

**TONBRIDGE AND MALLING BOROUGH COUNCIL**

**CONSTITUTION**

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Part 6: Allowances

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**Adopted by Council: July 2018**

**(Updated: April 2021– Schedule 1 amended to reflect increase in line with staff pay award)**

**The Director of Central Services and Monitoring Officer is responsible for ensuring that the Constitution is kept up to date.**



## SCHEME OF MEMBERS' ALLOWANCES

<b>1.</b>	<b>Introduction</b>	
1.1	Members' Allowances are reviewed annually by an Independent Remuneration Panel (IRP), and recommendations are made to Full Council about the level of allowances payable to Members. The first Panel reported to Members in December 2003.	
1.2	At that time the IRP recommended that pensions for councillors should not be introduced. This was agreed by Full Council, and no change has been made to this decision since.	
1.3	This scheme may be cited as the Tonbridge and Malling Borough Council Members' Allowances Scheme, and shall have effect for the municipal year commencing on 16 May 2017 and subsequent years until such time as the Independent Remuneration Panel reconsiders the Scheme of Allowances. Allowances payable to Members are set out in Schedule 1 and this is updated each year.	
1.4	In this scheme	
	-	"councillor" means a member of the Tonbridge and Malling Borough Council who is a councillor;
	-	"year" means the 12 months ending with 31 March.
<b>2.</b>	<b>Basic Allowance</b>	
2.1	Subject to paragraph 5 (Part-Year Entitlements), for each year a basic allowance as set out in Schedule I to this scheme shall be paid to each councillor.	
<b>3</b>	<b>Special Responsibility Allowances</b>	
3.1	(a)	For each year a special responsibility allowance shall be paid to those councillors who hold the special responsibilities in relation to the authority that are specified in Schedule I to this scheme.
	(b)	Subject to paragraph 5 (Part-Year Entitlements), the amount of each such allowance shall be the amount specified against that special responsibility in that schedule.
<b>4.</b>	<b>Renunciation</b>	
4.1	A councillor may, by notice in writing given to the Director of Central Services, elect to forego any part of their entitlement to an allowance under this scheme.	

5.	<b>Part-Year Entitlements</b>	
5.1	(a)	The provisions of this paragraph shall have effect to regulate the entitlements of a councillor to basic and special responsibility allowances where, in the course of a year, this scheme is amended or that councillor becomes, or ceases to be, a councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility is paid.
	(b)	If an amendment to this scheme changes the amount to which a councillor is entitled by way of a basic allowance or a special responsibility allowance, then in relation to each of the periods:
	(i)	beginning with the year and ending with the day before that on which the first amendment in that year takes effect, or
	(ii)	beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year
	the entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this scheme as it has effect during the relevant period as bears to the whole of the same proportion as the number of days in the period bears to the number of days in the year.	
	(c)	Where the term of office of a councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that councillor to a basic allowance shall be to the payment to such part of the basic allowance as bears to the whole of the same proportion as the number of days during which their term of office subsists bears to the number of days in that year.
	(d)	Where this scheme is amended as mentioned in sub-paragraph (b), and the term of office of a councillor does not subsist throughout the period mentioned in sub-paragraph (b)(i), the entitlement of any such councillor to a basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which their term of office as a councillor subsists bears to the number of days in that period.
	(e)	Where a councillor has during part of, but not throughout, a year such special responsibilities as entitle him or her to a special responsibility allowance, that councillor's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which they have such special responsibilities bears to the number of days in that year.

	(f)	Where this scheme is amended as mentioned in sub-paragraph (b), and a councillor has during part, but does not have throughout the whole, of any period mentioned in sub-paragraph (b)(i) of that paragraph any such special responsibilities as entitle him or her to a special responsibility allowance, that councillor's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph), as bears to the whole the same proportion as the number of days in that period during which they have such special responsibilities bears to the number of days in that period.
<b>6.</b>	<b>Travelling, Subsistence and Carer's Payments</b>	
6.1	Members are entitled to claim for payment of travelling and subsistence expenses incurred in the performance of an approved duty (see Schedule II for definition of approved duty).	
6.2	In addition to travelling and subsistence expenses, Members are also entitled to claim a carer's allowance to enable them to attend Committees/Boards/Panels or groups to which they have been appointed, or approved training events.	
<b>7.</b>	<b>Claims and Payments</b>	
7.1	(a)	Payments shall be made
	(i)	in respect of basic and special responsibility allowances, subject to sub-paragraph (b) below, in instalments of one-twelfth of the amount specified in this scheme on the 15th day of each month or, where the 15th day is a Saturday, Sunday or Bank Holiday, on the nearest working day to the 15th;
	(ii)	in respect of travelling and subsistence allowances, on or about the 15th day of each month in respect of claims received up to the day 14 days before that date.
	(b)	Where a payment of one-twelfth of the amount specified in this scheme in respect of a basic allowance or a special responsibility allowance would result in the councillor receiving more than the amount to which, by virtue of paragraph 5, they are entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which they are entitled.
<b>8</b>	<b>Schedules I and II to this Scheme</b>	
8.1	Schedule I sets out the Allowances payable to Members and will be updated each year.	
8.2	Schedule II sets out for Members' information, administrative issues relating to the payment of Allowances.	



## SCHEDULE I

1.	<p>The Borough Council received a report from an Independent Remuneration Panel (IRP) containing recommendations for amendments to the Scheme for Members' Allowances. The Panel's recommendations as to basic and special responsibility allowances (SRAs) were considered in detail by the General Purposes Committee at its meeting on 6 March 2017. The Panel's recommendations were accepted in full (subject to an amendment in respect of allowances for vice-chairmen) with effect from the Borough Council elections in 2019. (During an interim period from the Annual Council meeting on 16 May 2017 until after the Borough Council elections in 2019 a modified schedule of allowances was agreed.) The revised allowances scheme was adopted by the Full Council on 11 April 2017 and published in accordance with requisite legislative requirements.</p> <p>The Allowances Scheme revolves around a framework of 'multipliers' which are based on the 'Basic Allowance' and proportions of the Leader's allowance. The multipliers which apply to the allowances that come into effect from 2019 are set out in the second column of the table below. In addition, the following points are part of the Scheme:</p> <ul style="list-style-type: none"><li>- There should be a maximum of one Special Responsibility Allowance per Member (excluding group leader allowances)</li><li>- The Leader's allowance should be based on a multiplier of 4 of the Basic Allowance</li><li>- An SRA for the Deputy Leader should be based on 75% of the Leader's Allowance</li><li>- The SRAs for Cabinet Members should be based on 42.5% of the Leader's allowance</li><li>- The structure of SRAs for other roles should be simplified further based on the multiplier approach set out below</li><li>- The SRA for the Opposition Group Leader should be a flat sum of £1,250 plus £250 per member of the group</li><li>- The principle of annual indexation of allowances in line with any staff pay award should be retained but should not apply during the interim period (Annual Council 2017 to Borough Council elections 2019)</li></ul>
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	<b>Multiplier</b>	<b>Resolved Allowance 2021</b>
<b>Basic Allowance</b> to all Councillors	1.00	5,175.00
<b>Special Responsibility Allowances:</b>		
Leader of the Council	4.00	20,706.00
Opposition Group Leader(s) - Liberal Democratic - Independent Alliance Kent - The Green Party	0.25	3,621.00 2,070.00 1,809.00
(includes the sum of £258 paid per opposition group member)	0.05	
	% of Leaders allowance	
Deputy Leader	75	15,528.00
Cabinet Member	42.5	8,802.00
Chair of Area Planning Committee (x3)	25 (0.33)	1,725.00
Chair of Overview & Scrutiny Committee	12.5	2,589.00
Chair of Audit Committee	12.5	2,589.00
Chair of Licensing & Appeals Committee	12.5	2,589.00
Chair of Joint Standards Committee	12.5	2,589.00
Chair of General Purposes Committee	8	1,656.00
Chair of programmed Advisory Board	8	1,656.00
Vice-Chair of Area Planning Committee (x3)	5 (0.33)	336.00
Vice-Chair of Overview & Scrutiny Committee	25% of chair's allowance	648.00
Vice-Chair of Audit Committee		648.00
Vice-Chair of Licensing & Appeals Committee		648.00
Vice-Chair of Joint Standards Committee		648.00
Vice-Chair of General Purposes Committee		336.00
<i>Allowances updated to reflect staff pay award:</i> - 2.5% in 2020 - 1% in 2021		

<b>2.</b>	<b>TRAVELLING, SUBSISTENCE AND CARER'S ALLOWANCE</b>	
	Members may claim the following allowances for pre-arranged meetings with any officer (regardless of their position) in respect of matters relevant to their Committee etc., or external bodies to which they have been appointed by the Council. Such meetings must not be in connection with ward business.	
	Members necessarily incurring additional expense in the course of their work in respect of travel, or meals will be reimbursed approved expenses, subject to appropriate evidence of expenditure being produced, including supporting VAT receipts. Claims should be made on the appropriate form and returned to Electoral & Democratic Services for processing.	
	<b>A</b>	<b>Travelling</b>
	Mileage rates are based on the applicable HM Revenue and Customs (HMRC) approved rate.	
	<b>B</b>	<b>Subsistence</b>
	Where appropriate, rates of subsistence shall be in accordance with the HMRC rates (excluding tea allowance).	
	<b>C</b>	<b>Carer's Allowances</b>
	Where appropriate and supported by receipts, Childcare allowance will be paid at the actual amount charged up to a maximum of £7.20 per hour per child (linked to the National Living Wage). Dependent Carer's allowance will be payable at the actual amount charged subject to a maximum rate of £16.00 per hour.	



## SCHEDULE II

<b>APPROVED DUTIES</b>	
<b>1.</b>	Attendance at the following meetings entitles Members to claim travelling and subsistence allowances:-
(i)	Meetings of the Council
(ii)	Meetings of the Cabinet (either an appointed Member of the Cabinet or in pursuance of paragraph 2.2 of the Executive Procedure Rules)
(iii)	Meetings of Advisory Boards and Panels (either as an appointed member, or in pursuance of paragraph 15.21 of the Committees and Outside Bodies Procedure Rules).
(iv)	Meetings of committees or sub-committees of the Council (either as an appointed member or in pursuance of paragraph 15.21 of the Committees and Outside Bodies Procedure Rules).
(v)	Meetings of groups of Members and working parties established by the Council or any of its committees or sub-committees to deal with matters within the discharge of the functions of the Council (subject to groups or working parties being formed with the opportunity for minority group representation).
(vi)	Visits to locations which are arranged by or on behalf of the Council which enable Members to obtain greater appreciation of the effect of the discharge of the Council's functions (subject to the opportunity being extended for minority group representation on such visits).
(vii)	Attendance at conferences and training events relevant to the Council's powers, activities and duties.
(viii)	Meetings of outside bodies to which members of the Council have been duly appointed or nominated by or on behalf of the Council, <u>unless the outside body itself meets the travelling expenses of the appointee.</u> (Members are asked to clarify before claiming).
(ix)	Pre-arranged meetings with any officer in respect of matters relevant to his/her Committee etc. Such meetings must <u>not</u> be in connection with <u>ward</u> business.
In addition to travelling and subsistence allowances, Members may also claim a carer's allowance (see Schedule I Para 2C) to enable them to attend a meeting of the Council to which they have been appointed, or an approved training event.	

## INCOME TAX

Basic Allowances, Special Responsibility Allowances and Carers Allowances are treated by HMRC as taxable under Schedule E (the tax schedule applicable to employed persons). Payments in respect of allowances are paid directly to an individual's nominated bank or building society account via the Council's payroll system and are subject to taxation under the P.A.Y.E. Scheme, as determined by the individual circumstances of each Member.

Expenses which are "wholly, exclusively and necessarily" incurred in the execution of the duties of an elected Member, are eligible for tax relief. Members can submit claims to HMRC for a refund of tax on these expenses at the end of each financial year. It is worth noting that HMRC is entitled to request proof from individuals to substantiate any such claims that are submitted. Claims should be submitted using HMRC Form P87 which may be downloaded from the HMRC website at [www.hmrc.gov.uk](http://www.hmrc.gov.uk).

The following specific HMRC guidance notes, which are also available via their website, may be of interest:

Reference	
EIM65920	Allowances Councillors may receive
EIM65930	}
EIM65940	} Expenses deductions
EIM65950	}
EIM65955	Guidance note prepared by Assoc. of Local Councillors
EIM65960	ODPM Guidance
EIM65970	ODPM Guidance Part 2

Expenses that might be incurred include:

- Postage
- Stationery if not provided by the Council
- Travelling expenses which have not been reimbursed by the Council
- Telephone calls
- Use of home

The Councillor's home may only be regarded as his/her place of work by HMRC when constituents are routinely interviewed or invited to attend there. On this basis, in principle, income tax is not payable on travelling expenses reimbursed for journeys undertaken between home and Council Offices (or other sites) in the performance of official duties. However, mileage paid at a rate that is higher than the HMRC statutory limit (currently 45p for cars) will attract a tax liability on the excess. The Council has obtained HMRC approval to deduct the appropriate tax at source. In instances where the Councillor's home cannot be regarded as his/her place of work, income tax is payable for travelling expenses reimbursed to Councillors and **Councillors should notify the Director of Finance & Transformation if this is the case.**

Payments in respect of subsistence are regarded as taxable except where the additional expenses have actually been incurred. Receipts substantiating claims should be submitted with claims.

Where Members are liable to pay the higher rate of income tax they may wish to have tax deductions from their allowances at the higher rate. This can be arranged by notifying the Director of Finance & Transformation in writing.

## **NATIONAL INSURANCE**

### Social Security Benefits:

Members must notify their Benefits Agency local office of any allowance payments received from the Council if they are claiming or receiving benefit.

### Contributions:

Allowances are treated as earnings for National Insurance purposes and, therefore, when monthly allowances exceed the earnings threshold, National Insurance contributions will be deducted. The 'profit' element of car mileage allowances will be treated as earnings and aggregated with allowances to determine the N.I. contribution.

The Council has a statutory responsibility to enter the National Insurance number of each Councillor on to the HMRC records and, where appropriate, obtain the partial and total exemption certificates of all persons paying contributions at other than the standard rate.

Members' contributions will be notified to HMRC at the end of each financial year. If the amount deducted by the Council in a year, when added to the amount deducted from any other employment, exceeds the maximum contribution, a refund will be due from HMRC.

It is for the individual to calculate whether or not a refund is due and to claim reimbursement accordingly.

## **INSURANCES**

Members may find it helpful to have a brief summary of those insurances effected by the Council which may affect them personally.

In general, the Council insures its properties, equipment and vehicles against the risk of loss or damage and also insures in respect of any legal liability it may incur to pay compensation or damages to others.

Policies which make particular reference to Members are:-

### Libel and Slander:

This indemnifies the Council in respect of:

- (a) Any libels appearing in a publication normal to the Council's business by any Member or employee provided that such publications are specifically authorised by the Council and agreed beforehand with the insurers.

(b) Slanders in oral utterances made by any Member or employee during the discharge or official duties on behalf of the Council and, in the case of any Member, during any meeting of the Council, its Committees or Sub-Committees or on any occasion when such a Member is authorised to represent the Council's views.

If the claim is directed against an elected Member, that Member will be personally indemnified but will be called upon to bear 10% of any sum which the insurer may pay.

Publication is defined as any notice, agenda, minute, report, correspondence, other written or recorded matter and statements broadcast on the television or radio.

Personal Accident:

Provides benefits, as indicated below in the event of any Member or co-opted Member (not over 80 years of age), suffering accidental bodily injury whilst engaged on Council business anywhere in the world including direct travel in connection with such business.

- Death		£50,000
- Total loss of sight in one or both eyes		£50,000
- Total loss of, or total loss of use of, a hand or foot		£50,000
- Permanent total and absolute disablement (other than as above) from engaging in usual occupation)		£50,000
- Temporary total disablement	} Not exceeding 104 weeks in all	£100 per week
- Temporary partial disablement		

Benefits are also payable (as a percentage of £50,000) for a wide range of other injuries and disabilities.

The insurers' maximum liability for any one claim is £50,000

In addition, the loss of or damage to Personal Effects, including money, arising at the same time as injury giving rise to a claim is covered for an unlimited amount.

Privately owned cars used on Council business:

It is, of course, the responsibility of each Member to ensure that any car used on Council business is adequately insured for such use.

The Council does, however, hold insurance indemnifying the Council in respect of its contingent liability in the event of a claim falling upon it due to the lack of or a defect in a Member's or employee's own insurance.

The existence of this insurance does not, in any way, remove or reduce a Member's own responsibility to ensure that appropriate insurance arrangements are in place.

Members nominated to serve on outside bodies:

The Personal Indemnity cover afforded to Members and staff, is very restricted in respect of the activities of Members nominated by the Council to an Outside Body. Cover is dependent upon the business undertaken by the Outside Body, and the nature of the Member's role and responsibilities as a representative on that Body. It usually requires the Member to be representing the Council's views to the Outside Body and the activities of the Outside Body being linked to the services provided by the Council. In the majority of instances this does not apply, and Members are quite often participating in the management of the organisation to which they were nominated.

It is the Council's policy to leave the decision as to whether a Member wishes to take up a nomination to an outside body, in the absence of insurance cover, to the individual Member. Where an organisation requests that the Council makes a nomination, the Council will enquire into the level of cover, if any, provided by the organisation. This information will be passed to prospective nominees.

<b>Reference:</b>		
Insurances:	Financial Services	<a href="mailto:financial.services@tmhc.gov.uk">financial.services@tmhc.gov.uk</a>
Members' Allowances:	Democratic Services	<a href="mailto:admin.services@tmhc.gov.uk">admin.services@tmhc.gov.uk</a>

**CLAIMS**

Payment of Basic Allowances and Special Responsibility Allowances will be made automatically to Members each month. If a Member chooses not to receive a Special Responsibility Allowance or payment of Basic Allowance to which they are entitled, they should notify the Director of Finance & Transformation in writing.

Claims are required for the payment of travelling and subsistence allowances and it is suggested that Members submit claims on a monthly basis for payment.

For payroll processing purposes, Members are asked to ensure that claims reach Democratic Services by the third working day of the month.

Members should ensure that they sign the attendance sheet at every Council, Cabinet, Committee, Sub-Committee, Board, Panel, Working Party and site meeting which they attend. Failure to sign the attendance sheet may delay settlement of the claim.

Where meetings are arranged for groups of Members or site visits are organised, the relevant Committee should resolve whether or not the meeting/visit is an approved duty. In circumstances where it has not been possible to obtain such a resolution, the officer organising the meeting will confer with the relevant Chairman and will indicate in the letter of invitation, the status of the meeting.

Further assistance and advice on claims can be obtained from Democratic Services ([committee.services@tmbc.gov.uk](mailto:committee.services@tmbc.gov.uk)) at Kings Hill.