

RECORD OF OFFICER DECISION

MEMBERS ALLOWANCES – INTERPRETATION OF IMPACT OF NJC PAY AWARD 2022/23

Decision made

To update the Members Allowances Scheme for 2022/23

Made by: Terence Herbert, Chief Executive

After consultation with Perry Holmes, Director of Legal & Governance (Monitoring Officer)

Background

1. As the Proper Officer under Part 3 of the Constitution, I take this decision in accordance with Part 3D1 and paragraph 1.9 in consultation with the Monitoring Officer (in the absence of specific mechanism as set out below) and to deliver agreed strategy, plans and policy, that is the agreed Members Allowances Scheme as set out in Part 13 of the Constitution.

Reason for decision

2. On 20 July 2021 Full Council approved a Members Allowances Scheme regarding the remuneration of elected Members. This followed consideration of a report and recommendations from an Independent Remuneration Panel (IRP), as required by the Local Authorities (Members' Allowances) (England) Regulations 2003.
3. That scheme states "*Full Council has agreed the annual pay award to council staff as the index by which annual adjustments are made to the basic allowance and the special responsibility allowances payable to individual Members for the period from April 2021-March 2025*".
4. In previous years, the NJC pay award has been agreed with an average percentage increase. In accordance with the approved scheme for Wiltshire Council, this has been applied automatically, as there is no provision or requirement within the Scheme for increments to be approved on an annual basis, as this is the purpose of the indexing.
5. The NJC Pay Award for 2022/23, by contrast, was agreed as a lump sum of £1925 for all NJC pay points 1 and above. If applied as a flat rate to the Members Basic Allowance for 2021/22, this would have represented a 13.9% increase on the 2021/22 basic allowance of £14,075.
6. Councils were advised to consult with their Independent Remuneration Panels to consider ways to interpret and implement the award, where they had tied any increase to that award. Councils were therefore able to take different approaches, just as their Schemes were different.

7. Wiltshire's IRP met in November 2022 to consider the award and other information, and how the lump sum award could be applied to be in accordance with the scheme as it currently exists. That is, what did the existing Scheme reasonably mean in this circumstance.
8. The average percentage increase for council staff in Wiltshire from the NJC pay award amounts to approximately 6.6%.
9. The IRP prepared a report and recommended a 4.04% increase to the basic allowance only. This represented applying the percentage increase of the highest NJC pay band.
10. The report stated the view of the Monitoring Officer would be necessary as to whether this was merely an application of the current Scheme, which could be immediately implemented, or if it amounted to a change of that Scheme.
11. I took advice from the Monitoring Officer.
12. That advice was that a natural reading of the Scheme as it exists, would be to apply the average increase for all staff to all allowances. The Scheme explicitly states that any increase also applies to Special Responsibility Allowances, and therefore any decision not to do so would necessitate an amendment to the Scheme. The role of councillor is not tied with a specific pay grade of staff, and therefore in my view any recommendation to do so would lie outside the scope of the Scheme as it presently stands.
13. Whilst appreciating the recommended position and reasoning of the IRP, it is therefore determined that the meaning of the existing Members Allowances Scheme, as set out in Part 13 of the Constitution, would be to apply a 6.6% increase to allowances as the relevant index.
14. In 2021/22 the total expenditure for Members Allowances was £2.011m. A 6.6% increase would therefore lead to an approximate expenditure around £2.144m, depending on the level of expenses claimed on top of any allowances.
15. The IRP also stated it felt there could be a reconsideration of the linkage between the basic allowance and special responsibility allowances, and how to incorporate future flat pay rises, with a view to taking a recommendation to Full Council in due course. I consider this should be undertaken at the next annual review by the IRP.
16. It is open to any Member to forgo any part of their allowance entitlement if they wish.
17. I confirm that in making this decision I have considered the following in line with Wiltshire Council's Constitution:

| Key decision requirements | Non-key decision |
|---|---|
| Views of relevant cabinet member(s), committee chairman | As an interpretation of the existing scheme only, the Cabinet were advised of the conclusion of the Director. |

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| Consideration of the area boards and delegated decision checklist for officers on the issue of when and how to involve local councillors and area boards in decisions about local services | Not a decision regarding local services |
| Implication of any council policy, initiative, strategy or procedure | Not applicable |
| Consultation in accordance with the council's consultation strategy | No consultation is required. |
| Range of options available | Alternative options including different percentage increased were considered. |
| Staffing, financial and legal implications | Any increase would have some financial implications, as set out above. |
| Risk assessment | Not applicable |
| Involvement of statutory officers and/or directors | The Monitoring Officer discussed the decision with the Chief Executive and CLT. |
| Regional or national guidance from other bodies | Guidance issued by bodies such as the LGA was considered. |
| The council's constitution | This decision reflects the position of Part 13 of the Constitution |
| This contract is suitable for execution under the e-signature process. | Not applicable |

Conflict of Interest

18. Not applicable

Other options considered

19. Alternative options were considered as set out by the IRP

Made by:

Terence Herbert

25 November 2022