed outcome. The IRP also considers benchmarking or specialist data as appropriate before it determines a scheme of Members' Allowances.
- 3.9 Similarly, to the Independent Persons, members of the IRP are voluntary and unsalaried. However, a small annual allowance is permitted under regulation 20(3) of the Local Authorities (Members' Allowances) (England) Regulations 2003. Previously the Council has struggled to recruit and retain members of the IRP. It is proposed that an annual allowance is introduced to recognise the work undertaken by IRP members in reviewing the Member Allowance Scheme and making recommendations to Council, especially in major review years.
- 3.10 A review of councils in Hertfordshire showed a range of practices, with some councils covering only travel and subsistence costs, whilst others provide an allowance. Watford and Broxbourne provide an allowance of £200 per annum, whilst

Dacorum and North Herts provide an allowance of £400 and £500 per annum respectively. However, we know a number of Councils are reviewing this at the moment give difficulties in retaining and attracting new IRP members.

- 3.11 Given the difference in workloads between a review year and a non-review year, we propose to have two allowance rates to reflect this. It is therefore proposed that IRP members should receive an annual allowance of £200 per annum, except in major review years when it is proposed the allowance should rise to £500.
- 3.12 It is proposed that if agreed, these allowances should become payable in the new municipal year 2022/23.

Implications

4 Legal Implications

- 4.1 Section 28 (7) of the Localism Act sets out the requirement for local authorities to appoint at least one independent person 'whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and in any other such circumstances it considers appropriate'. Therefore, it is a requirement of the Council to attract and retain independent persons to fulfil this function.
- 4.2 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2001 (as amended) requires that a panel of at least 2 Independent Persons, is convened to advise the council in the event of the council's Investigating and Disciplinary Committee recommending the dismissal of a Statutory Officer.
- 4.3 Each council must set members' allowances in accordance with the Local Government and Housing Act 1989 and the Local Authorities (Members' Allowances) (England) Regulations 2003. Before an authority makes or amends a scheme, it has a legal duty to have regard to the recommendations made by its IRP. The IRP must form at least 3 members, none of whom is a councillor of the authority nor would be so disqualified from being a councillor. Therefore, it is a requirement of the Council to maintain an IRP to review and provide recommendations on the Members' Allowance Scheme.

5 Financial Implications

- 5.1 Whilst the minimum requirement is for the council to have two independent person and three members of the IRP, it would be prudent to ensure there is resilience in the system. Therefore, we assume there will be at least three independent persons and five members of the IRP. This would mean the cost of introducing the allowances would be £2,500 in years without a Member Allowance Scheme review and £4,000 in review years.
- 5.2 It is proposed that the allowances take effect from 2022/23. If the recommendations are agreed this would result in an expenditure of £2,500 in 2022/23 which will be borne out of current budget allocations.

6 Risk Management Implications

- 6.1 Failure to agree the recommendations may make it difficult for the council to retain the current independent persons and members of the IRP, and more importantly hinder its effort to attract and recruit new independent persons and IRP Members.

This will impede the council's ability to meet obligations set out in the Localism Act, The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2001 (as amended) and the Local Government and Housing Act 1989 and the Local Authorities (Members' Allowances) (England) Regulations 2003.

7 Procurement Implication(s)

7.1 None

8 Climate Change Implication(s)

8.1 None

9 Human Resources Implication(s)

9.1 None

10 Health and Wellbeing Implication(s)

10.1 None

11 Communication and Engagement Implication(s)

11.1 None

12 Link to Corporate Priorities

12.1 The subject of this report is linked to the Council's Corporate Priority "A well-run council which puts our customers first", and specifically to promoting equality and fairness and supporting our councillors so that they may better work for, and represent, local communities.

13 Equality and Diversity

13.1 An Equality Impact Assessment (EqIA) was not completed because this report does not propose changes to existing service-related policies or the development of new service-related policies.

Ka Ng
Chief Executive
March 2022