

PART 6 – Member’s Allowance Scheme

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1. Background

1.1. Legislative Framework for Scheme

The Council is currently empowered to remunerate Members under the Local Authorities (Members Allowances) Regulations 2003, as amended (principally SI Nos 1021 and 1692 of 2003) (the Regulations). These Regulations are made under the provisions of the Local Government Act 2000 and the Local Government & Housing Act 1989. The Local Government Act 2000 made provision for an Independent Remuneration Panel to be established to make recommendations upon the Scheme and provided for statutory guidance to be issued by the Secretary of State. The Council has had regard to the report of the Panel and the statutory guidance in producing this Scheme.

The Local Government Pension Scheme and Discretionary Compensation (Local Authority Members in England) Regulations 2003 (SI No 1022) used to permit Members to be admitted to the Local Government Pension Scheme. However, these provisions were not adopted by the Council and the law no longer allows schemes to make new provisions for such pensions. For these reasons, this Scheme does not make provision for any pension entitlement for Members under the Local Government Pension Scheme.

This document contains details of the formal statutory scheme, comprising of Basic Allowance and Special Responsibility Allowances, as set out in Section 2 below and the relevant part of the Schedule. The Dependants' Carers' Allowances, Co-optees' Allowances, travel and subsistence provisions also form part of the Scheme.

1.2 The Independent Remuneration Panel

An Independent Remuneration Panel, appointed by the Council under the provisions of the Local Government Act 2000, from time to time makes recommendations to the Council as to the contents of its Allowances Scheme.

The Panel has met in 2001, 2002, 2003, 2006, 2010, 2011, 2014 and 2017.

At its meeting on 10 January 2018, Council delegated authority to the Strategic Director: Resources to finalise a Members' Allowances Scheme as is set out here to take effect from 1 April 2018. Whilst taking into account the recommendations of the most recent Independent Remuneration Panel, Council decided to only increase basic and special responsibility allowances in line with any indexation and withdrew the Scrutiny Leads Special Responsibility Allowance.

Any subsequent amendments to the Scheme take effect from the date stated on the re-issued pages. The approved scheme sets out the only categories of duties for which payment is eligible. The Scheme does not cover every duty that is carried out by Members.

1.3. Definitions

Under the Scheme, a year is defined as commencing 1 April and concluding 31 March.

Any period of 24 hours shall be treated as having commenced at 3 am on the day in question.

For the purposes of this Scheme, the phrase 'Political Group' shall have the same meaning as Regulation 8 of the Local Government (Committees and Political Groups) Regulations 1990.

2. Basic and Special Responsibility Allowances for Councillors

2.1. Basic Allowance

A Basic Allowance is payable. The current rate is set out in Schedule 2.

The Basic Allowance is a flat rate payable to all Members, regardless of individual duties, and is primarily intended to reflect Members' constituency role.

It is also intended to cover the standard incidental costs that Members incur as part of their general duties. In particular it covers the cost of telephone calls from Members' houses, broadband, printing leaflets for constituency surgeries, minor office equipment and use of their homes for Council duties. However, it does not negate the current level of provision and access by Members to those services provided as Member Services such as, inter alia, ICT equipment or support where provided, stationery, car parking permit and Member Training.

The allowing of free use of Winchester City Council sheltered housing schemes for Members' Surgeries will each be considered on an ad-hoc basis.

2.2. Special Responsibility Allowances

Some duties undertaken by Members are eligible for a Special Responsibility Allowance (SRA). The eligible duties and amounts payable are set out in Schedule 2.

A Member is only entitled to claim one SRA Allowance at any one time. If the Member holds more than one position which is eligible for such an allowance, they will notify the Democratic Services Manager as to the SRA that will be claimed, or otherwise the higher will be assumed.

The Band 6 SRA set out in Schedule 2 provides for the Council to identify Chairpersons of task and finish and/or ad hoc working groups/panels with significant impact as being eligible for the allowance. These posts are not specifically identified within the Scheme itself but are, in accordance with the recommendations of the Independent Remuneration Panel, identified by

resolution of the Council from time to time. However, no more than 50% of the Council (22 Members) may receive an SRA at any one time.

This provision limits the number of posts that can be allocated a Band 6 SRA allowance in this category. It also means that if the take up of all SRA's for the other positions specifically allocated in the Scheme changes; this may affect the total number of SRA's payable at any one time. In these circumstances, the Council will have to reconsider which of the task and finish etc. allowances can still be paid.

2.3. Part-year Entitlement to Basic and Special Responsibility Allowances

- a) Where a Councillor is elected, or resigns as a Councillor part way through the year, the amount of *Basic Allowance* payable is calculated by dividing the annual sum of the basic allowance (set out in Schedule 2) by 365 and multiplying the product by the number of days that the duty was undertaken.
- b) Where a Councillor commences or ceases to carry out a *Special Responsibility*, as defined above, part way through the year, the amount payable is calculated by dividing the annual sum of the Special Responsibility Allowance (set out in Schedule 2) by 365 and multiplying the product by the number of days that the duty was undertaken.
- c) In the event that the Council revokes a Scheme during the Municipal Year, then an appropriate adjustment shall be made in respect of any Basic Allowance or Special Responsibility Allowance which:-
 - (i) Has already been paid under the previous scheme in respect of the remainder of the year from which the further Scheme has effect, or
 - (ii) Is to be paid in respect of any part of the year during which the previous Scheme had effect.
- d) In the event of an amendment to the amount of Basic or Special Responsibility Allowance part way through the year, the entitlement shall be calculated by reference to dividing each annual sum by 365 and multiplying the product by the number of days during which each level of allowance was payable.

Example: Basic Allowance £ 5,694 per annum
(based upon £5,694 divided by 12 = £474.50 per month Basic Allowance
2018/19 rates)

Member commences duty 2 September
29/30ths of £474.50 = £458.68 Basic Allowance paid for
September
£474.50 per month paid thereafter for each full month in office

3. Travel and Subsistence

3.1. Travel

Travel costs are payable in respect of approved duties in accordance with the criteria set out in Schedule 1. In some instances, the Schedule makes distinctions between rates that can be claimed for travel within the administrative boundaries of Winchester City Council and for travel outside those boundaries. Travel costs also apply to payments to Co-opted Members in the circumstances set out in paragraph 4 below. Claims can be made for the following:

(a) Car, Van or Motor Cycle Mileage:

These rates are set out in Schedule 2. The rates may be increased by a supplementary rate when carrying passengers; these rates are also set out in Schedule 2. This rate applies to all passengers up to a maximum of four. Supplementary claims may also be made in respect of expenditure necessarily incurred on tolls and parking fees. Where possible, receipts for such supplementary claims should be obtained and attached to travel claim forms.

(b) Cycle Mileage

At the rates as set out in Schedule 2.

(c) Bus fares

Shall not exceed the amount of ordinary fare or any available cheap fare. Where possible, receipts should be obtained and attached to travel claim forms.

(d) Rail & Ferry

When more than one class is available, the rate by ferry is economy class, and by rail second class, subject to supplementary payments for seat reservation fees, deposit, luggage portage costs, and sleeping accommodation where appropriate on overnight trains/ferries. Reduced rate tickets should be used where practicable. Where possible, receipts should be obtained and attached to travel claim forms.

(e) Taxi/Private Hire

When it is difficult to utilise public transport at standard rates or otherwise, and the prior approval of the Democratic Services Manager has been obtained, the actual fare for travel by taxi/private hire vehicle, together with reasonable gratuity will be paid. Where possible, receipts should be obtained and attached to travel claim forms.

When taxi/private hire is used out of choice and without prior approval, the reasonable alternative fare for public transport referred to in (c) and (d) above applies. However, if the Democratic Services Manager is satisfied that it was reasonable in all the circumstances that taxi/private hire was used without prior approval, then they may exercise discretion to authorise actual fare and reasonable gratuity.

(f) Car Hire

When hiring a vehicle, the normal mileage rates that apply for private car use; or when it is difficult to utilise public transport at standard rates or otherwise, and the prior approval of the Democratic Services Manager has been obtained, the actual cost of hire. In these circumstances receipts should be obtained and attached to travel claim forms.

(g) Air Travel

When travelling by air, the rates shall not exceed the rates for alternative means of transport (e.g. train fare), unless the Democratic Services Manager has agreed that the saving in travelling time justified the payment of the actual air fare. Where possible, receipts should be obtained and attached to travel claim forms.

Please note that when Members travel outside the Council's administrative boundary on approved duties, they should choose the most cost effective method of travel that meets the reasonable needs of their travel requirements.

3.2. Subsistence

Subsistence is only payable in respect of approved duties outside the Winchester District. However, the Democratic Services Manager may authorise the arranging of meals/refreshment on appropriate occasions. The Democratic Services Manager may also authorise subsistence payments in accordance with Schedule 1 (Category B). Subsistence may also be paid to Co-opted Members, in the circumstances set out in Paragraph 5 below. The rates are set out in Schedule 2, and subject to the following criteria:

- (a) In the case of an absence, not involving an absence overnight from the usual place of residence:-
 - (i) Breakfast Allowance (more than 4 hours away from the usual place of residence, before 11am)
 - (ii) Lunch Allowance (more than 4 hours away from the normal place of residence, including the lunchtime, between 12 noon and 2pm)
 - (iii) Tea Allowance (more than 4 hours away from the normal place of residence, including the period 3pm to 6pm)

- (iv) Evening Meal Allowance (more than 4 hours away from normal place of residence, ending after 7pm)

These rates should be reduced by an appropriate amount if any meal is provided free of charge by the Council or the outside body. E.g. If a Member takes the Council provided refreshments at meetings then no claim should be made.

- (b) Whenever possible in relation to accommodation and related subsistence for meetings outside the authority, the Member will ask the Democratic Services Manager to make the booking and the necessary payments at such reasonable rates as they may determine.

Otherwise a separate allowance rate is payable in respect of an absence overnight from the usual place of residence, which is set out in Schedule 2. These rates cover a continuous period of absence of 24 hours, and should be reduced by an appropriate amount in respect of any meal provided free of charge by an authority or body during the period to which the allowance relates, or in respect of any accommodation for which the Council is making a direct payment.

- (c) Where meals are taken on a train or elsewhere during the periods falling within the categories set out in (a) (i-iv) above on travel outside the Winchester District, reimbursement for reasonable actual costs of the meals will be given in lieu of subsistence allowances on production of receipts.

3.3 Accommodation

The Democratic Services Manager will determine those occasions when it is appropriate for a Member attending a conference, seminar or training course, to travel to the venue on the evening before the event and incur a cost for overnight accommodation. For example, such consent would not normally be given for a conference starting at 10am in London, but may be allowed if that conference were in Birmingham or Manchester.

4. Dependants' Carers' Allowance

An allowance can be claimed to reimburse childcare/dependant carers' expenses in respect of attendance at any of the Internal Meetings set out in Schedule 1. This allowance does not apply to External Meetings (Schedule 1 - Category A) or any other activity.

The Allowance can be claimed in respect of *paid* care for:

- (a) Children up to and including 14 years old;
- (b) Relatives that are elderly or have physical or intellectual disabilities requiring care and not able to be left on their own;

Provided that they normally reside with the claimant and the paid carer is not a member of the claimant's immediate family or household.

In order to claim the Allowance, the Member must lodge a written declaration with the Democratic Services Manager, outlining the circumstances which entitle them to make a claim.

The allowance payable shall be the actual fee by hour of the carer, as set out in Schedule 2, with no maximum set figure for the number of hours subject to the general reasonableness of the claim.

As a guide for reasonableness, this allowance may be claimed for the duration of the meeting, together with up to one hour travelling time to and from the meeting, plus a short period for instruction/hand over with the carer.

Payment can only be made on production of a receipt or invoice from the paid carer.

Specialist care provision should be reimbursed at cost upon production of receipts. Medical evidence that this type of care is required must also be provided and be approved by an appropriate officer of the Council.

5. Co-optees' Allowances

Co-optees' Allowances are only payable to Co-opted Members, as Basic/Special Responsibility Allowance is not payable.

The Co-optees' Allowance applies to the Parish Representatives on the Standards Committee.

The current rates for Co-optees' Allowances are set out in Schedule 2.

In the event that the Scheme is amended or revoked during the year, or a Member holds office for only part of the year, then the Co-optees' Allowance shall be adjusted in the same manner as for Basic and Special Responsibility Allowances – see Para 2.3 above.

The Travel and Subsistence Scheme applies to these duties.

6. Renunciation

A Councillor or co-opted Member may, by written notice to the Democratic Services Manager, choose to forego all or any part of their entitlement to any allowance under this scheme.

7. Membership of More Than One Authority

Where a Member is also a member of another authority, then that Member may not receive allowances from more than one authority in respect of the same duties.

8. Inflation Index

In the event that the Council decides that it is not necessary for the Scheme to be reviewed by the Independent Remuneration Panel in any year from 2018/19 onwards, then the amounts of the Basic and Special Responsibility Allowances, will be adjusted for inflation by the amount of the percentage increase in the nationally agreed pay increase for local government employees (linked to Spinal Column Point 49 of the NJC Scheme) with effect from 1 April (commencing 2018) for immediate implementation, with payments backdated accordingly. The increased allowances may be rounded up or down to allow division by a factor of 12.

The amounts of the mileage allowances in the Travel Scheme will be linked to the HM Revenue and Customs (HMRC) rates from time to time and updated by the Democratic Services Manager.

The Council will consider whether the NJC inflation index should be used in lieu of a review by the Panel before the start of the relevant financial year. However, Regulation 10(5) of the 2003 Regulations (SI No 1021) provides that the Council cannot rely on an index for a period of longer than four years before seeking a further recommendation from the Independent Remuneration Panel. To that end, any index linkage agreed will be in line with staff salary increases for a maximum of four years from 2018/19 to 2022/23.

In the event that the Council decides to operate such an index, rather than re-convening the Panel, it shall comply with the provisions of the relevant Regulations for the time being in force and ensure that an updated table of allowances, with the actual amounts payable, is published annually and available for public inspection. Such updated allowances shall be added to Schedule 2 of the Constitution indicating the periods for which they apply.¹

9. Administrative Procedure

9.1. Making Payments

Automated payments

The Basic Allowance, Special Responsibility Allowance, and Co-optees' Allowance where applicable, are administered through the payroll, and are paid automatically into Members' bank accounts using the Bank Automated Clearing System (BACS). Payments are made on a monthly basis on the last working day of each month. Payments are subject to deduction of National Insurance and Income Tax (where applicable).

¹ Note. In view of the current financial situation, at its meeting on 7 January 2015 the Council decided not to apply the Inflation Index for Allowances and Subsistence rates for the 2015/16 Municipal Year.

The Council decided that should the HMRC mileage rate increase in 2015/16 then the index should be applied and implemented forthwith.

Making a Claim – Other Allowances

Other Allowances have to be claimed by Members and must be submitted **within two months** of the approved duty to the Democratic Services Manager, who will check the claim before onward transmission to the Payroll Team. Claims received no later than the fifteenth day of the month will be paid on the last working day of that month. The Council has discretion as to whether any late claims should be paid.

It is strongly recommended that claims are made on a monthly basis, for the previous month. This is because the liability for National Insurance payments is dependent on when claims are made, and not when entitlement to the payment arose. If claims over a period of time are stored up and submitted together, the total claimed that month may exceed National Insurance payment thresholds.

Claims should be made, in writing and on the standard claim form, and signed to confirm that the duty has been carried out and that no other claim has been made for that duty. If claims can also be made from an outside body, then Members are encouraged to claim from that body rather than the Council. Where the travel and subsistence scheme requires the submission of receipts, then these should be attached to the claim form.

From 1 January 2007, HMRC has introduced new VAT regulations following a decision in the European Court. The rules affect fuel costs that are subsequently reimbursed by an employer, either on the basis of the actual cost of the fuel or by means of a mileage allowance. Businesses can continue to recover VAT on fuel costs, but must now retain full VAT receipts.

All mileage allowance claims forms received from Members must be supported by full VAT receipts for fuel to cover all journeys being claimed on the form. The receipt must be for fuel purchased in advance of the journeys being claimed. A receipt may cover a single or multiple journeys and single or multiple forms. Where, through low usage, a receipt covers more than one claim, any HMRC compliance testing will recognise this position and will not expect, as a matter of course, a receipt to be attached to each claim.

Original receipts are required, but where a Member has to retain original receipts (e.g. in connection with their own business), a copy will be acceptable. Receipts will be checked by the Democratic Services Manager and will be retained for 6 years, plus the current year.

Claims for the Dependents' Carers' Allowance must be accompanied by a receipt or invoice from the paid carer. The Member also has to notify the Democratic Services Manager as to the reasons why they are eligible to make a claim before regular claims are made.

Forms can be obtained from Democratic Services (01962 848264), or from the Payroll Team, (01962 848157).

For the purpose of paying Members' Allowances, it is important that the Council's Payroll Manager is notified as soon as possible of new Members' National Insurance numbers and details of their nominated bank or building society accounts, to which all allowances and other expenses will be paid. New Members who currently do not have a National Insurance number are asked to obtain one from the Department of Works and Pensions. Members who have a number, but are uncertain as to what it is, can obtain confirmation from this same source.

When submitting a claim form, it is important to check against the categories in Schedule 1 to this scheme, to ensure that the duty is eligible for travel and/or subsistence allowance. If in doubt, you are recommended to contact the Democratic Services Manager (01962) 848217, prior to submitting the claim. It is the responsibility of the Member to ensure the accuracy of any claim made.

9.2. Queries over Entitlement

Occasionally, a claim may be made that is considered by officers not to be in accordance with the agreed criteria. In such cases, no payment will be made. If a Member wishes to dispute the decision of the officers, they are requested to appeal in writing to the Democratic Services Manager, who will give reasons for refusing to authorise the payment. If the matter is not resolved, it can be referred to Cabinet to make recommendations to Council.

9.3. Tax and National Insurance Implications

Income Tax and National Insurance will be deducted as appropriate from Members' Allowances in accordance with HMRC regulations. Members and Co-opted Members Allowances are taxable at source and may also be subject to National Insurance Contributions (NICs) where applicable. Mileage expenses incurred in the performance of official duties are not taxable and are reimbursed at the HMRC's Approved Mileage Allowance Payment (AMAP) rate. Subsistence expenses may in some instances be subject to deductions of tax and NICs. Claims for the reimbursement of subsistence, travel or other expenses necessarily incurred in the performance of official duties should always be supported by receipts in accordance with HMRC rules. Members should be aware that benefits received from other Authorities or bodies in the pursuance of their duties are taxable, in exactly the same way as if benefits had been provided by the Council. Members who are over State Pension Age should provide evidence of their date of birth to the Payroll section (a photocopy of their birth certificate or passport will suffice).

In certain circumstances Members may be entitled to claim tax relief for some expenses incurred in the course of their duties where these expenses are not

re-claimable from the Council. In this instance Members will need to submit a Self-Assessment tax return to the HMRC. Further details are available here: <https://www.gov.uk/tax-relief-for-employees/how-to-claim>

Entitlement to certain state benefits can be reduced by the receipt of Member Allowances and any Member affected should discuss this with the Department for Work and Pensions. The entitlement may be affected even if the Member decides not to claim the allowances. In limited circumstances, and where a Member pays National Insurance Contributions on their Allowances, a Member may be entitled to receive Statutory Sick Pay (SSP) if they are prevented through illness from undertaking official duties for four or more days. If a Member considers this might apply to their circumstances, further advice should be sought.

Any queries regarding the payment of Members' Allowances should be referred to the Payroll section (telephone 01962 848157) or email payroll@winchester.gov.uk.

9.4. Amendments to Allowance Levels and to Eligibility Criteria

The actual amounts paid under the Scheme and changes to eligibility criteria (particularly in relation to outside bodies) are more likely to be revised on a regular basis than the overall policy of the Scheme. For this reason, the information is contained in the Schedules at the back of the document, and can therefore be updated and reissued to Members as appropriate.

9.5. Publicity of Scheme

Keeping Records of Payments

A record of all payments to individual Councillors under the Scheme will be kept and made available for public inspection.

The Democratic Services Manager will record the names of Members attending meetings called by the Chief Executive, Strategic Director: Resources or Monitoring Officer. For other meetings called by Heads of Teams, such as Member training, the Officer calling the meeting will record the names of Members in attendance and submit a list to the Democratic Services Manager.

Advertisement of Scheme

In the event of the Scheme being revoked or amended, publicity shall be given in accordance with Regulation 16 of the 2003 Regulations (SI No. 1021). Any change in allowance rates due to use of an index must also be published annually under Regulation 16(2).

The Scheme must also be advertised in accordance with regulation 15(3) of the same Regulations as soon as possible in each year, setting out the following information:

- (a) The payments that were made to each individual in respect of Basic, Special Responsibility, Co-optees', and Dependants' Carers' Allowances, together with travel and subsistence allowances, during the preceding financial year.