



Sevenoaks
DISTRICT COUNCIL

Despatched: 12.11.12

MODERN LOCAL GOVERNMENT GROUP
20 November 2012 at 5.30 pm
Conference Room, Argyle Road, Sevenoaks

AGENDA

Membership:

Chairman: Cllr Fleming

Cllrs: Mrs. Bracken, Brookbank, Mrs. Cook, Mrs. Davison, Fittock, Fleming,
Mrs. Hunter, Piper, Scholey and Walshe

	<u>Pages</u>	<u>Contact</u>
Apologies for Absence.		
1. Minutes Minutes of the meeting held on 11 July 2012.	(Pages 1 - 6)	
2. Declarations of Interest Any interests not already registered.		
3. Review of the Performance and Governance Committee Terms of Reference	(Pages 7 - 16)	Bami Cole Tel: 01732 227000
4. Review of the Scheme for Members' Allowances	(Pages 17 - 42)	Philippa Gibbs Tel: 01732 227247

EXEMPT ITEMS

(At the time of preparing this agenda, there were no exempt items. During any such items which may arise, the meeting is likely NOT to be open to the public.)

To assist in the speedy and efficient despatch of business, Members wishing to obtain factual information on items included on the Agenda are asked to enquire of the appropriate Director or Contact Officer named on a report prior to the day of the meeting.

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The Democratic Services Team (01732 227241)

MODERN LOCAL GOVERNMENT GROUP

Minutes of the meeting of the held on 11 July 2012 commencing at 5.30 pm

Present: Cllr. Fleming (Chairman)

Cllrs. Mrs. Bracken, Brookbank, Mrs. Cook, Mrs. Davison, Fittock, Mrs. Hunter and Scholey

Apologies for absence were received from Cllrs. Piper and Walshe

Cllrs. Mrs. Morris and Mrs. Sargeant were also present.

1. The Localism Act 2011 - The New Standards Regime

The Modern Local Government Group considered a report outlining proposals for a new Code of Conduct and new arrangements for dealing with Member complaints following implementation of the relevant provisions of the Localism Act 2011, the Localism Act 2011 (Commencement No.6 and Transitional, Savings and Transitory Provisions) Order 2012 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. The Localism Act 2011 made fundamental changes to the system of regulation of standards of conduct for elected and co-opted Councillors. The existing Standards regime ceased to operate on 30th June 2012 with transitional arrangements being limited and not allowing for the old arrangements to continue. From 1st July, the Council was required to adopt a new Code of Conduct and put in place arrangements for investigating allegations of breaches and for making decisions in respect of those allegations.

A Task Group was set up from Members of the existing Standards Committee and met on six occasions to give guidance to Officers on implementation of the new regime. The last meeting of the Group took place on 28th June 2012 when this report, including the appendices, was considered in draft. The comments of the Group on the draft documentation were attached at Appendix 1 to the report.

The Chairman thanked Officers and the Members of the Task and Finish Group for the time and work that had been devoted to developing the new code of conduct processes and procedures.

The Monitoring Officer provided an overview of the report and highlighted that what was being proposed was a completely new Standards regime. The two key differences required by statute were a change in the definition of interests and that Local Authorities now had to choose their own Code of Conduct. The favoured option of the Task and Finish Group was the Code that had been developed by the Department for Communities and Local Government (DCLG) which was also known as the "Bob Neill Code", this Code was set out on Page 17 of the agenda. The Monitoring Officer highlighted that the DCLG Code did not include specific provisions for bullying, disrespect and acting in a way to bring the Authority into disrepute, although it had been suggested that the Code could cover these issues by implication. The Monitoring Officer did not believe this to be the

case and stressed the dangers of relying on implied terms which could ultimately result in a costly legal challenge. In light of this, the Monitoring Officer sought a clear steer from the Modern Local Government Group in order to provide clarity surrounding these issues.

The Portfolio Holder for Safer Communities (the Portfolio Holder), who had also been Chairman of the Task Group, reported that under the Localism Act 2011, Council's had a duty to promote and maintain a Code of Conduct which needed to comply with the Nolan Principles. The arrangements and procedures for handling complaints made under the Code of Conduct would have to apply to Town and Parish Council as well as the District Council. The Town and Parish Councils would have to develop their own Code of Conduct, although complaints made about Town and Parish Councillors would have to be managed by the District Council. The Portfolio Holder stressed that under the new standards regime there were now no sanctions if Councillors or Co-opted Members were found to have breached the Code although the legislation had now introduced criminal sanctions for not disclosing pecuniary interests.

MLG was reminded that the Portfolio Holder had reviewed and investigated a number of different codes and had dedicated substantial time to developing the new Code. Ultimately the DCLG Code was favoured however, what was before MLG was an integrated package. As the new system was of a complicated nature the Portfolio Holder emphasised that this was not a "pick and mix" option for the different elements, it needed to be viewed as a complete package of documentation.

The Portfolio Holder reported that she had consulted a number of lawyers who had confirmed that a Code of Conduct based on the seven Nolan Principles would incorporate bullying and respect. Bob Neill MP, Parliamentary Under Secretary of State, had spoken with one of the Members of the Task and Finish Group and had confirmed that he was satisfied that the DCLG Code met the Nolan Principles. In particular, the Portfolio Holder was confident that paragraph 8 of the draft code was sufficiently broad to include issues relating to bullying and respect.

MLG considered the various issues that had been raised. Following discussions, the consensus of the Group was that issues of bullying, lack of respect and bringing your office into disrepute was covered under the DCLG Code, which was based on the Nolan Principles, and the assessment criteria that had been developed by the Task Group was linked to the DCLG Code. The Assessment Test had clear definitions (at page 59 of the report) of Lack of Respect and Bullying and Intimidation. Members of MLG felt that the Code that had been recommended by the Task Group after extensive work should be recommended to Council for adoption and kept under review for a year by a Sub-Committee established by the new Standards Committee.

The Portfolio Holder for Safer Communities outlined the assessment process, highlighting that after a complaint had passed the initial assessment phase all documents would be passed to the Member accused and the Monitoring Officer would consult the Independent Person. MLG welcomed the changes which meant that Members accused of breaching the Code of Conduct would now be informed of the exact nature of the allegations against them. In response to a question surrounding whether Members would have any right of appeal against decisions taken, the Monitoring Officer reported that there was no explicit right of appeal, but the Ombudsman could be approached in cases where individuals felt that there had been procedural impropriety.

A Member noted that whilst there were no formal sanctions for breaches of the Code of Conduct, it would be the responsibility of the political leadership and political groups to impose informal sanctions on Members who had been found to be in breach of the Code.

Turning to the issue of the Independent Person, MLG noted that this was a new role that had been introduced by the legislation. The primary role of the Independent Person would be to give evidence in advance of the decision of the Hearings Panel. The Monitoring Officer would also be able to seek the views of the Independent Person throughout any investigations that may arise. The Chairman noted that the job description on page 76 of the report suggested that one of the roles of the Independent Person was, if requested, to advise a Member who had been accused of breaching the Code of Conduct. The Chairman felt that this could compromise the impartiality of the Independent Person in any investigation that may result and that it should be made clear that it was not the job of the Independent Person to be an advocate for any accused Member. Following discussion it was agreed that the wording of the Principal Accountabilities on page 76 on the report should be amended to read:

1. To give views to the Council before it takes its decision on any allegation that it has investigated that a Member has breached the Code of Conduct of the Council, or of the relevant Town/Parish Council.

2. To give views to the Council on any allegation that a Member has breached the Code of Conduct, in other circumstances at its request.

3. To give views to any Member of the Council, or of any Town/Parish Council within the Council's area who is the subject of an allegation that he or she has breached the Code of Conduct, at the request of that Member.

In response to a question from a visiting Member, the Chairman confirmed that the Independent Person would be appointed by the three political leaders and provided assurances that they would seek to appoint the "most independent of independent person."

MLG noted that the new Standards Committee and any Sub-Committee formed by it would be responsible for monitoring the new standards regime and Code of Conduct. Members requested that any notes of meetings arising from these Committee be presented to MLG for review.

Resolved: that Council be recommended to

- (a) Adopt the Department for Communities and Local Government Code, as recommended by the Task Group, as the new Code of Conduct for the District Council as attached at Appendix 2a.

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- (b) Establish a Standards Committee with the Terms of Reference and Delegations to the Standards Committee as set out at Appendix 3.
- (c) Appoint 7 Members in accordance with the political balance rules to serve on the Standards Committee.
- (d) Adopt the revised procedures for dealing with misconduct complaints including arrangements for the investigation of complaints alleging a breach of the Member's Code of Conduct as set out in Appendix 4.
- (e) authorise the MO to advertise for no less than 1 Independent Person and that a panel comprising the leaders of the political groups be set up to set the allowances and expenses for the Independent Person and to short-list and interview candidates, and to make a recommendation to Council for appointment as set out in Appendix 5, subject to the amendment outlined above.
- (f) Adopt the new Register of Interest Form for District Council Members and agree the definition for interests other than pecuniary interests called non pecuniary interests (NPI's) as set out in the Form and as attached to this report at Appendix 6.
- (g) Agree to amend its standing orders to provide that a Member or Co-opted Member of the Authority must withdraw from the meeting room, including the public gallery, during the whole consideration of any item of business in which he/she has a DPI, except where he/she is permitted to remain as a result of the grant of a dispensation. The power to amend the Council's standing orders in this way is given by virtue of s.31(10) of the Localism Act . This amendment to be incorporated into the Council's chosen new Code of Conduct.
- (h) Agree to delegate powers to grant dispensations to the MO in relation to section 33(2)(a) and(d) of the Localism Act and delegate powers to grant dispensations to the Standards Committee in relation to section 33(2) (b), (c) and (e) of the Localism Act as set out in Appendix 7.
- (i) Agree that the MO makes the necessary changes to the Constitution by deleting those parts of the Constitution as set out as follows:
 - Part 3 – Standards Committee
 - Appendix O – Member's Register of Interests
 - Appendix Q – Member's Code of Conduct
 - Appendix S – Procedure for Local Assessment of Complaints about Allegations of Member Misconduct
 - Appendix T – Sub-Committees of the Standards Committee

- Appendix U – Guidance on Applying the Appropriate Sanction when a Member has breached the Code of Conduct
- Appendix V – Process and Procedure for Interviewing and Appointing (Independent and Town/Parish Council Representative) Applicants for the Standards Committee
- Appendix X – Procedure for Referrals to the MO for Investigation and Determination

and inserting within the Constitution the new Appendices as approved by this report and any necessary consequential changes including any reference in the Constitution to personal and prejudicial interests being changed to Disclosable Pecuniary Interests (DPI's) and interests other than Pecuniary Interests called Non Pecuniary Interests (NPI's).

- (j) Agree that the Standards Committee and or Modern Local Government Group keeps the Code and Arrangements under review and reports further to the Council as is considered necessary. The Standards Committee will consider setting up a sub-committee for this purpose.

2. Amendments to the Constitution

The Group considered a report outlining two amendments to the Council's Constitution: one relating to the number of meetings of the Select Committees and one relating to the delegated powers of the Community and Planning Director.

Part 1, paragraph 2.4 of the Council's constitution requires that except for changes required by statute, changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Modern Local Government Group. The amendments to the Constitution outlined in Appendix A to the report would bring the number of meetings referred to in the Constitution in line with the new working practice of the Leader of the Council Chairman and Vice-Chairman of the Select Committees at the Annual Council meeting.

The amendment outlined in Appendix B to the report related to specific circumstances where planning permission had been refused under delegated powers, an appeal lodged and new information being received that led Officers to conclude that refusal of permission could not be substantiated at appeal. Under these circumstances the matter would be referred back to Members to enable the original delegated refusal to be reviewed.

Resolved: that full Council be recommended to agree the amendments outlined in the report.

THE MEETING WAS CONCLUDED AT 6.42 PM

CHAIRMAN

ANNUAL REVIEW OF THE PERFORMANCE AND GOVERNANCE COMMITTEE'S TERMS OF REFERENCE

Modern Local Government Group – 20 November 2012

Report of the: Deputy Chief Executive & Corporate Resources Director

Status: For Consideration

Key Decision: No

Also considered by: Performance & Governance Committee – 18 September 2012
Council – 27 November 2012

Executive Summary: This report has been produced in accordance with the Committee's Work Plan. The report sets out amendments to the Committee's Terms of Reference in order to reflect organisational, statutory or regulatory changes. These are set out in the amended Terms of Reference attached to this report. Prior to this report no amendments had been made to the Committee's Terms of Reference since changes were last considered by the Committee at its meeting on 20 April 2010; which were subsequently agreed by the Modern Local Government Group on 8 July 2010 and by the Council on 20 July 2010.

Head of Service: Group Manager, Financial Services – Adrian Rowbotham

Recommendation to Modern Local Government Group: That Council be RECOMMENDED to adopt the revised terms of reference.

Recommendation to Council: That the revised terms of reference be adopted.

Introduction

1. This report has been produced in accordance with the Performance and Governance Committee's Work Plan for the Year. The report updates the Committee's Terms of Reference in order to reflect organisational changes and changes in statutory or regulatory requirements

Background

2. At its meeting in April 2010 the Performance and Governance Committee considered and endorsed changes to its Terms of Reference which were designed to focus on procedural matters, removing repetition and duplication in the Committee's procedures, clarifying inconsistencies and being more user friendly as a result.
3. The amendments to the Committee's procedures grouped procedures together under topic specific headings to aid clarity and some parts of the document were

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reordered to improve the overall layout. The Terms of Reference were also reviewed and minor amendments made to reflect best practice and consistency with CIPFA Guidance. Since those changes were agreed by the Modern Local Government Group and the Council there have been no further substantive amendments to the Committee's Terms of Reference to report. At the Committee's meeting in April 2011 the Terms of Reference were reviewed again, but no further amendments were made and the Committee has continued to perform its role very effectively.

Summary of Proposed Changes

4. The changes now proposed reflect recent organisational changes, statutory or regulatory requirements. These are set out in relevant paragraphs on the attached terms of reference as follows:
 - 1.1 to reflect the requirements of the Accounts and Audit Regulations 2011, which now replaces the Accounts and Audit Regulations 2003, Regulations 2006
 - 3 (h), now includes Whistleblowing arrangements as part of the polices to be reviewed by this committee
 - 3 (i), now includes the committee's responsibility for approving the Annual Governance Statement, which replaces the Statement on Internal Control
 - 3 (m), and (n) – references made to the Audit Manager and Audit Team respectively have been changed to reflect new titles as a result of organisational changes.
 - 3 (q), Bribery allegations, now added to the list of special investigation reports the committee will consider, in order to reflect the requirements of the Bribery Act 2010, which came into effect in July 2011.

Key Implications

Financial

5. None directly arising from this report.

Community Impact and Outcomes

6. The Performance and Governance Committee plays a very important role in ensuring that the Council continues to operate under the highest standards of governance. It also plays a key role in ensuring that the Council continues to perform to the highest standards. The current Terms of Reference ensure that the Committee continues to deliver these important services effectively and underpin this important role.

Legal, Human Rights etc.

7. The Terms of Reference comply with relevant legal requirements.

Risk Assessment Statement

8. The Committee needs to have clear and effective written procedures to ensure that it continues to operate effectively. The current Terms of Reference provides clarity whilst complying with relevant statutory requirements.

Sources of Information: None.

Contact Officer(s): Bami Cole – Audit, Risk and Anti–Fraud Manager
Ext. 7039

Dr. Pav Ramewal
Deputy Chief Executive & Corporate Resources Director

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PART 6 – PERFORMANCE AND GOVERNANCE COMMITTEE

1. Introduction

- 1.1 The Council will appoint the Performance and Governance Committee to discharge the functions conferred by the Accounts and Audit Regulations 2011 in relation to the matters set out below and specifically to consider the Council's Performance and Governance arrangements, including a review of the system of internal control and the effectiveness of internal audit the annual governance statement and its arrangements for the management of business risks, in compliance with Regulations 4 and 6 of the Accounts and Audit Regulations 2011 and any subsequent legislation.
- 1.2 The number of meetings and Terms of Reference of the Performance and Governance Committee may be reviewed from time to time by the Modern Local Government Group which may report to the Council.

2. Membership of the Committee

- 2.1 All Members of the Council, except members of the Cabinet and the Chairman of the Council, may be members of the Performance and Governance Committee. However, no Member may be involved in reviewing a decision in which he/she has been directly involved.
- 2.2 The Committee will be made up of 14 elected Members that follow the political proportionality of the Council. The membership of the Committee can be found at Appendix H - Membership of Cabinet, Committees etc.
- 2.3 The Performance and Governance Committee shall be entitled to recommend to Council the appointment of up to two additional co-opted non-voting members.

3. Terms of Reference of the Performance and Governance Committee

Performance

- (a) To consider Financial and Performance Management Reports and, in particular, to receive regular reports from the Finance Advisory Group (FAG).
- (b) To monitor the Cabinet's performance in the strategic management of the Council and to make recommendations for improvements.
- (c) To consider the development of the budget strategy. No decision to approve the Budget Strategy will be taken until the matter has been considered by the Committee first.
- (d) To review the Council's resources and the Council's management of property, assets acquisition and disposal, including strategies for proper management of assets already obtained. Unless there are special circumstances which justify an urgent decision, no decision will be taken to dispose of land until

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the proposal has been considered by the Performance and Governance Committee.

(e) To consider the development of the Council's Procurement Strategy and forward procurement plan.

(f) To consider the arrangements in place for the management and monitoring of the Council significant partnerships.

Regulatory Framework

(g) To monitor the effective development and operation of corporate governance and risk management in the Council.

(h) To monitor Council policies on 'Raising Concerns at Work' and the anti-fraud and anti-corruption strategy and the Council's complaints process; including the Council's whistleblowing arrangements.

(i) To approve the Council's Annual Governance Statement and recommend its adoption to Council

(j) To consider the Council's compliance with its own and other published standards and controls.

Audit Activity

(k) To consider the development of the Council's Internal Audit Strategy, Charter or terms of reference.

(l) To consider the annual internal audit plan and a summary of internal audit activity regarding the level of assurance that it can give over the Council's internal control and corporate governance and risk management arrangements

(m) To consider the Audit , Risk and Anti-Fraud Manager's annual report and assurance opinion.

(n) To consider progress reports from the Audit, Risk and Anti-Fraud Manager regarding the progress of the Annual Internal Plan.

(o) To consider a report on the progress of all recommendations made by internal audit and other external regulatory or review agencies.

(p) To receive and consider the annual report on the review of the effectiveness of internal audit

(q) To consider reports on investigations carried out by Internal Audit of suspected fraud; corruption or Bribery allegations within the Council or its partners.

(r) To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.

(s) To comment on the scope and depth of external audit work and to ensure it gives value for money.

(t) To consider any external audit report resulting from the Statement of Accounts and any recommendations and comments received from the District Auditor.

Accounts

(u) To review the annual Statement of Accounts. Specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.

(v) To approve the Statutory Statement of Accounts when the deadline for approval does not allow approval by full Council.

(w) To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts, and comments received from the District Auditor.

Miscellaneous

(x) to undertake a monitoring role in relation to the development of the budget strategy as and when appropriate.

(y) to undertake a monitoring role in relation to reviews of the Council's resources and the Council's management of property, asset acquisition and disposal strategies for the proper management of assets as already obtained as and when appropriate.

4. Performance and Governance Committee Procedure Rules

The Committee will conduct their proceedings in accordance with the Procedure Rules set out below.

Appointment of Sub-Committees/Working Groups

4.1 The Committee may appoint Sub-Committees or working groups. These may be appointed for a fixed period or until the next Annual Council meeting.

Procedure at Meetings of the Performance and Governance Committee

4.2 The Performance and Governance Committee shall consider the following business:

(a) minutes of the last meeting;

(b) declarations of interest;

(c) responses of the Council, Cabinet or Council Committees to the Committee's reports or recommendations; and

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- (d) the business otherwise set out on the agenda for the meeting.

Meetings of the Performance and Governance Committee

- 4.3 There shall be at least five ordinary meetings of the Committee in each year. In addition, other meetings may be called from time to time as and when appropriate. A meeting of the Committee may be called by the Chairman of the Committee, by a quarter of the members of the Committee or by the Chief Executive (in consultation with the Chairman or Vice-Chairman, if available) if he considers it necessary or appropriate.

Quorum

- 4.4 The quorum for the Performance and Governance Committee shall be as set out for Committees in the Council Procedure Rules in Part 2 of this Constitution.

Work Plan

- 4.5 The Performance and Governance Committee will be responsible for setting its own Work Plan and in doing so shall take into account the wishes of all members on the Committee.

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- 4.6 Any member of the Performance and Governance Committee shall be entitled to give notice to the Chief Executive that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the Chief Executive will ensure that it is included on the next available agenda and the Chairman will be informed.
- 4.7 Any five Members who are not members of the Committee may give written notice to the Chief Executive that they wish an item relevant to the functions of the Committee to be included on the agenda of the Performance and Governance Committee. If the Chief Executive receives such a notification, then he/she will include the item on the first available agenda of the Committee for consideration by the Committee and the Chairman will be informed.
- 4.8 The Performance and Governance Committee shall also respond, as soon as work plans permit, to requests from the Council and if it considers it appropriate, the Cabinet or other Committees, to review particular areas of Council activity relevant to the functions of the Committee.

Reports and Recommendations from the Performance and Governance Committee

- 4.9 Once it has formed recommendations, the Performance and Governance Committee will submit these in writing to the Chief Executive for consideration by the Cabinet, Council or the relevant Committee.
- 4.10 The Council, Cabinet or Committee shall whenever possible consider and respond to the report and/or recommendations of the Committee within two months of it being submitted to the Chief Executive.

Members and Officers Attending Committee

- 4.11 In discharging its terms of reference, the Performance and Governance Committee may require any member of the Cabinet, the Chairman of a Committee, the Chief Executive, any Director and/or any Head of Service to attend before it to answer questions in relation to matters within their remit. For the avoidance of doubt, such a person may be required to answer questions on the Council's relationships with partner organisations, contractors and/or other public bodies, providing that person is responsible for managing that relationship as part of their duties. It is the duty of those persons to attend if so required.
- 4.12 Where any Member or Officer is required to attend the Performance and Governance Committee under this provision, the Chairman of the Committee will inform the Chief Executive. The Chief Executive shall inform the Member or Officer in writing giving at least five clear working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend and whether any papers are required to be produced for the Committee. Where the Committee will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.
- 4.13 Where the Member or Officer is unable to attend on the required date, then the Committee shall in consultation with the Member or Officer arrange an alternative date for attendance to take place usually within 21 days from the date of the original request.

Attendance by Others

- 4.14 In discharging its terms of reference, the Performance and Governance Committee may review the performance/governance of partner organisations, contractors and/or other public bodies. It may also invite people other than those people referred to in paragraph 5.11 to provide it with a report, address it and/or answer questions.

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REVIEW OF THE SCHEME FOR MEMBERS' ALLOWANCES

Modern Local Government Group – 20 November 2012

Report of the: Deputy Chief Executive and Director of Corporate Resources

Status: For Consideration and Decision

Also considered by: Council – 27 November 2012

Key Decision: No

Executive Summary: A Joint Independent Remuneration Panel was set up in November 2007. In August 2012 the Panel began a new review into Members Allowances. The review has made a number of recommendations covering Basic Allowance, Special Responsibility Allowances (SRAs), Carers' Allowances, Travel Expenses and Pensions. This report sets out the recommendations arising from this review.

This report supports the Key Aim of Effective Management of Council resources

Portfolio Holder Cllr. Peter Fleming

Head of Service Head of Legal and Democratic Services – Mrs Christine Nuttall
Group Manager – Finance – Mr Adrian Rowbotham

Recommendation: It is recommended that the Council gives consideration to the report and recommendations of the Joint Independent Remuneration Panel (JIRP) as set out at Appendix A in the following areas:

- Basic Allowance
- Special Responsibility Allowances
- Carers' Allowances
- Travel Expenses
- Pensions

It is also recommended that: the Council formally record thanks to Barry Cushway, Susan Holmes, Simon Knott, Jean Selmes and Colin Wilby for their work in preparing a review of the scheme for Members' Allowances for 2013/14 for Sevenoaks District Council.

Reason for recommendation: Section 19 of The Local Authorities (Members' Allowances)(England) Regulations 2003 state that before an authority make or amends a Members' Allowance scheme, the authority shall have regard to the recommendations made in relation to it by the Independent Remuneration Panel.

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Background

- 1 The Joint Independent Remuneration Panel (JIRP) was established jointly by Tonbridge and Malling Borough Council, Tunbridge Wells Borough Council and Sevenoaks District Council in 2001 to make separate recommendations for each Council on their Scheme of Members' Allowances. The JIRP now operates under the Local Authorities (Members' Allowances)(England) Regulations 2003. The function of the Panel is to make recommendations to Council in accordance with Statutory Instruments (Primarily 2003 No.1021 and No.1692).
- 2 The JIRP is drawn from residents of the three council areas it serves and the Members of the Panel are:
 - Colin Wilby (Chairman), a resident of Kings Hill.
 - Barry Cushway, a resident of Sevenoaks
 - Susan Holmes, a resident of Cranbrook
 - Simon Knott, a resident of Matfield
 - Jean Selmes, a resident of Hildenborough

Introduction

- 3 The JIRP provides an objective view of the remuneration which should be provided for Members and makes a recommendation to this Council. Legislation requires that before an Authority amends a scheme, the Authority shall have regard to the recommendations made to it by the JIRP.
- 4 The Council's current Members' Allowance Scheme is set out in the Constitution at Appendix G.
- 5 In their introduction, the JIRP note that the current financial and political constraints do not override the purpose of their review, which is to carry out the quadrennial update of local councillors' allowances required by legislation, taking into account Members' workload, responsibilities and required time commitment and then to recommend a fair level of recompense for those commitments.

Summary of JIRP's Recommendations

- 6 The report of the JIRP, attached at Appendix A sets out a summary of recommendations. Recommendations and factors that Members may find of particular interest are as follows:
 - A Basic Allowance for elected Members of £6,039 p.a. based on a formula which accounts for the required time commitment, a representative rate of hourly earnings of residents in the area and a discount factor to reflect the public service element inherent in the elected representative's role.
 - Members should not receive more than one Special Responsibility Allowance (SRA). This takes into account the significant uplift in Basic

Allowance and SRA's proposed in the report. SRA's recommended in the report are as follows:

- | | |
|-------------------------------|-----------------|
| (a) Council Leader | £18,118 |
| (b) Opposition Group Leader | £302 per Member |
| (c) Cabinet Members | £9,059 |
| (d) Committee Chairmen: | |
| Performance and Governance | £3,032 |
| Select Committees | £3,032 |
| Development Control Committee | £4,530 |
| (e) Committee Members | |
| Development Control Committee | £302 |
| Licensing Committee | £302 |
- Childcare Allowance for child-minding of the Member's dependent children, payable at the actual amount charged, subject to a maximum rate of £6.19 per hour per child.
 - Dependent Carer's Allowance for professional care for elderly or disabled dependants, or other dependants with special requirements, payable at the actual amount charged, subject to a maximum rate of £16.00 per hour. The report also states that booking fees from professional agencies should be claimable.
 - Consideration should be given to aligning the mileage rate with the HMRC maximum tax-free allowance.
 - In respect of I.T Allowance the report recommends that this should remain at £120 p.a for 2013.
 - The report recommends no offer of access to pensions on the grounds of cost.

Key Implications

Financial

- 7 In 2012/13 the Council's budget for Member's Allowances is £353,000. As of October 2012, £197,000 had been spent.
- 8 If the JIRP's recommendations are adopted, the financial implications are set out at Appendix C which shows the annual spend on Members' Allowances would increase to £441,000 which would be £87,000 above the 2012/13 budget.

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Legal,

- 9 Section 20 of The Local Authorities (Members' Allowances)(England) Regulations 2003 requires each authority to establish an Independent Remuneration Panel.
- 10 Section 17 of the 2003 Regulations places a duty on the Council to publish as soon as reasonably practicable after making any amendments to the current Members' Allowance Scheme a notice in one or more newspapers circulating in its area. The Council must also ensure that copies of the Scheme are available for inspection by members of the public at the principal office of the Authority, at all reasonable hours.

Equality Impacts

Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
a. Does the decision being made or recommended through this paper have potential to disadvantage or discriminate against different groups in the community?	No	The remit of the JIRP is to broaden the diversity of councillor representation by minimising financial barriers to participation in local government. The Child Care Allowances and Dependent Carer's Allowance are intended to ensure there are no barriers to participation.
b. Does the decision being made or recommended through this paper have the potential to promote equality of opportunity?	Yes	
c. What steps can be taken to mitigate, reduce, avoid or minimise the impacts identified above?		N/A.

Risk Assessment Statement

Remuneration for Members is intended to ensure that there are no avoidable obstacles preventing people from taking part in the work of the Council. The level of remuneration needs to be at an appropriate level. Any deviation from the recommendations should be justified with a written record being made of such justification.

Conclusions

The basis of the current level of Members' Allowances for Sevenoaks District Council was established by the Panel in December 2001 following guidance issued by central government. Allowances have been revised in subsequent years to reflect cost of living increases and changes in council structure and responsibilities. The Panel's recommendations have not always been fully implemented by the Council and, as a consequence, Basic and Special Responsibility Allowances have fallen well below the level which the JIRP would regard as reasonable.

Appendices

Appendix A – A Review of Council Members’ Allowances for Sevenoaks District Council (JIRP October 2012)

Appendix B – Summary of JIRP’s Recommendations

Appendix C – Effect of JIRP’s Recommendations

Background Papers:

Local Authorities (Members’ Allowances)(England) Regulations 2003

A Review of Council Members’ Allowances for Sevenoaks District Council (JIRP October 2012)

Members’ Allowance Scheme 2012/13 set out at Appendix G in the Council’s Constitution

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**A REVIEW OF
COUNCIL MEMBERS' ALLOWANCES
FOR
SEVENOAKS DISTRICT COUNCIL
October 2012**

**Joint Independent Remuneration Panel
for
Sevenoaks District Council
Tonbridge & Malling Borough Council
Tunbridge Wells Borough Council**

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1) Foreword

The Council is required under the Local Authorities (Members' Allowances) (England) Regulations 2003 and subsequent amendments to establish and maintain an Independent Remuneration Panel to review and make recommendations to the Council on the range and levels of remuneration for elected Members (see Terms of Reference Appendix 2).

Under the Regulations the Council is required to undertake a full review every four years. The last full review was reported to and considered by Council in late 2008. This report is the result of the latest review conducted in autumn 2012.

When the Panel conducted the last full review of Members' Allowances in autumn 2008, the local impact of forthcoming public sector financial constraints was largely unknown. The situation is now clear and the Council has had to take some far-reaching decisions to reduce costs whilst maintaining services. Against this background it may seem surprising to conduct a review of payments made to elected councillors given that anything other than a reduction might be unpopular with voters. It is important to note that Sevenoaks District Council, having accepted our previous recommendations in 2008, have subsequently chosen not to implement them fully and, in consequence, their current allowances are significantly below those of most comparable Councils (see Appendix 4)

However, these financial and political constraints do not override the purpose of this review, which is to carry out the quadrennial update of local councillors' allowances required by legislation, taking into account Members' workload, responsibilities and required time commitment and then to recommend a fair level of recompense for those commitments. We are mindful always of our remit to assist in broadening the diversity of councillor representation by minimising financial barriers to participation in local government.

While affordability of the Panel's recommendations is ultimately an issue for the Council to decide, the Panel fully appreciate the sensitivity of making any changes to allowances in the current financial climate and have tried to balance this with the need to propose a scheme which is fair, simple to administer and properly reflects the significant time commitments given by individuals in this important tier of government.

2) Summary of Recommendations

1. Basic Allowance

A Basic Allowance for elected Members of £6039 p.a. based on a formula which accounts for the required time commitment, a representative rate of hourly earnings of residents in the area but reduced by a discount factor to reflect the ethos of public service inherent in the elected representative's role. The gross value of the allowance is £10065 p.a., reduced by £4026 p.a. for this voluntary element.

2. Special Responsibility Allowances

In this review we have considerably simplified the structure of SRAs by using a 'factor approach' which sets the level of each SRA as a multiple of the basic allowance. We have also re-considered the allowance structure for Opposition Group Leaders and Vice-Chairs of Committees. We continue to support the 2007 guidance on Members Remuneration from the

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Councillors Commission which recommends that members should not receive more than one SRA.

Our recommendations for Special Responsibility Allowances for each role are (after reduction for voluntary/public service element):-

- Council Leader - £18118 p.a.
- Opposition Group Leaders - £302 p.a. per group member
- Cabinet Members - £9059 p.a.
- Committee Chairs:
 - Development Control £4530 p.a.
 - Performance & Governance £3020 p.a.
 - Select Committees £3020 p.a.
- Committee Vice Chairs: recommendation is to cease this allowance
- Committee Members:
 - Development Control £302 p.a.
 - Licensing £302 p.a.
- Standards Co-optees - £479 p.a.

3. Carer Allowances

Our recommendations are that these allowances should increase as follows:-

- **Childcare Allowance:** payable at the actual amount charged, subject to a maximum rate of **£6.19** per hour per child.
- **Dependant Carer's Allowance:** payable at the actual amount charged, subject to a maximum rate of **£16.00** per hour.

4. Travel Expenses

We are aware that travel expenses are currently reimbursed in line with the scheme in force for officers and staff of the Council (currently NJC rates). We recommend that consideration is given to align mileage rates with the HMRC maximum tax-free allowance.

5. IT Allowance

The Council implemented an IT Allowance in 2011, following investigation and recommendation by this Panel. The Allowance set at that time was £120 p.a. and our recommendation is that this should remain at this level for 2013.

6. Pensions

We have again decided not to recommend the offer of access to pensions in this review on the grounds of cost, despite the recommendation from the Councillors' Commission that access to the local government pension scheme should be given to elected councillors.

7. Number of Councillors

Given that more than half of total expenditure on Members' Allowances is on the Basic Allowance, we recommend that the council gives serious consideration to reducing the number of councillors in the District as a longer-term strategic option to reduce the cost of representation.

3) Background

The basis of the current level of members' allowances for Sevenoaks District Council was established by the Panel in December 2001 following guidelines issued by central government [see Appendix 1]. Allowances have been revised in subsequent years to reflect cost of living increases and changes in council structure and responsibilities. The Panel's recommendations have not always been fully implemented by the Council and, as a consequence, Basic and Special Responsibility Allowances have fallen well below the levels which we would regard as reasonable [See Appendix 5].

The 2007 Councillors Commission paper on Members Remuneration suggested a set of basic principles to govern allowance schemes:

- The basic allowance should encourage people from a wide range of backgrounds and with a wide range of skills to serve as local councillors
- Those who participate in and contribute to the democratic process should not suffer unreasonable financial disadvantage
- Councillors should be compensated for their work and the compensation should have regard to the full range of commitment and complexity of their roles
- The system should be transparent, simple to operate and understand
- The system should not encourage the proliferation of meetings or provoke councillors into spending more time on council business than is necessary
- The level of remuneration should relate to a commonly accepted benchmark, such as the median male non-manual salary.

These principles underpin the recommendations made in this report and are reflected in our Terms of Reference [Appendix 2]

4) Approach and Methodology

In line with our review four years ago, and reflecting the approach taken by many other Independent Review Panels elsewhere in the country, we established a set of core principles to guide this review as follows:-

- To remove, where possible, the immediate financial barriers to becoming a councillor to assist in the diversity of the cohort of councillors, regardless of political background
- To reflect the current time commitment required to perform the role of ward councillor and the potential loss of earnings opportunities for councillors in doing so
- To recognise the increasing levels of responsibility and accountability being devolved from central government to local government and its impact on the nature of leadership and scrutiny roles within the council
- To retain a significant element of public service, *pro bono* contribution from elected councillors
- To benchmark the comparative position of our council members with those in similar roles in Kent and other South East councils
- To recommend allowances based on objective data with a simple and logical structure that can easily be updated in future

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In conducting the review at the Council, we held meetings with senior officers and all party leaders, and offered the opportunity to all elected members to meet individually with the Panel, a number of whom took up this offer.

5) Allowance Calculations

There are some important principles and constraints on the calculation of allowances which are detailed in our Terms of Reference [Appendix 2].

5.1 Basic Allowance

a) Determining the Basic Allowance

The statutory guidance for Local Authority Allowances says that the *“basic allowance is intended to recognise the time commitment of all councillors, including such inevitable calls on their time as meeting with officers and constituents and attendance at political group meetings. It is also intended to cover incidental costs such as the use of their homes.”* [ODPM 2003. Para 10]

There are three core elements which determine the Basic Allowance: time spent on councillor duties, a standard financial hourly rate and the public service discount element.

i) Time Commitment

“Having established what local councillors do, and the hours which are devoted to these tasks the local authorities will need to take a view on the number of hours for which, councillors ought to be remunerated” [ODPM 2003. Para 67].

The number of hours committed by individual councillors to their elected and representative duties varies widely between individuals and over time. It is recognised that, for many councillors, the role is far more than just attendance at council meetings and will include, for example, constituency duties, committee meetings, meetings with officers and training courses.

The Panel determined in 2008 that the average time taken to satisfactorily perform a ward councillor role was an average of 15 hour per week, following a survey of members and soundings at all levels of the council. Based on our discussions in this round of meetings, we have continued with this time commitment of 15 hours per week.

ii) Hourly rate

We have again sought to relate to a commonly accepted benchmark as the source of our hourly-rate and have used the median hourly pay for all employees who live within the Sevenoaks local authority area as published by the Office of National Statistics in their Annual Survey of Hours & Earnings (ASHE). The rate available at the time of writing this report was £13.98 per hour [Source: ASHE 2011. ONS] and this is the base hourly-rate for our recommended allowances.

iii) The public service/voluntary principle

Central government guidance to Independent Remuneration Panels for setting the basic allowance states that *“it is important that some element of the work of members continues to be voluntary – that some hours are not remunerated. This must be balanced against the need to ensure that financial loss is not suffered by elected members, and further to ensure that, despite*

the input required, people are encouraged to come forward as elected members and that their service to the community is retained” [ODPM 2003. Para 68]

This idea that some work of members should remain voluntary is called the ‘public service principle’ and this is incorporated into the financial calculations as a percentage discount factor, agreed locally. The Councillors Commission report indicated that considerable variations of between 20-50% apply. Our meetings with members and council leaders confirmed that this principle is understood and supported by elected councillors.

In our 2008 review the Panel recommended a public service discount factor of 40% based on benchmarking with allowance schemes elsewhere. In their response to our recommendations, the council decided to increase this to 50% and this reduction has applied subsequently. We considered in this review whether or not to follow the self-imposed percentage and have decided that we would retain our recommendation of a 40% discount factor in common with many similar schemes in other areas and consistent with the recommendations of our predecessors in this Panel since its inception in 2001.

iv) Calculating the Basic Allowance – the formula

To bring together the separate elements of this time-based model the following formula is commonly-used by other Independent Remuneration Panels:

- 1) Expected hours input x hourly rate x 48 weeks = Gross Basic Allowance p.a.
- 2) *minus* discount for voluntary public service = recommended Basic Allowance p.a.

v) Basic Allowance – recommendation

Using the above data and formula we propose an annual Basic Allowance derived as follows:-

- 1) 15 hours per week x £13.98 per hour x 48 weeks = £10065 p.a.
- 2) *minus* 40% public service discount = £6039 p.a.

RECOMMENDATION: that the Basic Allowance should be £6039 p.a.

5.2) Special Responsibility Allowances (SRAs)

The 2007 guidance on Members Remuneration from the Councillors Commission report comments that the practice of paying more than one SRA to an individual Member was prevalent when allowances were low. Taking into consideration the significant uplift in Basic Allowance and SRAs proposed in this review, the Panel recommends that members should not receive more than one SRA. This recommendation reinforces the important principles of transparency and promoting wider participation in the structure of council business.

In reviewing the current system of SRAs, we considered that there were a number of anomalies and that the structure was overly complicated. We, therefore, are proposing a simplified schedule of allowances by moving away from a time-based model to a factor model in which SRAs are determined as a multiple of the Basic Allowance. This approach is becoming quite common across the country as a simple and transparent method.

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5.3) Council Leader (Cabinet Chairman)

The role of Council Leader (or Cabinet Chairman as it is known at Sevenoaks District Council) continues to expand in scale and scope over time. Our view is that the Special Responsibility Allowance historically paid for this role undervalues its real level of responsibility and the time commitment necessary to adequately perform the tasks and duties expected of Leaders. This view is echoed by a number of Members with whom we have had contact.

In line with our intention to simplify the allowances structure we recommend that the Leader's SRA should be a multiple of three times the Basic Allowance. This equates to a gross allowance of £30196 p.a., but after the voluntary discount is a net £18118 p.a.

RECOMMENDATION: that the Special Responsibility Allowance for Council Leader should be £18118 p.a.

5.4) Opposition Group Leaders

We established the principle in our previous review that Council Leader's Allowance reflects the full role, including those duties associated with political leadership of the majority party. However, there is an additional time commitment required of leadership of opposition groups which is not reflected in the Basic Allowance.

In line with our approach to simplify the structure of allowances we recommend that the Opposition Group Leaders' allowances should be on a variable sliding scale determined by the number of elected councillors in each opposition party, at a rate of 5% of the Basic Allowance per member.

RECOMMENDATION: that the Special Responsibility Allowance for Opposition Group Leaders should be £302 per member in the group.

5.5) Cabinet Members

In recognising the broad portfolio responsibilities and time commitments of Cabinet Members we recommend an SRA of 1.5 times the Basic Allowance. This equates to a gross allowance of £15098 p.a. which, after discount for the public service element becomes £9059 p.a.

RECOMMENDATION: that the Special Responsibility Allowance for Cabinet Members should be 1.5 x the Basic Allowance = £9059 p.a.

5.6) Chairs of Committees

In line with our simplified 'tiered' structure which aligns Committees into groups of similar dimensions which broadly reflect their activity levels and frequency of meetings:

Performance & Governance: £3032 p.a. (50% of Basic Allowance)

3 x Select Committees: £3032 p.a. (50% of Basic Allowance)

Development Control Committee: £4530 p.a. (75% of Basic Allowance)

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We are aware that there is consideration being given to dividing the Development Control Committee into two due to workload pressures. If this is decided the Council should refer to the Panel for a review of the impact of this significant change on the allowance.

The Chairmanship of the Licensing Committee is rotated among members and therefore a small allowance is paid to all committee members as specified in the section below.

5.7) Vice Chairs

The roles of committee Vice Chairs and the allowances paid for them has been the subject of some debate with Members. From the discussions we have had it is not clear what substantive role is played by a Vice Chair when the designated committee Chair is in place and active. Clearly, when the committee Chair is absent for a particular meeting, it is expected that the Vice Chair takes over the chairmanship of that meeting, but this does not seem to justify an annual payment. The practice in many other contexts is to elect a member of the committee on the day if the Chair is unavailable and it seems likely that many members would be pleased to do so if asked and this would be a development opportunity for individuals, particularly the newer elected councillors.

Given the above, and in light of our recommendation to significantly increase the Basic Allowance, we propose that the SRAs for Vice Chairs should cease.

RECOMMENDATION: that the Special Responsibility Allowance for Committee Vice-Chairs should be discontinued.

5.8) Committee Membership

Sevenoaks District Council unusually pays an allowance to members of the Development Control and Licensing Committees. In the case of Development Control, this is to recognise the frequency of meetings (at least monthly this year) but if this is divided into two operational Committees in the future, the need for the payment should be revisited to determine whether it is still applicable.

The payment to Licensing Committee members reflects the fact that the requirement is very frequently to participate in Licensing Hearings and the task of chairing each meeting is rotated between the pool of committee members.

The Standards Committee has traditionally had some co-opted members who are not elected councillors of Sevenoaks District Council and a small allowance has been paid to recognise the time commitment of these individuals, who have usually been Parish Councillors. Under the Localism Act changes the workload of the Standards Committee has reduced and it is not yet clear how this will evolve. We propose that the Co-optees allowance is kept at the previous level until the new arrangements are established.

RECOMMENDATION: that the Allowance for Committee Members should be as follows:-

<u>Committee</u>	<u>Recommended SRA (p.a)</u>	<u>% of Basic Allowance</u>
Development Control	£302	5%
Licensing	£302	5%
Standards (co-opted members)	£479	-

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6) Carers' Allowances

Two separate allowances were established at the previous review, to distinguish between the costs of standard childcare and that of professional care for dependants with special requirements. Our recommendations are that these allowances should increase as follows:-

Childcare Allowance: for child-minding of the Member's dependent children. Payable at the actual amount charged, subject to a maximum rate of **£6.19** per hour per child.

Dependant Carer's Allowance: for professional care for elderly or disabled dependants, or other dependants with special requirements. Payable at the actual amount charged, subject to a maximum rate of **£16.00** per hour. We also recommend that booking fees from professional agencies should be claimable.

In practice, these allowances have rarely been claimed by Sevenoaks councillors but we continue to support the need for them.

7) Travel expenses

We are aware that travel expenses are currently reimbursed in line with the scheme in force for officers and staff of the Council (currently NJC rates). In most cases, these are considerably above the HMRC maximum tax-free allowance. Given the geography of the Sevenoaks District there is considerable disparity between the travel costs incurred and claimed by Members. We recommend that consideration is given to aligning the mileage rate with the HMRC.

8) IT Allowance

An IT Allowance was implemented in 2011 following a recommendation from the Panel. We recommend that this is maintained at the same level of £120 per annum based on the same rules as implemented last year.

9) Pensions

Councillors in England have been eligible since 2003 to join the local government pension scheme on the recommendation of their local independent remuneration panel. The Councillors Commission Report ('Representing the Future') of December 2007 recommended that:

"All councillors should be entitled to access to the local government pension scheme and any allowances for serving on joint authorities should also be taken into account."

The rationale for their recommendation was *"granting access to the scheme is intended to remove one more barrier to service as a councillor"*.

Whilst we recognise that membership of the pension scheme would be a potentially valuable addition to the overall remuneration to councillors, we have again decided not to recommend the offer of access to pensions in this review on the grounds of cost. We are aware that slightly more than half of all councils offer access to the pension scheme to elected councillors (LGAR 2008) and recognise that this is another point of comparison where Sevenoaks offers lower remuneration to members than elsewhere.

10) Number of Councillors

The financial and political constraints of the past and present have led the council to consistently under-implement the recommendations of successive Independent Remuneration Panels. This is understandable but has resulted in an allowances structure and quantum that do not reflect the commitments of the roles.

We note that more than half of the total expenditure on Members' Allowances in the last complete financial year was in the Basic Allowance and that significant savings could be achieved by reducing the 'multiplier' of the number of Members eligible for it (currently 54). We are aware that a number of councils around the country are actively pursuing this option. It is not a quick solution given the processes adopted by the Boundary Commission but this long lead time supports the view that the council should give this serious consideration as soon as possible.

11) Conclusions

We have attempted in this review to propose levels of allowances which would remove financial barriers that deter potential candidates from standing for election and to properly recognise the time commitments that individual members offer in support of their local community.

In the current economic circumstances we could have justifiably proposed frozen or small indexed increases to existing allowances. In effect, this is what has happened over many years at Sevenoaks District Council and this has resulted in allowances which are some way lower than comparable authorities and possibly act as a deterrent to a wider group of people who could consider becoming a local councillor at this council. Therefore we stand by the level of allowances recommended in this report but recognise that the council may not be in an immediate position to implement them. We urge the council to take note of the structure of our recommendations and to implement it, at least in principle, in order that we continue the process of creating a fair and equitable level of members' remuneration.

12) Acknowledgements

Our thanks go to the officers and members who gave us their time and opinions which have helped to shape our thinking.

Regulations and Guidance for Independent Remuneration Panels

- *The Local Authorities (Members' Allowances) (England) Regulations 2003*. Statutory Instrument 2003 No. 1021.
- *The Local Authorities (Members' Allowances) (England) (Amendment) Regulations 2003*. Statutory Instrument 2003 No. 1692
- *The Local Authorities (Members' Allowances) (England) (Amendment) Regulations 2004*. Statutory Instrument 2004 No. 2596
- *New Council Constitutions: Consolidated Guidance on Regulation for Local Authority Allowances - 2003*
- *The Local Government Pension Scheme and Discretionary Compensation (Local Authority Members in England) Regulations 2003*. Statutory Instrument 2003 No. 1022
- *Pensions for Councillors - Local Government Pensions Committee Circular No. 136*. April 2003.
- *Local Government Pensions Committee Circular No 142 (amendment) July 2003*.
- *New Council Constitutions. Guidance on Consolidated Regulations for Local Authority Allowances*. Office of the Deputy Prime Minister and Inland Revenue. July 2003.
- *Members Remuneration – models, issues, incentives and barriers*. - Councillors Commission. Dept. of Communities and Local Government. December 2007
- *Representing the Future – Report of the Councillors Commission*. December 2007
- *Members' Allowances Survey 2008*. Report by the Local Government Association Research Department

Joint Independent Review Panel
for
Sevenoaks District Council
Tonbridge & Malling Borough Council
Tunbridge Wells Borough Council

Terms of Reference

Introduction

The Joint Independent Remuneration Panel (JIRP) for Tonbridge and Malling Borough Council, Tunbridge Wells Borough Council and Sevenoaks District Council was originally established in 2001 and now operates under the Local Authorities (Members' Allowances) (England) Regulations 2003. The function of the panel is to make recommendations to Council in accordance with Statutory Instruments (primarily 2003 No.1021 and No.1692).

The JIRP was established jointly by the three Councils but it considers each Council individually and makes separate recommendations for each according to the particular structures and requirements of the organisation.

Members of the Panel are appointed by the Councils but are independent members of the community with relevant professional backgrounds in remuneration and benefits.

Membership – Joint Independent Remuneration Panel

The members of the panel are:

- Barry Cushway, a resident of Sevenoaks.
- Susan Holmes, a resident of Cranbrook.
- Simon Knott, a resident of Matfield.
- Jean Selmes, a resident of Hildenborough.
- Colin Wilby, a resident of Kings Hill.

JIRP meetings will normally involve all five Panel members. A quorum will be three members. One of the members will act as Chair of the Panel by agreement between the Panel members.

The Local Authorities (Members' Allowances) (England) Regulations 2003 determine that none of the Panel members may be a member of the local authority in question, or of its committees, or an employee of the council, but that this does not preclude participation by parish councillors.

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Panel Recommendations

The 2003 Regulations require that councils must have regard to their Independent Remuneration Panel's recommendations, which must be publicised on the authority's website and in the authority's newspaper, if it has one. The Panel must be required to make recommendations whenever the council decides to revoke or amend its members' allowances scheme. However, Panel recommendations are not binding on authorities. After considering its panel's recommendations, a council can decide for up to four years on automatic indexation of members' allowances without the need for a review by the Panel.

Principles for Allowances Schemes

There is currently little central prescription of members' allowance. However, there are some important constraints:-

- Attendance allowances are prohibited
- The basic allowance must be paid equally to all members
- Where one or more groups on a council form an administration, a special responsibility allowance must be paid to a member of the opposition. This is usually paid either to the leader of the opposition, if this post exists, or to a chair of a scrutiny committee

The report of the Councillors' Commission in December 2007 highlighted a 'universal principle' that members should not suffer financial loss as a direct result of their council activities and service. They went on to suggest a more detailed set of principles to govern allowance schemes:-

- The basic allowance should encourage people from a wide range of backgrounds and with a wide range of skills to serve as local councillors
- Those who participate in and contribute to the democratic process should not suffer unreasonable financial disadvantage
- Councillors should be compensated for their work and the compensation should have regard to the full range of commitment and complexity of their roles
- The system should be transparent, simple to operate and understand
- The system should not encourage the proliferation of meetings or provoke councillors into spending more time on council business than is necessary
- The level of remuneration should relate to commonly accepted benchmark, (for example, the median male non-manual salary)

The Panel will operate within the scope of these principles. Should any departure from these be considered necessary, the reasons for the variation will be made clear in the relevant report.

The core objective of the Panel is to present informed comprehensive recommendations that are fair and equitable.

Comparative data from Kent & Sussex Borough/District councils

Authority	Basic	Leader	Cabinet Member	Chair Planning Cttee	Chair Overview/ Scrutiny	Chair Licensing	Last Review Date
Ashford	£4292	£14040	£7020	£5616	£5616	£1404	2011
Dartford	£4764	£27857	£8357	£5014	£2090	n/a	2011
Gravesham	£3447	£20260	£3447	£3447	£3447	£3447	2012
Maidstone	£4666	£23326	£11663	£5831	£5831	£2332	2012
Sevenoaks	£4246	£15562	£7781	£3673	£2047	n/a	2012
Tonbridge & Malling	£5076	£17454	£8067	£5076	£6258	£2538	2012
Tunbridge Wells	£5279	£16750	£8990	£5279	£5279	£1980	2012
Bexley	£9418	£26391	£13197	£8802	£8802	£8802	2012
Bromley	£10872	£30600	£20400	£9179	£7410	£9179	2010
Shepway	£3867	£21245	£8807	£3956	£3956	£1388	2012
Swale	£3343	£11700	£7020	£3510	£3218	n/a	2011
Thanet	£4570	£18082	£7990	£5204	£7990	£3216	2012
Tandridge	£3840	£2789	n/a	£2879	£2879	£2879	2012
Mid Sussex	£4501	£20596	£8238	£4501	£3862	£977	2012
Rother	£4237	£12376	£2692	£2692	£2692	£1969	2010
Wealden	£4370	£12330	£5090	£3855	£3445	£1250	2011

[Source: Council websites October 2012]

N.B. The Joint Independent Review Panel works on behalf of Sevenoaks District Council, Tonbridge & Malling Borough Council and Tunbridge Wells Borough Council but considers each Council individually and makes separate recommendations for each according to the particular structures and requirements of the organisation. It should be noted that members' allowances are currently under review at all three councils but the figures quoted above are those in force at time of writing this report and do not reflect any changes to be proposed by the JIRP as part of this review process.

Revised Schedule of Recommended Members' Allowances**Sevenoaks District Council**

	<u>2009 JIRP Recommendation</u>	<u>Current 2012-13</u>	<u>2013 JIRP Recommendation</u>
<u>Basic Allowance</u>	£5754	£4246	£6039
<u>Special Responsibility Allowances:-</u>			
<u>Opposition Group Leaders:</u>			
	£2255 + £100 per member	£1507 + £65 per member	£302 per member
<u>Cabinet</u>			
Cabinet Chairman	£22548	£15562	£18118
Cabinet Member	£11274	£7781	£9059
<u>Committee Chairs</u>			
Performance & Governance	£5754	£2047	£3020
Select Committees x 3 (each)	£2877	£1995	£3020
Development Control	£5754	£3673	£4530
<u>Committee Vice Chairs</u>			
Performance & Governance	£1439	£1106	n/a
Select Committees	£719	£1085	n/a
Development Control	£1439	£1924	n/a
<u>Committee Members</u>			
Development Control Cttee	£288	£221	£302
Licensing Cttee	£288	£221	£302
<u>Carers' Allowances</u>			
Childcare Allowance	£6.00 per hour	£6.00 per hour	£6.19 per hour (max)
Dependant Carer's Allow.	£15.50 per hour	£14.50 per hour	£16.00 per hour (max)
<u>IT Allowance</u>	n/a	£120	£120

N.B. All figures are per annum except where stated.

Description of Allowance	Current Allowance (2012/13) (£)	Proposed Allowance (£)	Percentage Increase	Comment on Joint Independent Remuneration Panel Recommendations
Basic Allowance (all Members)	4,246	6,039	+42.2%	15 hours per week x £13.98 per hour x 48 weeks = £10,065 p.a minus 40% public service discount = £6,039
Special Responsibility Allowances: (Only one allowed)				
Council Leader (Cabinet Chairman)	15,562	18,118	+16.4%	3 x the basic allowance
Cabinet Members	7,781	9,059	+16.4%	1.5 x the basic allowance
Opposition Group Leaders: (£1,507+£65 per Member)		£302 per Member:		Recommended a variable sliding scale determined by the number of elected councillors in each opposition party, at a rate of 5% of the Basic Allowance per Member
Liberal Democrat (2 Members)	1,637	604	-63.1%	
Labour (5 Members)	1,832	1,510	-17.6%	
Chairmen:				
Performance & Governance Committee	2,047	3,020	+47.5%	50% of Basic Allowance
3 x Select Committee (each)	1,995	3,020	+51.3%	50% of Basic Allowance
Development Control Committee	3,673	4,530	+23.3%	75% of Basic Allowance
Vice-Chairmen:				
Performance & Governance Committee	1,106	n/a	-100.0%	Given the recommendation to significantly increase the basic allowance the JIRP proposed that SRAs for Vice-Chairmen should cease.
3 x Select Committee (each)	1,085	n/a	-100.0%	
Development Control Committee	1,924	n/a	-100.0%	
Committee Members:				
Development Control Members (19 Members)	221	302	+36.7%	Reflects the frequency of meetings (monthly)
Licensing Committee Members (15 Members)	221	302	+36.7%	Reflects participation in Licensing Hearings

Carers Allowance (all Members if appropriate)	Up to £6 per hour per child	£6.19 per hour (max)	+3.2%	Payable at the actual amount charged, subject to a maximum rate of £6.19 per hour per child.
Dependent Carers Allowance	£15.50 per hour per dependent	£16 per hour (max)	+3.2%	For professional care for elderly or disabled dependants. Payable at the actual amount charged, subject to a maximum rate of £16 per hour. Also recommend that booking fees from professional agencies should be claimable.
Travel and Subsistence Expenses	Reimbursed in line with the scheme in force for staff of the National Joint Council for Local Government Services pay award	Mileage rate aligned with the HMRC maximum tax-free allowance.	-	Given the geography of the Sevenoaks District there is considerable disparity between travel costs incurred and claimed by Members. Recommendation that consideration is given to aligning the mileage rate with the HMRC maximum tax-free allowance.
I.D Allowance	120	120	-	Based on the same rules as implemented in 2011/12
Pensions	Nil	Nil	-	Recommendation on the grounds of cost.

Members Allowances - Effect of Joint Independent Remuneration Panel Recommendations

Summary

Allowance	Current Scheme				JIRP Proposed Scheme				JIRP with max one allowance excl. IT £
	Position	Rate £	No.	Total £	Position	Rate £	No.	Total £	
Basic Allowance		4,246.00	54	229,284.00		6,039.00	54	326,106.00	326,106.00
Cabinet		7,781.00	7	54,467.00		9,059.00	7	63,413.00	63,413.00
Cabinet Chair / Leader		15,562.00	1	15,562.00		18,118.00	1	18,118.00	18,118.00
Group Leaders	Labour Leader	1,832.00	1	1,832.00	Labour Leader	1,510.00	1	1,510.00	1,510.00
Group Leaders	Lib Dem Leader	1,637.00	1	1,637.00	Lib Dem Leader	604.00	1	604.00	604.00
Chair	P&G	2,047.00	1	2,047.00	P&G	3,020.00	1	3,020.00	3,020.00
Chair	3 x Select Cttee	1,995.00	3	5,985.00	3 x Select Cttee	3,020.00	3	9,060.00	9,060.00
Chair	DCC	3,673.00	1	3,673.00	DCC	4,530.00	1	4,530.00	4,530.00
Vice Chair	P&G	1,106.00	1	1,106.00	P&G	0.00	1	-	-
Vice Chair	3x Select Cttee	1,085.00	3	3,255.00	3 x Select Cttee	0.00	3	-	-
Vice Chair	DCC	1,924.00	1	1,924.00	DCC	0.00	1	-	-
Dev Con Members		221.00	18	3,978.00		302.00	18	5,436.00	5,134.00
Licensing		221.00	15	3,315.00		302.00	15	4,530.00	1,510.00
Independent Person		1,000.00	1	1,000.00		1,000.00	1	1,000.00	1,000.00
Sub Total			108	329,065.00			108	£ 437,327.00	£ 434,005.00
NI est 1.5%				4,935.98				6,559.91	6,510.08
I.T Allowance		120.00	54	6,480.00		120.00	54	6,480.00	0
TOTAL				340,480.98				450,366.91	440,515.08
2012/13 Budget								353,101.00	353,101.00
Over/(under) budget								97,265.91	87,414.08

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Childcare Allowance (per hour)	6.00	Childcare Allowance (per hour)	6.19
Dep. Carers Allowance (per hour)	15.50	Dep. Carers Allowance (per hour)	16.00

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