

Appendix A

Joint Independent Remuneration Panel Report to Somerset County Council on a review of the parental leave and carers' allowance policy contained in the Scheme of Members' Allowances

Report author: John Thomson, Chair of the Joint Independent Remuneration Panel.
Completed: 6th November 2020.

1. Introduction

- 1.1 This report arises from a request to the Panel to consider these issues following a discussion at full Council on 17 July 2019. At this meeting it was pointed out that:-
- a) There is no legal right to parental leave for people in public office;
 - b) Only 4 per cent of authorities had a parental leave policy at that time;
 - c) Having a policy would help avoid potential councillors being discouraged from standing for election.
- 1.2 In preparing this report and recommendations, the Panel is indebted to the advice of the officers supporting the Panel.

2. Executive Summary

- 2.1 The Panel has looked at the Council's current policies relating to parental leave and carers' allowances, and also at practice within the Council. A survey was carried out of other authorities to see what action they had taken on these topics. It was noted that only a few authorities had acted as yet but it was felt that it was essential to have policies in place, in part, to ensure potential councillors were not put off standing for election and, in part, because it was the right thing to do. It was also felt that, although claims for child care were rare, some clarification of procedure was warranted.
- 2.2 The Panel RECOMMEND that:-
- The Basic Allowance should be paid for a period of up to 52 weeks when a Member takes Parental Leave; but
 - When a Member takes Parental Leave who is in receipt of a Special Responsibility Allowance, that allowance should be reduced so that i) for the first 6 weeks 90% of the Allowance is paid, ii) for weeks 7 to 18, 50% is paid, and iii) for weeks 19 to 52, 0% is paid; and
 - Staying in touch arrangements during Parental Leave are explained
 - Any one Member undertaking the Special Responsibility of a Member on Parental Leave should be paid the full amount of the SRA in accordance with the Council's usual policies.
 - All claims in respect of childcare should be from registered

Appendix A

childminders or statutory approved childcare providers who are not related to the Member for all children aged below 14 who normally reside with the Member;

- Receipts should always accompany any claim for expenses;
- Payments will be on the basis of actual expenditure incurred subject to a maximum of three times the prevailing national living wage hourly rate for a person aged 25 or over;
- The policy for care of dependants should include children of any age with complex needs; and
- Section 5 of the Scheme of Members' Allowances be given a new title to cover Parental Leave as well as Carers' Allowances and be re-written as set out in the annex attached.

3. Members' Allowances and Remuneration Panels – the legal position

- 3.1 As a reminder to members, the legal provisions in relation to members' allowances are set out in the Local Authorities (Members' Allowances) (England) Regulations 2003 (SI 1021) and subsequent amendments to the regulations (SI 2003/1022 and SI 2003/1692) ["the Regulations"].
- 3.2 Under section 85 of the Local Government Act 1972 Members are required to attend at least one meeting of the authority in any six-month period. This requirement still applies to Members on Parental Leave. Members may apply for dispensation and the Council may exercise its right to waive the right to expulsion for a "reason approved by the authority before the expiry of the six-month period".

4. Joint Independent Remuneration Panel

- 4.1 Somerset County Council forms part of the Panel, along with Mendip District Council and the newly established Somerset West and Taunton Council. The Panel's membership comprises three independent representatives appointed by the County Council and one each by the other Councils. All of the members of the Panel are residents of Somerset. There is currently one vacancy. The make-up of the Panel is outlined in brief below:

Panel members:

John Thomson (Chair)

From a housing background, initially worked for local authorities and then was Chief Executive of SHAL Housing, a Bridgwater based housing association, for 20 years and now retired. John represents Somerset West and Taunton on the Panel.

Appendix A

Colin McDonald

Semi-retired after over 30 years full time employment in social housing, 25 (in total) of these at South Somerset District Council (two occasions) including several years as Head of Housing & Welfare.

Bryony Houlden

Chief Executive of South West Councils. Provides advice and support on a range of member issues including being a member of several Independent Remuneration Panels.

Alan Wells

39 years' experience in financial services. Specialist in benefit and remuneration structures.

Technical Advisers to the Panel:

Scott Wooldridge, Monitoring Officer, Somerset County Council

Julia Jones, Governance Specialist – Democratic Services, Somerset County Council

5. Panel Assessment – Parental Leave

- 5.1 At the meeting in July 2019 the Council made a number of key decisions on parental leave:-
- a) Members would be entitled to take up to 52 weeks parental (maternity/adoption) leave;
 - b) Members wishing to take up this entitlement would be required to notify their intention and the date on which leave will commence in the same way as paid employees;
 - c) Members would be entitled to take 2 weeks Paternity Leave if they are the biological father or nominated carer of their partner/spouse following the birth of their child(ren) and during this time the Basic Allowance and any Special Responsibility Allowance would continue;
 - d) Where Members have made Shared Parental Leave arrangements the Council would make every effort to replicate such arrangements;
 - e) Members on Parental Leave would continue to receive the Basic Allowance without deduction for a period of between 39 and 52 weeks;
 - f) The Council would determine a policy relating to Special Responsibility Allowances;

Appendix A

- g) The Council would facilitate arrangements made for work to be completed by a colleague or Member of the relevant Group;
- h) The Council will periodically review its Members' Allowances Scheme to ensure adequate provisions relating to Parental Leave, including any Dependant Carers' Allowance; and
- i) The Council would ensure Members have access to adequate IT whilst on Parental Leave.

5.2 As reported in paragraph 1.1(b) above, a year ago only 4% of authorities had a parental leave policy. In setting a policy, the Council is in the forefront of policy making and consequently there are few comparators. Nevertheless, in June this year a parental leave survey of 9 (mostly) neighbouring authorities was undertaken. Of these 3 councils had a Parental Leave policy, 3 were considering a policy and 3 had no policy. Of the three with a policy, only two were able to provide details. In these two cases the policies covered adoption, maternity and paternity issues with benefits similar to those already agreed by the Council in 5.1 above.

5.3 In considering the above the Panel had particular note of the concern expressed in paragraph 1.1 (c) above and with which the Panel agree. When a potential candidate is considering putting themselves forward for election for the first time their first thought with regard to allowances is obviously the Basic Allowance. (It is expected, for instance, that people appointed to cabinet positions will be those with seniority and experience within their political group assuming, of course, that their party wins the election.) Because of this the Panel agrees with the Council's policy regarding Parental Leave for maternity and adoption for a period of up to 52 weeks and believes that during all of this time the Basic Allowance should continue to be paid.

5.4 The Panel feel slightly differently about Special Responsibility Allowances. These are paid to Members with additional responsibilities. As indicated above the first-time candidate will not be considering such allowances when considering whether to stand and therefore the Panel does not see the existence of these allowances as encouraging someone to stand. Furthermore, whilst ward duties can be covered by other councillors in a ward or by a nominee put forward by the political group to which a Member belongs, the additional duties covered by a Special Responsibility Allowance (SRA) need greater attention. Consequently the Panel feel that payment of an SRA should reflect (in cases of maternity or adoption) the policy adopted by the Council with regard to paid staff – that is, a gradual reduction over time, as follows:-

- a) For the first 6 weeks, 90% of the normal SRA;
- b) For weeks 7 to 18, 50%; and
- c) For weeks 19 to 52, 0%.

At the same time, any replacement solely undertaking the Special Responsibility, for the period of maternity or adoption leave, should be

Appendix A

paid the full amount of the SRA. Under the Local Government Act 2000, the maximum number of Cabinet Members who can receive an SRA is 10. This is in accordance with the legislation which prescribes a maximum of 10 members for a local authority 'executive'.

- 5.5 The Panel noted that during a leave of absence staff have regular contact with their line manager as a means of them staying in touch. The Council provides regular updates for members on key changes and updates but the Allowance Scheme does not document the staying in touch arrangements.

6. Panel Assessment – Carer's Allowance

- 6.1 The Council's Carer's Allowance is detailed in the current Scheme of Members' Allowances, section 5, and provides for payment to reimburse members for expenditure incurred for childcare or professional care for elderly, sick or dependent relatives to enable them to undertake approved duties. These payments are taxable. Approved duties are specified in appendix 3 to the Scheme.

- 6.2 Expenditure on child-care in the current policy is reimbursed in accordance with the following requirements:-

- a) that payment is made to someone other than a close relation;
- b) that payments for the care of the under 8's are restricted to payments to registered childminders and other statutory approved child care providers;
- c) that payments are restricted to the care of children up to their 14th birthday who normally reside with the Member;
- d) that no payments are made in respect of the care of children of compulsory school age during school hours except where the child is absent from school due to illness.

- 6.3 The reimbursement of expenditure on professional care for an elderly, sick or disabled dependant relative normally residing with the Member and requiring constant care, to enable the Member to undertake approved duties in the current policy, is subject to payments being restricted to agencies or persons qualified to provide the care, other than close relations.

- 6.4 The following conditions in the **current** policy apply to both types of allowance:

- a) that payments are made on the basis of the reimbursement of actual expenditure incurred up to a maximum of an

Appendix A

hourly rate of the national minimum wage at the time of the claim subject to a maximum of 8x the national minimum wage figure;

- b) that Members self-certify their claims confirming that they have incurred expenditure in accordance with the scheme;
- c) that qualifying meetings be restricted to those that qualify as an "approved duty" for the Member concerned;
- d) that neither the Member nor the person being cared for receives an allowance for care from any other source.

6.5 The Panel has looked at this policy, as requested in paragraph 5.1 (h) above, and again considered as to how it might discourage a potential councillor from standing for election. The Council's own records show only two uses of the policy in the last two years, both for childcare.

6.6 Comparative information was obtained from 13 Councils this summer on this topic. All offered carers' or dependant carers' allowances. Rates for child-care varied from £4.25 per hour to £10, with an average of £7.80. There is no information as to who is providing the care. For care of a dependant relative, hourly rates varied from £7.20 to £20 with an average of £10.25 (including those councils which did not distinguish between child-care and care of a dependant). Most specify:-

- a) The maximum hourly rate allowed;
- b) The actual cost paid by the Member is required;
- c) Receipts are required;
- d) Expenses are only paid for actual time spent on duties for the Council; and
- e) Child-care is defined as being only for those under 14.

Several councils, in addition, specify that for dependent care the Member claiming must be the main carer.

6.7 The Panel noted, particularly, that:-

- a) only under 8 year olds are required to have approved child care providers – the Panel felt that the Council should not be associated with anything other than regulated child care;
- b) There is no requirement to provide receipts for expenditure when claiming – the Panel felt receipts should always be required;
- c) The wording in 6.4 (a) is confusing and with the national minimum wage for someone of 25 or older being, currently, £8.72 an hour, the allowable expenditure could amount to £69.76 an hour. The Panel was unaware how long this policy has read like this and officers were unable to indicate when the provision was last used, if ever, and a multiplier of 3 times would appear to the Panel to be more realistic; the Panel was minded to link to the ASC figure in the contract, however being aware of the impact of the individual

Appendix A

versus block purchasing power, the calculation would stand at 2.25 x, but 3 x has been added to give some leeway and;

- d) Whilst childcare covers all children up to the age of 14, there are some children (of any age) with complex care needs who would be better served by the care of dependents policy and the Panel believes they should be explicitly mentioned.

The Panel has been informed that the max hourly rate used by the council to pay for specialist care is £19.68.

7. Recommendations

7.1 The Panel RECOMMEND that:-

- The Basic Allowance should be paid for a period of up to 52 weeks when a Member takes Parental Leave; but
- When a Member takes Parental Leave who is in receipt of a Special Responsibility Allowance, that allowance should be reduced so that i) for the first 6 weeks 90% of the Allowance is paid, ii) for weeks 7 to 18, 50% is paid, and iii) for weeks 19 to 52, 0% is paid; and
- Staying in touch arrangements during Parental Leave are explained
- Any one Member solely undertaking the Special Responsibility of a Member on Parental Leave should be paid the full amount of the SRA in accordance with the Council's usual policies.
- All claims in respect of childcare should be from registered childminders or statutory approved childcare providers who are not related to the Member for all children aged below 14 who normally reside with the Member;
- Receipts should always accompany any claim for expenses;
- Payments will be on the basis of actual expenditure incurred subject to a maximum of three times the prevailing national living wage hourly rate for a person aged 25 or over;
- The policy for care of dependants should include children of any age with complex needs; and
- Section 5 of the Scheme of Members' Allowances be given a new title to cover Parental Leave as well as Carers' Allowances and be re-written as set out in annex 1 attached.