

REPORT REFERENCE NO.	DSFRA/20/21
MEETING	DEVON & SOMERSET FIRE & RESCUE AUTHORITY
DATE OF MEETING	16 DECEMBER 2020
SUBJECT OF REPORT	CONFIRMATION OF MEMBERS' ALLOWANCES SCHEME 2021 - 22
LEAD OFFICER	Director of Governance & Digital Services
RECOMMENDATIONS	<p>(a) that the Authority confirms the rates of basic and special responsibility allowances to be payable during the 2021-22 financial year as set out in Table 1 of Section 2 of this report (subject to any automatic annual uprating);</p> <p>(b) that the Authority determines that the Special Responsibility Allowance (SRA) payable in 2021-22 to Authority-appointed non-executive directors on the Board of Red One Ltd. should be set at either:</p> <p style="padding-left: 40px;">(i). the current level of £6,305, which is consistent with the rationale set out at paragraph 3.11 of the report; or</p> <p style="padding-left: 40px;">(ii). £4,179, i.e. 1.5 x basic allowance, as recommended by the Independent Consultant (paragraph 3.3) and commensurate with the SRA paid to Members of the [former] Commercial Services (paragraph 3.4 of the report); or</p> <p style="padding-left: 40px;">(iii). £5,572, i.e. 2 x basic allowance reflecting recognition of additional responsibilities (1 x basic allowance) and meeting frequency (1 x basic allowance).</p> <p>(c) that the Authority confirms the rates of co-optees allowances to be payable during the 2021-22 financial year as set out in paragraph 4.1 of this report;</p> <p>(d) that the co-optees allowances be automatically uprated, annually, in accordance with any proposal agreed by the National Joint Council for Local Government Services ("the green book") and that the Clerk to the Authority be authorised to amend the approved Scheme accordingly;</p> <p>(e) that the Authority confirms the rates of reimbursement for travel and subsistence allowances to apply for 2021-22 as set out in paragraphs 5.1 and 5.2 of this report; and</p>

	(f) that the Clerk to the Authority be authorised to publicise details of the Scheme so confirmed in one or more local newspapers circulating in the area served by the Authority.
EXECUTIVE SUMMARY	<p>Regulations require the Authority to have in place its own Scheme for the payment of a basic allowance to each of its Members. The Authority may also provide for the payment of Special Responsibility Allowances and reimbursement of travel and subsistence expenditure.</p> <p>The Regulations also require the details of any such Schemes to be confirmed and published by the Authority for each financial year in question.</p> <p>This report details allowances currently payable and invites the Authority to confirm the Scheme to operate for the 2021-22 financial year. In approving the Scheme for 2020-21, the Authority also approved an automatic uprating mechanism to apply for the following three years (to 2023-24), as recommended by the independent consultant following a full review of the Scheme. Additionally, the Authority also directed the Clerk to review the special responsibility allowance paid to Authority appointed non-executive directors on the board of Red One Ltd. This report includes the findings of that review.</p>
RESOURCE IMPLICATIONS	Provision will be made within the draft Revenue Budget 2021-22 for the payment of allowances at the rates together with any anticipated increase (based on the pay award for staff conditioned to the National Joint Council for Local Government Services (“the Green Book”)).
EQUALITY RISKS AND BENEFITS ANALYSIS	The content this report is considered compatible with equalities and human rights legislation.
APPENDICES	<p>A. Extract from Independent Review of the Devon & Somerset Fire & Rescue Authority Members’ Allowances Scheme (as considered at the Authority Budget meeting on 18 February 2020).</p> <p>B. Regulation 5(1), the Local Authorities (Members’ Allowances) (England) Regulations 2003.</p> <p>C. Comparison of Special Responsibility Allowances payable re: Fire Authority owned companies.</p>
BACKGROUND PAPERS	<p>The Local Authority (Members’ Allowances)(England) Regulations 2003.</p> <p>The Local Authorities (Companies) Order 1985</p>

	<p>Report DSFRA/20/8 (“Devon & Somerset Fire & Rescue Authority Approved Scheme of Members’ Allowances 2020-21), together with report of Independent Consultant, as submitted to the Authority budget meeting on 18 February 2020, together with the Minutes of that meeting.</p>
--	---

1. **BACKGROUND**

1.1 The Local Authority (Members' Allowances)(England) Regulations 2003 require the Authority to make a Scheme of Members Allowances that:

- MUST provide for payment of a basic allowance to every Member of the Authority (to recognise the time commitment of all Members and cover incidental costs such as postage, telephone calls etc. in connection with Authority duties); and
- MAY provide:
 - for payment of a Special Responsibility Allowance (SRA) for those Members undertaking additional roles (e.g. Authority and Committee Chairs); AND
 - payment of travel and subsistence expenses in relation to Authority duties.

1.2 The Regulations also require the Authority to confirm its Scheme of Allowances for each financial year in question and for this information to be published in one or more local newspapers circulating in the area served by the Authority.

2. **BASIC, SPECIAL RESPONSIBILITY AND CO-OPTEEES ALLOWANCES (EXCLUDING AUTHORITY-APPOINTED NON-EXECUTIVE DIRECTORS ON THE BOARD OF RED ONE LTD.)**

2.1 At its budget meeting on 18 February 2020 the Authority considered a review of its Allowances Scheme ("the Scheme") as conducted by an independent consultant and determined – in accordance with the review recommendations - rates payable for basic and special responsibility allowances (SRAs) in the 2020-21 financial year (Minute DSFRA/40 refers). These are shown in Table 1 below.

Table 1 – 2020-21 Rates for Basic and Special Responsibility Allowances

Type of Allowance	Amount per annum £
Basic	2,786
Special Responsibility (payable in addition to basic allowance)	
• Authority Chair (5 x basic)	13, 930
• Authority Vice-Chair	6, 915
• Committee Chairs	4,100
• Member of Local Pensions Board (Firefighters' Pensions Schemes) (0.15 x basic)	418

2.2 It should also be noted that, under the Scheme, only one SRA is payable (at the highest rate), irrespective of how many qualifying posts an individual Member may hold.

- 2.3 As recommended by the independent consultant, the Authority approved that the rates as set out in Table 1 above should not be subject to any in-year uprating in 2020-21 but that, from 2021-22, they should be uprated automatically in accordance with any proposal agreed by the National Joint Council for Local Government Services (“the green book”). On this basis, the Authority is asked to confirm the rates of basic and special responsibility allowances to be payable in 2021-22 as set out in Table 1 (subject to any automatic, annual, uprating).

SPECIAL RESPONSIBILITY ALLOWANCE – AUTHORITY-APPOINTED DIRECTORS ON THE BOARD OF RED ONE LTD.

Introduction

- 3.1. At its budget meeting on 18 February 2020, the Authority approved (Minute DSFRA/40(e) refers):
- “that non-executive directors appointed to the Board of Red One Ltd. by the Authority should continue to receive a Special Responsibility Allowance of £6,305 for the 2020-21 financial year, with the Authority to review this to inform the allowance payable from 2021-22”
- 3.2. Attached at Appendix A to this report is the section of the Independent Consultant’s report dealing with this particular SRA. In particular, this section references the considerable changes recently undertaken in terms of the governance of Red One Ltd. and other factors that had impacted on the anticipated workload of directors in the short-term.
- 3.3. The Independent Consultant’s report also commented, however, that the expectation was that this workload would settle down. Consequently, the Independent Consultant recommended that the SRA be reviewed to inform the rate payable from 2021-22, with a view to this rate being based on using a multiplier of 1.5 x basic allowance, which would amount to £4,179.
- 3.4. This multiplier refers back to the SRA paid to Members of the [former] Commercial Services Committee in recognition that that Committee met with “exceptional frequency” (i.e. once per month). Consequently, an SRA was felt to accord with Regulation 5(1)(e) of the Local Authorities (Members’ Allowances) (England) Regulations 2003 (“the Regulations”).
- 3.5. This category of SRA is no longer directly applicable to Authority-appointed non-executive directors on the Board of Red One Ltd., however, as that Board is not a committee or sub-committee of the Authority. Rather, it is a separate legal entity. This particular category may, however, still be relevant by virtue of Regulation 5(1)(i) and this is addressed later in the report.

Categories for which an SRA may be paid

- 3.6. Section 5(1) of the Regulations set out the categories for which an SRA may be paid. For ease of reference, Regulation 5(1) is reproduced in full at Appendix B to this report. Any SRA payable must comply with one or more of the categories as set out at Regulation 5(1) but of particular relevance to this SRA are the following categories:

- representing the authority at meetings of, or arranged by, any other body (Regulation 5(1)(d)); and
- 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) (Regulation 5(1)(i)).

3.7. Also of relevance to this SRA are the provisions of Section 5 of the Local Authorities (Companies) Order 1985. These limit the amount of remuneration for a Member director of a local authority controlled company to "...the greatest amount which would for the time being be payable by the relevant authority in respect of a comparable duty performed on behalf of that authority" i.e. an SRA.

Context and comparators for payment of SRA

3.8. Non-executive directors should have the same roles and responsibilities irrespective of the company to which they are appointed. Also, from a legal perspective, there is no distinction between executive and non-executive directors in terms of exposure to liabilities associated with the company in question.

3.9. On this basis, the views of the current chair of the Board of Red One Ltd. have been sought to inform consideration as to the appropriate level of SRA for Authority-appointed non-executive directors.

3.10. The Board chair has indicated that they feel the current level of SRA for the Authority-appointed non-executive directors reflects a fair amount given the nature of the role. In support of this, the Board chair has commented that, while the company's overall position has improved considerably over the last twelve months, it has (along with almost all other parts of both the private and public sector) been significantly impacted during the current year by the COVID-19 pandemic. On this basis, the risk profile for all the directors of Red One Ltd. remains largely unchanged.

3.11. The Board chair has also commented that, in their experience, private sector remuneration for directors indicates daily fees in the range of £500 to £1,000 per day, with the lower end usually being typical for public sector-owned companies. The Board chair has indicated that the current Authority-appointed non-executive directors would be expected to spend between 1.5 and 2 days per month discharging their duties. Using the lower of the two figures (daily rate and time commitment), discounted by the public service element (30%) as referenced in the Independent Consultant's report, this would equate to remuneration of £6,300 per annum.

- 3.12. It should, however, also be recognised that – while a suitability assessment prior to appointment is undertaken – by its very nature the role of Authority-appointed non-executive director is not subject to any competitive external appointment process as would be the case for other company directors in the private or public sector. Similarly, as indicated by the Independent Consultant in their report, consideration should be given to other factors, for example the Local Government Association day rate of £210 (£300 less 30% public service element).
- 3.13. By way of further context, research has been undertaken into those other fire and rescue authorities who either are operating, or have recently operated, commercial trading arms. The results of this research are set out in full at Appendix C to this report. In summary, the research indicates that, of the 10 other fire and rescue authorities in England and Wales that still have active companies:
- (a). only two have Members serving as non-executive directors on the Boards of those companies; and
 - (b). of these two, neither pay any SRA in relation to discharging that role.
- 3.14. As previously mentioned, Regulation 5(1)(i) allows for an SRA to be payable for “...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)”
- 3.15. As indicated in Table 1, SRAs currently payable by this Authority in the main relate to being either the full Authority or a Committee Chair (as provided for by Regulation 5(1)(c)). While the company’s articles prevent the Authority-appointed non-executive directors being appointed as Chair of the Red One Ltd. Board, the role unquestionably adds considerable value to the operation of the Board and the confidence of the shareholder (the Authority) and, as a company director, it comes with associated responsibility and potential liabilities. On this basis, the SRAs payable to Chairs in accordance with Regulation 5(1)(c) may provide valid comparators for the purposes of Regulation 5(1)(i).
- 3.16. Regulation 5(1)(e) (meeting frequency/duration) also provides a useful comparator for the purposes of Regulation 5(1)(i). As previously indicated, this was used as the basis for the SRA payable to Members on the [then] Commercial Services Committee, to reflect that it was meeting with “exceptional frequency” i.e. 12 times per year as against an average of four meetings per year for other Committees.
- 3.17. In light of the above, the Authority is asked to determine that the SRA payable in 2021-22 to Authority-appointed non-executive directors on the Board of Red One Ltd. should be set at either:
- (a). the current level of £6,305, which is consistent with the rationale set out at paragraph 3.11; or
 - (b). £4,179, i.e. 1.5 x basic allowance, as recommended by the Independent Consultant (paragraph 3.3) and commensurate with the SRA paid to Members of the [former] Commercial Services (paragraph 3.4); or

- (c). £5,572, i.e. 2 x basic allowance reflecting recognition of additional responsibilities (1 x basic allowance) and meeting frequency (1 x basic allowance).

4. CO-OPTEEES ALLOWANCES

4.1. The Scheme also provides for the following co-optees allowances:

- an independent person appointed as required by Section 28(7) of the Localism Act will receive an allowance of £100 for each standards issue with which they are involved; and
- an Independent Employer Representative appointed to the Local Pensions Board in accordance with the provisions of Section 102(3) of the Local Government Act 1972 and Section 13(1) of the Local Government and Housing Act 1989 will receive an annual co-optees allowance of £500.

4.2. Under the current Scheme, these rates should be reviewed annually but there is no reference to any mechanism for such a review. It is suggested it would be pragmatic, however, to automatically uprate these co-optees allowances as per the basic and special allowances (i.e. in accordance with any “green book” pay award).

4.3. On this basis, the Authority is asked to confirm the co-optees allowances to be payable in 2021-22 at the rates as set out in paragraph 4.1, subject to any automatic annual uprating, with the Director of Governance & Digital Services being authorised to amend the approved Scheme accordingly.

5. REIMBURSEMENT OF TRAVEL AND SUBSISTENCE EXPENSES

5.1. The Allowances Scheme also provides for the reimbursement of travel and subsistence expenses as shown in Tables 2 and 3 below.

Table 2 - Rates Payable for Reimbursement of Travel Expenses

	<i>Rate per mile</i>	
	<i>First 10,000 miles</i>	<i>Above 10,000 miles</i>
Cars	45p	25p
Motorcycles	24p	24p

- 5p per passenger per mile (up to 4 passengers);
- 20p per mile bicycle allowance

5.2. The annual uprating mechanism for reimbursement of travel expenses is by reference to rates published by Her Majesty’s Revenue and Customs (HMRC). It should be noted that “home-to-Service Headquarters” journeys are classified by HMRC as taxable, with any tax element being deducted at source.

Table 3 - Rates Payable for Reimbursement of Subsistence Expenses

Breakfast	£7.00
Lunch	£10.00
Tea	£4.00

Evening meal if returning home after 8.00pm	£12.00
Evening meal if staying overnight	£22.00

- 5.3. The rates payable for subsistence expenses are referenced to the rates and conditions on reimbursement of expenses as per Devon & Somerset Fire & Rescue Service employees in force at the time.

6. CONCLUSION

- 6.1. The Authority Scheme was last subject to a major review in 2019 to inform the Scheme to operate for the 2020-21 financial year and the associated annual uprating mechanism to apply for subsequent years up to and including 2023-24. The next major review should take place in 2023 to allow sufficient time to inform the 2024-25 budget setting process.
- 6.2. The Authority is now asked to consider this report and in accordance with the relevant Regulations to:
- (a). confirm the Scheme to operate for the 2021-22 financial year;
 - (b). authorise the Clerk to the Authority to publish the rates so confirmed in one or more local newspapers circulating in the area served by the Authority.

MIKE PEARSON
Director of Governance & Digital Services