

PAYMENT OF A SPECIAL RESPONSIBILITY ALLOWANCE TO ALL MEMBERS OF THE PLANNING COMMITTEE – REPORT OF THE INDEPENDENT REMUNERATION PANEL

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Background Papers:- The Local Authorities (Members' Allowances) (England) Regulations ("the 2003 Regulations") and New Council Constitutions : Guidance on Regulations for Local Authority Allowances (2003)

Financial Implications:- A provision has been made in the 2008/9 budget profile for consideration as part of the budgetary process

Equalities Implications:- None

Legal Implications:- The 2003 Regulations require the Council to consider advice from the Independent Remuneration Panel in relation to the operation of its scheme of allowances

Options: The Council has a range of options available:

- (a) to amend the scheme of allowances in line with the recommendations of the Independent Remuneration Panel ("IRP") and determine an implementation date.
- (b) to consider the recommendations of the IRP and approve alternative amendments to the scheme of allowances and determine an implementation date.
- (c) to make no amendments to the scheme of allowances

Risks: The Council cannot alter or update its existing Scheme of Allowances for Members without considering the views of its Independent Remuneration Panel. Without such a Panel, the Council risks being open to criticism and legal challenge in addition to being unable to review and update the Scheme of Allowances.

EXECUTIVE SUMMARY

Two members of the Independent Remuneration ("IRP") met on 4 December 2007 to consider the decisions set out in Minute 55(b) of the full Council meeting on 5 November 2007. As the meeting was inquorate, the matters discussed were noted and such notes were considered at a quorate meeting of the IRP held on 8 January 2008. Details of the IRP's deliberations are set out in the body of the attached report.

On balance we agreed with the Council's decision that some recognition should be given to the additional workload undertaken and time commitment given by members of the Planning Committee and that such recognition be payment of a Special Responsibility Allowance ("SRA"). However, whilst the figure of £800 suggested appears reasonable to the IRP, it considers that, as with all other SRAs it should be calculated as a multiple of the Basic Allowance.

The IRP also considered the amount of allowances paid to its members and the terms of office to be served by members of the IRP. Recommendations are also made in respect of both.

DECISION

The Independent Remuneration Panel notes and supports the Council's decision to pay a Special Responsibility Allowance ("SRA") to members of the Planning Committee other than the Chairman. The Panel also notes that in making this decision, the Council has disapplied the restriction in the current Members' Allowance Scheme regarding the payment of multiple SRAs in limited circumstances. The Panel RECOMMENDS to the Council that:

- 1.1 subject to the recommendation in 1.2, a Special Responsibility Allowance ("SRA") equal to the Basic Allowance multiplied by 0.185 be paid to all members of the Planning Committee other than the Chairman.
- 1.2 the SRA referred to in recommendation 1.1 be paid as a single sum at the end of each civic year and only to those members of the Planning Committee who have both:-
 - (a) undertaken and been present for the duration of all the mandatory training developed and implemented by the Planning Committee covering planning procedures, issues of current importance and specialist training on particular topics; and
 - (b) been present for the whole of not less than 75 per cent of the meetings of the Planning Committee held during the civic year.
- 1.3 it determines a date for the implementation of recommendations in 1.1 and 1.2.
- 1.4 the principle of payment, the amount of the SRA and the Council's decision that the restriction in the current Members' Allowance Scheme be disapplied to those members of the Planning Committee who are already entitled to a SRA be reconsidered when the review of the Council's decision to establish a Planning Committee is undertaken.
2. with effect from the start of the 2007/8 civic year the allowances paid to members of the IRP be increased as follows:-
 - the Chairman shall receive a sum equal to the Basic Allowance multiplied by 0.125
 - all other members of the IRP shall receive a sum of £100 per meeting.
3. it considers increasing the membership of the IRP from four to five persons.
- 4.1 it determines what it considers to be an appropriate term of office of members of the IRP having regard to government guidance.
- 4.2 there shall be no restriction preventing a member of the IRP from applying to serve a second term of office.
- 4.3 there shall be a restriction preventing a member of the IRP from re-applying after having served two consecutive terms of office subject to this restriction being lifted to allow a third term in the event of there being no other suitable candidate.

- 5.1 subject to the Council's response to recommendation 3, authority be granted to the Head of Law and Governance to advertise for expressions of interest from the general public for a minimum of one (or such other number necessary to reflect the Council's response to Recommendation 3) new member of the IRP.
- 5.2 authority be granted:
- (a) to an Interview Panel comprising the Leader of the Council, Political Group Leaders, the Chief Executive and the Head of Law and Governance (or any of them who shall be available subject to the Interview Panel comprising no fewer than 3 members) to interview shortlisted candidates and to make recommendations to the Council in respect of appointments.
- (b) to the Head of Law and Governance to invite a member of the IRP whose term of office is coming to an end to continue in office for a further period of up to six months to cover a period where the IRP may be inquorate due to a lack of membership.
- 5.3 the Job Description and Person Specification attached to this report be applied to the role of members of the IRP.

1. Introduction and Terms of Reference

- 1.1 The Independent Remuneration Panel ("IRP") is required by the *Local Authorities (Members Allowances) (England) Regulations 2003* ("the 2003 Regulations") to make recommendations to the Council on the allowances payable to Members. Guidance is to be found in the document issued by the Secretary of State entitled *New Council Constitutions : Guidance on Regulations for Local Authority Allowances (2003)*.
- 1.2 The IRP has been asked to consider and recommend to the Council an appropriate level of special responsibility allowance ("SRA") to be paid to the members of the Planning Committee following the changes made to the Council's decision making processes at the Annual General Meeting on 21 May 2007.

2. Methodology

- 2.1 Two members of the IRP met on 4 December 2007. As the meeting was inquorate, the agenda and notes of the meeting were considered at a quorate meeting of the IRP held on 8 January 2008. The IRP reviewed a wide range of information including:-
- The 2003 Regulations and Guidance referred to in paragraph 1.1;
 - The relevant minute of the AGM of the Council held on 21 May 2007 (Minute 8 and Appendix 1);
 - The Report of the Monitoring Officer on the Role of Members of the Planning Committee presented to the meeting of the Local Government Reform Cabinet Sub-Group held on 11 October 2007;
 - The relevant minute of the meeting held on 11 October 2007 (Minute 10);
 - The relevant minute of the Cabinet meeting held on 29 October 2007 (Minute 59);

- The relevant minute of the Council meeting held on 5 November 2007 (Minute 55(b));
- Details of the length of each meeting of the Planning Committee held since the start of the civic year;
- Details of a range of local authorities who pay a SRA to each member of its Planning Committee; and
- A Review of the Members' Allowances Scheme for Colchester Borough Council dated April 2007.

2.2 The meeting on 4 December 2007 also received presentations on their role from two members of the Planning Committee, the Chairman (Councillor Wendy Scattergood) and Councillor David Mann. The two members also answered questions from the two members of the IRP present.

The IRP records its thanks to Councillors Scattergood and Mann for their assistance in helping it to come to a considered recommendation.

2.3 One member of the IRP also viewed part of the proceedings of the Planning Committee meeting held on 4 December 2007.

3. Factors Leading to Recommendations

3.1 The 2003 Regulations enable local authorities to pay a SRA to such Members as have special responsibilities within a number of categories including:

- acting as a member of a Committee or Sub-Committee of the authority which meets with exceptional frequency or for exceptionally long periods;
- carrying out 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 her/him by any one of the [other] activities [attracting a SRA].

3.2 The IRP considered two principal questions:-

- Does the role qualify for a SRA and, if so,
- How should the SRA be calculated?

3.3.1 In considering the first question, the IRP had regard to the following:

- The Planning Committee meets every two weeks which is a far greater frequency than any other Committee, Panel, Group or decision-making body of the Council. Up to and including the meeting on 18 December 2007 the Committee has met on 15 occasions this civic year with meetings commencing at 7.15pm and lasting, on average, 2 hours 32 minutes. One meeting lasted one hour and another, the meeting on 7 November did not close until 11.40pm. Of the other 13 meetings, 8 closed between 9.44pm and 10.20pm. Whilst the IRP appreciate that the length of meetings alone is not a strict indicator of importance, it does help to illustrate the time commitment of Members.

- Meetings of the Planning Committee attract more public attendance and participation during public question time than any other meeting.
- The Committee has a high profile and the decisions it takes, some controversial and complex, can affect both the livelihood of individuals and the safety of the public. The IRP was advised of the quasi-judicial nature of the Committee's work and that its decisions could be subject to appeal and judicial review and the possible award of costs against the Council following a successful appeal.
- The work of members of the Planning Committee places them under more pressure than members of other Committees and involves significantly greater time commitments including:
 - > preparing for frequent, fortnightly meetings;
 - > reading more agendas;
 - > travelling to and from site visits;
 - > a working knowledge of the statutory planning framework, Development Plan, relevant legislation, government guidance etc;
 - > undertaking mandatory training on a regular basis.

3.3.2 Having regard to the factors set out in paragraph 3.3.1, **the IRP agrees that the role of the Members of the Planning Committee should qualify for a SRA.**

3.4.1 In considering the second question, the IRP expresses its view that allowances should be set at a level to encourage the widest participation in democracy, whilst not being seen as a primary reason for standing for the Council. Furthermore, the IRP accepted that there is no definitive 'right answer' to Members allowances as Councillors serve out of different motivations and come from distinct backgrounds. Whatever the IRP recommends, it will not be enough for some while being too much for others. However, as a general principle, the IRP endeavoured to come to a set of recommendations that are transparent, simple and could be understood by both Members and the public whilst reflecting a degree of voluntary commitment.

3.4.2 In response to a request from the Chairman of the IRP, the Council advised the IRP that it considered a payment of £800 per annum to be appropriate subject to mandatory training and a minimum attendance level being achieved. The Council also considers that the restriction on claiming more than one SRA should be disappplied to members of the Planning Committee in view of the nature of the special responsibilities.

3.4.3 The IRP is extremely disappointed to see that, despite the Chairman's request for the Council to "recommend an appropriate level for the Panel to consider" (Local Government Reform Cabinet Sub Group, 11 October 2007 – Minute 10), the Council's response on 5 November 2007 (Council Minute 55(b)) is expressed as a Council decision giving the impression that the IRP was merely expected to 'rubber-stamp' this decision. The subsequent reports in the press support this impression. Whilst it accepts that this may not have been the Council's intention and the Council minute did not reflect this, the IRP reminds the Council that it has a statutory duty to consider the views of the IRP before taking decisions to alter its Scheme of Allowances for Members.

- 3.4.4 The Council provided no explanation of the basis on which the figure of £800 is calculated but it does appear to be close to that paid to members of the Planning Committee at Colchester. All SRAs paid under the Council's Scheme of Allowances are calculated as a multiple of the Basic Allowance. The IRP considers this to be good practice as it is transparent, simple, understandable and consistent.
- 3.4.5 The IRP was provided with details of 10 local authorities who pay a SRA to members of their Planning (or equivalent) Committee. The sums paid range from £477 (Lewes District Council) to £1,455 (Tendring District Council). It also had a copy of the Colchester BC Review of its Members' Allowances Scheme which was approved in May 2007. This review had been assisted by Dr Declan Hall from the Institute of Local Government (INLOGOV) School of Public Policy at the University of Birmingham. Dr Hall has researched, advised and written extensively on Members Allowances and is regarded as the leading expert in the field. The IRP notes that the BDC Planning Committee now operates in a similar fashion to the one at Colchester except that Members at Braintree do not have organized site visits on the afternoon of each meeting and must make their own arrangements. Also, the Braintree district (61,206 hectares) is, in terms of geography, almost twice as large as the administrative area covered by Colchester BC (33,429 hectares) requiring Members of the Planning Committee to travel greater distances to conduct site visits.
- 3.4.6 The IRP notes that the Planning Committee at Colchester comprises 11 members whereas Braintree has 21 members on its Planning Committee. The IRP accepts that it is for the Council to determine the size of its decision-making bodies. The IRP understands that the new Planning Committee arrangements will be reviewed before the start of the 2009/10 civic year and suggests that the size of the Planning Committee (if it is to be retained) be considered as part of such review.
- 3.4.7 Having regard to the factors set out in paragraphs 3.4.1, 3.4.2 and 3.4.4 to 3.4.6, the IRP considers that the SRA for Members of the Planning Committee should be calculated on a similar basis as that paid to members of the Planning Committee at Colchester BC except that it should be expressed as a multiple of the Basic Allowance. **The IRP recommends that the amount of SRA to be paid to members of the Planning Committee be the Basic Allowance multiplied by 0.185.**
- 3.5 For the reasons referred to in paragraph 3.4.3, the IRP merely notes the Council decision that the restriction in the current Members' Allowances Scheme be disapplied to those members of the Planning Committee who are already entitled to a SRA and expresses no view except to recommend that this decision be re-considered as part of the review referred to in paragraph 3.4.6.

4. Other Matters

Whilst not within the terms of reference set out in paragraph 1.2 of this report, the IRP also considered the following issues relevant to its role:-

4.1 Payment of an Allowance to Members of the Independent Remuneration Panel

- 4.1.1 The IRP, at its meeting on 26 January 2006, asked for clarification on the allowances paid to them having noted perceived anomalies between its and the allowances paid to the IRP of a neighbouring authority. The IRP has received details of allowances paid to IRP members at 11 other authorities. These range from no payment (Basildon) to £1,000 per

annum paid to members of Tendring DC where, also, the Chairman receives £1,500 per annum. By comparison members of the Braintree DC IRP receive a sum of £23 per meeting with the Chairman receiving 0.0625 x the Basic Allowance, currently £264 per annum.

- 4.1.2 The IRP noted the significant range of the allowances paid to the other authorities' IRP members and felt that, whilst the allowances paid to them appeared to be lower than all the other authorities looked at apart from Basildon, neither the lowest or highest payments were appropriate for them.
- 4.1.3 The IRP notes that independent members of the Council's Standards Committee receive an allowance equal to the Basic Allowance x 0.0625 and the Chairman of the Standards Committee receives a SRA equal to the Basic Allowance x 0.25. The Standards Committee meets 4 or 5 times each year, far more frequently than the IRP except in a year when there is a full review of the Scheme of Allowances for Members.
- 4.1.4 Taking all the factors in paragraphs 4.1.1 to 4.1.3 into consideration, the IRP believes that the allowances its members receive should be adjusted and be paid as follows:
- the Chairman shall be paid a sum equal to the Basic Allowance multiplied by 0.125.
 - all other members shall receive a sum of £100 per meeting.

4.2 Appointment of Members to the Independent Remuneration Panel

- 4.2.1 Government guidance includes the following:-

"The local authority will need to consider the term of office of members of the panel. The panel will be required to make recommendations to the Council whenever the Council decides to, within the limits of the law, either revoke or amend its current scheme. The panel may become more effective as its knowledge and understanding of members' allowances is increased.

Accordingly local authorities may wish to consider appointing members of the panel for a term of office of several years, perhaps 3-5 years. Local authorities may also wish to consider phasing appointments to ensure that there is always one member of the panel who has some experience".

- 4.2.2 The current members of the IRP and their respective dates of appointment are as follows:-
- John Burrow (10.2.2003)
 - David Crozier (10.2.2003)
 - Dave Dyson (26.7.2005)
 - Ruth Whitlam (26.7.2005).

- 4.2.3 The Terms of Reference of the IRP includes the following:-

"7. Members of the Independent Remuneration Panel are appointed initially for two years but the Council can extend the appointment for a further two years".

Since appointment, the Council has not formally extended the term of office of any of the current members of the IRP. It has, however, continued to seek the views of the current members on various proposals relating to its Scheme of Allowances for

Members. The Council has also, at each AGM since their first appointment, continued to note the current members as being the membership of the Independent Remuneration Panel established in accordance with the requirements of the Local Authorities (Members' Allowances) (England) Regulations.

- 4.2.4 The IRP recommends that the Council should determine what it considers to be an appropriate term of office for a member of its IRP having regard to the government guidance referred to in paragraph 4.2.1. The IRP is aware that the term of office of the independent members of the Standards Committee is set at four years with no restriction preventing any independent member from applying to serve a second four year term. The IRP believes that, whatever term of office the Council determines appropriate, a similar ability to apply for a second term should be available with restrictions imposed, as is the case with independent members of the Standards Committee, which prevent a member of the IRP from re-applying after having served two consecutive terms subject to this restriction being lifted to allow a third term in the event of there being no other suitable candidate.
- 4.2.5 The IRP comprises 4 members with a quorum of 3. This small number has, on occasion, resulted in difficulties with calling meetings and has resulted, on some occasions, in meetings being inquorate. The IRP suggests that the number of members be increased from 4 to at least 5.
- 4.2.6 The IRP has, based on its experience, considered a job description and person specification that it considers appropriate to the role of its members. A copy is attached to this report for consideration.

BRAINTREE DISTRICT COUNCIL

Independent Remuneration Panel – Job Description and Person Specification **Panel Member**

1.0 JOB DESCRIPTION

1.1 To work with the other Members of the Independent Remuneration Panel to fulfil the objective and functions listed in the Panel's Terms of Reference. The work will involve attendance at occasional meetings in order to carry out the tasks involved. The Panel will make recommendations to the Council in respect of its work.

2.0 PERSON SPECIFICATION

<u>Factor</u>	<u>Essential or Desirable</u>	<u>Assessed by</u>
<u>2.1 Qualifications</u>		
2.1.1 Experience or knowledge of local government and its functions and/or an understanding of financial matters	D	Application
2.1.2 A resident and local government elector of Essex	E	Application
2.1.3 An owner of land or premises in the District	D	Application
2.1.4 A person employed in a place of work within the District.	D	Application
<u>2.2 Disqualifications</u>		
2.2.1 Employment by the District Council or any Town or Parish Council in the Braintree District	E	Application
2.2.2 Employment by any other Local Authority outside the Braintree District	E	Application
2.2.3 Any bankrupt or person who has made a composition or arrangement with creditors which is extant	E	Application/ Interview
2.2.4 A criminal record or conviction which remains unspent	E	Application/ Interview
2.2.5 Any conviction for any corrupt electoral practices at any time	E	Application/ Interview
2.2.6 Active membership or involvement in any Political Party	E	Application/ Interview

2.3 Skills, Knowledge, Abilities and Personal Qualities

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| 2.3.1 | A person who is an active and respected member of the local community | E | Interview |
| 2.3.2 | A person willing only to serve the public interest and the local community | E | Interview |
| 2.3.3 | A person who can demonstrate honesty and integrity which has never been questioned | E | Interview |
| 2.3.4 | A person with the ability to look at issues objectively and make decisions on their merit | E | Interview |
| 2.3.5 | A person who understands the concept of accountability | E | Interview |
| 2.3.6 | A person willing to give reasons for decisions or actions taken in a spirit of openness whilst respecting issues of confidentiality | E | Interview |
| 2.3.7 | A person who can take account of the views of others but is able to reach their own conclusions on issues before them | E | Interview |
| 2.3.8 | A person who can show respect for others and the impartiality and integrity of Council Officers | E | Interview |
| 2.3.9 | A person who can demonstrate an understanding of the duty to uphold the law and trust placed on them | E | Interview |
| 2.3.10 | A person who can demonstrate stewardship and prudence | E | Interview |
| 2.3.11 | A person with leadership qualities prepared to lead by example, always acting in a way that preserves public confidence | E | Interview |

2.4 Other Requirements

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| 2.4.1 | An ability to attend occasional meetings to conduct the business of the Panel | E | Interview |
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