

Non-Executive Report of the: Council Wednesday, 11 March 2020	
Report of: Asmat Hussain, Corporate Director, Governance and Monitoring Officer	Classification: Open (Unrestricted)
Members Allowances Scheme 2020/21	

Originating Officer(s)	Matthew Mannion, Head of Democratic Services
Wards affected	(All Wards);

Executive Summary

Part 6 of the Council's Constitution sets out the Scheme of Members' Allowances. This provides for a Mayor's Allowance to be paid to the Mayor; a Basic Allowance to all Councillors; Special Responsibility Allowances for specified member roles; Dependents' Carers' and Travel/Subsistence Allowances; and an attendance allowance for co-opted members of the Standards Advisory Committee and the Overview and Scrutiny Committee.

By law the Council must agree the Scheme of Members' Allowances annually, before the start of the year to which it applies. The proposed Scheme of Members Allowances for 2020/21 is attached at Appendix 'A'.

The Council also operates a Maternity, Paternity, Adoption and Sickness Pay policy for Members. Councillor Mufeedah Bustin is currently on Maternity Leave. However, due to the relevant regulations, the Council at its meetings on 13 November 2019 was still required to agree to waive the 'six month' attendance rule for Councillor Bustin. Council is asked to agree that the Mayor write to the Secretary of State highlighting this issue and asking that this regulation be addressed.

Recommendations:

The Council is recommended to:

1. Adopt the London Borough of Tower Hamlets Members' Allowances Scheme 2020/21 as set out at Appendix 'A' to this report.
2. Agree that the Members Allowances Budget be adjusted as necessary to cover the costs following the uprating of the local government pay award as set out at 3.4.
3. Agree that the Mayor writes to the Secretary of State on behalf of the Council requesting that Maternity, Paternity, Adoption and Sickness leave for Members be brought into line with the Statutory Regulations.

1. REASONS FOR THE DECISIONS

- 1.1 The Council is required to agree a Scheme of Members' Allowances annually.

2. ALTERNATIVE OPTIONS

- 2.1 None

3. DETAILS OF THE REPORT

- 3.1 In accordance with Statutory Instrument (SI 1021/2003) the Council is required to agree a Scheme of Members' Allowances on an annual basis. The Scheme may include an annual index-linked adjustment of allowances, but it must be subject to a full review at least every four years, considering the recommendations of an Independent Remuneration Panel.
- 3.2 The London Councils Independent Remuneration Panel issued a report in January 2018. The Council's scheme was reviewed in May 2018 and amendments made considering the Panel's recommendations. This was agreed by Council at their meeting on 23rd May 2018.
- 3.3 The current scheme is included at Part C of the Council's Constitution and it is proposed that this should be re-adopted for 2020/21 as set out at Appendix 'A' to this report.
- 3.4 The basic (for Mayor and councillors), special responsibility and co-optee member allowances are set out at 2019 rates and will be increased in accordance with any local government pay award agreed for April 2020 onwards.
- 3.5 The Dependents' Carers' Allowance amount has been increased in line with the current London living wage.

Maternity, Paternity, Adoption and Sickness Policy

- 3.6 The Council has recently adopted a Maternity, Paternity, Adoption and Sickness Pay policy for Members. Councillor Mufeedah Bustin is the first Councillor to take advantage of this policy and is currently on maternity leave until May 2020.
- 3.7 However, Section 85 of the Local Government Act 1972 requires that a Councillor must attend at least one meeting during a period of six months to remain qualified to hold office, unless an exemption is granted by Council.
- 3.8 Therefore, Council were required to receive a report at its meeting on 13

November 2019 requesting such an exemption for Councillor Mufeedah Bustin.

- 3.9 This requirement is not seen as in keeping with the Council's equalities duties to support Members and should be updated in line with modern expectations.
- 3.10 It is proposed that the Mayor undertake to write to the Secretary of State on behalf of all Members setting out their concerns and requesting that the law be brought up to date.

4. EQUALITIES IMPLICATIONS

- 4.1 The payment of Members' Allowances helps to ensure that people from all parts of the community within the borough are able to serve as elected members. This promotes effective community leadership and accountability, to the benefit of the whole borough and all its communities.

5. OTHER STATUTORY IMPLICATIONS

- 5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:
- Best Value Implications,
 - Consultations,
 - Environmental (including air quality),
 - Risk Management,
 - Crime Reduction,
 - Safeguarding.

- 5.2 There are no other statutory implications to be considered.

6. COMMENTS OF THE CHIEF FINANCE OFFICER

- 6.1 There is a specific budget for all member allowances and costs will be contained within this budget.
- 6.2 Allowances will be increased in line with the annual pay settlement funded from council's MTFs inflation allocation.

7. COMMENTS OF LEGAL SERVICES

- 7.1 The Local Authorities (Members' Allowances) (England) Regulations 2003 ('the Regulations') require the Council to on or before 31st March in each year make a scheme in accordance with the Regulations. The Scheme must make provision for payment of the basic allowance specifying the amount

and also make provision for the following allowances if it intends to make such payments in respect of a year-

- (a) special responsibility allowance;
- (b) dependants' carers' allowance;
- (c) travelling and subsistence allowance; and
- (d) co-optees' allowance.

7.2 The proposed Member Allowances Scheme 2020/21 provides for Maternity, Paternity, Adoption and Sickness Pay which is established practice in a number of other London boroughs. Whilst there is nothing in the Regulations that provides that the Scheme is to include reference to such, the inclusion of Maternity, Paternity, Adoption and Sickness Pay are supported by the Council's general power of competence. Section 1 of the Localism Act 2011 gives the Council a general power of competence to do anything that individuals generally may do, subject to specified restrictions and limitations imposed by other statutes. The inclusion of Maternity pay is also consistent with the Council's obligations under the Equalities Act 2010.

7.3 Regulation 17 of the 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.

7.4 Under s.9BA(5) Local Government Act 2000, a local authority may propose that the Secretary of State make regulations prescribing arrangements specified in the proposal if the authority considers that the conditions in ss.6 are met. Under s9BA(6), these conditions are:

- (a) that the operation by the authority of the proposed arrangements would be an improvement on the arrangements which the authority has in place for the discharge of its functions at the time that the proposal is made to the Secretary of State
- (b) that the operation by the authority of the proposed arrangements would be likely to ensure that the decisions of the authority are taken in an efficient, transparent and accountable way, and
- (c) that the arrangements, if prescribed under this section, would be appropriate for all local authorities, or for any particular description of local authority, to consider.

7.5 As the current relevant regulations still require the Council to waive the 'six month' attendance rule in relation to councillors on maternity leave, this topic would satisfy the above three conditions. The Mayor should therefore be advised to write to the Secretary of State highlighting this issue and ask that the current requirement in this regulation is addressed and if possible, revised.

Linked Reports, Appendices and Background Documents

Linked Report

- None.

Appendices

- Appendix A – Members' Allowance Scheme 2020

Local Government Act, 1972 Section 100D (As amended)

List of "Background Papers" used in the preparation of this report

List any background documents not already in the public domain including officer contact information.

- None

Officer contact details for documents:

N/A