

REPORT OF THE INDEPENDENT PANEL ON THE REMUNERATION OF MEMBERS OF NORTH YORKSHIRE COUNTY COUNCIL

December 2012

Executive Summary

The Panel considered the financial prospects of the County Council in 2013/14, and a range of other information as set out in our report. In terms of our key role of recommending changes to the Members Allowance Scheme to the Council, we are making the following recommendations:

- (a) No increase to the Basic Allowance.
- (b) No increase to the main scheme of payments for Special Responsibility Allowances (SRA) and Co-optee allowances.
- (c) A need to reflect some changes in the arrangements that the Council has put in place to manage its business, and in particular:
 - an SRA for an additional Executive Member, reflecting the move back to an Executive comprising the Leader of the Council and seven Executive Members.
 - changes to the arrangements for the newly constituted Standards Committee.
 - the creation of the new Police and Crime Panel.
 - an approach to dealing with the new Health and Wellbeing Board, although this does not lead to the payment of an additional SRA.
- (d) No changes to the scheme for travelling and subsistence allowances, with a recommendation that these continue to be aligned to the Officers Scheme. Since there have been no increased rates payable to Officers over the last 12 months and no changes are planned, it follows that there will be no increases for Members at this time.
- (e) Some consequential minor changes to the Scheme of Approved Duties for the payment of travelling and subsistence and other allowances.

1.0 Introduction

1.1 The membership of the Panel in 2012 is as follows:-

Mr Trevor Nuttall Appointed 2010	-	Trustee and Administrator of the Trust for Education, Chairman of Chapel Allerton Tennis and Squash Club. Formerly Chief Executive of Yorkshire and Humberside Development Association, Consultant with Arthur Andersen, Chief Executive Leeds Financial Services, School Governor
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Mrs Denise Wilson Appointed 2010	- Retired Policy Manager/lobbyist and former local government officer. Currently holds positions on a number of community and trust organisations.
Mr David Kirby Reappointed for one year 2012	- Accountant, Deputy Chairman of South Tees Hospitals NHS Foundation Trust and former local government officer.

- 1.2 Following the completion of the Panel's business in 2011, the intention had been for the Council to seek two new members to replace the previous Chairman, Clive Leach, and member David Kirby. These new appointments were to be made in advance of the work of the Panel in 2012.
- 1.3 It was not possible to make new appointments due to the response to the recruitment, probably because of the alignment of the recruitment exercise alongside a wider exercise that the Council undertook to seek other independent persons to act on the newly constituted Standards Committee, and the Police and Crime Panel.
- 1.4 The legislation requires a Panel to have a minimum of 3 members. In the circumstances, the Council invited David Kirby, a previous member of the Panel from 2002 to 2011, to rejoin the Panel for one year, and we were pleased to welcome David back for this year's review.
- 1.5 The Panel met on one occasion to consider its recommendations for the Scheme to apply from April 2013. It was agreed that Trevor Nuttall should chair the Panel for the current year.
- 1.6 Our Terms of Reference are as follows:-
- (i) To consider issues relating to Members' remuneration and expenses
 - (ii) To consider representations; and
 - (iii) To make recommendations and provide advice to the County Council.

2.0 Background

- 2.1 We have considered background papers on issues relating to:
- Progress made on implementing our recommendations made last year
 - Overview of the County Council's Performance over the last 12 months
 - Ethics/Standards Update
 - Members' Attendance at meetings
 - Pension Scheme Issues
 - Basic, Special Responsibility Allowances and Co-optee Allowances
 - Travel and Subsistence and Other Allowances

2.2 We received a briefing from your Chief Executive on some of the current issues and challenges facing the County Council. This included an overview of the current financial position of the Council, including the prospects for the next two years. We were informed of the way in which the County Council and its staff are meeting the challenges of the continuing tight financial framework within which the Council is operating.

3.0 Implementing the 2011 recommendations of the Panel

3.1 The Panel were pleased to hear that their recommendations made in 2011 in respect of the Members Allowance Scheme for 2012/13, had been accepted in full by the County Council.

3.2 Whilst not part of the formal remit of the Panel, we had been asked to comment on an issue relating to payment of expenses to appointed members of Education Appeals Panels. We had expressed some concern at the implications of making changes to that Scheme since these would lead to a difference between the rates paid to members of those Panels, compared with those paid more generally to elected Councillors and other co-opted Members covered by the Members Allowances Scheme. It was, however, our view that balancing the needs of the Appeals Panel members and the Members allowance scheme was a judgement for the Council to make and not this Panel. We were informed that the matter had been considered carefully by the County Council and that a decision had been taken in February 2012 to increase the payment to Education Appeal Panel members to 45p per mile, in line with the HMRC rate for taxation purposes at that time. We were informed that the Council had accepted that there were special circumstances that justified this decision, and that it was not to be considered as a precedent for any change to the main Members Allowance Scheme. We are satisfied from our discussions in the Panel this year, that this does appear to be the case.

3.3 Other matters discussed last year, including issues concerning the recording of additional meetings attended by Members, were returned to in our discussions this year, and are covered later in this report.

4.0 Overview of the County Council's Performance over the last 12 months

4.1 The Panel were made aware of further changes to the performance management regime since our previous consideration of these matters.

4.2 We received a report describing the outcomes of the reviews carried out over the last 12 months under the current national inspection frameworks. The information shows that the County Council continues to perform well with evidence of improvement in key areas such as Children's Safeguarding, and compare favourably with the information provided on the national position.

4.3 We also received information on other performance information collated by the Council.

5.0 Update on Ethics and Standards

- 5.1 The Panel received a report on the new arrangements for the Standards Committee introduced during 2012 in the light of the Localism Act 2012.
- 5.2 Whilst the change means that the former statutory requirement for such a Committee is no longer in place, the Council has decided that such a Committee continues to be an appropriate part of its overall governance arrangements, although it will operate on a "lighter touch basis" meeting twice a year unless required to deal with specific complaints.
- 5.3 We noted that the Chairmanship of the Committee is now seen as a role for a County Councillor, and that two Independent Persons have been appointed to the Committee. We considered the implications of these changes for the Members Allowances Scheme, and in particular Special Responsibility Allowances and Co-optee Allowances as part of our consideration of these matters, referred to later in this report.
- 5.4 Authorities must have a Code of Conduct, and whilst the new arrangements allow more discretion, we noted that the Council has agreed a new Code based largely upon the previous national model code, but incorporating registration of interests requirements on disclosable pecuniary interests in line with the new regulations.
- 5.5 The new arrangements are based on a different role for the Council's Monitoring Officer, supported by the Independent Persons on the Committee, to give initial consideration to any complaints received, and determine any further action required. Since the new arrangements were implemented in July, there have been three complaints in relation to Members. Two of these required no further action after initial consideration. Another complaint, has been the subject of investigation and report to the Standards Committee. The Committee determined that no further action was required arising from consideration of this complaint.

6.0 Members Attendance

- 6.1 We reviewed the level of Members engagement and attendance at the main meetings of the County Council. We were pleased to see that overall attendance had been maintained at 85% in 2011/12, the same level achieved in 2010/11. Whilst there had been a small reduction in the attendance achieved at meetings of the County Council itself, improved attendance had been recorded for both Executive and Scrutiny meetings.
- 6.2 Overall, attendance levels were considered to be satisfactory. We noted that 85% of Members achieved attendance of a minimum of 75% of meetings. For a number of years, the Panel has considered that level to be a reasonable minimum expectation for attendance. This means that only 15% or 11 Members have not reached that threshold. The Panel also noted that Members are from time to time involved in other essential meetings, often for County Council purposes, which can affect their attendance at some formal meetings and therefore attendance levels. This is referred to further below. The Panel did however note the particularly low level of attendance for one Member of the Council.

- 6.3 A number of Members have raised the issue that on some occasions at least they were not able to attend meetings because they were undertaking other unavoidable Council business on the date of that meeting. A proposal had been made, therefore, that Members be given the option of recording such occasions, which might then be included as a note to the annual report published on Members Attendance and Allowances.
- 6.4 Whilst accepting that there would be some merit in this approach, we were concerned that the criteria that should be adopted for determining unavoidable business should be tightly drawn. We consider that if the Council is to introduce such an approach, it must do so on the basis of publishing some clear guidance to define these circumstances.
- 6.5 We noted the position taken on developing an additional list of meetings that might be published alongside the overall attendance record. We were informed that the draft list of meetings is to be considered by the Council's Constitution Working Group to determine how the list might be used to illustrate the broader commitment of elected members. We look forward to considering this matter again at a future meeting of the Panel
- 6.6 Last year, we considered a draft document that described the wider role of the elected Member. Our view was that the note might benefit from being more summarised. We were informed that this had been considered further, but the view had been taken that summarising might have the effect of removing detail on key aspects of the Member's role. It was suggested, therefore, that a longer document would be helpful because it was able to give this fuller picture.
- 6.7 We endorsed the principle of having a clear statement of the Member's role, in a way that was accessible to the wider public. We asked that further consideration be given to how the document might be used. For example, could it form part of the Council's Constitution? To what extent could it be widely publicised through the Council's communications with the public? In particular, we consider that it would be helpful for this information to be made available to the public in advance of the Council elections in May 2013.
- 6.8 We received and noted information on the extent of training available to Members over the last 12 months. As previously, this represented a wide range of differing topics, particularly those picked up as part of Members Seminars.

7.0 Pension Scheme Issues

- 7.1 We received an update on scheme membership. The position on scheme membership remained as reported last year, with 28% of Members being in the Scheme. Whilst this appears to be a relatively low take up, we noted that membership of the scheme is voluntary.
- 7.2 We queried whether the new legislation regarding auto enrolment to pensions schemes would affect scheme membership for Councillors. A national interpretation of the legislation has concluded that this will not impact on this group of potential scheme members.

7.3 We were informed that there had been no requirement to apply the scheme of discretionary elements, over the last 12 months.

8.0 **Basic Allowance**

8.1 We consider that the long standing approach of using the concept of units of responsibility to determine allowances should continue. This is a simple way of recognising the differing levels of responsibility amongst Members i.e. to base allowances on units of responsibility - the greater the level of responsibility, the more units the particular role would attract.

8.2 In relation to the Basic Allowance, we received information about the level of allowances paid in other Local Authorities within the County Council's comparator group. In line with the position taken by the Council, no other authority in that group had increased the Basic Allowance in 2012/13 compared with 2011/12. The relative position of the Council within this group of 16 counties had stayed at 9th for the fourth year. The relative financial position is that the North Yorkshire Basic Allowance is 4.1% below the average for the group.

8.3 The Panel considered that there is no case on the grounds of either comparability or changing role, for the number of units of responsibility to be reviewed, and that our consideration this year should be restricted to considering the case for an increase in the value of a unit. In view of the information we received on the financial position of the Council, we believe that affordability is the key issue in considering the case for any increase.

8.4 We were informed that there had been no pay award to Council staff for the last three years, and that, whilst the position in 2013/14 is not yet clear, any increase is likely to be low, and that the Council is currently basing its budget work allowing for a 1% pay award. We were informed of a range of other changes that had been made to staff terms and conditions over this period including the requirement for most staff to take two days unpaid leave per year and the reduction in the number of enhanced payments for example for overtime.

8.5 We noted that price inflation has continued to run at a high level, and that this is likely to continue into the immediate future.

8.6 We also considered the background to the general economic situation, and the financial prospects for the Authority, as shared with us by the Chief Executive.

8.7 Taking account of all the factors, it is our view that a NIL increase is justified at this time, and this is our recommendation to the County Council.

8.8 In summary, the Panel is recommending that the Basic Allowance from 1st April 2013 is based on 5.825 units and at a unit value of £1,544. This would lead to a Basic Allowance of £8,994, i.e. the same amount payable since 2009/10.

9.0 Special Responsibility Allowances and Co-optee Allowances

- 9.1 The Panel believes that the system based on units of responsibility continues to be appropriate. The review of the County Council's Special Responsibility Allowances (SRA) compared with those in the comparator group of counties was considered, although it was recognised that the definitions of roles and hence the responsibility undertaken, could clearly vary across different authorities. As with the Basic Allowance, we noted that in general Authorities had not increased their payment in 2012/13, mirroring the position in North Yorkshire. There was only one significant change related to one authority where the previous member structure had been amended to one in which a Committee system has been reintroduced. The comparator data also reflected the uncertainty during 2012/13 on future arrangements for Standards Committees, and it was noted that no reliable comparator data was available for the role of Chair of a Standards Committee in that year.
- 9.2 In terms of the comparative position, it was noted that the payments to the County Council were, in all cases, in the third or fourth quartile.
- 9.3 We were informed of a number of matters that needed to be considered because of new or changed roles which impact on the payment of either an SRA or a co-optee allowance.
- 9.4 We considered the decision taken to review the **portfolio roles on the Executive**, and to increase the size of the Executive in May 2012, returning it to the number of posts that had been in place up to July 2010. At the time of the initial reduction in numbers, we noted that no increase had been made to the relevant SRAs to reflect the reduced size of the Executive. The additional post has been paid at the usual SRA rate for an Executive member. The reason for this decision was the level and complexity of the workload across different portfolios, and the recognition that the previous reduction of one position on the Executive had impacted on effectiveness. Given the background to the earlier review, and the revised position from July 2012, we were happy that the existing number of units attached to the roles of Executive Members continues to be appropriate, and no changes are proposed for 2013/14.
- 9.5 We considered the implications of **roles on the new Standards Committee**. The Chair of the previous Standards Committee had been allocated to one of the Independent Members, and had been paid as a co-optee allowance based on two units of responsibility. We were informed that the new Standards Committee meets on only two occasions per year, unless specific urgent business arises, and that the revised complaints handling arrangements have an impact on the responsibility level of the Chair bearing in mind the new role for the Council's Monitoring Officer. We consider, therefore, that the proposal to pay an allowance based on one unit of responsibility is appropriate, and since this is a role taken by a County Councillor, that this should become a new Special Responsibility Allowance. The equivalent co-optee allowance should be deleted.
- 9.6 The new arrangements include roles for two Independent Persons, who are not co-optees, replacing the previous Independent Member role. Because of the role of these individuals in dealing with the first stage of the complaints process, we consider that the previous allowance to Independent Members based on half a unit of responsibility, should continue at that level for a new Independent Person role.

- 9.7 We were informed that the arrangements for the new Committee have been put in place during 2012/13, and we consider it appropriate that the proposals that we are making for the 2013/14 scheme should also apply during 2012/13 for the period from which the new arrangements commenced.
- 9.8 We considered the arrangements being put in place for the **Health and Wellbeing Board**. This is an important and significant additional responsibility for the Council. We noted the proposed approach, in which the Leader of the Council has taken the role of Chair of the Board during its shadow period, with the intention that he will continue in that role once the Board takes up its formal responsibility in April 2013. We also noted that there was no recommendation at this time to review the level of the Leader's responsibility allowance. We would endorse that approach, but consider that this is a matter that the Panel will need to review in future years in the light of experience of the workload of the Board.
- 9.9 Other than the Police and Crime Panel, dealt with below, we concluded that there was no case for a change in any of the units of responsibility linked to any of the other Responsibility Allowances, and that these should continue as in the current year.
- 9.10 Following the previous approach, the value of the unit should be set in line with the value attached to the Basic Allowance. It follows, therefore, that we recommend no increase in Special Responsibility Allowances for 2013/14. The proposals for each allowance, reflecting that NIL increase are shown in **Appendix 1**.

10.0 Allowances for the Police and Crime Panel

- 10.1 The Panel received a report on the background to the new Police and Crime Panel and how the work of the Panel will be funded.
- 10.2 We were informed of the role of the County Council, as Administering Authority of the Joint Committee. In particular, decisions on any Special Responsibility Allowances paid to members of the Panel need to be made on the recommendation of the Independent Panel of the Administering Authority.
- 10.3 The Panel's role is broadly a scrutiny role rather than an executive role, although it has specific powers of veto in relation to the setting of the precept by the Police and Crime Commissioner (PCC), and also on certain appointments, most notably that of the Chief Constable.
- 10.4 The Panel also has the responsibility for ensuring the proper handling of complaints against the PCC.
- 10.5 Taking these factors into account, we concluded that the leadership and commitment expected of the Chairman and the two Vice Chairmen is analogous to that of a County Council Scrutiny Committee. We recommend, therefore, that the role of Chairman is paid an SRA equivalent to three units of responsibility, with the Vice Chairmen each paid on the basis of one unit of responsibility. This would give allowances at current rates of £4,632 and £1,544.

- 10.6 Other Members of the Panel will be nominated Councillors from the constituent authorities in York and North Yorkshire, including the seven District Councils. The agreement reached as part of developing the arrangements for the Panel, is that travelling and subsistence allowances for all elected Councillors on the Panel will be met by their own authority.
- 10.7 There are two positions on the Panel for Independent Members. It is not proposed to pay a co-optee allowance to these individuals. The cost of any travelling expenses incurred by these Independent Members would, however, be met by the County Council through the relevant grant. It is appropriate that these payments are made under the terms of the North Yorkshire County Council Members' Allowances Scheme. A provision of £400 has been made for these costs.
- 10.8 Hence only the cost of the Special Responsibility Allowance and the Independent Member expenses will need to be met by the County Council as host authority, recharged to the Police and Crime Panel budget and an overall provision of £8,120 has been made for this purpose.
- 10.9 The Panel met in shadow mode in advance of the election of the Police and Crime Commissioner, but took on their role formally at a first meeting held on the 22nd November 2012. We recommend that the allowances noted above should be paid from that date, and should be reflected formally in the Council's scheme of Special Responsibility Allowances for 2013/14.

11.0 Travel and Subsistence Allowances

- 11.1 Most aspects of the Scheme are aligned with those payable to officers of the Council. We were informed that there had been no changes to the arrangements for officers over the last 12 months, and that there were no current proposals for change in the future. In particular, we were informed that the review of the mileage allowance paid to officers, in advance of the 2012/13 financial year, have not led to any increase because of affordability issues.
- 11.2 We consider that the alignment with the Officers scheme continues to be appropriate. On that basis, no changes need to be made to the Scheme for 2013/14.

12.0 Child Care and Dependent Carers Allowance

- 12.1 We noted that one member of the Council takes advantage of the childcare allowance scheme, and no member takes advantage of the dependent carers scheme.
- 12.2 The terms of these schemes align the rates payable to the relevant national minimum wage, or the rate for homecare charges made by the Council's Health and Adult Services.
- 12.3 We consider that the wording of the scheme remains appropriate.

13.0 Approved duties for the payment of travelling and subsistence and other allowances

13.1 The creation of the Health and Wellbeing Board and the Police and Crime Panel means that it is appropriate to reflect these formally in the Scheme of Approved Duties.

13.2 We were also informed that questions raised during 2012/13 about the status of political group meetings means that it is appropriate to amend the Scheme of Approved Duties to clarify that such group meetings are not to be classed as an approved duty for the claiming of travelling and subsistence allowances.

13.3 Our proposed amendment to the scheme, highlighting these changes, is attached as **Appendix 2**.

14.0 Public Consultation

14.1 Some years ago, the Panel took steps to consult the public and other stakeholders, including Members of the Council, about issues that they might wish the Panel to consider. We discussed whether there was a need, at this stage, to think again about undertaking such an exercise. We concluded that such an exercise was not justified at this stage.

TREVOR NUTTALL
Chairman of the Panel

December 2012

Special Responsibility Allowances, Co-optee Allowances, and Allowances for the Police and Crime Panel

	<u>NO OF UNITS</u>	<u>ALLOWANCE</u> £	<u>Number Of Allowances</u>	<u>COST OF ALLOWANCE 2012/13</u> £	<u>COST OF ALLOWANCE 2013/14 at current units and values</u> £
Value of a Unit		1,544			
SPECIAL RESPONSIBILITY ALLOWANCES - NYCC					
Chairman of the County Council	6	9,264	1	9,264	9,264
Vice Chairman of the County Council	2	3,088	1	3,088	3,088
Leader of the County Council	16	24,704	1	24,704	24,704
Deputy Leader	10	15,440	1	15,440	15,440
Other Executive Members (increase from 5 to 6 from 16/5/2012)	9	13,896	6	81,663	83,376
Chairman Of Health Overview and Scrutiny Committee	6	9,264	1	9,264	9,264
Chairman of Other Overview and Scrutiny Committees	3	4,632	4	18,528	18,528
Vice-Chairman of Overview and Scrutiny Committees	1	1,544	5	7,720	7,720
Chairman of Area Committee	2	3,088	7	21,616	21,616
Chairman of Planning and Regulatory Functions Committee	2	3,088	1	3,088	3,088
Chairman of Appeals Committee	2	3,088	1	3,088	3,088
Chairman of Employment Appeals Committee	1	1,544	1	1,544	1,544
Chairman of Pensions Committee	3	4,632	1	4,632	4,632
Chairman of Scrutiny Board	1	1,544	1	1,544	1,544
Chairman of Audit Committee	2	3,088	1	3,088	3,088
Chairman of New Standards Committee (Proposal from 29/10/12)	1	1,544	1	1,303	1,544
Champion for Young People	3	4,632	1	4,632	4,632
Champion for Older People	3	4,632	1	4,632	4,632
<u>Leaders of Political Groups</u>					
Second largest group membership (Liberal Democrats)	3	4,632	1	4,632	4,632
Third largest group membership (Independent)	1.5	2,316	1	2,316	2,316
<u>Secretaries of Political Groups</u>					
Largest Group Membership (Conservatives)	1.5	2,316	1	2,316	2,316
Second largest group membership (Liberal Democrats)	1	1,544	1	1,544	1,544
Third largest group membership (Independent)	0.5	772	1	772	772
CO-OPTEE ALLOWANCES - NYCC					
Chairman of Former Standards Committee (up to 30/6/2012)	2	3,088	1	777	0
Independent Members of the Former Standards Committee (up to 30/6/2012)	0.5	772	3	576	0
Independent Persons on the New Standards Committee (Proposal from 18/7/2012)	0.5	772	2	1,087	1,544

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Total Special Responsibility Allowances	41	230,418	232,372
Total Co-Optee Allowances	2	2,440	1,544
Total	43	232,858	233,916

SPECIAL RESPONSIBILITY ALLOWANCES - POLICE AND CRIME PANEL					
Chairman of the Panel	3	4,632	1	2,934	4,632
Vice Chairmen of the Panel	1	1,544	2	1,956	3,088
Total Special Responsibility Allowances			2	4,889	7,720

Special Responsibility Allowances, Co-optee Allowances, and Allowances for the Police and Crime Panel

	<u>NO OF UNITS</u>	<u>ALLOWANCE</u> £	<u>Number Of Allowances</u>	<u>COST OF ALLOWANCE 2012/13</u> £	<u>COST OF ALLOWANCE 2013/14 at current units and values</u> £
Value of a Unit		1,544			
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Vice Chairman of the County Council	2	3,088	1	3,088	3,088
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Total	43	232,858	233,916

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Vice Chairmen of the Panel	1	1,544	2	1,956	3,088
Total Special Responsibility Allowances			2	4,889	7,720