



Purpose: For Decision

Committee report

Committee	FULL COUNCIL
Date	24 FEBRUARY 2021
Title	ESTABLISHMENT OF, AND APPOINTMENTS TO, THE INDEPENDENT REMUNERATION PANEL AND THE SCHEME OF MEMBERS' ALLOWANCES 2021-2022
Report of	MONITORING OFFICER

EXECUTIVE SUMMARY

1. The purpose of this report is to establish the Independent Remuneration Panel (IRP) through the appointment of a completely new panel of independent members; to formally place on record the local authority's thanks to previous members of the IRP for their several years' service to their local community; to clarify that the Scheme of Members' Allowances adopted in 2018 (after the Council accepted the IRP's statutory recommendations of 2018) is to roll-forward and apply for the forthcoming scheme year 2021/2022 (1 April 2021 to 31 March 2022) but subject to review; and to note that the new IRP will undertake a review in the new municipal year (as soon as possible following the ordinary council elections) to make their statutory recommendations to the newly elected councillors of the Isle of Wight Council as to its scheme, allowances and amounts.
2. The current Scheme of Members' Allowances is entitled 'the Isle of Wight Council Members' Allowance Scheme' which was adopted on 19 September 2018 following the Council's acceptance of the statutory recommendations made in the IRP's Fifteenth Report (which was made in 2018). There have been no further statutory reports since, and increases in the basic allowance (and consequently the amounts of the relevant special responsibility allowances due to the multiplier mechanism within that Scheme) have been implemented in accordance with the IRP's recommendations which led to the adoption of this Scheme, with its indexation provision (the 'Member Allowance Uplift' clause in paragraph 6 of the Scheme).
3. These increases followed the officer pay settlement (for those officers employed on NJC terms and conditions) for 2019/2020 and 2020/21 which had been agreed nationally. (No officer pay claim for 2021/2022 has yet been settled).
4. The status quo regarding the Isle of Wight Council Members' Allowance Scheme is required by law to be maintained in the meantime because no amendments to any

scheme of members' allowances can be made without fresh recommendations from the new IRP being first 'had regard to'.

BACKGROUND

5. As members are already aware, an independent remuneration panel (IRP) is a statutory panel established, in essence, to provide independent recommendations to a principal council on that council's scheme of members' allowances (and the amounts to be paid under such a scheme).
6. The statutory functions of an IRP are set out in full in regulation 21 of the Local Authorities (Members' Allowances) (England) Regulations 2003 (as amended) – <https://www.legislation.gov.uk/ukxi/2003/1021/regulation/10/made>
7. This report seeks to underpin such independence through the establishment of this IRP, with new panel members to serve on the IRP for a term of office of five years.
8. The idea of holding a recruitment exercise to refresh the membership of the IRP has the full support of the two remaining members of the IRP who, both having served for several years, are retiring after deciding not to apply to seek to serve a further term of office.
9. This report invites, therefore, the formal expression of thanks to previous members to be given to all previous IRP members, particularly Mr Mike Anderson (Chair) and Mr Max Morrison (former Chair), for their service on behalf of the local community.
10. Guidance has been issued by the Secretary of State about independent remuneration panels (including the selection and appointment process). The current guidance from the Secretary of State can be found on the HM Revenues and Customs (HMRC) website - <https://www.gov.uk/hmrc-internal-manuals/employment-income-manual/eim65960>
11. By law an independent remuneration panel must have at least three members. The recommendation is to keep it at 4 independent persons. This is believed to be the optimum size.
12. A recruitment exercise was recently undertaken through open advertisement utilising a combination of means to attract suitable independent applicants, including the use of press releases, social media and engaging with the community groups via IOW Community Action and the Community Cell and notifying all town and parish clerks to ensure that the appointments process is open to public scrutiny. All group leaders were advised together with the two ungrouped councillors.
13. Eleven applications were received and a short-list of six applicants were invited to (remotely) attend for interview on 5 February 2021.
14. Officers and members took part in this interview process. Whilst there has apparently been no consistent local convention on the composition of the informal interview panel, it was thought, on balance, more appropriate to invite some elected councillors to form part of the panel rather than an officer only panel.

15. Attention is drawn to the report to Full Council on 15 January 2014 item 7 Paper D paragraph 5 where it is recorded that *'Interviews took place with a panel including the Monitoring Officer and member representatives'*, and to the report to Full Council on 15 June 2016 item 6 Paper C paragraph 5 where it is noted that *'Interviews are undertaken by a panel including the monitoring officer and member representatives'*. This year the panel included Cllr. Dave Stewart, Cllr Chris Quirk, the Monitoring Officer and the Deputy Monitoring Officer.
16. When the Constitution next stands to be reviewed, members' views will be sought for future appointment exercises as to the composition of the interview panel tasked to make recommendations to Full Council for appointment to the IRP.
17. Having carefully had regard to the Secretary of State's guidance and as a result of having interviewed the six short-listed candidates (all of whom greatly impressed the informal interview panel and were appointable) the informal interview panel recommends the appointment of the following 4 persons:
 - (a) Jeannette Howells
 - (b) Chris Mathews
 - (c) Tracy Ringer
 - (d) Aaron Wright
18. The Secretary of State's guidance highlights the issue as to whether or not the local authority ought to directly appoint the chairman of the IRP or simply leave the matter to the IRP itself which of its members should act in that role. The informal interview panel recommends that the IRP makes that appointment in furtherance of the need for the IRP to be independent and to be perceived to be independent so that public confidence in such independence is enhanced.
19. This perception of independence may to some extent be impacted by how long a member of the IRP serves. The recommendation from the interview panel is that a term of office of 5 years should be given.
20. The issue of phasing of appointments was considered by the informal panel but, as the whole of the IRP is being refreshed, it was thought that specific phasing was not recommended on this occasion. There might be natural phasing simply due to vacancies arising. But the informal panel did recommend that a further period of three years appointment by way of an extension might be appropriate, but that any such decision should wait until the situation arises, if it does.
21. The informal interview panel considered the Secretary of State's guidance that: *'Local authorities will wish to ensure that the terms and conditions of appointment of members of the independent remuneration panel include provision for circumstances where the local authority may wish to remove a discredited member of the panel. For example, a member of the panel may become discredited due to being found guilty of a criminal offence. The local authority will wish to ensure that this provision to change panel members is not itself abused for political or vexatious ends'*. It is recommended that there should be a provision for removal but only upon 'good cause', with the advice of the Monitoring Officer being sought should any particular occasion arise which is thought to justify such removal from office.

22. Turning to the issue of allowances and expenses of members of the IRP, this is a matter of discretion for the Council to determine. The present position is that a payment of £301 is paid to each member of the IRP for each year in which they undertake work discharging the functions of the IRP (this is not necessarily every year), and that reasonable expenses are paid in relation to such activity. The informal interview panel recommends no change.

Scheme of Members' Allowances

23. Under the 2003 regulations, there is a requirement to have a scheme of members' allowances. Such a scheme can be adopted, amended or revoked if, and only if, the local authority has first received the IRP's statutory report containing the IRP's recommendations within the limits of the IRP's statutory functions and if the local authority 'had regard to' such recommendations before making its decision.
24. As stated above, the Isle of Wight Council Members' Allowance Scheme was adopted on 19 September 2018 following the acceptance of all of the then IRP Panel's recommendations in the IRP statutory report of September 2018 (the Fifteenth Report of the Independent Remuneration Panel).
25. The basic allowance for the year 2018/19 was set out in that Scheme as £7, 854.00 (the 'base amount' in effect). The Scheme provides that, for each year, a basic allowance shall be paid to each councillor subject to any upward variation being applied and implemented due to the 'Member Allowance Uplift' otherwise known as an indexation provision. The amounts of basic allowances for subsequent years can be ascertained through this base amount of £7, 854,00 plus any relevant uplifts. The current basic allowance is now £8,231.38. As any special responsibility allowance to be paid each year is calculated by reference to a multiplier of the basic allowance (as changed under the 'Member Allowance Uplift' provision), the relevant special responsibility allowance will likewise vary upwards too if there are any relevant adjustments for the relevant scheme year. The current amounts are set out in Appendix 1 to this report.
26. Indexation clauses are permitted by law. This indexation provision recommended in 2018 by the IRP to be incorporated into the Scheme of 2018 takes the embarrassment of having to decide annual claims away from the local authority. It was designed to do so. The local authority accepted the precise wording of the IRP's indexation clause. Any increases are in effect determined nationally through the linkage to officer pay settlements (those on NJC terms and conditions) and implemented without any further decision of the Council because of the application of that indexation provision. (There is a four-year statutory limit on being able to rely upon an indexation provision before fresh recommendations from an IRP must be obtained by way of the IRP supplying a new statutory report).
27. Any changes made entirely in reliance on an indexation provision within a scheme of members' allowances are 'deemed' in law not to be an amendment of such a scheme (see reg.10 (4) of the 2003 Regulations). Therefore, no fresh recommendations were needed from the IRP as no amendment to the scheme was being made.
28. Finally, the Council is required to have in place a scheme before to the start of each scheme year. Members are, therefore, recommended to make clear that the Scheme of Members' Allowances adopted on 19 September 2018 (in accordance with the IRP's recommendations in the IRP's statutory report of 2018) is to apply to the new

scheme year 2021/2022 which starts on 1 April, with the current amounts of allowances reported on 16 September 2020 rolling forwards subject to any annual adjustments required under the existing indexation provision.

29. This confirmation before 1 April of the application of the adopted Scheme rolling forwards (with its status quo approach) enables eligible members to continue to receive on and from 1 April existing amounts of allowances without any break in payment (pending the outcome of the review requested by Full Council to be undertaken by the IRP and pending the further decision of the Full Council after the IRP has submitted its fresh statutory report expected early in the new municipal year 2021/2022). It demonstrates compliance with the legal duty to have a scheme in place prior to the start of any scheme year (1 April – 31 March).
30. This review requested of the new IRP is timely as it is in the scheduled year of ordinary elections and the IRP has previously been called upon to undertake such a review following an administration starting a new term of administration, particularly in the light of any (proposed) governance/constitutional changes.
31. The new IRP may provide their statutory report making recommendations at any time on their own volition, but their report will be needed if, and when, the local authority is contemplating making amendments to its adopted scheme before such amendments can be made and implemented (see, for example, paragraph 30 above) [or where an existing indexation provision is coming to the end of its four year shelf-life as fresh recommendations from the IRP are by law required to be sought if reliance on such an indexation provision is wished to continue more than 4 years (see paragraph 26 above)].
32. How any IRP undertakes its review is a matter for the relevant IRP to decide. Their methodology may include questionnaires, interviews, bench-marking exercises etc.
33. Finally, to recap on why the Council did not seek out the views of the IRP since 2018, no amendments to its scheme had been proposed by the Council in the interim period, and the Secretary of State's guidance clarifies that no recommendations are ever required to be sought from an IRP where a local authority makes adjustments in amounts of allowances entirely in reliance on an existing indexation provision. Such adjustments are deemed in law not to be amendments (see paragraph 27 above). The guidance states: "*....Where the only change to a scheme is that caused by the annual impact of an index contained within that scheme, the scheme shall not be deemed to have been amended, and thus an authority will not have to seek a recommendation from its independent remuneration panel....*".

STRATEGIC CONTEXT

34. Good governance arrangements are essential to the delivery of the council's services and the decision-making process that support this.

CONSULTATION

35. None other than with the informal interview panel.

FINANCIAL / BUDGET IMPLICATIONS

36. There are no additional costs associated with the proposals contained in this report. The recommendations accord with the resources available within the overall budget agreed by Full Council in February 2020.

LEGAL IMPLICATIONS

37. The Council has a legal duty under regulation 20 (1) of the Local Authorities (Members' Allowances) (England) Regulations 2003 as amended ('the 2003 Regulations') to establish an independent remuneration panel to exercise the statutory functions specified in regulation 21 of the 2003 Regulations.
38. There is no opportunity for Full Council to make any amendments to the Scheme until it has 'had regard to' such recommendations made by the newly appointed Independent Remuneration Panel arising from the anticipated 2021 review.
39. The Council is required before the start of each scheme year to make a scheme of members' allowances in respect of that scheme year (see regulation 10 of the 2003 Regulations).
40. The making, amendment or revocation or replacing of a scheme of members' allowances, and the determining of the amounts of such allowances, is not a responsibility of the executive but is a 'council function'. It cannot be delegated but must be decided by the Full Council (see regulation 2(7) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended).

EQUALITY AND DIVERSITY

41. The council as a public body is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. It is not considered that the content of this report has any negative impact on any of the protected characteristics.

OPTIONS

42. **Option 1:** To establish the Independent Remuneration Panel to undertake its statutory duties with a membership size of up to 4 persons.
43. **Option 2:** To establish the Independent Remuneration Panel to undertake its statutory duties with a different membership to be specified.
44. **Option 3:** To appoint Jeanette Howells, Chris Mathews, Tracy Ringer, and Aaron Wright to serve on that Panel for a term of office of five years each unless removed earlier upon good cause.
45. **Option 4:** To refer the matter back to the informal interview panel.
46. **Option 5:** To leave the appointment of the chair(man) of the IRP to the IRP
47. **Option 6:** To appoint the chair(man) of the IRP.
48. **Option 7:** That the allowances payable to members of the IRP remain unchanged at £301 for each year in which their statutory functions are exercised,

with reasonable expenses being paid relating to their discharge of such functions.

49. **Option 8:** That the allowances payable to members of the IRP be changed to a sum to be specified, with reasonable expenses being paid relating to their discharge of such functions.

RISK MANAGEMENT

50. The recommendations are to ensure that the council meets its corporate governance requirements and responds to changing requirements and demands. These should lessen the risks arising from any challenge to the decision-making process by way of judicial review or other such legal action.

EVALUATION

51. Council has no option and must establish and maintain an independent remuneration panel.
52. Equally Council has no option and must have in place a Scheme of Members' Allowances for each scheme year (1 April – 31 March).
53. An effective governance system for the council is essential to enable business to be transacted openly and in a timely manner. The appointment of members to the IRP supports this.

RECOMMENDATION

54. (Option 1) That the Independent Remuneration Panel be established to undertake its statutory duties with a membership size of up to 4 persons.
55. (Option 3) That Jeanette Howells, Chris Mathews, Tracy Ringer and Aaron Wright be appointed to serve on that Panel for a term of office of five years each unless removed earlier upon good cause.
56. (Option 5) That the appointment of chairman of the IRP be left to members of the IRP to determine themselves.
57. That all the previous members of the IRP be thanked for their service to the local community.
58. That the Isle of Wight Council Members' Allowance Scheme adopted on 19 September 2018 shall roll-forwards and apply for the scheme year 2021/2022, as set out in Appendix 1 to this report.
59. (Option 7) That the allowances payable to members of the IRP remain unchanged at £301 for each year in which their statutory functions are exercised, with reasonable expenses being paid relating to their discharge of such functions.

APPENDICES ATTACHED

60. Appendix 1 – Isle of Wight Council Members' Allowance Scheme.

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