

Appendix 1

Report of the Joint Independent Remuneration Panel to Somerset County Council- Review of SRAs July 2022

1. Introduction

- 1.1 This report sets out the conclusions and recommendations from a light touch review of the Somerset County Council Scheme of Members' Special Responsibilities Allowances for 2022/23 carried out by the Joint Independent Remuneration Panel in June and July 2022.

It builds on the previous reports submitted by the Panel, the most recent 'light touch' review having taken place in December 2021 and January 2022 and considered by the full council in February 2022. The most recent fundamental review having taken place in 2017 and considered on 19th July that year by Full Council.

In this report Somerset County Council is referred to as SCC, the Basic Allowance is referred to as BA and the Special Responsibility Allowances are referred to as SRAs.

The Panel wishes to thank staff at SCC for their invaluable assistance.

2. Executive Summary

- 2.1 The previous light touch review which was considered by full council in February was intended to produce an allowance scheme to run for the last year of the Council's existence as a County Council, that is from 1st April 2022 to 31st March 2023.

Under the new administration following the elections in May 2022, changes have been made to the administrative structure which merits a further review of the Special Responsibilities Allowances (SRAs) for the remainder of the financial year.

It is anticipated that further changes will be necessary after the Council assumes Unitary status, not least to accommodate statutory powers, duties and responsibilities (e.g. planning, housing, licencing) which it will, for want of a better word, inherit from the District Councils.

This review, then, is only intended to cover the interim period, of approximately eleven months, from the adoption of new democratic and executive arrangements in May 2022 to the end of the current financial year, with the annual rates being applied on a pro rata basis.

2.2 This report does not revisit the Basic Allowance (BA), it is only concerned with the SRAs. However, for the reasons set out above, the BA and the SRAs in particular should be reconsidered at the same time as all other allowances (for example travel, subsistence, parental leave and co-options). Our recommendation is that a full fundamental review is undertaken by the Panel to bring recommendations to the Council's meeting in February 2023 seeking approval to a new members Allowances Scheme ahead of the establishment of the new Somerset Council on 1st April 2023.

2.3 The Panel considered that, for the most part, many of the new roles adopted since the election are sufficiently comparable to previous roles which it reported on in February this year, albeit with new nomenclature.

For those roles which are entirely new, the Panel considered from the information available where in the existing banding framework these roles would best sit for the eleven month period between their creation and the end of the financial year.

As always, the Panel is concerned with the **role** and **not** the individual in their assessment of any allowances. Such allowances should reflect what is required of the role and not whether the current incumbent either falls short or 'goes above and beyond'.

The Panel noted that with the advent of 110 councillors in total, its previous concerns about the '50% rule' (whereby the number of elected members entitled to claim an SRA should be in the minority) are no longer an issue, despite the creation of a higher number of roles for which an SRA may apply.

The Panel also noted that whilst the Council had previously adopted the principle that a threshold should be set for the minimum number of members for an SRA to be awarded to the leader of a minority political group (who are not the official opposition), no specific minimum number was adopted.

2.4 The Panel's conclusions are given in section 5 of the report with the recommendations in sections 5.3, 5.4 & 5.5

3. Members' Allowances and Remuneration Panels – the legal position and methodology

- 3.1 By way of an introduction the legal provisions in relation to members' allowances are set out in the Local Authorities (Members' Allowances) (England) Regulations 2003 (SI 1021) and subsequent amendments to the regulations (SI 2003/1022 and SI 2003/1692) ["the Regulations"]. Under the Regulations each Council has to appoint an Independent Panel to make recommendations on its Scheme of Members' Allowances. The Council must have due regard to the recommendations of the Panel before it makes any decisions in relation to its Members' Allowances Scheme, but it may accept, reject, or amend any of the Panel's recommendations. The Regulations provide for a single panel to advise more than one Council [see 3.4 below].
- 3.2 The regulations define a number of basic requirements for allowances schemes but also give considerable scope to allow a council to adopt local provisions according to their circumstances. The only mandatory element provided for, in the Regulations, is the payment of a Basic Allowance to all members of a Council. All the other elements that are currently paid under the scheme, that is, Special Responsibility, Travel, Subsistence and Carers' allowances are discretionary.
- 3.3 The basic principles on which Remuneration Panels work are not set out in statute but there is guidance from the government. On a regional basis South West Councils has also produced a guide aimed at filling a gap in supportive material for the work of Panels. The guide has been reviewed and is in final draft form with publication due in summer 2022, having been originally produced in 2015 and sets out a number of commonly adopted principles used by Panels. The Somerset Panel has considered these and concluded that the following principles should guide their considerations:
- the 50% rule (an expectation that no more than 50% of members of any individual Council should receive an SRA. Government guidance states that "If the majority of members of a council receive a special responsibility allowance the local electorate may rightly question whether this was justified"¹);
 - an individual Member should only receive one SRA at any one time.
 - BA payments should take into account a discretionary voluntary time contribution, as set out in guidance to reflect the community-minded nature of the commitment and maintain the

¹ "New Council Constitutions - Guidance on Consolidated Regulations for Local Authority Allowances, 2003", published by ODPM

difference between a salary and an allowance. The calculation of this varies but, in the past, in line with a number of other Panels, 33%² has been used;

- when considering the payment of an SRA, clarity is needed by both Council and the Panel as to explicit criteria used by the Panel when considering each specific position and whether it qualifies for an SRA, for example, is the position one which requires judgment and responsibility or is it much more of a supporting role but based on substantial additional time and effort; and
- the need to ensure that the level of allowance does not deter potential candidates from standing for election.

The Local Authorities (Members' Allowances) (England) Regulations 2003 state that where allowances are adjusted annually by reference to an index "it may not rely on that index for longer than four years".

3.4 Joint Independent Remuneration Panel: SCC is currently operating a Joint Independent Remuneration Panel alongside Mendip District Council and Somerset West and Taunton Council. The Panel's membership comprises three independent representatives appointed by Somerset and one each by the District Councils. At the time of this review a vacancy naturally arose, which Somerset West and Taunton Council were in the process of filling. All of the members of the Panel are residents of Somerset (although it should be noted that this is not a requirement). The current Panel membership is outlined in brief below for information:

Panel members:

John Dodson

MA in Ceramic Design and Technology from Royal College of Art London. 40 years in Design, Marketing and Sales, UK, all Europe, USSR, Mid East and North America.

Last 14 years Director of J. Wedgwood & sons. Retirement 10 years Chair of Shropshire Seniors Association. John was appointed to the Panel by Mendip District Council the district where he lives.

Bryony Houlden

Chief Executive of South West Councils, a membership organisation of all 33 local authorities in the South West (29 from April 2023 when Somerset becomes a Unitary Council). Formerly a senior civil servant. Serves as a Chair/member or advisor to nine other Local Authority Independent

² The Council, in the past, has used, 33%. This discount on hours 'worked' by councillors reinforces that the BA payment is not a salary paid for employment.

Remuneration Panels in the South West and has advised Devon and Somerset Fire and Rescue Service on their allowance scheme. Bryony was appointed to the Panel by Somerset County Council and lives in the current district of Somerset West and Taunton.

Colin McDonald (Chair)

MA in Housing and Fellow of the Chartered Institute of Housing. Semi-retired after over 30 years full-time employment in social housing, 25 (in total) of these at South Somerset District Council (over two occasions) including several years as Head of Housing & Welfare. Colin was appointed to the Panel by Somerset County Council and lives in the current district of South Somerset. He was Chair of the Panel for the duration of the review but will be withdrawing shortly after publication of this report due to taking up a new part time post with one of the constituent councils.

Alan Wells

39 years' experience in financial services. Specialist in benefit and remuneration structures. Alan was appointed to the Panel by Somerset County Council and lives in the current district of Sedgemoor.

The Panel's former Chair, John Thomson, originally appointed by Taunton Deane Borough Council, also assisted in the early stages of this review until his term of office came to an end.

Technical Advisers to the Panel:

Scott Wooldridge, Monitoring Officer, Somerset County Council

Pam Pursley, Governance Specialist, Democratic Services, Somerset County Council

Laura Woon, Senior Democratic Service Officer, Somerset County Council

Lee Willment, Democratic Services, Business Support, Somerset County Council

- 3.5 The last fundamental review on SCC allowances was carried out in 2017 and was considered by SCC on 19th July that year. Originally, the Panel set in motion a fundamental review to be completed in 2021 and covering the next four years but local government reorganisation changed that plan. When it seemed that the elections that were due in May 2021 might be delayed, the (then) Leader of the Council suggested that a "light touch review" be carried out with a report in February 2021. The Panel produced this report, but it was further deferred to 5th May 2021 (the next meeting). A further 'light touch' review was undertaken between December 2021 and January 2022 which was intended to produce a scheme of allowances for

the final year of the County Council; this was reported to Full Council in February this year.

The election held in May 2022 doubled the total number of members elected, initially, as County Councillors who then, from 1st April 2023, will take on full statutory powers and responsibilities as the Unitary Council. This means that initially they fulfil the functions as county council members but will assume a wider breadth of responsibilities as the new Somerset Council undertakes all of the existing county and district councils' functions. The Panel's report in February 2022 included a recommendation for the Basic Allowance (BA) for the period between May 2022 and 31st March 2023. This report does not revisit the BA and is concerned solely with a review of the SRAs, which are traditionally set as a multiple of the BA. Instead, the BA, and other allowances (such as travel, subsistence, carers and co-options) should be the subject of a fundamental review looking at the period 1st April 2023 onwards. The Panel recommendations that are made as part of a fundamental review can be carried forward for a period of four years, i.e. to 31st March 2027, if a measure of inflation is included in the recommendations. However, best practice would suggest that light touch reviews continue to be regularly undertaken, such as annually.

Whilst the last light touch review intended to produce an allowances scheme that would run for the last year of the council's county status (1st April 2022 to 31st March 2023), the changes made to the council's democratic and executive arrangements by the new administration merit a further review of the SRAs. In its previous report the Panel pointed out that it could only assume that the then current SRA roles and responsibilities would remain unchanged and could not predict how they might change in the event of a change of control of the Council. Given the forthcoming fundamental review of the entire scheme ahead of the establishment of the new unitary council, the Panel considered that a light touch review was appropriate for the remaining eleven months.

- 3.6 Although the number of roles which may merit a SRA has increased under the new democratic and executive arrangements, it is recognised that the overall number of councillors has doubled. The Panel is no longer concerned about the potential breach of the '50% rule' given the relative number of roles that may merit a SRA.

4 Special Responsibility Allowances (SRA)

4.1 Section 5 of the Local Authorities (Members' Allowances) (England) Regulations 2003 states that an authority "may provide" for the payment of an SRA to members of the authority in one of the following categories:-

- Leader or deputy leader of a political group;
- Members of an executive;
- Chair of a committee or sub-committee;
- Representative of the council;
- Member of a meeting with exceptional frequency / period;
- Spokesman of a political group;
- Member of an adoption or licensing panel; and
- Any other activity requiring time and effort equal to, or greater than, the roles listed above.

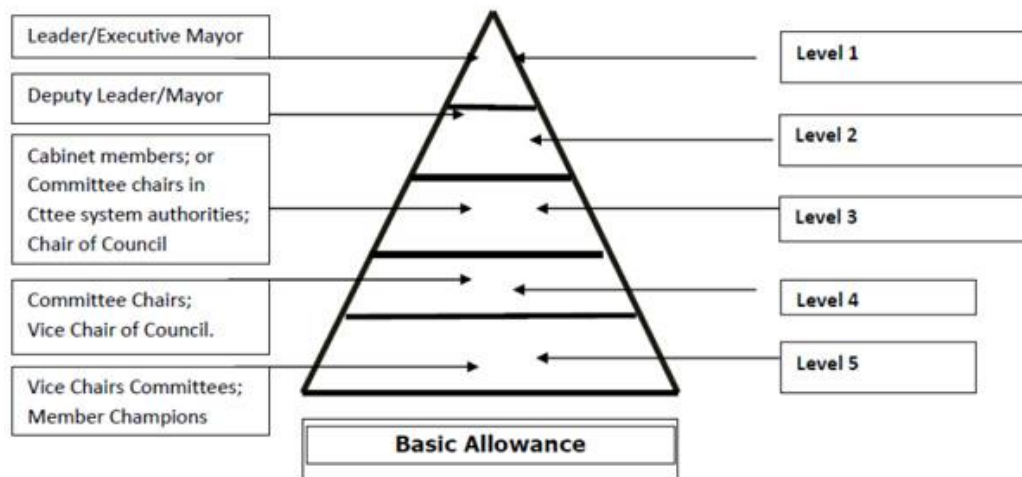
So, whilst an authority must provide a BA to all members, it may, if it wishes, provide SRAs for members with special responsibilities.

It is the firm belief of the Panel that SRAs are justified for the principal roles at the council in view of the responsibilities involved and the time and effort required in carrying them out.

4.2 The Panel has adopted its own methodology for assessing "special responsibilities" which extends the identified categories set out in statute and takes account of the Guidance produced by SW Councils for authorities in the region. In the view of the Panel a particular responsibility might be deemed "special" if it is characterised as having some of, or elements of, the following components, but recognising that particular roles established by councils may well exhibit a range of component characteristics.

- (1) Time commitment
- (2) Specialist skills
- (3) Functional Leadership
- (4) Important decision-making
- (5) Complexity
- (6) Identifiable accountability
- (7) Direct responsibility for important outcomes
- (8) Culpability
- (9) Constitutional relevance

- 4.3 The existing scheme has been in place since 2013 and includes a “pyramid of responsibility” which defines certain roles. The “level” determined for a role gives (a) comparison with other roles and (b) a level of payment. The following diagram illustrates the concept and is taken from SW Councils publication “Councillors’ Allowances: A practical guide for those involved in the work of Independent Remuneration Panels”.



As with many councils, SCC currently calculates payment at various levels by reference to a multiple of the BA, so, for example, the Leader on level 1 receives an additional payment of three times the BA. This has been the case since 2013.

It is the **role** which attracts the SRA, **not** the individual, and so the description of the role is the important thing. Performance is not formally assessed by the Panel (or any other body, apart from the electorate) and so performance related payments are not appropriate or applicable!

- 4.4 In determining whether an SRA is appropriate for a role, it is important to ask whether the role is (a) outside the scope of the BA (see section 4.1 above), and (b) formally recognised by the Council and (c) included in the list in the 2003 Regulations. If the role satisfies **all** these criteria, and other criteria identified by the Panel as relevant (see 4.2 above), then the role **may** merit an SRA.

Having identified a role as qualifying for an SRA then the level of responsibility (and how the role fits into the pyramid, above) has to be set.

- 4.5 In its previous review of the SRAs the Panel looked at the published SRAs available in the top ten ‘nearest neighbour’ or ‘peer’ Councils, as determined by data produced by the Chartered Institute of Public Finance Accountancy (CIPFA). Looking at that benchmarking data, the Panel found

a remarkable correlation between the average (mean) of the top ten peer group of Councils and the SRAs then in place at SCC. For the purposes of this light touch review that peer group remains relevant, although it should be noted that in future, once the Council has assumed full Unitary status, a different set of 'nearest neighbours' would be more appropriate to apply. In February 2022 the Council confirmed most (but not all) of the Panel's recommendations, resulting in the scheme of SRAs described in the table below.

Table 1 Current scheme of SRAs

Band	Multiple of BA	Roles
1	3	Leader
2	1.79	Deputy Leader
3	1.6	Cabinet Member
4	0.9	Opposition Leader Chair of County Council
5	0.6	Chairs of Regulation, Audit, Scrutiny
6	0.2	Chair of Pensions Committee Chair of Constitution & Standards Committee Vice-Chair of County Council Vice Chair of Regulation, Audit and Scrutiny Committees Junior Cabinet Member**
7	0.1	Opposition Group Spokespersons Deputy Leader Opposition Group Minority Group Leaders*

*subject to a minimum number of members (as yet unset)

**Panel recommended moving this role to Band 7; Council resolved to move to Band 6 but review after the May elections.

4.6 The Panel had previously recommended, but the Council did not agree, that three roles should be removed from the SRA scheme completely, these being:

- Vice Chair of Regulation
- Vice Chair of Audit
- Opposition Group Spokespersons

The Panel had identified these roles as having the weakest case for retaining an SRA based on the comparison with the peer group of Councils. In February 2022 the Panel had identified that the overall number

of SRAs exceeded the '50% rule' by six. The Panel accepts that it's previous concerns over breach of the '50% rule' are now rendered irrelevant due to the increased number of councillors overall. However the Panel would wish the Council to remain mindful of the '50% rule' into the future, especially if the additional statutory powers and duties due to be transferred from the District Councils (such as planning, housing and licencing) result in an increase in the overall number of roles that may merit an SRA. The 50% rule relates to always ensuring the appropriateness of roles attracting allowances and therefore the expenditure of public money, Government Guidance suggests the test as to whether the public might 'raise an eyebrow' if more than 50% of councillors in an authority are entitled to an SRA.

4.7 The Panel has considered the new administration's democratic and executive arrangements which have been put in place following the May 2022 elections and the change in control. In an ideal world the Panel would have time to look at the roles in depth and, as it has done in the past, interview some of the post holders to get a better gauge of what each role actually entails (see 4.2 above) in addition to some further peer council comparisons. However it is mindful that this review will only be relevant for just under eleven months, from the point of appointment into the new roles until the end of the financial year. For the new Council, a fundamental review of the entire scheme (including the BA and the other allowances) is required by February 2023. It has therefore taken the view that a light touch review is justified.

4.8 The Panel has, therefore, attempted to 'map' the new roles onto the existing framework, taking the view that for some roles it is largely the nomenclature that has changed and other, newer, roles have a clear comparator (for example further iterations of Scrutiny). If, however, a more fundamental shift has occurred between old and new roles, then this will be revealed by the forthcoming fundamental review with recommendations for changes to be considered by the Council at its meeting in February 2023. To be clear the Panel is not intending to suggest any changes to the current bandings or the multiples of BA that apply.

The Table below shows where the Panel would expect the new roles to fall into the existing SRA framework.

Band	Multiple of BA	New Roles	Old Roles (for Comparison)
1	3	Leader	Leader
2	1.79	Deputy Leader	Deputy Leader
3	1.6	Lead Member	Cabinet Member
4	0.9	Opposition Leader Chair of County Council	Opposition Leader Chair of County Council
5	0.6	Chair of:- -Audit Committee -Regulation Committee - Scrutiny for Policies, Adults and Health -Scrutiny for Policies, Children and Families -Scrutiny for Policies and Environment -Scrutiny for Policies and Place -Scrutiny for Local Government Reorganisation Committee	Chairs of Regulation, Audit, Scrutiny
6	0.2	Chair of:- - Constitution and Governance Committee - Pension Fund Committee - Standards Committee Vice-Chair of County Council Vice Chair of Regulation, Audit and Scrutiny Committees	Chair of Pensions Committee Chair of Constitution & Standards Committee Vice-Chair of County Council Vice Chair of Regulation, Audit and Scrutiny Committees Junior Cabinet Member
7	0.1	Associate Lead Members Deputy Leader Opposition Group Minority Group Leaders Vice Chair Constitution and Governance Committee	Opposition Group Spokespersons Deputy Leader Opposition Group Minority Group Leaders

Table 2 Proposed arrangement of SRAs and comparison with previous system

- 4.9 In the previous report the Panel had recommended that the roles of Vice Chair of Regulation and of Audit should no longer receive an SRA. Our report pointed out that SRAs for vice chairs were rare in the peer group and thus we had identified these two roles as having the weakest case for retaining and SRA. One consideration was the apparent breaching of the '50% rule' and the need to reduce the overall actual number of SRAs. As previously stated, with SCC now expanded to 110 members, our previous concerns about the breach of the 50% rule are no longer valid. The Panel therefore accepts the Councils wish to retain these within band 6 for the remaining 11 months and notes that these roles will be looked at in more depth during the forthcoming fundamental review. The Panel reviewed the SRA for the new Vice Chair of Constitution and Governance Committee and recommend that this is a band 7 role (as the Chair is a band 6) for 2022/23 noting that further review of the role will be undertaken as part of the proposed fundamental review later in 2022.
- 4.10 In the previous report the Panel had recommended that the roles of Opposition Spokespersons be removed from the scheme of SRAs. Although the concern about the 50% rule is no longer a factor, the Panel remains of the view that, whilst these roles are important, they remain insufficiently so to merit an SRA. Only three of the peer group of Councils felt that they were. The Panel therefore stands by its original recommendation that these roles are removed from the scheme of SRAs and reserves its position to review them in more depth under the forthcoming fundamental review.
- 4.11 In the previous report the Panel had recommended that the role of Junior Cabinet Member be set at Band 7, whilst the Council resolved to set these at Band 6. The Panel considers that the role of Associate Lead Member is sufficiently similar to the previous role of Junior Cabinet Member. Such roles were only awarded an SRA in two of the peer group of Councils and the Panel previously noted that they lack any individual decision making responsibilities. The Panel therefore recommends that the role of Associate Lead Member is set at Band 7.
- 4.12 In February 2022 the Council agreed to adopt the principle that there should be a minimum number of members to a minority group to merit an SRA being payable to the leader of that group, but did not set an actual minimum number. The Panel believes that without setting such a threshold, the principle is rendered redundant and would urge the Council to do so, whilst recognising that such a decision would have ideally been taken before the outcome of the recent elections was known.

When previously considering this, the Panel had ten peer Councils in the report, four of which have minimum numbers of members of a political group required to warrant paying an SRA, ranging from 2 to 9. We previously stated *"It is the Panel's view that this suggestion is worth discussion, even if, with only a little over a year to go, it may seem unnecessary. Given that the Unitary Council will have 110 members, it seems sensible to have a minimum set, for example, 5."*

The Panel noted that the Council did not set a minimum number at its meeting in February and therefore recommends that the number should be set at five, being the mid point of the range within the four peer Councils that set a minimum and representing approximately 4.5% of the total council make-up (110 members)

5 Conclusions and recommendations

5.1 The Panel considers that a light touch review of the scheme of SRAs for the Council is appropriate given that these will only be in place for slightly under eleven months from the point of appointment to the end of the current financial year and given that they will be reviewed again in the forthcoming fundamental review.

5.2 The Panel considers that, within these parameters, it is safe to assume that the new roles fit within the existing adopted framework, that there is no need to review the multiples (of BA) that apply to each banding.

5.3 **It is recommended that** the Council supports the need for a fundamental review of the scheme of allowances for 2023/24 and for this to be reported to the Council by February 2023. It is suggested that this review is considered in three parts:

1. The BA
2. The SRAs
3. Other allowances, such as travel, subsistence and carers

With the BA being considered soonest. The role of co-options, including Panel members themselves, should also be considered and this could fit within either part 2 or part 3.

5.4 **For the current year the Panel recommend that: -**

1. The role of opposition spokesperson should no longer receive an SRA
2. The SRA for Associate Lead members be set at Band 7
3. Other roles are awarded the SRA bandings shown in Table 2 above.
4. A minimum number of minority group members be set at five before the leader of such a group merits an SRA

- 5.5** **It is recommended that** the Council undertakes the necessary work to ensure that an Independent Remuneration Panel is in place for the new unitary council for 1 April 2023 and that in terms of membership the Council considers:
- a) people who reside in Somerset and drawn from the existing panels operative in the county at present;
 - b) a wide geographical spread of members from across the county;
and
 - c) a membership of five.

Colin McDonald
Chair

1st July 2022