

**CHESHIRE EAST COUNCIL****REPORT OF THE INDEPENDENT REVIEW PANEL ON MEMBERS ALLOWANCES.**

## Introduction

1.1 The Panel was appointed by Cheshire East Council in November 2015. Its membership comprises Professor Steve Leach (De Montfort University), who chairs the panel, Patrick Grange (South Cheshire Chamber of Commerce), Mandy Ramsden (resident and former local government officer) and Eric Shaw (ex- local government chief officer). It has met on four occasions (15<sup>th</sup> January, 25<sup>th</sup> January, 12<sup>th</sup> February and 2<sup>nd</sup> March). Invitations to make representations to the panel were sent to all Cheshire East's councillors. As it turned out, each party group chose to discuss the issues involved collectively, and then to ask their leader or a senior member to address the Panel and to discuss the groups' concerns with it. Three other councillors chose to address the panel with individual concerns. The Panel also received helpful briefings from Brian Reed, Paul Mountford and Diane Moulson. It is grateful for all these contributions, and to Lindsey Parton and Diane Moulson for responding to numerous requests for information, and for facilitating its meetings so efficiently. This report is the unanimous response of the Panel to its brief.

1.2 At an early stage in its deliberations, the Panel identified a series of principles which it felt should inform its thinking and its recommendations. These are set out in the Appendix to this report. One of the key principles identified was that the system of members' allowances should not restrict the possibility of any member of any group in society from becoming a councillor, and should also have the effect of encouraging groups currently under-represented to put themselves forward. This concern was expressed in several of the representations made to the Panel (especially in relation to younger adults and those in full-time work). The panel, unlike its predecessor, felt this to be an important consideration.

1.3 In addition to the evidence provided by interviewees, the Panel considered comparative information on allowances paid in the CIPFA family of authorities of which Cheshire East is part. It looked at the changes in members' allowances in the authority since 2009, in relation to changes in officer remuneration over the same period. It examined carefully the assumptions, arguments and recommendations set out in the Report of the previous panel (December 2013). It noted the recent developments in Cheshire East involving 'wholly-owned companies' (WOCs) and 'alternative service delivery vehicles' (ASDVs), and the payments made to councillors in positions of responsibility on these entities. The Panel was also well-aware of the climate of austerity in which the Council had operated since 2009, and its likely continuation over the next five years. However, its position is that it is its' job to recommend what it considers to be an appropriate level and distribution of members allowances, and the council's to decide the extent to which it wishes to implement these recommendations, in the light of the current economic circumstances.

## The Basic Allowance

2.1 Cheshire East's basic allowance currently stands at £11,466. In 2009-10 it was 11,200. The increase over the six-year period involved is therefore £266, or 2.3%. Over the same period, officers pay awards have resulted in an overall increase of 3.2%.

2.2 However, the value of the basic allowance has decreased significantly during this time. Applying the Average Weekly Earnings index on a year-by-year basis indicates that to maintain its' 2010 value of £11,200, it would now have to be increased to £12,432 (a rise of 11%) i.e. the real value of the basic allowance has fallen by 11% over six years.

2.3 Compared with other authorities in its CIPFA family, Cheshire East's basic allowance of £11,466 is 19% above the family average of £9,635. In the most recent Census of Local Authority Councillors (2013) the average number of hours per week spent by the 49 councillors from Cheshire East who completed the survey was 34.4. This figure equates to an annual average time commitment of approximately 1,800 hours, which, related to the current basic allowance implies an hourly rate of £6.37p per hour, or if one makes the usual assumption that 50% of a councillor's time commitment should be on a voluntary (unpaid) basis, the implied hourly rate is £12.74. Both of these figures are low compared to the current minimum wage.

2.4 In these circumstances, the Panel was faced with some hard choices. Interviewees told us that the workload of all councillors had increased significantly since 2010, not least because of the increased pressure to cut council services, and the adverse public reaction that this invariably entailed. Evidence from other allowances reviews confirms the plausibility of this assertion. Taking into account also the fall in the real value of the basic allowance since 2010, and the case for seeking to attract a wider range of councillors, there is a strong case for recommending a significant increase, at the very least to restore its' real value to 2010 levels. But to do so would break the link between increases in member allowances and increases in officer remuneration, which many councils have been committed to maintaining, on grounds of fairness. And given the above average of the basic allowance in Cheshire East compared with other authorities in its' CIPFA family, and the continuation of public sector austerity, the Panel did not see that such a recommendation could really be justified?

2.5 Faced with this dilemma, the Panel considered that a helpful way forward would be to examine whether there was a case for making savings in the current budget for Special Responsibility Allowances (SRAs), which could be then be used to finance an increase in the basic allowance, without raising the overall level of expenditure on members' allowances to an extent which would cause understandable concern on the part of officers (or indeed the public). These possibilities are explored in the next section of this report.

### Special Responsibility Allowances

3.1 The councillors presenting evidence to the Panel made surprisingly little reference to SRAs. Cases were presented for the retention of particular SRAs, in particular those allocated to group whips and deputy portfolio holders. In both of these categories the previous panel had recommended that SRAs were not appropriate, but the Council had overturned the panel's recommendations. However, no representations were made about the appropriateness of the levels of the SRAs in these two categories, nor indeed about the levels of any of the (many) other SRAs currently allocated. The panel could only conclude that there was a general level of satisfaction (or at least no significant dissatisfaction) with the levels of SRAs currently paid.

3.2 The Panel heard arguments from all three parties that the SRAs for group whips should be retained. It was acknowledged that the 'party political' element of this role should not be eligible for an SRA. Rather, the argument was that there was an important aspect of the role, that of 'oiling the wheels of council business', which did merit such an allowance. The Panel was told that in Cheshire East, group whips acted as a vital intermediary between the officer hierarchy and the three party

groups in ensuring that the business of the council (for example the timing and agenda-setting of meetings, dealing with unexpected challenges, and the handling of inter-party disputes) was dealt with efficiently and effectively. One of the councillors interviewed made a helpful distinction between three different councillor roles which in principle merited allowances: representative (covered by the basic allowance): governance (e.g. leadership/cabinet positions): and corporate. It is this final category in which administrative element of the group whips' work would fall.

3.3 At present, it is unusual for group whips to be allocated SRAs. Of the sixteen authorities in Cheshire East's CIPFA group, only two others (Cheshire West and Chester and the East Riding of Yorkshire) make such payments. However, on balance, the Panel was persuaded by the case made to it that the group whip role had a 'corporate' element to it which did merit an SRA. But the panel was clear that only one whip position per group should qualify for an SRA. It appears in the present schedule that there are two 'deputy administration' whip positions. These two SRAs should be discontinued, thereby reducing the number of whip positions which qualify for SRAs from six to four (although currently only two minority party groups are large enough to qualify for these SRAs). It should be made clear that the Panel's decision to recommend the continuation of the remaining SRAs is a response to the administrative (or corporate) element of the whips' role, and not the political element. The Panel would wish to re-examine the appropriateness of its recommendations regarding group whips in its next review.

3.4 With regard to the position of 'deputy portfolio holder', it is becoming increasingly common for panels to recommend that SRA payments should be made to such posts. Of the sixteen authorities in Cheshire East's CIPFA family, eight do so, and it is likely that most of the remaining authorities do not designate such positions. Although in Cheshire East, as elsewhere, deputy portfolio holders cannot formally take decisions, it is clear that they play a significant role in enabling cabinet members to make decisions, as well as taking over other of their responsibilities. Such positions also provide a valuable developmental function for councillors who may well become cabinet members in the future. In these circumstances, the Panel, unlike its' predecessor, was persuaded of the case to allocate SRAs to such positions, albeit at a relatively modest level.

3.5 Although the Panel received no representations regarding the level of SRAs paid to the chairs and vice-chairs of the various committees in Cheshire East, it did seek clarification from officers about the responsibilities and workload of some of the more unusual committees on the list. Whilst it was satisfied that the Audit and Governance and Constitution Committees had important (and different) functions which merited the level of SRA currently allocated, it was less convinced that those of the Staffing and Public Rights of Way Committees did so. Cheshire East is the only Council in the CIPFA family to operate a Public Rights of Way Committee. Presumably other authorities have the same responsibility, but do not see it as necessary to establish a committee to implement it, probably because the responsibility for the function is delegated to officers, or it is included in the brief of the planning committee. In relation to the Staffing Committee, only five other authorities in the CIPFA family pay SRAs to the chairs of such committees (if indeed they have them) and those that do, with one exception, all pitch the SRA involved at a significantly lower level. However, the Panel was informed that the role of the Staffing Committee in Cheshire East was an unusually high profile one, with an above average involvement in appointing senior staff. In these circumstances, the Panel felt that it was appropriate to retain the SRA involved at its current level. However, with regard to the Chair of the Public Rights of Way, the Panel did not feel it could justify recommending an SRA. The role should be regarded as one of the many minor positions of responsibility within the Council which do not qualify for an SRA.

3.6 Having dealt with these details, it is important to point out that there are two more fundamental issues relating to the SRAs in the current Cheshire East schedule. The first is that there are too many of them, compared with most other authorities. Currently there are forty-six positions in the authority which qualify for SRAs, which means that well over half (55%) of councillors in the authority receive one. The guidelines issued by the Office of the Deputy Prime Minister in 2001 recommended that no more than one third of the councillors in any one authority should receive SRAs. The second is that no account has yet been taken of the impact of switching a significant tranche of council decision-making to ASDVs and WOCs (see 1.3 above), where councillors, as directors, receive fees for carrying out these duties. The Panel does not regard such payments as inappropriate, and it is outside its' remit to comment on the level of the payments involved. But it is relevant for it to consider the implications of these changes for the responsibilities that remain within the ambit of the council's decision-making process.

3.7 The Panel felt it was important to deal with the excessive number of SRAs in Cheshire East. The best way of doing so was, it felt, to discontinue paying SRAs to all (or most) of the vice-chair posts which currently qualify. There is always an issue of whether such posts do in principle justify SRAs. Occasionally deputising for the chair does not, in the Panel's view in itself provide a justification. If a chair is absent for more than the odd meeting (e.g. through illness) then the appropriate response would be to transfer the appropriate portion of the chair's SRA to the vice-chair for the period of time involved. In addition, the vice-chair SRAs are pitched at the nominal level of £1,000, which is in itself unlikely to act as a motivation to take on the post. The panel accepts that there is a degree of responsibility involved in a vice-chair position. But there are many other minor responsibilities scattered throughout the council's governance structures, and the official guidelines to panels have always emphasised that there has to be a significant level of responsibility involved to justify an SRA.

3.8 For these reasons, the Panel recommends that SRAs should be discontinued for the positions of the vice-chairs of the Constitution, Licensing, Public Rights of Way, Audit and Governance, Strategic Planning and Northern and Southern Area Committees. The same should apply to the positions of the two deputy Administration Whips. In total this would mean a reduction of ten SRAs (including PROW), leaving a total of 36 positions which qualify for such payments. If these changes were to be made, it would mean that 44% of councillors in Cheshire East would receive an SRA, which is still some way above the percentage figure that the Panel would ideally like to see, but does represent a sizeable reduction from 55%. The Panel would wish to consider the case for further reductions in future reviews. It was encouraged to learn that a review is likely of the decision-making structure in the near future, which may result in a reduction in the number of positions of responsibility that would qualify for SRA payments (e.g. in relation to the scrutiny function)

3.9 The Panel was informed that most of the business of the Licensing Committee (i.e. the consideration of applications for licences) was carried out in smaller sub-committees which were normally chaired either by the chair or vice-chair of the parent Committee. In these circumstances, the Panel recommends that the Chairs SRA of £7,280 be split proportionately in a way which reflects the relative proportion of such meetings chaired (but with a figure to reflect the role of the Chair in relation to the full meetings of the committee built into the formula). A 2:1 proportionate split might be appropriate, but the Panel is happy to leave the details of the allocation to the Council.

3.10 One of the distinctive features of the way Cheshire East conducts its' business is the extent to which the council has devolved responsibility for the delivery of a range of services to alternative service delivery vehicles (ASDVs), and in particular, wholly-owned companies (WOCs). Other authorities have established such mechanisms, but none, so far as the Panel is aware, to the extent that Cheshire East has. The Panel was informed that the role of strategic commissioning for the

services involved remains with the council (and in particular with the relevant cabinet members) but that responsibility for managing service delivery and the allocated budget now rests with directors of the ASDVs and WOCs, positions largely filled by Cheshire East councillors.

3.11 Although the fees that are paid to councillors as chairs and directors of these bodies do not fall within the remit of a Members Allowances review, the panel felt that it was appropriate to consider whether these new arrangements had implications for any recommendations for SRAs that the panel might wish to consider. There were two reasons for doing so. First, there is an existing provision that the fees paid to directors of WOCs etc. should be subject to the rule that members can only claim one such payment, whether he or she is occupying two positions which qualify for an SRA, or one such position and that of a chair/director of a WOC. Secondly the Panel felt it relevant to explore whether the establishment of WOCs etc. had resulted in any reduction in the level of responsibility enjoyed by cabinet members.

3.12 The view from officers was that the responsibilities of cabinet members were unchanged. Their strategic commissioning role was unaffected by the introduction of WOCs, an argument which the Panel accepted. However, there is a good deal of evidence that cabinet members often find themselves involved in issues of service delivery, a finding confirmed by the personal experience of one of the Panel's members. Given that service delivery is now exclusively in the hands of WOCs, the clear implication would be that cabinet members who deal with WOCs would lose any scope for involvement in such issues, which would necessarily affect the scope of their responsibilities

3.13 The Panel was also aware that the total level of payments which could now be claimed by councillors (including directors' fees) had risen by around £100,000, which involves a significant overall increase, even if not all directors' fees are claimed. This is something which the public (as well as the Panel) would need to be convinced was justified in the circumstances.

3.14 However, the Panel recognised that, at present, it did not have enough evidence to justify a recommendation that cabinet members' SRAs should be reduced. It was also aware that the introduction of WOCs has impacted differentially on different cabinet members. Some have been totally unaffected, whilst in one case, four WOCs have been set up within the remit of a cabinet member. It would have made it difficult for the Panel to deal with these differentials without a great deal more work. But it would wish to reconsider the issue at their next review, by which time it is likely that responsibility for the delivery of a further tranche of councils services will have been transferred to WOCs, and more evidence will be available on the impact on cabinet members' responsibilities.

3.15. Included in the current allowances scheme is a clause which specifies that no councillor can claim more than one SRA. If a councillor holds more than one position which qualifies for an SRA, then he or she must forego the smaller of the two allowances. This limitation is widely, though by no means universally applied. In Cheshire East's CIPFA family, only three councils depart from this practice, two allowing a member to claim 50% of a second (lower) allowance, and one permitting two SRAs to be claimed (there are also authorities which exempt specific posts, e.g. deputy leader or group leader(s)).

3.16 When asked by one of our interviewees to justify the 'one SRA only' clause, the Panel found it difficult to do so, beyond the rather lame reason that it's 'common practice'. On discussing the matter further, it concluded that the limitation should be removed. If an SRA is seen as 'the rate for the job', and if one councillor has the time and energy to undertake two such positions of responsibility, then why should he or she not be remunerated for both? (assuming that the roles are

performed competently). The only exceptions should relate to the leader and deputy leader of the council, where it would not be appropriate for a second SRA to be claimed in relation to their roles as cabinet members (even if they hold a specific portfolio).

3.17 When WOCs and ASDVs were introduced, and a scheme of directors fees agreed by the council, it was also agreed that any such fees claimed by a councillor should be deducted, where applicable from an SRA payable in the members' allowances scheme. The Panel felt that this was an unnecessary complication. Directors fees should not be seen as a variant of an SRA, and should be unaffected by SRA eligibility for council responsibilities on the part of directors, unless there is a legal requirement to the contrary. They are a different kind of payment associated with the risks of running a company, and should be seen as separate from the business directly conducted through the council machinery.

3.18 The Panel did not consider that there was a strong case for more than a marginal increase in the overall members' allowances budget. To do otherwise would undermine the parity between increases in members' allowances and officers' salaries, which would be unfair at a time of continuing austerity. In addition, it is likely that the public and local media would find it hard to understand how such an increase could be justified, when local services are under threat.

3.19 What would however be possible, and arguably desirable would be to use the savings which accrue from the Panel's recommendations regarding the discontinuation of a range of existing SRAs (see 3.8) to fund a modest increase in the basic allowance. There was agreement amongst those presenting evidence that there was a strong case for a significant increase in the basic allowance, as an incentive to increasing the number and broadening the composition of those standing for council election, as a response to the increased workload of and expectations placed on councillors as ward members, and in recognition of the decrease in the value of the basic allowance since 2009. No evidence was presented which argued for increases in any of the SRAs, which are almost all above the CIPFA family average. The savings which would accrue from the discontinuation of the vice-chair and deputy whip SRAs would amount to £10,360. The savings which would accrue from the proposed discontinuation in the SRA of the chair of the Public Rights of Way Committees would amount to £5,600. The overall savings of £15,960 if used to increase the basic allowance, would result in an increase of £195 per councillor.

3.20 If the Cheshire East basic allowance had been raised in line with the officer pay awards since 2010, it would now be £11,559, which is £93 more than the current figure of £11,466. Adding these two figures would result in a per capita increase of £288, which the Panel recommends should be applied as a minimum. But this is a small increase of 3% which goes nowhere near to restoring the basic allowance to its 2010 value in real terms, based on the application of the Average Weekly Earnings index (see 2.2 above).

3.21 In these circumstances, the Panel considers that it would be appropriate to propose an option which would involve a greater increase in the Basic Allowance, which would need to be funded through a modest increase in the overall members' allowances budget. If the basic allowance were to be raised by a further £187, which would result in an overall increase of £500 to £11,966, this would require an additional allocation of £15,334, which is close to 1% of the existing members allowances budget. Given that this is probably the last opportunity to increase the Basic Allowance for the next four years, the Panel recommends that this higher level of increase be given serious consideration by the Council.

## Other issues

4.1 The previous panel made no recommendation as to the annual indexing of members allowances. In the current circumstance where increases in officer salaries are closely regulated by central government, the Panel is of the view that the most appropriate index is parity between officer and member increases. More specifically, this implies the annual updating of members allowances in line with the average level of change in the NJC staff pay award for spinal columns 35-40, an index which is now widely used. This should be applied automatically, unless the council resolves to forego the increase.

4.2 The Panel was pleased to note the increased use made in Cheshire East of job descriptions for the various member roles which qualify for allowances (basic or SRA), although some of the descriptions would benefit from an increased degree of specificity. The Panel would encourage the Constitution Committee to continue with its work in extending the scope of job descriptions. Recommendations as to allowances are easier to make when detailed job descriptions are available.

4.3 There was little in the way of comment on the travel, subsistence and other allowances section of the Members Allowances Scheme. The Panel was aware of the confusion relating to the mileage allowance, whereby members were recommended to claim The HM Revenue and Customs-approved tax-free mileage rate of 45p per mile, but the approved rates in the scheme were 46.9p per mile and 52.2p per mile depending on engine size. The Panel recommends that a standard rate of 45p per mile should be specified in the scheme, applicable to both members and officers. This rate should be adjusted if the HMRC provisions change. The principle of an additional allowance of 5p per passenger per mile being paid if passengers are taken who would otherwise be claiming a travel allowance is recommended, as a contribution to energy-saving. The current level of the carers allowance was seen as appropriate by interviewees, and the Panel sees no reason to recommend changes in this nor any of the other elements of the scheme.

## Summary of Recommendations

- (1) The changes proposed in the Allowances Scheme should not result in more than a marginal (1%) overall increase in the 2015-16 Allowances budget.
- (2) Of the current SRA entitlements, ten should be discontinued, including all vice-chairs. (as set out in 3.8)
- (3) The SRAs for the leader and deputy leader of the Council, cabinet members and group leaders should remain at their current level
- (4) The SRA of the Chair of the Public Rights of Way Committees should be discontinued (see 3.5).
- (5) The SRA for the Chair of the Licensing Committee should be redistributed between the Chair and Vice-chair, on a proportionate basis, reflecting the involvement of both in decision-making sub-committees over the course of the year (see 3.9)
- (6) The savings accruing from recommendation (2) should be reallocated to increase the Basic Allowance from £11,466 to £11,754 (option 1). A second option, increasing the basic allowance by a further £187 to £11,941 should also be considered by the Council (see 3.21).
- (7) All allowances should be index-linked every year to the NJC officers pay award (see 4.1)

(8) The stipulation that only one SRA can be claimed by any one councillor should be discontinued (except for the leader and deputy leader of the council), and replaced by a maximum of two.

(9) The fees paid to councillors as directors of WOCs etc. should not (as is the present situation) be taken into account in relation to payment of SRAs, unless this is a legal requirement.

(10) The mileage allowance paid to members and officers should be the same, and should be pitched at the level stipulated as being tax-free by HMRC (currently 45p per mile). An additional 5p per passenger per mile should be payable, if to do so avoids additional claims for mileage allowance being made.