

REPORT REFERENCE NO.	DSFRA/20/16
MEETING	DEVON & SOMERSET FIRE & RESCUE AUTHORITY
DATE OF MEETING	23 OCTOBER 2020
SUBJECT OF REPORT	MEMBERS' ALLOWANCES FURTHER CONSIDERATIONS – STANDARDS COMMITTEE
LEAD OFFICER	Director of Governance & Digital Services
RECOMMENDATION	<i>That the Authority makes no changes to the Approved Scheme of Members' Allowances.</i>
EXECUTIVE SUMMARY	<p>At its budget meeting on 18 February 2020, the Authority considered the outcome of an independent review intended to inform the setting of Member allowances to operate for the next four financial years (up to and including the financial year 2023-24). In debating this issue, reference was made to the time commitments incurred by those Members involved in Standards Committee hearings. Consequently, it was resolved (Minute DSFRA/40[m] refers):</p> <p style="padding-left: 40px;">“that the Clerk review the position on the payment of a Special Responsibility Allowance for Members of the Standards Committee and submit a report on this to a future meeting”.</p> <p>This paper now sets out information to enable the Authority to consider whether or not it would wish to introduce such a special responsibility allowance (SRA).</p>
RESOURCE IMPLICATIONS	Should a special responsibility allowance be introduced, this could result in an overspend against the budget for Members allowances for the current financial year. For future financial years, an appropriate amount would be factored in to budget proposals to be presented to the Authority.
EQUALITY RISKS AND BENEFITS ANALYSIS	N/A
APPENDICES	Nil.
BACKGROUND PAPERS	<p>A. The Local Authorities (Members' Allowances) (England) Regulations 2003.</p> <p>B. The Localism Act 2011 (and Regulations made thereunder).</p> <p>C. Report DSFRA/20/8 (Devon & Somerset Fire & Rescue Authority Approved Scheme of Members' Allowances 2020-21) to the Authority budget meeting on 18 February 2020 (and the Minutes of that meeting).</p>

1. BACKGROUND

- 1.1. At its budget meeting on 18 February 2020, the Authority considered the outcome of an independent review intended to inform the setting of Member allowances to operate for the next four financial years (up to and including the financial year 2023-24). In debating this issue, Members made reference to the time commitments incurred by those Members involved in Standards Committee hearings. Consequently, it was resolved (Minute DSFRA/40[m] refers):

“that the Clerk review the position on the payment of a Special Responsibility Allowance for Members of the Standards Committee and submit a report on this to a future meeting”.

- 1.2. This paper now sets out information to enable the Authority to consider whether or not it would wish to introduce such a special responsibility allowance (SRA).

2. LEGISLATIVE POSITION

Standards Issues

- 2.1. The Localism Act 2011 (“the Act”) replaced the previous ethical (standards) regime, which until that point featured a mandated Code of Conduct and oversight by the [then] Standards Board for England. The Act abolished this former regime and replaced it with one whereby:
- (a). a duty was placed on relevant authorities to promote and maintain high standards of conduct by members and co-opted members of the authority (Section 27(1));
 - (b). relevant authorities are required to develop and adopt a Code of Conduct; and
 - (c). relevant authorities must have in place arrangements under which:
 - (i) allegations of Code breaches can be investigated (Section 28(6)(a); and
 - (ii) decisions on allegations can be made (Section 28(6)(b)).

Members’ Allowances

- 2.2. The Local Authorities (Members’ Allowances) (England) Regulations 2003 (“the Regulations”) govern the payment of allowances to members of relevant authorities (including combined fire and rescue authority). The Regulations provide that a relevant authority must make each year a scheme of allowances that:
- (a). **must** provide for the payment of an allowance to each member of the authority, with the amount of the allowance to be the same for each member (the “basic allowance”) (Regulation 4(1)(a)); and
 - (b). **may** provide for the payment of other allowances “to such members of the authority as have special responsibilities in relation to the authority as are specified in the Regulations” (“special responsibility allowances”) (Regulation 5(1)).

- 2.3. Guidance issued by the [then] Office of the Deputy Prime Minister in April 2001 set out that:
- “Basic allowance is intended to recognise the time commitment of all councillors, including such inevitable calls on their time as meetings with officers and constituents and attendance at group meetings. It is also intended to cover incidental costs such as the use of their homes”.
- 2.4. Special Responsibility Allowances (SRAs) are defined in Regulation 5(1) (a) to (i). For completeness, this Regulation is reproduced in full at Appendix A to this report but those SRAs currently relevant to the Authority are:
- (a). presiding at meetings of a committee or sub-committees of the authority, or a joint committee of the authority and one or more other authorities, or a sub-committee of such joint committee (Regulation 5(1)(c));
 - (b). representing the authority at meetings of, or arranged by, any other body (Regulation 5(1)(d));
 - (c). acting as a member of a committee or sub-committee of the authority which meets with exceptional frequency or for exceptionally long periods (Regulation 5(1)(e)); and
 - (d). carrying out such other activities in relation to the discharge of the authority’s functions as require of the member an amount of time and effort equal to or greater than would be required of him by any one of the activities mentioned in sub-paragraphs (a) to (h) of Regulation 5(1) (whether or not that activity is specified in the scheme) (Regulation 5(1)(i)).
- 2.5. While the Regulations require an authority to make an allowances scheme before the beginning of each financial year, they also allow for schemes to be amended in-year (Regulation 10(3)).
- 2.6. The Regulations do not require this Authority to have an Independent Remunerations Panel but do require this Authority to “have regard to” any recommendations made by the Independent Remunerations Panels of its constituent authorities when making or amending its scheme (Regulation 19(2)). This Authority has, though, previously resolved to commission an independent consultant to undertake a full review of its allowances scheme to inform allowances to operate for a four year period. The last review was undertaken in 2019, to inform allowances payable from the 2020-21 financial year.

3. STATISTICAL AND COMPARATIVE INFORMATION

- 3.1. Since 2012, there have been a total of 8 Committee/hearing panel meetings, as summarised in the table below:

Date and type of meeting	Duration of Meeting (hrs:mins)
28 November 2016 (hearing)	4:15
9 April 2018 (meeting)	1:37
14 October 2018 (pre-hearing)	1:15
26 October 2018 (hearing)	8:30

Date and type of meeting	Duration of Meeting (hrs:mins)
3 December 2018 (hearing)	0:40
8 April 2019 (meeting)	2:00
22 November 2019 (hearing)	1:50
6 August 2020 (meeting)	0:26

- 3.2. Based on the above, the average length of a hearing panel was 3 hours 18 minutes. It should be noted, though, that:
- (a). hearings panels meet only as and when required;
 - (b). the number/frequency of hearing panels is very low (only 5 since 2012 i.e. less than one hearings panel meeting per year);
 - (c). since 2012, there has only been one municipal year (2018-19) where more than one hearings panel has been held; and
 - (d). the hearing on 26 October 2018 could be regarded as exceptional in terms of its length and complexity. If this and the associated pre-hearing panel held on 14 October 2018 are removed from the average calculation, then the average length of a hearing panel drops to 2 hours 47 minutes.
- 3.3. The average length of a Standards Committee meeting was 1 hour 21 minutes. The average length of other committee meetings (based on meetings held during the 2018-19 municipal year) was 1 hour 47 minutes. It should be noted, though, that:
- (a). for the main, standing committees (i.e. Resources Committee; Human Resources Management & Development Committee; Audit & Performance Review Committee; Community Safety & Corporate Planning Committee), there are usually four meetings (minimum of three) in a normal municipal year; and
 - (b). the Standards Committee meets only as when required, but the expectation is that there will usually be a minimum of one meeting per municipal year (to review the Code of Conduct and arrangements for dealing with alleged breaches).
- 3.4. Based on the above:
- (a). a Member of a main standing committee might expect to spend, on average, a minimum of 4 hours 25 minutes (3 meetings) or maximum of 5 hours 53 minutes (four meetings) attending meetings in any one municipal year;
 - (b). in comparison, a Member of the Standards Committee might expect to spend, on average, a minimum of 1 hour 21 minutes (one meeting of Standards Committee only) attending meetings in any one municipal year, or possible maxima of:
 - (i). 2 hours 42 minutes (two Standards Committee meetings)
 - (ii). 4 hours 8 minutes (one Standards Committee; one hearing panel at 2 hours 47 minutes);

(iii). 6 hours 55 minutes (one Standards Committee; two hearings panels at 2hours and 47minutes);

3.5. The average maxima indicated in (i) and (ii) of the above paragraph fall below the average maximum attendance for other standing Committee meetings, while the average maximum at (iii) exceeds the maximum attendance for other standing Committee meetings by only one hour in any one year. Given the low frequency of both Standards Committee and hearings panel meetings since 2012, the data indicates that it is unlikely that this maximum would be reached in any one normal municipal year.

3.6. As previously indicated, the basic allowance payable to all Authority members is intended to cover issues such as committee attendance. By way of further context:

- (a). the duration of the exceptional hearing panel meeting on 26 October 2018 featured in the statistical information provided to the independent consultant when undertaking, in 2019, the last major review of the Authority's allowances scheme to inform allowances to be payable from the 2020-21 financial year. Despite the inclusion of this information, the review report made no recommendation as to payment of an SRA for Members of the Standards Committee;
- (b). A review of the Authority's standards arrangements – prompted by practical experience and in light of the recently-published report of the Committee for Standards in Public Life (CSPL) on operation of the ethical regime under the Localism Act 2011 ("the Act") - was undertaken by the Standards Committee in April 2019. As a result of that review, the Committee approved revised arrangements for handling complaints; and
- (c). None of the constituent authorities appointing to this Authority pay an SRA in relation to Standards matters to their Members. Additionally, desktop research of the other 19 combined fire and rescue authorities has indicated that none pay such an allowance.

4. APPLICATION TO THIS AUTHORITY

4.1. Given the statistical and comparative information set out in the previous section, it is felt that it would be difficult to attach an SRA either to membership of the Standards Committee or a hearing panel drawn from the Committee, as:

- (a). neither could reasonably be said to meet, normally, with exceptional frequency or for exceptionally long periods (Regulation 5(1)(e)); and
- (b). the basic allowance payable to all Authority members is intended to cover meeting attendance and associated preparation work. It is difficult to see how membership of the Standards Committee or hearings panels is so significantly different from this as to represent "such other activities in relation to the discharge of the authority's functions as require of the member an amount of time and effort equal to or greater than would be required of him by any one of the activities mentioned in sub-paragraphs (a) to (h) of Regulation 5(1)" (Regulation 5(1)(i)).

- 4.2. Since establishment of the arrangements in accordance with the Localism Act 2011, there has been only one hearing that would fit the definition of lasting for an exceptionally long period. While a similar situation could happen again, the data and wider experience does not suggest that this is a reasonable probability.

5. SUMMARY AND CONCLUSION

- 5.1. The evidence since 2012 is that the Standards Committee does not meet with exceptional frequency or, with the exception of one hearing in October 2018, for exceptionally long periods (Regulation 5(1)(e)).
- 5.2. The duration of the exceptional hearing panel meeting in October 2018 was known to the independent consultant when undertaking the last major review of the Authority's allowances scheme to inform allowances to be payable from the 2020-21 financial year and the review report made no recommendation as to payment of an SRA for Members of the Standards Committee.
- 5.3. None of the constituent authorities appointing to this Authority pay an SRA in relation to Standards matters to their Members and none of the other 19 combined fire and rescue authorities appear to pay such an allowance.
- 5.4. Finally, the independent consultant who conducted the last review in 2019 has been consulted and fully concurs with the contents and conclusions of this report.

MIKE PEARSON

Director of Governance & Digital Services

**REGULATION 5(1), THE LOCAL AUTHORITIES (MEMBERS' ALLOWANCES)
(ENGLAND) REGULATIONS 2003**

Special Responsibility Allowances (NOTE: those categories applicable to the Devon & Somerset Fire & Rescue Authority are indicated in *bold, italics*).

“A scheme made under this Part may provide... for the payment for each year for which that scheme relates of an allowance (“special responsibility allowance”) to such members of the authority as have such special responsibilities in relation to the authority as are specified in the scheme and are within one or more of the following categories:

- (a). acting as leader or deputy leader of a political group within the authority;
- (b). acting as a member of an executive where the authority are operating executive arrangements within the meaning of Part II of the Local Government Act 2000;
- (c). ***presiding at meetings of a committee or sub-committee of the authority, or a joint committee of the authority and one or more other authorities, or a sub-committee of such a joint committee;***
- (d). ***representing the authority at meetings of, or arranged by, any other body;***
- (e). ***acting as a member of a committee or sub-committee of the authority which meets with exceptional frequency or for exceptionally long periods;***
- (f). acting as the spokesman of a political group on a committee or sub-committee of the authority;
- (g). acting as a member of an adoption panel within the meaning of the Adoption Agencies Regulations 1983;
- (h). acting as a member of any committee or sub-committee that deals with any function arising under any enactment authorising the authority to license or control the carrying on of any activity;
- (i). ***carrying out such other activities in relation to the discharge of the authority's functions as require of the member an amount of time and effort equal to or greater than would be required of him by any one of the activities mentioned in sub-paragraphs (a) to (h) (whether or not that activity is specified in the scheme)."***