

## **Appendix D**



# **Report of Independent Remuneration Panel**

## **Scheme of Members' Allowances 2012 Review**

**November 2012**

## **1. INTRODUCTION**

- 1.1 In accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003, Cheshire East Council is required to appoint an Independent Remuneration Panel to consider and make recommendations on its Scheme of Members' Allowances.
- 1.2 As a result of the expiry of the term of office of the Independent Remuneration Panel ('the Panel') established in 2008, Cheshire East Council appointed a new Panel in spring 2012, membership consisting of the following independent members:
  - ◆ Mrs Janet Rushbrooke (Chairman)
  - ◆ Mrs Khumi Burton
  - ◆ Mr Alan Edgeworth
  - ◆ Mr Robin Lord
  - ◆ Mrs Cynthia Speed
- 1.3 Subsequent to its appointment, the Panel undertook a period of Induction, receiving information on the makeup of the Council, the roles and responsibilities of Councillors and the legislation under which it (the Council and the Panel) was expected to conduct its business before beginning its review. Following an open invitation to Group Leaders, a discussion with elected Members took place on 29 May 2012 to enable the Panel to gain at first hand, information pertinent to the various roles held by Councillors.
- 1.4 A list of the background documents provided to and considered by the Panel in the course of its review is provided at paragraph 5.

## **2. BACKGROUND TO THE REVIEW**

- 2.1 The Panel first met formally on 24 July 2012 to scope out its review of Cheshire East Council's Scheme of Members' Allowances. As a result of its discussions the following issues were identified for consideration i.e.
  - i) The potential for applying any uplift to the Scheme having regard to a) the Local Government Employers' pay award for 2012; and b) Cheshire East Council's employee remuneration for 2012;
  - ii) The awarding of a Special Responsibility Allowance to the Chairman and Vice Chairman of the Adult and Social Care Scrutiny Committee and Health and Well-being Scrutiny Committee;
  - iii) The awarding of a Special Responsibility Allowance to the Chairman and Vice Chairman of the Local Service Delivery Committees for Crewe and Macclesfield;
  - iv) The awarding of a Special Responsibility Allowance to the Chairmen and Vice Chairmen of the Policy Development Groups;
  - v) The Special Responsibility Allowance applicable to Cabinet Support Members;
  - vi) The remuneration (if any) for the position of Independent Person to the Audit and Governance Ad Hoc Standards Panels and Sub-Committee;

- vii) Whether access to the Cycle to Work Scheme by elected Members should be recognized in the Scheme of Members' Allowances;
- viii) Whether elected Members should be permitted to join the Green Car Scheme;
- ix) The harmonization of elected Members' travel mileage rates with those applicable to local government employees;
- x) Arrangements for varying the payment of allowances to elected Members experiencing hardship; and
- xi) Whether formal arrangements should be introduced to govern the making of interim Special Responsibility Allowance payments to new Committees in the period between the Committee's appointment and consideration of the matter by the Independent Remuneration Panel.

### **3. METHODOLOGY AND CONCLUSIONS**

- 3.1 The Panel met on 5 occasions; namely 13 August, 11 September, 24 September, 9 October and 22 October. At two of these meetings, members met with Councillors to discuss matters pertaining to Cabinet Support Members and the Policy Development Groups. A wide range of evidence and documentation was also considered by the Panel (paragraph 5 refers).
- 3.2 Having completed the review, the Panel believes that every member of Cheshire East Council should be expected to provide leadership and take on additional responsibility from time to time during the course of their term of office and that the basic allowance recognises this commitment. The Panel also believes that, in certain situations, the level of additional responsibility is significant which might lead to further recognition in the form of a Special Responsibility Allowance (SRA).
- 3.3 In these austere times, elected Members need to demonstrate that a significant responsibility exists in order to justify the payment of an SRA. Examples include constitutional responsibility, legislative responsibility, decision making powers, accountability to the public and delivery of projects within a defined period. As such, Advisory Groups without decision making powers or constitutional responsibilities would not normally attract an SRA unless it can be shown that an SRA might be awarded as a result of the significance of the role.
- 3.4 Notwithstanding this, the Panel considers that the current Scheme remains broadly fit for purpose but that a 'root and branch' review of all allowances based on the criteria established above will be conducted in 2013, seeking to ensure that the scheme remains sustainable and provides value for money. The Panel expects the Council to demonstrate that Councillors are being efficient and effective and that the level of allowances is justified. Having regard to these austere times the Panel recognises that the level of allowances in future years may decline.

## **4. RECOMMENDATIONS FROM THE 2012 REVIEW**

### **4.1 UPLIFT OF MEMBERS' ALLOWANCES**

4.1.1 As part of its annual review, the Panel was invited to consider whether an uplift should be applied to the Scheme of Members' Allowances for 2012/2013. To inform its review, the Panel was cognisant of i) the levels of allowances paid to elected Members by 15 of its nearest neighbour authorities; ii) the 2012 Local Government Employers (LGE) pay award for employees which offered no increase; and iii) Cheshire East Council's own pay freeze.

4.1.2 Whilst the level of basic allowance had not increased since 2009, the Panel considered that Cheshire East's Scheme remained comparable to its nearest neighbours; the majority of which had also remained static. Given the position in respect of the LGE pay award and the Council pay freeze, the Panel did not consider that there was sufficient justification to support an uplift to Members' Allowances in these austere times.

#### **Recommendation 1: That**

No uplift be applied for 2012/13 and 2013/14 to basic, special responsibility and other allowances set out in Schedule 1 and 2 of the Scheme of Members' Allowances.

### **4.2 SPECIAL RESPONSIBILITY ALLOWANCES: SCRUTINY COMMITTEES**

4.2.1 At Annual Council on 18 May 2011, Cheshire East Council changed its committee structure insofar as it created two new bodies (Adult Social Care Scrutiny Committee and Health and Well-being Scrutiny Committee) from what had been the Health and Adult Social Care Scrutiny Committee. As an interim measure, the Chairman and Vice Chairman of the Committees had been paid a Special Responsibility Allowance (SRA) in line with the extant Scrutiny Committees; subject to the Panel's review.

4.2.2 The Terms of Reference for the new bodies were made available for comparison with the existing Committees and having considered the matter, the Panel accepted that in operation, they were on a par with their contemporaries and, in this instance, the payment of an interim SRA had been appropriate.

#### **Recommendation 2: In order to regularise the interim arrangements, that**

- a) The Adult Social Care Scrutiny Committee and Health and Well-being Scrutiny Committee be included in the Scheme of Members' Allowances for 2011/2012;
- b) A Special Responsibility Allowance be allocated to the Chairman of the above Scrutiny Committees at a gearing of 0.65 of basic allowance (£7280 per annum) in line with the extant Scrutiny Committees;
- c) A Special Responsibility Allowance be allocated to the Vice Chairman of the above Scrutiny Committees of £1000 per annum plus £50 per meeting chaired in line with the extant Scrutiny Committees; and
- d) The effective date for commencement of the allowances be confirmed as 18 May 2011.

### **4.3 SPECIAL RESPONSIBILITY ALLOWANCES: LOCAL SERVICE DELIVERY COMMITTEES**

4.3.1 Cheshire East Council had in 2011, established two Local Service Delivery Committees for Crewe and Macclesfield respectively, to enable elected Members in these non-parish Council areas to consider the implications for the transfer and devolution of local services.

4.3.2 Both Committees had dealt with detailed and complex issues, making recommendations and decisions in respect of local matters. In recognition of the work undertaken and in line with the Scheme, the Panel had been invited to consider the awarding of a Special Responsibility Allowance to the Chairman and Vice Chairman of each Committee.

4.3.3 The Panel sought information on the frequency of meetings (3-5 in the first year); the make up of each body (7 members plus Ward Members for the relevant area) and the anticipated workload moving forward. Whilst both Committees had been reconstituted at Annual Council in May 2012, neither had met nor appointed a Chairman or Vice Chairman for the Municipal Year (as at July 2012). Mindful of this position, the Panel made the following recommendation to Council, which was referred unchanged by the Constitution Committee at its meeting on 20 September 2012:

***Recommendation to Council: That -***

- a) *A Special Responsibility Allowance be awarded to the Chairman and Vice Chairman of the Local Service Delivery Committee (Crewe) and the Local Service Delivery Committee (Macclesfield), of £5,600 (Chairman) and £1,000 (Vice Chairman) for 2011/2012 in recognition of the work undertaken during the Committees' inaugural year and in line with the requirements of Cheshire East Council's Scheme of Members' Allowances which states that an elected Member can only be in receipt of one Special Responsibility Allowance; and*
- b) *The matter be included as part of the Independent Remuneration Panel's Review of the Scheme of Members' Allowances for 2012/2013 which will consider whether the posts merit the awarding of a Special Responsibility Allowance from 16 May 2012 onwards.*

4.3.4 On 11 October 2012, the matter was debated by full Council. Due to divergent views on the level of award recommended and the date of implementation, Council resolved to refer the matter back to the Panel for reconsideration.

4.3.5 Further consideration was given to the matter by the Panel at its meeting on 22 October 2012. In seeking clarification as to the reasons for Council's decision, the Democratic Services Team Manager reported that a consensus had not been reached amongst elected Members as to i) whether the posts merited a Special Responsibility Allowance; ii) whether the gearing was appropriate; or iii) the retrospective nature of the award.

4.3.6 The Panel was satisfied that its recommendation had sought to recognise the responsibilities of the Chairmen and Vice Chairmen in performing their duties, not only in respect of meetings of the Committee but also outside of formal meetings in order to facilitate business. It was recognition of these responsibilities, as described to the Panel, which had led it to its decision. Accordingly, the Panel did not wish to modify its recommendation and agreed that, in referring the matter back to Council, the criteria against which the recommendation had been made remained valid.

**Recommendation 3: That**

The recommendation to Council on 11 October 2012 in respect of the Local Service Delivery Committees Crewe and Macclesfield remain unchanged for the following reasons:

- i) Constitution Committee did not challenge the recommendation at its meeting on 20 September 2012 and referred it unchanged to Council;
- ii) The Panel judged the roles against the criteria of constitutional responsibility, legislative responsibility, decision making powers, accountability to the public and delivery of projects within a defined period and found that the criteria had been met;
- iii) The level of allowance was in line with that paid to an extant Council Committee which had met a similar number of times during the year;
- iv) Gearing had not solely been based on the number of meetings held but also on the level of responsibility of the Chairmen/Vice Chairmen as described to the Panel;
- v) Appointment of the new Panel had prevented the matter from being considered during the Committees year of operation; and
- vi) Both Local Service Delivery Committees had only met during 2011/2012; therefore the Panel's recommendation was in recognition of duties actually performed.

**4.4 SPECIAL RESPONSIBILITY ALLOWANCE: POLICY DEVELOPMENT GROUPS AND OVERVIEW AND SCRUTINY COMMITTEES**

4.4.1 Information relating to the proposed terms of reference for the Policy Development Groups together with oral reports on the proposal was submitted to the Panel at 3 of its meetings for the purpose of considering if the Chairmen and Vice Chairmen of the Groups should be afforded a Special Responsibility Allowance (SRA).

4.4.2 The Panel was informed that the bodies would replace all but two of the current Overview and Scrutiny Committees and would advise Cabinet on significant areas of policy and policy development. Whilst accepting that more details on the proposals would emerge in due course, the Panel stated at its meeting on 11 September, that it had insufficient evidence available to it to support the awarding of an SRA.

4.4.3 As discussions remained ongoing, the Panel accepted an offer from leading members of Council to provide a further update and the Portfolio Holder for Corporate Policy attended the Panel's meeting on 9 October for this purpose.

- 4.4.4 The discussion centred on the rationale for the introduction of the Policy Development Groups ('Policy Groups'), which was designed to enable a cross-party group of elected Members to be involved in policy making at a much earlier stage; the Groups working with the Cabinet.
- 4.4.5 It was anticipated that the work would, in some circumstances be time limited, the policies developed by the Groups having measurable outcomes e.g. ensuring value for money without a reduction of service. As each Group would also be able to put forward member driven policy for consideration, the Chairmen would have a vital role in facilitating the functions of their Groups by providing leadership, co-ordinating business and commissioning from officers the relevant support and information required.
- 4.4.6 Having heard the arguments put forward, and having met with the Leader of the Council and the Interim Chief Executive at their request on 15 November 2012, the Panel was persuaded that there would be a significant workload for the Chairmen and Vice Chairmen in establishing the Policy Development Groups in the inaugural year, which would support the awarding of an interim Special Responsibility Allowance.
- 4.4.7 The Panel also agreed to include a review of the interim arrangements in its 'root and branch' review of all allowances in 2013 to satisfy it that the level of Special Responsibility Allowance recommended met the criteria set by the Panel.

**Recommendation 4: That**

- a) A Special Responsibility Allowance be awarded to the Chairmen of the Policy Development Groups in recognition of the work required in establishing the Groups during the inaugural year;
- b) £7280 per annum equivalent to a gearing of 0.65 of basic allowance be awarded to the Chairmen of the Policy Development Groups on an interim basis, effective from the date of their formal appointment, pending a further review of their work;
- c) £1000 per annum plus £50 per meeting chaired be awarded to the Vice Chairmen of the Policy Development Groups on an interim basis, effective from the date of their formal appointment, pending a further review of their work;
- d) The matter to be included in the 2013 Work Programme for the Independent Remuneration Panel; and
- e) The current level of remuneration for the extant Scrutiny Committees to remain at current levels i.e. £7280 per annum and £1000 plus £50 per meeting chaired for the Chairmen and Vice Chairmen respectively, the matter to be included in the 2013 Work Programme for the Independent Remuneration Panel for review.

#### **4.5 SPECIAL RESPONSIBILITY ALLOWANCE: CABINET SUPPORT MEMBERS**

- 4.5.1 The Panel had been invited to consider the current level of Special Responsibility Allowance applicable to Cabinet Support Members. To enhance their understanding of the role, the Panel had extended an invitation to two Cabinet Support Members to address members so that information on roles and responsibilities could be obtained at first hand.
- 4.5.2 Having met and spoken with the Cabinet Support Member for Health and Adult Social Care at its meeting on 24 September 2012, the Panel looked to establish the additional responsibilities required of a post holder. The example given by the Cabinet Support Member was that a Ward Member may attend committee meetings on a monthly and bi-monthly basis, whilst a Cabinet Support Member may attend regular meetings with officers at Director and Senior Management level, spend a day with officers shadowing them in their role and deputise for the Portfolio Holder on occasion whilst continuing to perform ward duties.
- 4.5.3 Having considered the remit of each portfolio and taking into account the oral evidence obtained, the Panel was of the view that some portfolios appeared more onerous than others. In its opinion, this meant that the current level of remuneration did not fairly reflect the apparent imbalance. The Panel felt that it did not wish to recommend any change to the gearing associated with the post(s) but that, if Council shared this view, it should be afforded the flexibility to recognise this, if it wished.

#### **Recommendation 5: That**

With effect from the Municipal Year 2013/2014, an amount of £40,000 be set aside from within the Members' Allowances budget for the remuneration of Cabinet Support Members; the Leader of the Council to have the flexibility to i) appoint members to the role of Cabinet Support Member as he deems necessary; and ii) vary the remuneration between the posts, providing that the budget of £40,000 is not exceeded.

#### **4.6 REMUNERATION OF INDEPENDENT PERSONS TO AUDIT AND GOVERNANCE AD HOC STANDARDS PANELS AND SUB-COMMITTEES**

- 4.6.1 The enactment of the Localism Act 2011 had repealed the standards regime established under the Local Government Act 2000 and had abolished the role of Independent non-elected member to the Standards Committee. As a result, Cheshire East Council (CEC) had disbanded its Standards Committee transferring responsibility for standards matters to the Audit and Governance Committee.
- 4.6.2 In accordance with the new legislation, the authority was required to appoint an Independent Person (or in CEC's case, four Independent Persons); to be consulted by the authority on Code of Conduct allegations made against Members of the Borough Council or Town and Parish Councils within its area. The Panel was invited to consider whether it would be appropriate to pay an allowance other than mileage expenses in recognition of their time and in reimbursement of any costs incurred when carrying out their role.

4.6.3 The role and responsibilities of the Independent Persons was outlined to the Panel i.e. i) to attend meetings of the Initial Assessment Panel, the Local Resolution Panel, Hearings Sub-Committee and Appeals Panel in an advisory capacity [attendance in accordance with the regulations]; ii) to make decisions in conjunction with the Monitoring Officer where a request for anonymity had been received on submission of a complaint or when considering the findings of an external investigation; and iii) to provide procedural advice to the Subject Member, if required, against whom the complaint had been made.

4.6.4 No estimation as to the level of involvement required from each individual could be made on the basis that it was difficult to predict how many complaints would be received or referred on for further action or the number of occasions a Subject Member may request advice. Having cognisance to this position, the Panel considered information from neighbouring authorities as to the level of remuneration paid to its Independent Person(s) of which there were four trends i.e.

- o Expenses only, no other remuneration
- o Expenses plus hourly/meeting allowance
- o Expenses plus remuneration
- o Equivalent rate to co-opted members

4.6.5 The Panel did not wish to recommend an annual allowance due to the uncertainty surrounding levels of involvement, preferring instead to recognise the actual work undertaken by each individual. Accordingly, the Panel considered that the Independent Persons should be paid an allowance for each meeting attended of the Panels and Sub-Committee, the figure to also recognise other responsibilities of the post holder.

**Recommendation 6: That**

The four Independent Persons appointed to Cheshire East Council's Audit and Governance ad hoc Standards Panels and Sub-Committee be entitled to claim a meeting allowance of £30 per meeting, claimable when attending meetings of the Initial Assessment Panel, the Local Resolution Panel, Hearings Sub-Committee and Appeals Panel, with effect from the date of their appointment i.e. 19 July 2012.

**4.7 CYCLE TO WORK SCHEME: MEMBERS' PARTICIPATION IN THE SCHEME**

4.7.1 Elected Members could, if they chose, participate in the Council's Cycle to Work Scheme, which enabled individuals enrolled in the scheme to lease bicycles and associated safety equipment via 'salary' sacrifice. As there was no reference within the Scheme of Members' Allowances which indicated Councillors could take advantage of this opportunity, it was proposed to the Panel that the following wording be included, pending confirmation that the Cycle to Work Scheme would remain open to elected Members from January 2013 -

*"Councillors are entitled to make use of the Council's Cycle to Work Scheme, details of which can be found on the Council's Intranet. Expressions of interest from elected Members wishing to join the Scheme should be made to Democratic Services Team Manager in the first instance."*

**Recommendation 7: That**

Subject to confirmation that Cheshire East Councillors remain entitled to join the Cycle to Work Scheme, the following wording be included in the Scheme of Members' Allowances for 2013/2014 -

*"Councillors are entitled to make use of the Council's Cycle to Work Scheme, details of which can be found on the Council's Intranet. Expressions of interest from elected Members wishing to join the Scheme should be made to Democratic Services Team Manager in the first instance."*

**4.8 GREEN CAR SCHEME**

4.8.1 The Green Car Scheme worked on the same principle as the Cycle to Work Scheme in that participants could obtain a fuel efficient vehicle at a lower cost than could be achieved in the retail market via salary sacrifice. Based on present eligibility criterion and the transient nature of a Councillor's term of office and responsibilities, elected Members were not currently able to take up the offer. Notwithstanding this, the Panel was asked to indicate whether it would support, in principle, elected Members being able to join the scheme in the future should present restrictions change in their favour.

**Recommendation 8: That**

Elected Members be permitted to join the Green Car Scheme at such time that the current restrictions changed in their favour.

**4.9 HARMONISATION OF TRAVEL MILEAGE RATES**

4.9.1 The Scheme of Members' Allowances reimbursed Councillors for any mileage costs incurred when using motorcycles/bicycles in the performance of their Council duties. The figures included in the 2011/2012 Scheme had not been reviewed for two years and were not reflective of the amounts paid to Council employees in line with the tax-exempt rates set by HM Revenues and Customs; currently 24p per mile (Motorcycles) and 20p per mile (Bicycles).

4.9.2 Given that Council, in 2011 had agreed to set its car mileage rates for elected Members at the same level claimable by employees; the Panel considered that the same principle should be applied to the setting of other travel allowances.

**Recommendation 9: That**

With immediate effect, the mileage rates payable to elected Members in respect of motorcycle/moped and bicycle travel be amended to the tax-exempt rates set by HM Revenues and Customs; currently 24p per mile (Motorcycles) and 20p per mile (Bicycles).

#### **4.10 HARSHIP ARRANGEMENTS FOR COUNCILLORS**

4.10.1 The current Scheme of Members' Allowances did not permit the varying of allowance payments to address financial hardship and a proposal to consider the inclusion of such a facility in the Scheme was considered by the Panel.

4.10.2 A straw poll of neighbouring authorities indicated that this facility was not widespread and it was not evident in the nearest neighbour data. Given that i) HM Revenue and Customs treated the payment of basic allowance as income for taxation purposes and thus advancing payment(s) could actually be detrimental to the individual concerned; and ii) state support was available, the Panel did not consider that this facility should be introduced.

##### **Recommendation 10: That**

The Scheme of Members' Allowances remain unchanged in respect of hardship arrangements.

#### **4.11 INTERIM PAYMENT OF ALLOWANCES**

4.11.1 In accordance with the relevant regulations, where Council changed its decision making structure, the Independent Remuneration Panel had to be consulted in order for it to advise Council on the awarding of allowances to the new bodies, typically Special Responsibility Allowances. Where there had been a substantial gap between meetings, interim payments had been made on occasion to elected Members where an equivalent body existed in the Scheme pending consideration of the matter by the Panel.

4.11.2 Whilst accepting the need for expediency, the Panel considered that interim measures should no longer be employed given that the decision may be overturned or amended by the Panel on consideration of the matter, which could be detrimental to the recipient(s). Should Council be minded to make changes at Annual Council or at any other time, it considered that a specially convened meeting of the Panel could be arranged the following month to consider the matters at hand.

##### **Recommendation 11: That**

Any change to the Council's Committee structure be submitted to the Independent Remuneration Panel to consider, where appropriate, the awarding of an 'Special Responsibility Allowance' prior to any payment being made to Councillors.

## 5. BACKGROUND DOCUMENTS

- The Local Authorities (Members' Allowances) (England) Regulations 2003
- Communities and Local Government: Guidance on Regulation for Local Authority Allowances
- Cheshire East Council Scheme of Members' Allowances 2011/2012
- Cheshire East Guide to Members' Allowances 2011/2012
- Cheshire East Council: List of Committees and Panels 2012/2013
- National Census of Local Authority Councillors 2010
- Independent Remuneration Panel Councillor Survey 2010
- Terms of Reference: Adult Social Care Scrutiny Committee and Health and Well-being Scrutiny Committee
- Draft Terms of Reference: Policy Development Groups
- Members' Allowances comparative data from 15 neighbouring authorities 2012
- Cabinet Support Member: Role description Shropshire Council 2012
- Cabinet Support Member: Role profile Birmingham City Council 29 March 2012
- Cheshire East Council: Independent Person application pack
- Cheshire East Council: Audit and Governance Committee Code of Conduct Complaints procedure flowchart August 2012
- HM Revenues and Customs Rates vehicle rates for motorcycles and bicycles 2011-2012
- Cheshire East Council: Current Employee Terms and Conditions
- Salary Sacrifice 4 Cars Scheme
- Cheshire East Council: Cycle to Work Scheme
- Cheshire East Council: Internal guidance on pay awards 2011
- Local Government Employers letter to Trade Unions February 2012

## 6. ELECTED MEMBER CONSULTATIONS

<u>Subject:</u>	<u>Date:</u>
Role of the Councillors	29 May 2012
Cabinet Support Member	24 September 2012
Policy Development Groups	9 October 2012

The Panel also met with the Leader of the Council, Councillor Michael Jones and the interim Chief Executive, Kim Ryley on 15 November 2012.