

**Members' Allowances Scheme**

**for**

**West Somerset Council**

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**Report by the**

**Independent Remuneration Panel**

**November 2010**

## **FOREWORD TO THE CHIEF EXECUTIVE**

We have the privilege now to submit this report to the Council. We are most grateful for the chance to contribute in this way and, especially, for the help and technical advice which we have received from Wendy Bass in so doing.

Signed by the members of the Panel:

Chris Durham

Robert Govier

Richard Lillis

## Independent Remuneration Panel

### Report on Members' Allowances for West Somerset Council

#### SUMMARY OF MAIN RECOMMENDATIONS

The Council should consider the review of the scheme of allowances and the recommendations of the Panel effective from January 2011.

#### ***Basic Allowance (BA) and Special Responsibility Allowances (SRAs)***

1. That the current Basic Allowance (BA) payable to all Councillors of £2,733 per annum be frozen for two years with effect from 1 January 2011 and be reviewed at the end of 2012
2. That the Special Responsibility Allowances(SRA) calculated as multiples of the BA be frozen at the current rates as follows:

<b>Role</b>	<b>Multiple of BA</b>	<b>Annual allowance</b>
Leader of Council	4	£10,932.00
Deputy Leader	2.5	£6,832.50
Chairman of Scrutiny Committee	2	£5,466.00
Chairman of Planning committee	2	£5,466.00
Chairman of Licensing Committee	0.5	£1,366.50
Portfolio Holders	2.5	£6,832.50
Independent Chairman of Standards Committee	-	£1,104.00
Independent Member of Standards Committee	-	£552.00

3. That, where the Chairman of a Committee is unable to chair meetings for a period of three consecutive months, then the Vice Chairman should receive an SRA equal to that of the Chairman on a pro-rata basis.
4. That no member of the Council be entitled to receive more than one of the SRAs listed above (in addition to their BA).
5. That the Basic Allowance and Special Responsibility Allowances which have previously been increased each April in line with the rate of increase in the Retail Prices Index (RPI) be not uprated for 2 years during the freeze of allowances. The panel noted that the decrease in RPI in 2009 was not taken account of in the calculation of the allowance in April 2010.
6. That the Independent Remuneration Panel is asked to undertake a full review of all allowances in the autumn of 2011, with a view to

recommending a revised allowances scheme for implementation from May 2012.

**Other allowances**

7. That the Council's allowances scheme should provide for a Childcare and Dependent Carers allowance which:
  - Makes payment towards the costs necessarily incurred by a member in engaging a carer to look after children or other dependants who live at the same address as the member, when the member is absent from home undertaking any of the duties set out in Regulation 7 (1) (a) to (h) of the new Regulations
  - Provides for the allowance paid to be the reimbursement of incurred expenditure against receipts, up to a maximum rate of £4.50 per hour for child care and a maximum rate of £11.50 per hour for dependent adult care
  - Precludes any payment if the caring is undertaken by a member of the Councillor's own immediate family residing in the same household.
  - Allows for not more than two payments per week being claimable in respect of the household of each member, except in special circumstances to be judged by the Council's Standards Committee.
  - That the Childcare and Dependent Carer scheme's be index linked in accordance with the annual Consumer Price Index (CPI).
8. That travel and subsistence allowances be paid in respect of the same "approved duties" as in the Council's current arrangements for such allowances.
9. That the maximum rates of subsistence allowances remain the same as those which the Council currently pays and that the practice of paying subsistence allowances on production of receipts continues
10. That the mileage payments made in respect of all "approved duty" journeys undertaken by members in their own vehicles be kept in line with the per mile operating cost of the vehicle concerned determined by HM Revenue and Customs. In consequence the following rates should for the present apply:

Use of members own car:	40p per mile (all engine sizes)
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Use of members own motorcycle: 24p per mile (all engine sizes)  
Use of members own bicycle: 20p per mile

11. That the payments to independent members of the Standards Committee be frozen for two years with effect from 1 January 2011 and be reviewed at the end of 2012 on the same basis as the BA and SRAs paid to council Members;
12. That the independent members of the Standards Committee should receive the same rates of travel allowance in respect of travel to and from meetings as Councillors
13. That the Council should not make any allowances pensionable under the Local Government Pension scheme;
14. That the Council make the maximum possible use of its discretion to withhold or recover allowances from any member who is suspended or disqualified.
15. That, where any member has been formally appointed to a role which attracts an SRA for a period, but has not been receiving that SRA, it should be paid retrospectively (subject to the restriction that it cannot be backdated beyond the start of the relevant financial year.)
16. That the Council's revised allowances scheme is introduced as from January 2011.

***Other recommendations***

17. That in view of the concern from some members who completed questionnaires and from members interviewed regarding levels of attendance at council meetings, the Council should make arrangements for the publication of an annual register of Councillors' attendance at Committees and for this information to be reported quarterly to the Scrutiny Committee.

## **Independent Remuneration Panel**

### **Report on Members' Allowances for West Somerset Council**

#### **DETAILED COMMENTARY AND RECOMMENDATIONS**

##### **Background**

1. The Local Authorities (Members Allowances) (England) Regulations 2003 (as amended) requires the Council to have regard to the views and recommendations of an Independent Remuneration Panel before it can agree a revised scheme of allowances for Members
2. In the case of making allowances pensionable, the Regulations provide that the Council can only do so on the basis of a recommendation from us that this should happen. It follows that a recommendation from us to the effect that allowances should not be made pensionable is therefore binding on the Council.
3. A newly-convened Independent Remuneration Panel met on 27 October and 9 and 22 November 2010 to consider its recommendations on a revised scheme effective from May 2011. The Panel comprised:
  - Chris Durham was a member of previous Remuneration Panels and lives in Minehead. His background is in central government, lastly in the management of a government research establishment, and he has official and personal experience of local authorities.
  - Robert Govier is a working farmer from Upton where he was born and raised. He was a parish councillor for 20 years and he served as a member of the West Somerset Standards Committee for a number of years. He is a past governor of Dulverton Middle School.
  - Richard Lillis lives in Washford and has a career background of senior management in the juice and dairy beverage industry and is presently a consultant to the industry. He is also a panel member of The Fredericks Foundation, a charity committed to the support and regeneration of business in West Somerset
4. Prior to our meeting we were given a copy of the current Members Allowances Scheme, which was implemented by the Council following

the receipt of a report from the previous Panel in November 2006. We were also provided with the latter report as a reference document.

### **Terms of reference**

5. The Independent Remuneration Panel was asked by the Council to recommend a revised Member Allowances Scheme for the Council in accordance with all the requirements set out in the 2003 Regulations.

### **Our approach in 2010**

6. It was made clear to us that we were being asked to review and change any aspects of the current scheme in any way that seemed appropriate, and that this remit applied to the ongoing elements of the Council's scheme (such as the Basic Allowance, the Special Responsibility Allowances and the Dependant Carer's Allowance).
7. At the same time, we judged that there was little point in change for the sake of change and part of our approach therefore revolved around asking Councillors how far they were satisfied with the existing scheme, and what changes they might wish to see.
8. The latter approach was very much informed by a questionnaire survey of all Councillors which gave an opportunity to any member who wished to make representations to us to do so.
9. A number of the questions in the questionnaire asked Councillors whether they were satisfied with elements of the current scheme, and the intention behind such questions was to ensure that, where responses indicated that there was a large measure of satisfaction with any part of the current scheme, we would recommend that the part in question should be retained.
10. In addition to circulating the questionnaire, we took the opportunity to interview a cross-section of Councillors in various roles. We interviewed five members, including the Leader, two portfolio holders, a committee chairman and a "backbench" member.
11. We were mindful of the economic climate that is facing local government and on request we were provided with the highlights of the Government's Comprehensive Spending Review. It is, however, primarily for the Council and not for the Panel to decide how to take the present economic situation, the effects of the Comprehensive Spending Review and the affordability of the allowances scheme into account in fixing allowances. The case was put to us for reducing or discontinuing some or all of these allowances in present circumstances
12. In the interviews with members, we asked questions about the wider issues facing the Council and others that had been raised in the questionnaire, but with more opportunity to discuss the reasons for the

member's views on particular issues. We noted that some Councillors had grave concerns that allowances could not be based on attendance allowances.

13. In particular, we asked Councillors who currently received SRAs to describe to us the responsibilities they held, and to quantify the additional work this entailed. This helped us to verify the validity of such allowances continuing to be paid.
14. Finally, we gave the members we interviewed the opportunity to raise with us any matters which had not been raised in the questionnaire or interview which they felt to be important.
15. The remainder of this report describes our recommendations and the reasons behind them.
16. Comparison was made with allowances paid by similar types of local authorities and the panel was satisfied that allowances were broadly relevant and acceptable given local circumstances.

### **The Basic Allowance (BA)**

17. In the questionnaire survey, the majority of Councillors responding appeared to think that the current level of BA was reasonable in relation to the duties all Councillors are expected to undertake.
18. Given the general level of satisfaction that it remains reasonable, we are content to recommend that the allowance is frozen for 2 years
19. The BA is based on the Local Government Association daily rate (based on median white collar wage) of £152.77 reduced by 10% to reflect South West regional pay rates to £137.49. The latest national councillors' survey puts the average number of hours a councillor spends on business at 21 hours per week. A third of this has been viewed as unpaid voluntary service. The calculation is therefore 14 hours per week x £137.49 x 52/48 weeks = £2,085

### **Special Responsibility Allowances (SRAs) – general considerations**

20. Our starting point on this issue was to examine the roles which currently received SRAs, and to ensure that we were satisfied that they involved some significant additional work and responsibilities. In the case of the Leader, Deputy Leader, Portfolio Holders and the Chairmen of the Scrutiny, Planning and Licensing Committees, it was clear to us that this was the case, and we are content to recommend that the allowances are frozen for 2 years
21. In the case of Committee Vice Chairmen, we did not feel that the role generally carried major responsibilities, nor that occasional short-term deputising for the Chairman warranted an SRA. We particularly looked

at the Vice-Chairman of the Planning Committee bearing in mind the increased pressure from the Hinkley Point development, however we do not consider that an SRA should be paid at this time. This should be reconsidered at the 2 year review of all allowances.

22. However, we felt that we should take account of the situation where, for example because of illness, the Vice Chairman is required to deputise for the Chairman for a lengthy period. We would therefore reiterate the recommendation of our predecessor panel that, where the Chairman is unable to chair meetings for a period of three consecutive months, then the Vice Chairman should receive an SRA equal to that of the Chairman on a pro-rata basis.
23. It should be noted that the above scheme provides for payment of SRAs to a total of 11 members. These totals are within the Department of Communities and Local Government/HM Revenues and Customs Guidance that not more than 50% of Councillors should receive an SRA and takes full account of the Boundary Commission proposal to move from 31 councillors to 28

#### **Indexation of BA and SRAs**

24. We recommend that there should be no indexation of allowances for the two years during which allowances are frozen. (Had we recommended any indexation we should generally have proposed changing from the RPI to the Consumer Price Index (CPI) measure of inflation, to be consistent with present central government practice with pensions and other public payments).

#### **Childcare and Dependent Carers' Allowance**

25. Our predecessor panel had recommended that the Council's Members Allowance scheme should include provision for a dependent carers allowance, designed to help members meet the cost of having their children and other dependents cared for whilst they are undertaking formal Council duties, and the Council had accepted their recommendation.
26. As it may provide some significant encouragement for a wider range of people to consider becoming Councillors we continue to support the inclusion of a Childcare and Dependent Carer's Allowance which:
  - Makes payment towards the costs necessarily incurred by a member in engaging a carer to look after children or other dependants who live at the same address as the member, when the member is absent from home undertaking any of the duties set out in Regulation 7 (1) (a) to (h) of the new Regulations

- Provides for the allowance paid to be the reimbursement of incurred expenditure against receipts, up to a maximum rate of £8.51 per hour
  - Precludes any payment if the caring is undertaken by a member of the Councillor's own immediate family residing in the same household.
  - Allows for not more than two payments per week being claimable in respect of the household of each member, except in special circumstances to be judged by the Council's Standards Committee.
27. The scheme's £4.50 and £11.50 caps on the hourly rate will, however, need to be index-linked, and we recommend that maximum payment rate under the scheme be increased each April in line with the rate of increase in the CPI for the preceding September and be reviewed in April 2012 (so as to fit in with the general two year time horizon for our recommendations).

### **Travel and subsistence allowances**

28. It was clear that most members were happy to continue with the current scheme of allowances that was based on the old statutory provisions and allowances.
29. There are two aspects to travel and subsistence allowances – first, the range of “approved” duties for which they are paid; and, second, the rates at which they are paid.
30. We could see no case for altering the current list of “approved duties” for which travel and subsistence allowance is payable.
31. With regard to the rates of subsistence allowances, the allowances recommended are:

Breakfast	£5.65
Lunch	£8.20
Tea	£3.10
Evening Meal	£10.25

These rates are maximum amounts payable, and members must claim their actual expenditure if it is less than the amounts shown with receipts to be provided at all times.

32. With regard to the rates of travel allowances, we recommend that a standard mileage payment of 40p per mile be made in respect of all “approved duty” journeys undertaken by members in their own cars.

The level of payment should be indexed to the approved HM Revenue and Customs mileage rate, as published by HM Revenue and Customs from time to time.

33. This arrangement will have the advantage of removing the tax liability which some members may have in respect of mileage payments, and remove the need to administer this within the Council.
34. It follows logically from our recommended approach to car mileage payments that we should recommend the same approach and indexation arrangements for bicycle and motorcycle allowances – i.e. these payments should follow the approved HM Revenue and Customs amounts for “per mile” costs which are:

Motorcycles 24p per mile

Bicycles 20p per mile

These payments should also be indexed to the approved HM Revenue and Customs mileage rate, as published by HM Revenue and Customs from time to time.

35. We recommend that the other aspects of the Council’s current travel allowance rates, relating to travel by public transport, taxi, air etc. be replicated in the new allowance scheme. As these are based around reimbursement of actual cost, there is no need for any indexation arrangement.

### **Allowances for co-opted members**

36. The Council has six co-opted members, who are members on the Standards Committee. One of these is Chairman of the Committee.
37. In line with our recommendations regarding BA and SRA we recommend that the allowances paid to the members of the Standards Committee should be frozen for two years.
38. We also recommend that the co-opted members should receive the same rates of travel allowance and subsistence in respect of travel to and from meetings as Councillors.

### **Ceasing payments of allowances to members who have been suspended**

39. It is entirely consistent with accountability mechanisms that any member who has been suspended, and is therefore unable to fulfil his or her duties, should not receive either the BA or any SRA for the period of their suspension.

40. We therefore recommend that the Council, through the Standards Committee, should utilise to the fullest extent its discretion to withdraw or recover allowances from members who have been suspended or disqualified, unless there are exceptional extenuating circumstances.
41. We remind the Council that, under the Regulations, withholding or recovering Dependent Carers allowance is not permissible, should this issue ever arise.

### **Pensions**

42. We endorse the recommendation of our predecessor panel that Councillors should not be given the option of joining the LGPS. We are fully aware that this recommendation would effectively preclude the option of members joining the scheme for at least the next 4 years, and have reached our recommendation only after the most careful analysis of the issues as we perceive them.

### **Backdating of allowances**

43. The Regulations provide for:
  - the retrospective application (to the beginning of the financial year) of an amended scheme of allowances; and/or
  - the backdating of allowances to individual Councillors in circumstances where they take on duties entitling them to a different level of allowances (e.g. where a Councillor is appointed to the Executive, and thus entitled to a special responsibility allowance) to the time at which the circumstance changed.
44. With regard to the latter provision, the Panel feels that it is only right and proper that, where any member has been formally appointed to a role which attracts an SRA for a period, but has not been receiving that SRA, it should be paid retrospectively (subject to the restriction that it cannot be backdated beyond the start of the relevant financial year.) We therefore recommend that the Council adopts a policy of making retrospective payments of SRAs where circumstances justify it.
45. However, the Council may prefer to choose to exercise the discretion to backdate a new allowances scheme, based on a recommendation from the Independent Remuneration Panel.

### **Financial implications**

46. For Basic and Special Responsibility Allowances, there are no financial implications as no increases or reductions are proposed. There will be a saving through the reduction in the number of councillors following the May 2011 elections.

There are no councillors who currently claim child care or dependent adult care costs

### **Accountability**

47. The Panel is concerned that the level of allowances paid to councillors and co-optees should have general acceptance across West Somerset. There is widespread unease, certainly among councillors, about levels of attendance at council meetings and significant support for attendance allowances (though these are now unlawful). We considered some extra remedy, such as paying allowances in arrears only after a councillor had attended a given number of meetings. But the powers for doing so were uncertain. However, the Council may wish to consider:
- The publication of an annual register of attendance at Committee, Cabinet and other formal meetings on the council's website
  - Details of Members' attendance at committees to be provided quarterly to the Scrutiny Committee

### **Publicity**

48. The requirements of the Regulations on publicity of allowances are as follows:
- Regulation 22(1) requires the publication of a summary of any report made by the Independent Remuneration Panel immediately after the Council receives it, and that the full report is made available to members of the public on request.
  - Regulation 16 requires the publication of any new or amended scheme of allowances immediately after it has been agreed by the Council.
  - Regulation 15(3) requires the Council to publish within its area an annual statement of the total sum paid in the previous year to each Councillor by way of:
    - Basic allowance;
    - Special Responsibility Allowance
    - Dependant Carers Allowances
    - Travelling and Subsistence Allowances
    - Co-optees allowance