



Northern Ireland  
Assembly

**Assembly and Executive Review Committee**

**Report on the outcome of the independent  
*Review of the adequacy and effectiveness of the  
Statement of Entitlements for an Official  
Opposition at the Northern Ireland Assembly***

Together with the Independent Review Report, Written Responses,  
Minutes of Proceedings of the Committee and Minutes of Evidence

This report is the property of the Assembly and Executive Review Committee. Neither the report nor its contents should be disclosed to any person unless such disclosure is authorised by the Committee.

**THE REPORT REMAINS EMBARGOED UNTIL COMMENCEMENT OF  
THE DEBATE IN PLENARY**

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Report: NIA 137/17-22 The Assembly and Executive Review Committee

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Independent Report by Trevor Reaney and Addendum to the Report

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- Appendix 1: Written response from the Procedures Committee
- Appendix 2: Written response from the Assembly Commission
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- Appendix 4: Link to Minutes of Proceedings of the Committee relating to the Report
- Appendix 5: Link to Official (Hansard) Report of the oral briefing which the Committee received on Mr Reaney's report on 29 June 2021

## **Powers**

The Assembly & Executive Review Committee is a Standing Committee established in accordance with Section 29A and 29B of the Northern Ireland Act 1998 and Standing Order 59 which states:

- (1) There shall be a standing committee of the Assembly to be known as the Assembly and Executive Review Committee.
  
- (2) The committee may -
  - (a) exercise the power in section 44(1) of the Northern Ireland Act 1998;
  - (b) report from time to time to the Assembly and the Executive Committee.
  
- (3) The committee shall consider -
  - (a) such matters relating to the operation of the provisions of Parts 3 and 4 of the Northern Ireland Act 1998 as enable it to make the report referred to in section 29A(3) of that Act; and
  - (b) such other matters relating to the functioning of the Assembly and Executive Committee as may be referred to it by the Assembly.

## Membership

The Committee has 9 members, including a Chairperson and Deputy Chairperson, and a quorum of five members. The membership of the Committee is as follows:

Mr Peter Weir MLA (Chairperson)<sup>1 2</sup>

Mr Maolíosa McHugh MLA (Deputy Chairperson)

Mr Jim Allister QC MLA

Ms Kellie Armstrong MLA

Mr Jonathan Buckley MLA

Mr Robbie Butler MLA

Mr Gerry Kelly MLA

Mr Colin McGrath MLA

Mr George Robinson MBE MLA<sup>3</sup>

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<sup>1</sup> From 14 June 2021, Ms Pam Cameron replaced Mr Mervyn Storey as Chairperson.

<sup>2</sup> From 6 July 2021, Mr Peter Weir replaced Ms Pam Cameron as Chairperson.

<sup>3</sup> From 27 September 2021, Mr George Robinson replaced Alex Easton as a member of the Committee.

## List of abbreviations and acronyms used in the report

|                       |   |
|-----------------------|---|
| AERC:                 | Assembly and Executive Review Committee   |
| Commission:           | Northern Ireland Assembly Commission  |
| Procedures Committee: | Committee on Procedures   |
| FAPP Act:             | Financial Assistance for Political Parties (Northern Ireland) Act 2000 ('the 2000 Act') |
| MLAs:                 | Members of the Legislative Assembly   |
| NDNA:                 | New Decade New Approach   |
| NI:                   | Northern Ireland  |

## Background

1. The review of the ‘Statement of Entitlements for an Official Opposition’ arose from the following recommendation in the *New Decade, New Approach* (NDNA) deal, which was published in January 2020:

*‘The parties recognise that additional funding should be made available to parties who form the Opposition. In the context of the agreed programme of measures to enhance the sustainability of the institutions, the relevant Assembly authorities should also commission a review of the adequacy and effectiveness of the Statement of Entitlements for an Official Opposition as set out in the Fresh Start Agreement. An appropriate independent person should be appointed to conduct such a review, and the review should have regard to relevant comparators. This review should be submitted to the relevant Assembly authorities within 6 months of the first meeting of the Assembly. If further resources are deemed appropriate the Assembly Commission should seek additional resources. The review should recommend increased allowances for Opposition parties and should explore the creation of additional funding for the Offices of the Leaders of Opposition parties.’* (paragraph 3.7 of Annex C to NDNA)<sup>4</sup>

2. In light of this, the Northern Ireland Assembly Commission (‘the Commission’) liaised with the Assembly and Executive Review Committee (‘the AERC’) with a view to both bodies working jointly to facilitate implementation of the NDNA recommendation. At its meeting on 24 June 2020, the AERC agreed in principle to undertake this work jointly with the Commission, subject to the necessary procedural arrangements being followed.
3. Following the engagement between the Commission and the AERC on this matter, the Assembly passed the following motion from the Commission on Tuesday 13 October 2020 referring to the AERC the responsibility for taking forward the review:

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<sup>4</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/856998/2020-01-08\\_a\\_new\\_decade\\_a\\_new\\_approach.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/856998/2020-01-08_a_new_decade_a_new_approach.pdf)

*‘That this Assembly refers to the Assembly and Executive Review Committee under Standing Order 59(3)(b) the matter of the commissioning of an independent review of the adequacy and effectiveness of the Statement of Entitlements for an Official Opposition, as set out in paragraph 3.7 of Annex C of the New Decade, New Approach Deal; agrees that the terms of reference for this review should be agreed jointly by this Committee and the Assembly Commission; and further agrees that the Committee should report on the outcome of this review to the Assembly.’*

## **The review process**

4. The terms of reference<sup>5</sup> for the review were subsequently agreed between the AERC and the Commission and, following a public procurement exercise, the AERC appointed Mr Trevor Reaney, former Clerk of the Assembly, as the independent person to undertake the review exercise.
5. At a planning meeting on 24 March 2021, the AERC considered a detailed project plan submitted by Mr Reaney which set out his envisaged timetable for conducting the review and indicated a delivery date for his report in June 2021, in line with the Committee’s specification of requirements. The project plan also set out the work to be undertaken during the research, consultation and final phases of the review exercise.
6. In accordance with his project plan, Mr Reaney provided a written update on the progress of the review to the AERC members in April 2021 and also provided a verbal update at the Committee meeting on 12 May 2021.
7. Mr Reaney consulted and engaged extensively with the political parties represented in the Assembly during the consultation phase of his review exercise. The consultation focused primarily on the parties and members of the Assembly. Consultation letters and questionnaires were issued to all

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<sup>5</sup> <http://www.niassembly.gov.uk/globalassets/documents/committees/2017-2022/aerc/review-terms-of-reference.pdf>

political parties and independent MLAs (10 consultees). In addition, an opportunity to meet to discuss the review was offered to all consultees. The following parties responded to Mr Reaney's consultation:

- Alliance Party
- Democratic Unionist Party
- Green Party
- Mr T Lunn MLA
- Social Democratic and Labour Party
- Sinn Féin
- Traditional Unionist Voice
- Ulster Unionist Party.

8. At the AERC meeting on 29 June 2021, Mr Reaney provided an oral briefing on his final report and recommendations.<sup>6</sup> In accordance with the review terms of reference and to inform its deliberations ahead of reporting to the Assembly, the AERC sought responses from the Commission and the Committee on Procedures ('the Procedures Committee') on the financial implications and procedural implications that might arise from the review recommendations respectively. The AERC also wrote to the political parties represented in the Assembly to seek their views on the recommendations and published Mr Reaney's report on the Assembly website in the meantime.<sup>7</sup>

9. The independent report by Mr Reaney (including an Addendum to the report) is included in full at the **Annex** to this report. Mr Reaney's report provides:

- an examination of the background to official Opposition entitlements and the arrangements that are currently in place in the Assembly;
- an analysis of the issues identified for examination during the research and consultation phases of the review;

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<sup>6</sup> <http://data.niassembly.gov.uk/HansardXml/committee-27037.pdf>

<sup>7</sup> <http://www.niassembly.gov.uk/assembly-business/committees/2017-2022/assembly-and-executive-review-committee/independent-review-of-opposition-entitlements/>

- observations on a number of issues related to the review but not covered by the terms of reference;
- an assessment of the options for addressing changes or improvements arising from the review; and
- the review findings, conclusions and recommendations.

10. Given the comprehensiveness of Mr Reaney's report, the AERC has not, in this Committee report, rehearsed the analysis of the issues arising from the review exercise but has focused its considerations instead on the implications of Mr Reaney's review recommendations and on their practical implementation.

11. The full written responses received by the AERC are provided at **Appendix 1** (Procedures Committee), **Appendix 2** (the Commission) and **Appendix 3** (Sinn Féin). The responses are summarised below, as applicable, under each of the review recommendations. In addition, a link to the applicable minutes of proceedings of the Committee is included at **Appendix 4** and a link to the Official (Hansard) Report of the oral briefing which the Committee received on Mr Reaney's report on 29 June 2021 is included at **Appendix 5**.

### **AERC consideration and recommendations**

12. At its meetings on 6 and 20 October 2021, the AERC considered each of the eighteen recommendations contained in Mr Reaney's independent review report, including in light of the written responses received, as set out below.

**Review Recommendation 1: That the following principle be endorsed by the Assembly and reflected in all considerations of the range and scale of entitlements provided to the official Opposition - *that the resources, profile and status provided for the official Opposition should not of themselves be an incentive or a disincentive to opt for official Opposition.***

13. From the written responses received by the AERC and during its deliberations on Mr Reaney's report, no concerns were raised specifically in relation to the

guiding principle proposed in this recommendation. In its response, the Procedures Committee confirmed its support for this as an underpinning principle of the entitlements available to the official Opposition. For its part, Sinn Féin confirmed its support for the NDNA recommendation that the review should recommend increased allowances for Opposition parties and should explore the creation of additional funding for the Offices of the Leaders of Opposition parties. The Sinn Féin response also emphasised that, in the interests of the most efficient operation of the political institutions, and in terms of providing the most effective representation for their electorate, parties should not be financially attracted to opposition.

14. **The AERC considers that the guiding principle proposed in Review Recommendation 1 is fair and balanced and the Committee therefore commends this for formal adoption by the Assembly to guide the implementation of the remaining review recommendations as applicable.**

**Review Recommendation 2: That the entitlements for the official Opposition should be clearly codified so as to avoid misinterpretations, contention or dispute in their implementation.**

15. The AERC notes that no concerns have been raised in relation to this general recommendation.

16. **The AERC believes that codification of the entitlements for the official Opposition would be a sensible measure and the Committee therefore commends Review Recommendation 2 for formal adoption by the Assembly to guide the implementation of the other applicable review recommendations.**

**Review Recommendation 3: That the entitlements should be reviewed after a substantive period of operation to draw lessons from a meaningful period of experience (at least two years).**

17. In outlining this recommendation, Mr Reaney explained that future consideration of the adequacy and effectiveness of Opposition entitlements

would be enhanced by evidence from their operational experience at the Assembly. It was noted that the AERC could take forward this recommendation as part of its forward work programme.

18. Also, in highlighting how his review was hindered by the absence of specific research on the adequacy and effectiveness of the entitlements for an official Opposition, as one of his review observations, Mr Reaney suggested that the Assembly may wish to encourage or facilitate such research to help any future review of entitlements.
19. **The AERC is agreed that, subject to Assembly approval, it will recommend in its Legacy Report that Review Recommendation 3 is implemented by the successor AERC in the 2022-27 Mandate (at least 2 years following the implementation of the applicable reforms). In the meantime, the Committee will consider how best the Assembly might ensure that the related research is conducted to underpin the future review exercise.**

**Review Recommendation 4: If the official Opposition comprises more than one party, that the parties involved should develop and publish operating procedures for their voluntary grouping in relation to the business of the Assembly. This should be done at the commencement of the operation of the official Opposition and be a condition of accessing funding under the FAPP Scheme.**

20. The Procedures Committee suggested that implementation of this recommendation may not require a change to Standing Orders and pointed out that it is the Commission which has responsibility for bringing forward any revisions to the Scheme that is made under the Financial Assistance for Political Parties (Northern Ireland) Act 2000 ('the 2000 Act'). As such, the Procedures Committee indicated that it could therefore liaise with the Commission on whether an amendment to Standing Orders would be required or whether this recommendation could be accommodated as part of the review of the Financial Assistance for Political Parties (FAPP) Scheme.

21. In its response, the Commission pointed out that the 2000 Act requires that any FAPP Scheme prepared and laid by the Commission shall not come into force unless it is approved by a resolution of the Assembly. In terms of the recommendation specifically, the Commission confirmed that it would propose to include this condition in the drafting of a future FAPP Scheme.
22. The AERC recognises the need for any multi-party official Opposition to establish operating procedures in relation to the business of the Assembly and believes that this should be done at the outset when parties come together to form a voluntary grouping for this purpose. The Committee also sees the merit in the fulfilment of this requirement being a condition on accessing funding under the FAPP scheme. Therefore, **the AERC calls on the Assembly to approve Review Recommendation 4 and to refer to the Assembly Commission, in conjunction with the Procedures Committee as necessary, the implementation of this review recommendation.**

**Review Recommendation 5: That all recommendations should be implemented in a timely manner and that all Standing Orders should ideally be in place before the end of the current Assembly mandate.**

23. The Procedures Committee has recognised the need to expedite any amendments to Standing Orders necessary to implement the review recommendations which are agreed by the Assembly. In confirming that it will prioritise such work, the Procedures Committee has pointed out that the completion of the work by the end of the mandate will depend upon a number of factors, not least the timing of any agreement by the Assembly.
24. **The AERC commends the guiding principle contained in Review Recommendation 5 for formal adoption by the Assembly to guide the implementation of the applicable review recommendations.**

**Review Recommendation 6: The following provisions for enhanced speaking rights should continue as set out in the Statement of Entitlements:**

**Question Time:**

- The first supplementary question after the tabling member for the first 3 listed Oral Questions to each Minister. *(Subject to enhancement if recommendation 7 below is adopted)*
- The first Topical Question to each Minister to be allocated outside the ballot. *(Subject to enhancement if recommendation 8 below is adopted)*
- The first supplementary after the tabling member for a Question for Urgent Oral Answer.

**Executive Business - Budget and Programme for Government (PfG) debates:**

- The first contributor following the Minister to Budget and PfG debates.

**Executive Business – Legislation:**

- The first contributor following the relevant Statutory Committee Chairperson in Executive Bill debates; subordinate legislation motions; and legislative consent motions.

**Ministerial Statements:**

- The first question to the Minister following an oral statement.

**Matters of the Day:**

- The first contributor after the tabling member to a Matter of the Day.

**Opposition Debates:**

- The frequency of opposition debates to be determined by the Speaker in consultation with the Business Committee. *(Note: 10 days agreed by Business Committee in 2016 and Section 8 of the 2016 Act requires a minimum of 10 days)*

25. The written response from the Procedures Committee noted that this recommendation is essentially calling for the continuation of the current arrangements for enhanced speaking rights. It was also noted that the current arrangements could be continued without requiring a change to Standing Orders (given that, following the Assembly's endorsement of the Statement of Proposed Entitlements on 8 February 2016, various changes were made to Standing Orders and related arrangements were put in place by the then Business Committee and Speaker later that year).

26. The AERC supports the continuation of the provisions for enhanced speaking rights for the official Opposition under the Statement of Entitlements, which were established in Assembly procedures in 2016. The Committee notes the

modifications to the existing provisions in respect of Oral Questions and Topical Questions which will be effected if the below outlined recommendations 7 and 8 are adopted. Arising from its discussion of this and the other applicable procedural recommendations, the Committee noted a likely need for the official Opposition parties to agree amongst themselves on how they designate representatives to take up some of the opportunities for questions from the official Opposition. It was further noted that this could be addressed within the operating procedures proposed under Recommendation 4.

27. When Mr Reaney briefed the AERC at its meeting on 29 June 2021, he referred specifically to Recommendation 6. He pointed out that while each of the speaking rights provided for in the statement of entitlements was reasonable and should continue, he nevertheless wished to draw attention to an issue in respect of Matters of the Day. He pointed out that Matters of the Day are designed not to be on issues of government business, and it could therefore be argued that the official Opposition is not scrutinising government at that point. However, Mr Reaney did not think that that issue was significant enough on which to make a recommendation.<sup>8</sup>

28. The AERC accepts that Matters of the Day are not a procedure by which the Executive is held to account. For this reason, the AERC is of the view that the official Opposition should not have enhanced speaking rights when it comes to speaking on a Matter of the Day<sup>9</sup>.

29. Arising from its deliberations on this proposal, therefore, **the AERC calls upon the Assembly to approve Review Recommendation 6 with the exception of the enhanced speaking rights for Matters of the Day.**

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<sup>8</sup> <http://data.niassembly.gov.uk/HansardXml/committee-27037.pdf>

<sup>9</sup> The AERC noted that there are no official Opposition entitlements that apply to the more recently introduced business of Members' Statements.

**Review Recommendation 7: An additional facility to strengthen the questioning of the Executive should be provided to the official Opposition by amending Standing Order 20(7) to provide that the first Oral Question to Ministers should come from the official Opposition.**

30. The Procedures Committee confirmed in its response that that an amendment to Standing Order 20(7) could be accommodated, should the Assembly accept this recommendation.

31. The AERC calls upon the Assembly to approve Review Recommendation 7 and to refer the matter to the Procedures Committee to prepare the necessary amendment to Standing Order 20(7) for consideration by the Assembly.

**Review Recommendation 8: That all the Standing Orders required under the Assembly and Executive Reform (Assembly Opposition) Act (Northern Ireland) 2016 be developed and implemented. In summary, the sections of the Act specifically relating to the official opposition are:**

- 2 – Formation of the Opposition**
- 3 – Timing of formation of the Opposition**
- 4 – Dissolution of Opposition**
- 5 – Leadership of the Opposition**
- 6 – Topical Questions from the Leadership of the Opposition**
- 7 – Speaking Rights in the Assembly**
- 8 – Enhanced speaking rights for the Opposition**
- 9 – Opposition right to chair Public Accounts Committee**
- 10 – Membership of Business Committee for the Opposition**
- 15(1&2) – Topical questions**

32. In its response to this recommendation, the Procedures Committee indicated that, should the Assembly support this recommendation, the Procedures Committee would need to consider and agree on the implementation of the following sections of the Assembly and Executive Reform (Assembly Opposition) Act (Northern Ireland) 2016:

- The Formation of the Opposition, including qualification
- Timing of the formation of the Opposition

- Dissolution of Opposition
- Leadership of the Opposition
- Topical Questions from the Leadership of the Opposition
- Speaking Rights in the Assembly
- Enhanced Speaking Rights for the Opposition
- Opposition Right to chair Public Accounts Committee.

33. The Procedures Committee confirmed that there are no procedural barriers to making any agreed change to Standing Orders; though it also pointed out that cross-community support in the Assembly would be a requirement in terms of any recommendation which it would make to give effect to some or all of these matters through relevant provision in Standing Orders (as was evident from an examination of the matter by a previous Procedures Committee).

34. In supporting this proposal, the AERC calls on the Assembly to approve **Review Recommendation 8** and to refer the matter to the Procedures Committee to bring forward the appropriate Standing Orders for consideration by the Assembly.

**Review Recommendation 9: The existing provision in the Statement of Entitlements for apportioning speaking rights if the official Opposition comprises more than one party should continue (i.e. on the basis of party strength and in a manner similar to the allocation of Private Members' Business by the Business Committee). Where more than one party is in official Opposition this should also be formalised as part of the official Opposition's operating procedures (see Recommendation 4).**

35. From the written responses received by the Committee, there were no concerns raised in relation to this recommendation.

36. In supporting the proposals contained within this recommendation, **the AERC calls upon the Assembly to approve Review Recommendation 9** and to refer to the Assembly Commission the responsibility for ensuring that the necessary requirement in respect of the official Opposition's operating procedures is provided for under the implementation of Review Recommendation 4.

**Review Recommendation 10: When an official Opposition is operational, it should have the opportunity to be represented on all Statutory Committees.**

37. In its response to this recommendation, the Procedures Committee pointed out that, because of current provision in Standing Orders and the proportional representation formula applied to allocating seats on statutory committees, it is likely that any official Opposition already would have the opportunity to be represented on all statutory committees. Also, all MLAs who do not hold Ministerial or junior Ministerial office are offered at least one statutory committee place. The Procedures Committee further explained that, based on current arrangements (i.e. nine statutory committees and nine seats on each statutory committee), the only circumstance where there is a risk that the official Opposition would not be represented on a statutory committee was if the Opposition had fewer than nine members.
38. Notwithstanding the aforementioned points, the Procedures Committee confirmed that, in the event of the Assembly accepting this recommendation, the Procedures Committee could seek to bring forward an amendment to Standing Orders. While providing this confirmation, the Procedures Committee also explained that any amendment would need to be consistent with the requirement in the Northern Ireland Act 1998 that Standing Orders shall include provision for ensuring that, in appointing members to committees, regard is had to the balance of parties in the Assembly.
39. While noting that, under the current procedural arrangements, any official Opposition would be likely to have the opportunity to be represented on all statutory committees, nonetheless, **the AERC recommends that the Assembly endorses the principle contained within Review Recommendation 10 and refers the matter to the Procedures Committee regarding its practical implementation.**

**Review Recommendation 11: That consideration be given to facilitating the creation of political or technical groups which may have the potential to meet the criteria for recognition as part of the official Opposition.**

40. During his oral briefing to the AERC on 29 June 2021, Mr Reaney took the view that, while this recommendation could be problematic to implement in practice given the diverse political perspectives involved, it is worth exploring as it would give parties outside of the official Opposition a greater opportunity to scrutinise government. In addition, Mr Reaney confirmed that the implementation of this recommendation would enable small parties and independents who form a technical group to be the official Opposition or to be part of the official Opposition, providing they met the necessary threshold and establish the necessary operating procedures. It was also noted that several of the comparator Parliaments, including the Dáil, the Scottish Parliament and the Welsh Parliament, have arrangements which recognise technical or political groups.<sup>10</sup>

41. The Procedures Committee indicated that it would be able to provide advice in terms of any (likely) procedural implications associated with the creation of either political or technical groups, following the AERC's consideration of this recommendation. In relation to the technical aspects, the Procedures Committee confirmed that there are no procedural obstacles to making provision for political or technical groups via a change / changes to Standing Orders. The Procedures Committee also pointed out that, should this recommendation be agreed by the Assembly, there would be a need for engagement with the Business Committee with regard to any implications new groups would have on the existing working arrangements for items of Assembly business.

42. **The AERC accepts the case for further consideration to be given to facilitating the creation of political or technical groups and, as such, the AERC calls on**

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<sup>10</sup> <http://data.niassembly.gov.uk/HansardXml/committee-27037.pdf>

**the Assembly to approve Review Recommendation 11. Subject to the Assembly's approval, such consideration could be undertaken by the AERC in the next mandate, liaising as appropriate with the Procedures Committee on any relevant matters.**

**Review Recommendation 12: A significant increase in resources available to the official Opposition should be provided in the FAPP Scheme to support the effectiveness of the official Opposition. The increase should provide an opposition party of 10 members with an addition of £100,000 over the general FAPP funding, with figures for official opposition parties of larger or smaller size varying according to size.**

43. On a point of clarification on this and the other recommendations which have financial implications, during his oral briefing to the AERC on 29 June 2021, Mr Reaney confirmed that all such recommendations fall within the remit of the Commission rather than that of the Independent Financial Review Panel (or its successor body).<sup>11</sup>
44. In its response to this recommendation, the Commission advised that it is currently reviewing the rates payable to parties and indicated that it will take account of the will of the Assembly when the AERC's report on the review is debated in plenary as it prepares a revised FAPP Scheme.
45. As alluded to above, the response from Sinn Féin confirmed its support for the NDNA recommendation that the review should recommend increased allowances for Opposition parties and should explore the creation of additional funding for the Offices of the Leaders of Opposition parties. Sinn Féin pointed out that any decisions in this regard must be affordable and provide value for money; and that the level of financial support available to Opposition parties should not incentivise parties into opposition or disadvantage other parties who choose to take up the opportunity of Ministerial positions on the Executive. Of relevance to this recommendation, Sinn Féin concluded its response by stating that: *'The level of any financial increase needs to take this*

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<sup>11</sup> <http://data.niassembly.gov.uk/HansardXml/committee-27037.pdf>

*into account and, critically, needs to be affordable. In that context, the proposed increases may need to be revised.*<sup>12</sup>

46. At the AERC meeting on 6 October 2021, the Committee members discussed whether, on the one hand, the proposed level of financial uplift would be adequate to provide for an effective official Opposition and whether, on the other hand, it would incentivise parties to go into opposition (which would be contrary to Review Recommendation 1). Arising from this discussion, the Committee acknowledged the basis upon which Mr Reaney calculated the proposed increase in resources, including that: *‘A reasonable level of support would provide an opposition party of 10 seats with up to three additional full time staff (depending on grade) covering specialist advice, research, policy development, communications and administration duties.’* (which compares to the current position whereby the additional funding, in effect, allows an Opposition party of 10 seats to employ only one additional full time member of staff at a lower grade).<sup>13</sup>

47. The AERC is mindful of the recognition in NDNA that additional funding should be made available to the parties who form the Opposition, as alluded to above, and the Committee accepts the reasoning behind the quantum of the financial uplift proposed by Mr Reaney. Therefore, **the AERC calls on the Assembly to approve Review Recommendation 12 and to refer the matter to the Assembly Commission to take forward as part of its ongoing review of the FAPP Scheme.**

**Review Recommendation 13: The FAPP Scheme should no longer be constrained by the requirement to adhere to a “cost neutral” principle (i.e. that additional resources are made available to increase the FAPP budget and that no reduction should be made to the level of funding provided to other parties if an official Opposition is in place).**

48. In its response to this recommendation, the Commission advised that its review of the FAPP Scheme has not been bound by a principle of cost-neutrality.

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<sup>12</sup> See Appendix 3.

<sup>13</sup> [http://www.niassembly.gov.uk/globalassets/documents/committees/2017-2022/aerc/addendum---report-on-opposition-entitlements\\_.pdf](http://www.niassembly.gov.uk/globalassets/documents/committees/2017-2022/aerc/addendum---report-on-opposition-entitlements_.pdf)

49. In agreeing that the FAPP Scheme should no longer be constrained by the requirement to adhere to a 'cost neutral' principle and noting that the Assembly Commission's ongoing review of the Scheme is not bound by this principle, **the AERC calls on the Assembly to approve Review Recommendation 13.**

**Review Recommendation 14: The conditions and guidance associated with receiving funds under the FAPP Scheme should be set out in more detail to increase transparency, probity and fairness, including a cap on the maximum salary payable under the Scheme.**

50. In response to this recommendation, the Commission advised that it proposes to publish detailed guidance as part of the development of a revised FAPP Scheme. However, on the proposal for a cap on the maximum salary payable under the Scheme, the Commission indicated that it is not convinced of the need for a salary cap to be included in a revised FAPP Scheme, as parties assign differing priorities to the activities that are funded under a FAPP Scheme.
51. In concurring with the Assembly Commission's position on there not being a convincing need for a cap on the maximum salary payable under the FAPP Scheme, **the AERC calls on the Assembly to approve that part of Review Recommendation 14 which advocates detailed guidance on the funding conditions associated with the FAPP Scheme, in the knowledge that the Assembly Commission intends to address this requirement when putting in place a revised Scheme.**

**Review Recommendation 15: The FAPP Scheme should be simplified into a single funding stream which incorporates the current Whips' Allowance and provides support for all aspects of the work of the official Opposition including support for the Office of the Leader of the Official Opposition.**

**Review Recommendation 16: The review of funding for the official Opposition (and that available to all parties) should take account of the fact that there has been no increase in the rates payable under the FAPP Scheme since 2016.**

**Review Recommendation 17: A mechanism for an annual cost of living increase should be built in to a revised FAPP Scheme.**

52. The Commission confirmed that, in terms of Review Recommendation 15, it proposes to prepare a revised FAPP Scheme that contains a single funding stream. In its response to this recommendation, the Commission also confirmed that, while financial support will cover an Opposition Leader's Office, this will not be via a separate funding stream but will, instead, be included in the additional financial support that is made available to an Opposition party.

53. The Commission's response to Review Recommendation 16 confirmed that it proposes to uplift the rates provided in a future FAPP Scheme.

54. Similarly, in its response to Review Recommendation 17, the Commission confirmed that it proposes to include an uprating mechanism in a revised FAPP Scheme.

55. Therefore, **the AERC calls on the Assembly to endorse Review Recommendations 15, 16 and 17 in the knowledge that the Assembly Commission intends to address the proposals contained therein when it brings forward a revised FAPP Scheme.**

**Review Recommendation 18: An official Opposition should have adequate access to information from Ministers and Departments. A more robust approach should be explored through the development of protocols, Standing Orders or legislation, or a combination of these.**

56. In explaining this recommendation, Mr Reaney noted in his report that it could be taken forward as part of the AERC's forward work programme. It was also noted that implementation of the recommendation may require legislation, subject to the outcome of the AERC's work on this issue.
57. During his oral briefing to the AERC on 29 June 2021, Mr Reaney outlined some of the potential options which could be explored with a view to ensuring an official Opposition receives timely and adequate information to enable it to undertake effective scrutiny of the Executive.<sup>14</sup> In that regard, it was noted that consideration could be given to agreeing a protocol with the Executive (e.g. similar to that contained in the UK Government's Cabinet Manual<sup>15</sup>), while another option would be legislation (e.g. similar to the requirements in section 11 of the Functioning of Government (Miscellaneous Provisions) Act (Northern Ireland) 2021<sup>16</sup> for Ministers and their departments to provide information to Assembly committees).
58. The Committee further discussed this review recommendation and the related range of options at its meeting on 6 October 2021. Arising from this initial discussion, **the AERC calls on the Assembly to approve Review Recommendation 18 and to refer the matter to the AERC to explore further during the remainder of the current Mandate and with a view to implementation as a legacy recommendation by the successor AERC in the 2022-27 Mandate.**

<sup>14</sup> <http://data.niassembly.gov.uk/HansardXml/committee-27037.pdf>

<sup>15</sup> See Chapter 5:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/60641/cabinet-manual.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/60641/cabinet-manual.pdf)

<sup>16</sup> <https://www.legislation.gov.uk/niu/2021/3/section/11/enacted>

## **AERC conclusion**

59. The AERC would conclude by acknowledging that, despite the challenges presented by a dearth of relevant research, Mr Reaney has presented a balanced and well-reasoned set of proposals which will enhance the entitlements of an official Opposition in the Assembly, further develop the model of power-sharing government in Northern Ireland and will deliver upon the applicable NDNA recommendation. **As such, the AERC calls upon the Assembly to approve the aforementioned recommendations of the Committee on the outcome of the independent *Review of the adequacy and effectiveness of the Statement of Entitlements for an Official Opposition at the Northern Ireland Assembly.***

# ANNEX: Independent Report by Trevor Reaney and Addendum to the Report

**Review of the Adequacy and Effectiveness**  
**of the**  
**Statement of Entitlements for an**  
**Official Opposition**  
**at the**  
**Northern Ireland Assembly**

**Commissioned by:**  
**The Assembly and Executive Review Committee**

**Prepared by:**  
**Trevor Reaney**

**June 2021**

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## 1. Introduction

An independent review of the Adequacy and Effectiveness of the Statement of Entitlements for an Official Opposition (the review) was commissioned by the Assembly and Executive Review Committee in February 2021. The review arose from paragraph 3.7 of Annex C of the New Decade, New Approach (NDNA)<sup>1</sup> document which facilitated the restoration of the Northern Ireland Assembly (the Assembly) in January 2020. Paragraph 3.7 states:

*The parties recognise that additional funding should be made available to parties who form the Opposition. In the context of the agreed programme of measures to enhance the sustainability of the institutions, the relevant Assembly authorities should also commission a review of the adequacy and effectiveness of the Statement of Entitlements for an Official Opposition as set out in the Fresh Start Agreement. An appropriate independent person should be appointed to conduct such a review, and the review should have regard to relevant comparators. This review should be submitted to the relevant Assembly authorities within 6 months of the first meeting of the Assembly. If further resources are deemed appropriate the Assembly Commission should seek additional resources. The review should recommend increased allowances for Opposition parties and should explore the creation of additional funding for the Offices of the Leaders of Opposition parties.*

The Terms of Reference (ToR) for the review are included at **Annex A** and the Statement of Proposed Entitlements for an Official Opposition are included at **Annex B**.

Inevitably during the research and consultation phases, issues were raised that are related to, but fall outside, the scope of the review. Where judged pertinent, such issues have been referred to in the text of the report and specific issues which may merit further attention are included as Observations. The Recommendations focus directly on the scope of the Terms of Reference.

The resources referred to in the report are listed in footnotes and in the Bibliography at **Annex E**.

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<sup>1</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/856998/2020-01-08\\_a\\_new\\_decade\\_\\_a\\_new\\_approach.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/856998/2020-01-08_a_new_decade__a_new_approach.pdf)

## 2. Executive Summary

At the heart of assessing the adequacy and effectiveness of the Statement of Entitlements is understanding the role of the official opposition within the structures of the Assembly and its establishment under the Belfast (Good Friday) Agreement. There are three possible approaches to the issue of an official opposition at the NI Assembly:

1. Follow consociationalism theory and adopt structures which exclusively facilitate power sharing; or
2. Move to a more traditional majoritarian model such as operates at Westminster in the UK or Congress in the USA; or
3. Pursue a hybrid model by developing the consociational model of the Belfast (Good Friday) Agreement by adding to it features of a more traditional majoritarian system.

The political approach that has developed since the introduction of provisions for an official opposition in 2016, is that of a hybrid model and NDNA continues this approach. While there are elements of entitlements that can be adapted from other institutions, it should be recognised that they do not make for a straightforward fit to the Assembly. It should also be noted that under a mandatory coalition system, scrutiny of the Government and its Ministers also comes from other parties within the Government both within cabinet and in the proceedings of the parliament. The Committees of the Assembly also have a significant scrutiny role to play.

Research undertaken in this review identifies that the role of an opposition can broadly be summarised as twofold – firstly, to undertake scrutiny of the government and secondly, to provide the electorate with an alternative government. These roles can be played out both within the parliamentary system and in the public sphere. It is against this twofold role that the Statement of Entitlements has been assessed and recommendations made in this report.

Research undertaken in this review highlights the wide range of forms of parliamentary democracy and differing provisions for an official opposition across the world. The difficulty of making meaningful international comparisons has meant that the benchmarking comparisons used in the report have focused on parliaments in the UK and Ireland. The absence of meaningful data on the adequacy and effectiveness of opposition entitlements has required a greater degree of judgement on the part of the author than might otherwise have been the case.

Consultation responses received during the review show a strong desire to strengthen the entitlements amongst the smaller parties represented in the Assembly. Representations have been made to significantly increase the financial support available to the official opposition and a desire to strengthen aspects of the procedural

entitlements. Representations were also made about the role and entitlements of those parties and independent members who do not reach the threshold for recognition as part of the official opposition.

In order to avoid any undue distortion in the thinking of a party which may consider opting for official opposition, it is recommended that the following principle be adopted to underpin the range and scale of entitlements available to the official opposition - *that the resources, profile and status provided to the official opposition should not of themselves be an incentive or a disincentive to opt for official opposition.*

In summary, the main findings of the review are that:

- taken together, the procedural entitlements of the current Statement of Entitlements, along with full implementation of the provisions of the Assembly and Executive Reform (Assembly Opposition) Act (Northern Ireland) 2016 (the 2016 Act)<sup>2</sup> which deal with official opposition entitlements, provide a sound basis for the work of the official opposition. However, a small number of additions are recommended to strengthen these entitlements.
- the resource entitlements for the official opposition are inadequate and recommendations are made to enhance the level of funding available to the official opposition to assist it in discharging its role more effectively.
- further consideration of the potential for the formation of political or technical groups is recommended.
- on issues related to the review but outside the ToR, observations have also been made.

### **3. Outline of Review Methodology**

The review methodology comprised three elements – research, consultation and assessment. Based on the available research and feedback from consultees, key issues were identified and the findings analysed. The issues are set out in Section 5 of the report.

The **research phase** of the review involved:

- reviewing the background to existing entitlements, along with the provisions of the Assembly and Executive Reform (Assembly Opposition) Act (Northern Ireland) 2016;
- reviewing available information and reports from the NI Assembly archives on the topic of official opposition;

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<sup>2</sup> <https://www.legislation.gov.uk/nia/2016/10/contents>

- desk based research which has been undertaken on publicly available reports and research on the topic of parliamentary opposition;
- contacts and meetings with academics and thinktanks which have specific expertise in parliamentary opposition;
- sourcing of comparator information on opposition entitlements in other parliaments across the UK, Ireland and internationally; and
- contact at official level with the Executive Office.

The **consultation phase** of the review focused primarily on the parties and members of the Assembly. Consultation letters and questionnaires were issued to all political parties and independent MLAs (10 consultees). In addition, an opportunity to meet to discuss the review was offered to all consultees.

As part of the consultation phase meetings were also held with the Speaker and the Committee on Procedures.

The **final phase** of the review was to analyse the findings of the research and consultation phases and to identify relevant recommendations and observations.

## 4. Survey of Existing Arrangements

This section of the report provides an overview of the background to official opposition entitlements and the arrangements that are currently in place. The current provisions have only been operational for some nine months when the SDLP and UUP opted to join an official opposition from the start of the Assembly mandate in May 2016 until the dissolution of the Assembly in January 2017.

The concept of an official opposition at the Assembly has been the subject of comment and discussion since the Assembly was established in 1998. The issue is one on which there are differing views amongst the political parties and this has been reflected in subsequent discussions and decisions on the matter.

### 4.1 Committee Report (2013)

The issue was first formally explored by the Assembly and Executive Review Committee in 2013 in its Report on D'Hondt, Community Designation and Provisions for Opposition.<sup>3</sup> The following paragraphs from the Report summarise the Committee's deliberations.

*7. The Committee concluded that there is no consensus at present to move to a formal Government and Opposition model, such as exists in Westminster. It also concluded*

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<sup>3</sup> <http://www.niassembly.gov.uk/assembly-business/committees/2016-2017/assembly-and-executive-review/session-2011-2016/review-of-dhondt-community-designation-and-provisions-for-opposition/>

*that there is no consensus to move from the current opt-out model, whereby Parties can exercise their right to opt-out of taking up their Ministerial post or withdraw from the Executive, based on existing Assembly provisions.*

*8. The Committee concluded that financial support for political parties should continue to be allocated on a broadly proportional basis and did not consider that additional resources should be allocated to non-Executive/opposition Parties.*

*9. The Committee concluded that Parties that exercise their right not to take their Executive entitlement would have “informal” recognition of non-Executive/opposition status on a proportional basis by:*

- Additional speaking rights;*
- recognition of status by order of speaking; and*
- allocation of time for additional non-Executive business – the use of the allocation to be determined by non-Executive Party/opposition.*

*The representatives of Sinn Féin stated that they were unable to support this conclusion.*

*10. The Committee concluded that Parties that have failed to meet the Executive threshold for d’Hondt but have reached a suitable threshold should attract appropriate recognition in terms of speaking rights, status by order of speaking and allocation of time for non-Executive business in proportion to their Party strength.*

*11. The Committee recognised that there may be some value in Technical Groups and recommended that this facility for smaller Parties of the Assembly be reviewed.*

## **4.2 The Stormont House Agreement (2014)**

In December 2014, The Stormont House Agreement<sup>4</sup> included a paragraph on an official opposition which addressed recognition, financial and research assistance and designated speaking rights. Paragraph 59 of the Agreement states that:

*Arrangements will be put in place by the Assembly by March 2015 to enable those parties which would be entitled to ministerial positions in the Executive, but choose not to take them up, to be recognised as an official opposition and to facilitate their work. These measures will include:*

- a) Provision for financial and research assistance (from within existing Assembly budgets keeping these changes cost neutral); and*

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<sup>4</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/390672/Stormont\\_House\\_Agreement.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/390672/Stormont_House_Agreement.pdf)

*b) Designated speaking rights including the opportunity to ask questions and table business sufficient to permit the parties to discharge their opposition duties.*

### **4.3 Fresh Start Agreement (2015)**

The ‘Statement of Proposed Entitlements for an Official Opposition’, which is the subject of this review, was originally contained within Appendix F4 to *A Fresh Start Agreement* (November 2015)<sup>5</sup> and is attached at **Annex B**. On 8 February 2016, the Assembly resolved:

*That this Assembly endorses the Statement of Proposed Entitlements for an Official Opposition, as set out at Appendix F4 of the Fresh Start Agreement, and calls on the Speaker to take forward the implementation of these provisions before the end of the current Assembly mandate.*

Following this, on 14 March 2016, the Assembly agreed new Standing Orders:

- Standing Order 45A (which made provision for the recognition of an official opposition);
- an amendment to Standing Order 20A (to provide that the first Topical Question to a Minister will be from the Opposition); and
- an amended Standing Order 10 (which facilitated the recognition of a new category of business entitled ‘Opposition Business’).

At that time, the Speaker made other arrangements to provide for enhanced speaking rights during plenary business for the official opposition, as set out in the Statement of the Proposed Entitlements for an official opposition, by amending procedures following consultation with the Business Committee. These were:

- the first supplementary question after the tabling member for the first three listed Oral Questions to each Minister;
- the first supplementary after the tabling member for a Question for Urgent Oral Answer;
- the first contributor following the Minister to Budget and Programme for Government debates;
- the first contributor following the relevant Statutory Committee Chair in Executive Bill debates; subordinate legislative motions; and legislative consent motions;

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<sup>5</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/479116/A\\_Fresh\\_Start\\_-\\_The\\_Stormont\\_Agreement\\_and\\_Implementation\\_Plan\\_-\\_Final\\_Version\\_20\\_Nov\\_2015\\_for\\_PDF.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/479116/A_Fresh_Start_-_The_Stormont_Agreement_and_Implementation_Plan_-_Final_Version_20_Nov_2015_for_PDF.pdf)

- the first question to the Minister following an oral statement; and
- the first contributor after the tabling member to a Matter of the Day.

In September 2016, the Business Committee put in place arrangements for 10 'opposition days' per Assembly session. An opposition day consists of four hours of business selected by the official opposition.

#### **4.4 Assembly and Executive Reform (Assembly Opposition) Act (NI) 2016**

A Private Members Bill passed through the Assembly, in parallel with the Fresh Start Agreement, making provision for the formation and arrangements for an official opposition - the Assembly and Executive Reform (Assembly Opposition) Act (Northern Ireland) 2016 (the 2016 Act).

There are similarities between the entitlements for an official opposition arising from the Fresh Start Agreement and those envisaged under the provisions of the 2016 Act but there are also significant differences. For example:

- The Agreement provided for the opposition to be formed by those parties that were entitled to Ministerial positions but declined to take them up. The 2016 Act also provided that the opposition could be formed by any party whose members comprise 8% or more of the total number of members of the Assembly, and which does not contain a member who is a Minister.
- The Agreement stated that no formal titles were to be conferred upon individual members, including leaders of parties, within the official opposition. The 2016 Act, however, envisaged Standing Orders making provision for named offices in the leadership of the opposition.
- The 2016 Act envisaged standing orders making provision for the rights of the opposition to chair the Public Accounts Committee. This was not provided for in the Fresh Start Agreement.

The 2016 Act requires standing orders to be developed to implement the provisions of the following Sections:

- 2 – Formation of the Opposition
- 3 – Timing of formation of the Opposition
- 4 – Dissolution of Opposition
- 5 – Leadership of the Opposition
- 6 - Topical Questions from the Leadership of the Opposition
- 7 – Speaking rights in the Assembly
- 8 – Enhanced speaking rights for the Opposition
- 9 – Opposition right to chair Public Accounts Committee
- 10 – Membership of Business Committee for the Opposition
- 15(1&2) – Topical questions

The 2016 Act also amended Section 1 of the Financial Assistance for Political Parties Act 2000 by adding a new provision that “...*the scheme shall provide for additional payments to be made to political parties in the Opposition.*” and this provision has been addressed in the revised Financial Assistance for Political Parties Scheme introduced in 2016.

#### **4.5 New Decade, New Approach (2019)**

The New Decade, New Approach (NDNA)<sup>6</sup> document, which facilitated the restoration of the Northern Ireland Assembly in January 2020, included elements dealing with the official opposition at the Assembly – paragraph 3.6 on the timing of parties opting for official opposition status; and paragraph 3.7 which recognised the need for additional resources and stated that a review should be commissioned to assess the adequacy and effectiveness of the current statement of entitlements.

Standing Order 45A was amended on 13 October 2020, following the Committee on Procedures consideration of the recommendation at paragraph 3.6 in NDNA, to provide that a party may choose to be recognised as part of the official opposition up to two years after the formation of the Executive following an Assembly election.

#### **4.6 Financial Assistance**

Financial assistance for the political parties represented in the Assembly is paid via a scheme made under section 2 of the Financial Assistance for Political Parties Act (Northern Ireland) 2000. On 15 March 2016, the Assembly approved a revised Financial Assistance for Political Parties (FAPP) Scheme<sup>7</sup> to give effect to the proposals for additional funding to be made available for opposition parties in the Assembly from the start of the new mandate in May 2016.

The current FAPP Scheme has not been reviewed since its introduction in 2016, neither in terms of its structure nor the figures set out in it. It is noted that at the time of writing this report, the Assembly Commission is undertaking a review of the FAPP Scheme.

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<sup>6</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/856998/2020-01-08\\_a\\_new\\_decade\\_\\_a\\_new\\_approach.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/856998/2020-01-08_a_new_decade__a_new_approach.pdf)

<sup>7</sup> [http://www.niassembly.gov.uk/globalassets/documents/your\\_mlas/fapp-scheme-2016---final-colour-coded.pdf](http://www.niassembly.gov.uk/globalassets/documents/your_mlas/fapp-scheme-2016---final-colour-coded.pdf)

## 5. Issues

The Terms of Reference for the review require consideration of:

*...the adequacy and effectiveness of the Statement of Entitlements for an Official Opposition in accordance with the applicable provisions of paragraph 3.7 of Annex C of the NDNA, including that:*

- *‘The parties recognise that additional funding should be made available to parties who form the Opposition.’;*
- *‘the review should have regard to relevant comparators.’; and*
- *‘The review should recommend increased allowances for Opposition parties and should explore the creation of additional funding for the Offices of the Leaders of Opposition parties.’*

The issues detailed below were identified for examination during the research and consultation phases of the review:

- clarifying the role and purpose of an official opposition.
- identifying criteria and data against which adequacy and effectiveness might be meaningfully assessed.
- identifying other parliaments that could provide relevant benchmarks for procedural and resource entitlements.
- considering the eligibility criteria for recognition as part of the official opposition.
- exploring the creation of additional funding for the Offices of the Leaders of Opposition parties.

## 6. Research

### 6.1 Research Sources

As a general comment on the research phase, it should be noted that there proved to be an absence of research on the adequacy and effectiveness of the entitlements provided to opposition parties. In an article in *The Journal of Legislative Studies on Studying Parliamentary Opposition in Old and New Democracies: Issues and Perspectives*,<sup>8</sup> Ludger Helms comments that:

*“While issues of parliamentary opposition have never been completely off the agenda of international political research, there are few truly major works, and hardly any genuinely comparative studies. Indeed, a large proportion of*

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<sup>8</sup> <https://www.tandfonline.com/doi/abs/10.1080/13572330801920788?journalCode=fjls20>

*contributions to the field could be described as ‘occasional papers’ by authors specialising on other areas and aspects of legislative research.”*

He goes on to suggest “...*that oppositions in parliament and beyond remain extremely difficult to theorise, and sometimes even difficult to understand in empirical terms.*”

Any future review of entitlements would be greatly assisted by the availability of specific research and the Assembly may wish to consider facilitating or encouraging such research.

The review was informed by desk based research and meetings with academics and thinktanks. Information on parliamentary opposition was drawn from the following sources:

- Research and Information Service (NI Assembly)
- Reports and minutes of NI Assembly Committees
- University of Manchester - Dr Louise Thompson
- University of Bolton, Centre for Opposition Studies – Professor Mohammed Abdel-Haq and Dr Nigel Fletcher
- Institute for Government
- Journal of Legislative Studies
- Inter-Parliamentary Union
- United Nations Development Programme
- Relevant parliamentary comparators

## **6.2 Role and Purpose of the Official Opposition**

In 2021, the Institute for Government produced a paper on the *Official Opposition at Westminster*.<sup>9</sup> The paper describes the purpose, rights and resources provided to the Official Opposition at Westminster. The paper highlights that the term ‘opposition’ can refer to the *parliamentary opposition*: all the political parties in parliament that are not currently in government. It can also refer to the *official opposition*, which generally only includes the second largest party in the House of Commons. The paper describes the role of the opposition as threefold - ‘*to oppose the government, to criticize it and to seek to replace it*’. They state that the opposition has two main tools of scrutiny in parliament: parliamentary questions and committees.

In a paper entitled *Making Policy in Opposition – Lessons for Effective Government produced in 2012*<sup>10</sup>, the Institute for Government comment that resources in opposition may seem scarce, but can be used wisely. They comment on the demanding role facing opposition parties:

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<sup>9</sup> <https://www.instituteforgovernment.org.uk/explainers/official-opposition>

<sup>10</sup> [https://www.instituteforgovernment.org.uk/sites/default/files/publications/Making%20policy%20in%20opposition%20-%20final\\_0.pdf](https://www.instituteforgovernment.org.uk/sites/default/files/publications/Making%20policy%20in%20opposition%20-%20final_0.pdf)

*Opposition is highly pressured, with a wide range of roles to fulfil. The kind of work confronting front-benchers ranges from the ability to understand the detail of bills and draft amendments, to being able to look strategically or politically at an issue, react rapidly and marshal thoughts coherently, let alone dealing with the media. Combining that with expertise in subject area and then the time to be able to go away and undertake detailed research in an extensive policy topic is a challenge.*

Erskine May's *Treatise on the Law, Privileges, Proceedings and Usage of Parliament* (commonly known as Erskine May)<sup>11</sup> provides some information on the role of the Official Opposition at Westminster. In paragraph 4.6 it states that the task of the Official Opposition is "...to direct criticism of the Government's policy and administration and to outline alternative policies." It further states that:

*...the criticism of the Opposition is primarily directed towards the electorate, with a view to the next election, or with the aim of influencing government policy through the pressure of public opinion. The floor of the House of Commons provides the Opposition with its main instrument for this purpose. Accordingly, the Opposition has the right to exercise the initiative in selecting the subject of debate on a certain number of days in each session and on such occasions as the debate on the Address in reply to the Queen's speech (see para 8.37) or from time to time by putting down motions of no confidence. The Leader of the Opposition is by custom accorded certain rights in asking questions of Ministers (see para 19.15), and members of the Shadow Cabinet and other Official Opposition spokespersons are also given some precedence in asking questions and in debate. Those speaking on behalf of the Leader of the Opposition are almost invariably exempted from speech limits.*

In an article in *The Journal of Legislative Studies* on *Making sense of Opposition*<sup>12</sup>, Philip Norton comments that:

*...the Opposition and individual opposition parties are significant actors in exposing Government to public challenge and oversight, but least effective in affecting outcomes of public policy. The Opposition is most likely to form responsible opposition, but smaller opposition parties, especially policy outliers not expecting to be in a future government, are more likely to adopt a critical role and may engage in non-responsible opposition.*

Norton further comments that:

*For opposition parties unable to mobilise a parliamentary majority, the most important weapon they have is the oxygen of publicity.*

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<sup>11</sup> <https://erskinemay.parliament.uk/>

<sup>12</sup> <https://www.tandfonline.com/doi/abs/10.1080/13572330801921257?journalCode=fjls20>

In an article in the Parliamentary Affairs Journal (Vol 74, Issue 1, January 2021),<sup>13</sup> on the *Patterns of Parliamentary Opposition*, citing an example from the German Bundestag, useful distinctions on the types of opposition are made.

*First, we need to make a distinction between two main types of opposition, namely disagreement in the form of presenting alternatives to the positions taken by the government and disagreement in the form of critique directed towards the government.*

*However, opposition is not only about launching critique. Disagreement in the form of presenting alternatives is equally if not more important. While criticism primarily is a means for controlling the government, presenting alternatives accomplishes something else, it introduces choice in politics by communicating alternatives to the public. This is vital for our democracies, for it is only by being presented with real choices that citizens will see elections as meaningful; opposition in terms of presenting alternatives is thus a prerequisite for democratic legitimacy.*

The Inter-Parliamentary Union produced *Guidelines on the Rights and Duties of the Opposition in Parliament* in 1999.<sup>14</sup> A number of points made in Sections III and IV of these Guidelines are principles of good practice throughout the world. The following points are pertinent:

- the opposition should have funds allocated to it enabling it to recruit its own staff and should be entitled to the use of premises for meetings in the parliament.
- the opposition should be entitled to be represented, proportionate to its numbers, on each parliamentary committee and sub-committee.
- the opposition should be entitled to receive in a timely manner the same information from the government as the majority party, except on internal party matters.
- the opposition should be entitled to speaking time proportionate to its numbers in sittings set aside for oral questions.
- the opposition in parliament has a duty to offer voters a credible alternative to the government in office to make the majority accountable
- the opposition in parliament must show itself to be responsible and be able to act in a statesmanlike manner.

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<sup>13</sup> <https://academic.oup.com/pa/article/74/1/230/5681454?searchresult=1>

<sup>14</sup> <http://archive.ipu.org/dem-e/opposition.pdf>

A United Nations Development Programme (UNDP) report on *Benchmarks and Self-Assessment Frameworks for Democratic Legislatures*<sup>15</sup> draws on assessment frameworks prepared by the Inter-Parliamentary Union, the Commonwealth Parliamentary Association and National Democratic Institute. Such assessment frameworks can be of assistance in assessing the effectiveness of parliaments. In relation to the official opposition, one feature that is highlighted in the UNDP report is that the Public Accounts Committee should be chaired by a member of the opposition.

The purpose of the Opposition can reasonably be summarised as twofold - **to scrutinise the government and to provide the electorate with an alternative government**. These roles are played out both within the parliamentary system and in the public sphere. The entitlements provided to support the official opposition must assist in the fulfilment of this purpose.

It is noted that the concept of parliamentary opposition, or an official opposition, was not envisaged in the Belfast (Good Friday) Agreement as it was a political settlement based on power sharing and proportionality and which also placed a significant responsibility on Committees to scrutinise the work of the Executive Ministers and Departments on a cross-party basis.

### 6.3 Adequacy and Effectiveness

Three approaches to assessing adequacy and effectiveness have been considered during the review:

- theoretical models
- operational experience
- benchmark parliaments

Despite extensive search and contact with research sources, it proved impossible to identify any comparative research or theoretical models specifically dealing with the adequacy and effectiveness of the entitlements for an official opposition. The absence of such research was confirmed by a number of sources contacted.

Reviewing experience of the operation of the existing entitlements could provide a rich source of helpful information and this has been explored during the consultation.

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<sup>15</sup><https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwiMlMz4fwAhVzB2MBHeE5AksQFjAAegQIBBAD&url=https%3A%2F%2Fwww.undp.org%2Fcontent%2Fdam%2Faplaws%2Fpublication%2Fen%2Fpublications%2Fdemocratic-governance%2Fdg-publications-for-website%2Fbenchmarking-and-self-assessment-for-democratic-legislatures%2Fbenchmarks%2520Legislatures.pdf&usg=AOvVaw0CZW9dXpkGbVUFtC3vwjEO>

However, the period of operation of an official opposition for a number of months in 2016/17 is too short a period to draw any meaningful conclusions.

Benchmarking against comparator parliaments has provided useful information, albeit it must be considered in the uniquely differing context of each institution.

#### **6.4 Parliamentary Models**

Mandatory coalitions are often found in political settlements arising from periods of civil war or community strife. In addition to the Good Friday Agreement, examples include the Dayton Agreement that ended the 1992–1995 war in Bosnia and Herzegovina, the Ohrid Agreement of 2001 setting the constitutional framework for power-sharing in North Macedonia and the Taif Agreement of 1989 which provided the means to end the long running civil war in Lebanon.

Coalitions are an increasingly common form of government across the world with longstanding examples in Belgium, Germany, Austria and Switzerland. Each of these examples has a unique history and context which makes meaningful comparisons with other countries and situations difficult, if not impossible. For this reason the review has focused primarily on the national parliaments of the UK and Ireland and the devolved parliaments of Scotland and Wales as being the most meaningful comparators.

The role of an official opposition is most developed in national parliamentary systems which are primarily majoritarian (eg UK, USA, Canada, Australia) and less well developed in modern regional parliaments (eg Scotland and Wales).

The approach to parliamentary opposition at Westminster is often held up as an exemplar model from which many nations and parliamentary institutions have rightly drawn lessons. It does hold the potential for lessons for the Assembly but the limitations of the comparison should also be acknowledged. It is primarily a majoritarian system with a constitutional position accorded to the Leader of the Opposition and it is a national parliament which is significantly larger in scale and with a much broader range of responsibilities.

For the reasons set out above, and for the purposes of this review, the models operating within the UK and Ireland are deemed the most relevant and they are therefore used as the primary comparators.

#### **6.5 Methods of Scrutiny Available to the Opposition**

Research shows that there are a range of methods of scrutiny which assist official oppositions in effectively discharging their role. These include:

- enhanced speaking rights in parliament.
- questioning government ministers in parliament.
- time for debating opposition business in parliament.
- positions of influence in the committees of parliament, in particular the chair of the Public Accounts Committee.
- the capacity to communicate publicly and in the media on issues relating to its opposition role.
- funding to support advice, research, policy development, communications and administration.

These methods are evident in the comparative benchmarking results set out below and have been considered in assessing the current Statement of Entitlements.

Access to adequate and timely information from government Ministers and Departments is also important for the official opposition to effectively discharge its duties.

## **6.6 Procedural Entitlements – Benchmarks**

### **6.6.1 House of Commons (UK)**

The Official Opposition in the House of Commons is part of the constitutional framework of the UK parliament and it enjoys a range of entitlements, many of which are based on conventions and precedents which can shift over time. The principal ones are:

- Entitlement to set the business on "opposition days", which are allocated each session, divided between the parties as set out in Standing Orders (20 days per session with 17 for the Leader of the Official Opposition and 3 to second largest opposition party. There is also a practice of some limited sharing of days with other smaller parties);
- the Opposition party and the second largest opposition party will have a guaranteed opportunity to speak without time limits in debates (except when a debate is on an England only matter, the SNP, which is currently the second-largest party, would not necessarily be expected to take part);
- The opposition frontbench will have the first opportunity to respond to a Minister making a statement, or, if an urgent question has been tabled by a backbencher, the first opportunity to speak after the opening exchange;
- The Leader of the Official Opposition puts the first six questions, after the opening question, to the Prime Minister in the weekly Prime Ministers Questions;
- An assumption that time will be found to debate a motion of no confidence set down in the name of the Leader of the Official Opposition and that time

will be found for debating a negative statutory instrument if pressed by the Official opposition; and

- The Chair of the Committee of Public Accounts must be from the opposition.

Most of these privileges go to the official opposition, but the second largest opposition party also has some entitlements to time, as do minor parties.

### **6.6.2 The Dáil (Rol)**

The Dáil does not recognise an official opposition but operates with the concepts of opposition parties and technical groups. The main procedural entitlements are summarised below:

- Statements, Government motions and second readings of Government Bills - the concept of a speaking round is applied. These operate on a broadly proportional basis to the strength of each party or group.
- Leaders Questions - they are allocated on a proportionate basis between Opposition parties and groups, with not all Opposition parties and groups necessarily getting a Leader's Question each day, and with no Opposition parties and groups getting more than one Leader's Question per day.
- Parliamentary Questions to the Taoiseach and Ministers - the opportunity to ask questions is allocated on a proportionate basis between opposition parties and groups.
- Standing Orders allow the establishment of an unrestricted number of technical groups, as long as each such group has at least five members.
- The rules on recognition of smaller Opposition parties for the purposes of access to set pieces require the party to have at least five members.
- The composition of the Committee of Public Accounts comprises only members who are from opposition parties.

### **6.6.3 Scottish Parliament**

The Scottish Parliament does not recognise an official opposition but operates with the concept of opposition parties. The main procedural entitlements in place are summarised below:

- First Minister's Questions: The Scottish Parliament Standing Orders require the Presiding Officer to select questions for answer, but do not specify the order in which questions are to be called. However, the convention is that the leader of each opposition party is called in order of the size of their membership in parliament and they can each ask a number of questions proportional to their size (additional questions may be called from backbenchers after the leaders' questions).

- Topical Questions: These are selected by the Presiding Officer on merit and, again, there are no requirements as to the order in which they should be taken.
- Portfolio Questions: These are randomly selected by an automated IT system, and so there is neither a role for the PO nor a specified order.
- The Standing Orders specify that on 16 days each year, the programme shall include business chosen by opposition parties. No further details are specified about how this is achieved, but in practice it is allocated proportionately. (Note: this only includes political parties that have 5 or more members. This minimum membership requirement also applies to the parties that have membership of the Parliamentary Bureau, which is the business planning committee.)
- Committee convenerships, deputy convenerships and membership are determined using the D'Hondt system. This is not specified in the Standing Orders and in practice is a process that often includes negotiations between the parties about membership and size of individual committees. The only specific party-based requirement in relation to conveners is that the Convener of the Public Audit Committee cannot be a member of a party represented in the Scottish Government.
- Standings Orders provide for members who represent a political party with fewer than 5 representatives in the parliament and members who do not represent a political party, to join together to form a group (of at least 5) for the purposes of nominating a group representative to the Parliamentary Bureau (equivalent of the Business Committee).

#### **6.6.4 Senedd Cymru/Welsh Parliament**

The Senedd Cymru/Welsh Parliament does not recognise an official opposition but operates with the concepts of opposition parties and groups. The main procedural entitlements are summarised below:

- Three or more members who are not in a political group may form a political grouping. A political grouping may nominate a member for appointment to the Business Committee.
- The aggregate of time allocated between government and Senedd business in plenary meetings in a Senedd year must, so far as is reasonably practicable, be in the proportion of 3:2.
- Time must be made available in each Senedd year for debates on motions proposed on behalf of political groups that do not have an executive role. In November 2018 Business Managers agreed that at least one opposition group debate should be scheduled each week. The precise allocation of time between groups is determined by the Business Committee

- Practice has developed of calling opposition political group leaders and spokespeople to ask questions without notice during questions to the FM and other Ministers. Whether political groups are called, the order in which they are called and how many questions they have is at the Llywydd's (Speaker's) discretion.
- When bringing forward a motion to allocate a committee chair or chairs to political groups, Business Committee must have regard to the need to ensure that the balance of chairs across committees reflects the political groups to which members belong. This provision does not distinguish between political groups with an executive role or opposition groups.
- The Public Accounts Committee must not be chaired by a member who is a member of a political group with an executive role.

## 6.7 Access to Information

The difficulties faced by the Assembly and its Committees in obtaining information from Ministers and departments has been highlighted during the consultation process, particularly in the context of the effectiveness of an official opposition. It is noted that this is an issue which is common across parliamentary institutions. Examples of action taken to address these difficulties are given below.

The Cabinet Manual (UK)<sup>16</sup> is a guide to laws, conventions and rules on the operation of government in the UK. Chapter 5 of the Manual deals with the relationship between the Government and Parliament and includes the following paragraphs relating to the convention on provision of information to Parliament:

- *Ministers should be as open as possible with Parliament and the public, refusing to provide information only when disclosure would not be in the public interest, which should be decided in accordance with relevant legislation, including the Freedom of Information Act 2000.*
- *Ministers should require civil servants who give evidence before Parliamentary committees on their behalf and under their direction to be as helpful as possible in providing accurate, truthful and full information in accordance with the duties and responsibilities of civil servants as set out in the Civil Service Code.*

The Functioning of Government (Miscellaneous Provisions) Act 2021<sup>17</sup> includes a provision relating to the provision of information to Assembly Committees:

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<sup>16</sup>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/60641/cabinet-manual.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/60641/cabinet-manual.pdf)

<sup>17</sup>[https://www.google.com/search?client=safari&rls=en&q=The+Functioning+of+Government+\(Misc+Provisions\)+Act+2021&ie=UTF-8&oe=UTF-8](https://www.google.com/search?client=safari&rls=en&q=The+Functioning+of+Government+(Misc+Provisions)+Act+2021&ie=UTF-8&oe=UTF-8)

*Accountability to the Assembly: provision of information*

**11.** *A Minister and their department have a duty to report to an Assembly committee such information as that committee may reasonably require in order to discharge its functions, being information which—*

*(a) has been requested in writing; and*

*(b) relates to the statutory functions exercisable by the Minister or their department.*

It is also noted that from time to time, the Chairs of Committees at the Assembly receive informal briefings from Ministers or Departmental officials.

These examples may assist in considering how adequate and timely information is provided to the official opposition.

## **6.8 Resource Entitlements - Benchmarks**

All schemes of the benchmark parliaments provide funding for qualifying parties to support the carrying out of their parliamentary functions and is almost entirely used for the engagement of staff or specialist expertise (eg. researchers, policy officers, communications staff, administrators). All schemes restrict the use of funds to parliamentary duties and have various conditions to ensure transparency and probity in the use of funds.

The scheme in Westminster only provides funding to the qualifying opposition parties and no funding is provided for the party in government. The scheme in Scotland is similar to Westminster but has the addition of a Party Leaders Allowance that is provided to all parties including the government party. Schemes in the Dáil and Wales are similar to the Assembly scheme in that they provide funding for all parties, but have some differentiation in favour of qualifying parties not represented in the government.

It should be noted that policy development funding is also provided to political parties at a national level by the Electoral Commission in the UK and under the Electoral Act payments system in the Republic of Ireland.

### **6.8.1 House of Commons (UK)**

The Short Money<sup>18</sup> scheme operating in the House of Commons (UK) has three components:

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<sup>18</sup> House of Commons Library – Briefing Paper – Short Money (Number 01663, 16 November 2020)

1. Funding to assist an opposition party in carrying out its parliamentary business
2. Funding for the opposition parties' travel and associated expenses
3. Funding for the running costs of the Leader of the Opposition's office

The amounts available to the parties from the first two components are calculated, as set out below, and the third element is a flat rate:

- General funding for opposition parties – the amount payable to qualifying parties from 1 April 2020 is £18,297.43 for every seat won at the last election plus £36.54 for every 200 votes gained by the party.
- Travel expenses for opposition parties – the total amount payable under this component of the scheme for the financial year commencing on 1 April 2020 is £201,007.00 apportioned between each of the opposition parties in the same proportion as the amount given to each of them under the basic funding scheme set out above.
- Leader of the Opposition's Office – under the third component of the scheme, £852,481.98 is available for the running costs of the Leader of the Opposition's office for the financial year commencing on 1 April 2020.

Each component is up-rated annually on 1 April by the percentage increase in the consumer price index in the year to the previous December. Allocations throughout a parliament are based on the results of the previous General Election. In a general election year, amounts payable are revised.

The funding available to parties with no more than five members is subject to a floor and ceiling, set at 50% and 150%, respectively, of the Independent Parliamentary Standards Authority's staffing budget for non-London area MPs. For 2020/21:

- The floor is set at £88,775
- The ceiling is set at £266,325

Short money is not available to the party in government, although an amendment was made to the scheme in 2010 to facilitate an element of funding for the minority partner in the coalition government.

### **6.8.2 The Dáil (Rol)**

The Parliamentary Activities Allowance<sup>19</sup> in the Dáil is a payment to a party leader made in relation to expenses arising from parliamentary activities, including research. The amount paid is calculated on a tiered basis and is determined by the number of party members in the Dáil. The legislation provides that, in the case of a qualifying

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<sup>19</sup> <https://www.gov.ie/en/publication/762d55-parliamentary-activities-allowance/>

party forming part of the Government, the combined allowances due in respect of TDs of that party are reduced by one third. The current figures are set out below (in Euros).

| <b>Party TDs</b>     | <b>Annual Rate per Member</b> | <b>Government Parties</b> |
|----------------------|-------------------------------|---------------------------|
| First 10 Members     | €64,368                       | €42,912                   |
| 11 to 30 Members     | €51,493                       | €34,329                   |
| More than 30 Members | €25,754                       | €17,169                   |

Parties in the Dáil are allocated staff resources by the Houses of the Oireachtas Commission based on the number of seats held and using a points system which provides parties with flexibility on the type of staff employed. In total there are 77 secretarial units and 10.5 administrative assistant posts provided in the 33<sup>rd</sup> Dáil.

### **6.8.3 Scottish Parliament**

Financial assistance to non-government parties is set out in The Scottish Parliament (Assistance for Registered Political Parties) Order 1999<sup>20</sup> which is based on the model that is in place at Westminster. Payments are made to non-government parties based on the number of members they have sitting in the parliament and is currently calculated at £8,926 per member.

The Order also applies to a coalition Government, in so far as the minority coalition partner can still qualify for assistance, but in calculating the amount a deduction is made for each Ministerial office held.

A Party Leaders Allowance is also provided at the Scottish Parliament. The purpose of this allowance is to provide support to qualifying parliamentary party leaders in carrying out the extra duties associated with that role. These duties include any work on the preparation of briefing notes and speeches and attendance at an event to which the qualifying party leader has been invited to give a presentation on his or her party's policies in the parliament. The allowance can be used for staff, office costs and travel costs. The maximum amount of the allowance that can be claimed in a financial year is as follows - in respect of a registered political party with fifteen but not more than twenty nine members the amount is £14,217 per annum and in respect of a registered political party with thirty or more members the level of allowance is £27,096 per annum.

<sup>20</sup> [The Scottish Parliament \(Assistance for Registered Political Parties\) Order 1999](#)

#### **6.8.4 Senedd Cymru/Welsh Parliament**

The Determination on Members Pay and Allowances in the Sixth Senedd<sup>21</sup> includes an allowance for political parties in the Senedd Cymru/Welsh Parliament. The allowance is payable to all parties but weighted in favour of parties not in government and capped in respect of government parties.

The total budget available under the Support for Political Parties' Allowance in the first year of the Sixth Senedd is £1,018,450 (2021/22). It is allocated as follows;

- any political party or parties represented in the Welsh Government will receive a core administration allowance of £11,190 per member up to a maximum of £167,790;
- any political party not represented in the Welsh Government, with three or more members, will be entitled to a core administration allowance of £55,390;
- following the allocation of core administration allowances, the remaining Support for Political Parties Allowance will be allocated on a per capita basis among all members whose parties are not represented in the Welsh Government.

#### **6.9 Ministerial Resources**

The contrasting resources available to a Minister and those available to an official opposition have been highlighted during the consultation. This is an issue common across all parliaments. Ministers have responsibility for extensive public services and have a significant range of specialist advice and support available to them. This resource does assist a Minister in their Assembly duties but it would be extremely difficult to meaningfully identify this element of their overall resources. While acknowledging the imbalance, it is not reasonable to make any direct comparisons between the role of a Minister and an official opposition. However, the comparison does highlight the need for the official opposition to have sufficient resources to engage in meaningful scrutiny and for developing alternative policies across the wide range of public policy and services.

#### **6.10 Eligibility for Recognition as Official Opposition**

Other than at Westminster, the comparator parliaments do not recognise an official opposition. However, there are criteria in existence for formal recognition of political groupings which are not part of the government – the Dáil provides a facility for (technical) groups of at least 5 members, the Scottish Parliament provides a facility for groups of at least 5 members and Senedd Cymru/Welsh Parliament provides a facility for groups of 3 or more members.

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<sup>21</sup><https://business.senedd.wales/documents/s100823/Determination%20on%20Members%20Pay%20and%20Allowances%20-%20April%202020.pdf>

### **6.11 Additional Funding Office of the Leaders of the Official Opposition**

The structure of funding political parties in the comparator parliaments differs greatly and the nomenclature often refers to the funding going to the party leader as representative head of the party. However, dedicated funding for the Office of the Leader of the Official Opposition is only provided at Westminster.

### **6.12 Summary of Key Points**

The key points emerging from the sample of four parliaments selected for the benchmarking exercise are:

- The status of an official opposition is only recognised in one of these parliaments. The majority recognise opposition parties and groups, with their priority or seniority based on the number of seats held, rather than recognising a formal official opposition.
- Each parliament has provisions in place to give some degree of priority to opposition parties in procedural arrangements but the principle of proportionality in the size of parties underpins many of the arrangements.
- All parliaments provide financial support to opposition parties. Three of the parliaments provide some form of funding for parties in government.
- The structure of each funding scheme for opposition parties is different and reflects the unique history and circumstances of individual parliaments.
- The level of funding provided varies greatly, with a higher level of funding provided in national parliaments. The level of funding in the devolved parliaments ranges significantly from around £9,000 per member in opposition parties in Scotland to around £26,000 in Wales.
- One of the parliaments provides separate funding for the Office of the Leader of the Official Opposition while another provides separate funding for all party leaders.
- Three parliaments provide the opportunity for parties and members to form groups (sometimes referred to as technical groups) for the purpose of accessing entitlements.
- The Chair of the Public Accounts Committee is appointed from an opposition party in all of these institutions.

## **7. Consultation**

The consultation phase of the review focused primarily on the parties and independent members of the Assembly. A copy of the master consultation letter and questionnaire is attached at **Annex C**. Written responses were received from seven parties and one independent member. Copies of the written submissions are included in **Annex D**.

Meetings were held with all parties and independent members during the course of the review. A wide range of issues were raised by parties and independent members during the consultation and all responses have been considered during the review.

A summary of key points drawn from the responses is given below:

- The need for clarity on the role and purpose of the official opposition in order to properly assess the entitlements that it requires.
- Some consultees expressed general contentment with the speaking rights for the official opposition as listed in the current Statement of Entitlements while others pressed for further speaking rights, for example in relation to precedence in the rota for Oral Questions and precedence over Committee Chairs on legislation debates.
- The dedicated allocation of Committee Chair positions to the official opposition, specifically the Public Accounts Committee.
- The facility to allow a number of parties to jointly form a voluntary opposition grouping and/or the formation of technical groups which meet the threshold for official opposition status.
- The need for adequate and timely access to information and briefings from Executive Ministers/Departments.
- Implementation of the recommendations arising from the review should be completed in advance of the next Assembly elections in 2022.
- A wide range of comment was received on the resources available to effectively support the official opposition.
- The level of funding should no longer be constrained by having to be cost neutral.
- A significant uplift in funding for official opposition is needed.
- Concerns were expressed about the impact of increasing the cost of the Assembly, particularly at a time when there are significant pressures on public funding.
- The most frequently mentioned comparator model was the Short Money system at Westminster.
- Separate funding should be provided for the Office of the Leader(s) of the official opposition and such support should include the provision of special advisers.
- The level of funding provided to the official opposition should take account of the support available to Ministers and be set at a level that facilitates effective scrutiny across the full range of government business by the official opposition.
- The funding under the FAPP Scheme should also be made available to independent MLAs as their role in the Assembly is in effect the same as a single member party.

- The level of funding should allow parties to provide comparable salaries and terms and conditions to party staff as are available for staff employed by individual MLAs.
- Support for travel costs to facilitate engagement activities relating to role of official opposition should be included.
- The need to improve entitlements (resources and speaking rights) available to non-government parties and Independent members who are not eligible for inclusion in an official opposition whether or not an official opposition is in place.
- It was suggested by some consultees that the official opposition should have dedicated access to Assembly Secretariat resources (eg Bills Office, RaISe).

## 8. Analysis

At the heart of assessing the adequacy and effectiveness of the Statement of Entitlements is understanding the role of the official opposition within the structures of the NI Assembly. There are three possible approaches to the issue of an official opposition at the NI Assembly:

1. Follow consociationalism theory and adopt structures which exclusively facilitate power sharing; or
2. Move to a more traditional majoritarian model such as operates at Westminster in the UK or Congress in the USA; or
3. Pursue a hybrid model by developing the consociational model of the Belfast (Good Friday) Agreement by adding to it features of a more traditional majoritarian system.

The agreed political approach that has developed since the introduction of provisions for an official opposition in 2016, is that of a hybrid model and NDNA continues this approach. While there are elements of entitlements that can be adapted from other institutions, it should be recognised that they do not make for a straightforward fit to the NI Assembly. It should also be noted that under a mandatory coalition system, scrutiny of the Government and its Ministers also comes from other parties within the Government both within a cabinet and in the proceedings of the parliament.

The issues highlighted in Section 5 above have been explored in the research and consultation phases of the review. The following paragraphs provide an analysis of the issues addressing the points raised during consultation and from available research.

## **8.1 Role and Purpose of an Official Opposition**

The entitlements of the official opposition can only be properly assessed when viewed in light of the purpose or role of the official opposition. From the research and consultation, the purpose of the opposition can reasonably be summarised as twofold - for scrutiny of the government and to provide the electorate with an alternative government. These roles are played out both within the parliamentary system and in the public sphere. The entitlements provided to support the official opposition must assist in fulfilment of this purpose.

It is noted that the concept of opposition was not envisaged in the Belfast (Good Friday) Agreement as it was a political settlement based on power sharing and proportionality and which placed a significant responsibility on Committees to scrutinise the work of the Executive Ministers and Departments.

## **8.2 Relevant Assessment Criteria**

A fundamental issue for the review is how the adequacy and effectiveness of the Statement of Entitlements are to be assessed. An accurate assessment can only be made where there are objective and measurable criteria against which an assessment can be made. The complexity and multifaceted nature of politics and parliaments does not lend itself to defining such assessment criteria. The focus of research and experience tends to be on the inputs rather than on the outputs, outcomes and impact of the work of the official opposition. The review has therefore relied to a significant extent on judgement to make assessments of adequacy and effectiveness.

## **8.3 Relevant Benchmarks**

To inform the review it is necessary to identify relevant models and benchmarks of good practice in other parliamentary institutions. It has specifically considered the range of entitlements available in other institutions in comparison with the current Statement of Entitlements at the NI Assembly. For the purposes of this review the models operating within the UK and Ireland are deemed the most relevant and they have been used as the primary comparators.

## **8.4 Eligibility for Recognition as an Official Opposition**

There are two existing definitions of the threshold for a party to be eligible for official opposition status at the Assembly. The first, is a party that is entitled to nominate a person to hold a Ministerial office and declines to do so. The second, where a party's members comprise 8% or more of the total number of members of the Assembly. To some degree there are comparable criteria in existence in other institutions for formal recognition of groups rather than an official opposition – the Dáil provides a facility for (technical) groups of at least 5 members, the Scottish Parliament provides a facility for groups of at least 5 members and Senedd Cymru/Welsh Parliament provides a facility for groups of 3 or more members. There is nothing in the alternative models that would

suggest a need to change the existing definitions at the Assembly for recognition of an official opposition.

### 8.5 Procedural Entitlements

The procedural entitlements listed in the Statement of Entitlements has been compared to those operating in the other selected parliaments. While there are some similarities there are additional opportunities and precedence available in some parliaments for the opposition to exercise its scrutiny role, particularly in relation to chairing of the Public Accounts Committee and precedence in tabled Oral Questions. The implementation of all Standing Orders required under the Assembly and Executive Reform (Assembly Opposition) Act (Northern Ireland) 2016 would significantly enhance the capacity of the official opposition to be effective. These points merit consideration.

### 8.6 Resource Entitlements

The presumption in the Terms of Reference is that additional resources are required for the opposition parties and that this should be benchmarked against relevant comparators.

Each comparator scheme has a different structure which makes comparisons less than straightforward and some require assumptions to arrive at estimated figures for comparison. In order to provide a broad indication of relativity, an example of a party in opposition with 10 seats is set out in the table below.

| <b>Parliament</b>  | <b>Example of Party with 10 Seats</b>                    | <b>Average per Seat</b>                                 |
|--|--|---|
| <b>NI Assembly - no official opposition recognised</b> (inc Whips Allowance) | 94,150   | 9,415   |
| <b>NI Assembly – for an official opposition party</b> (inc Whips Allowance)  | 117,790  | 11,779  |
| <b>House of Commons (UK)</b><br>(estimated figure)                           | 283,199  | 28,319  |
| <b>Dáil (RoI)</b><br>(estimated figure converted from € to £ at 0.86)        | 553,564<br>(plus the allocation of party staff resource) | 55,356<br>(plus the allocation of party staff resource) |
| <b>Scottish Parliament</b>   | 89,260   | 8,920   |
| <b>Senedd Cymru/Welsh Parliament</b><br>(estimated figure)                   | 263,372  | 26,337  |

The Office of the Leader of the Official Opposition at Westminster receives separate funding of £852,481. While direct comparisons are difficult to make, if this was allocated pro rata to a party with 10 seats it would equate to an additional £42,202, increasing the average per seat from £28,319 to £32,521.

All party leaders in Scotland receive additional funding. A party with fifteen but not more than twenty nine members the amount is £14,217 per annum and with thirty or more members the level of allowance is £27,096 per annum. A party with 10 seats would not qualify for this allowance.

In the Dáil there is a reduction of one third of party funding for those in government which in effect means that the opposition parties have an enhancement of 50% over the government parties.

These figures show a wide range of funding levels and do not provide a clear steer as to the ideal benchmark. The range is so broad that averages do not prove meaningful. The range in the devolved institutions is perhaps the most relevant to consider but this still shows a wide range.

Using the example of an opposition party of 10 seats, the additional funding currently provided to an opposition party under the FAPP Scheme is £23,640 per annum (see Table on page 28). In effect this allows the party to employ only one additional full time member of staff at a lower grade. A reasonable level of support would provide an opposition party of 10 seats with up to three additional full time staff (depending on grade) covering specialist advice, research, policy development, communications and administration duties. To enable a party to employ this number of staff with the level of skills necessary, and to cover miscellaneous and travel costs, funding of £100,000 (per annum) is proposed over and above the general level of FAPP funding. This would raise the total level of funding for an official opposition party from £117,790 to £217,790 or from £11,779 to £21,779 per member. This proposed figure is significantly above the level of funding in the Scottish Parliament but below the level provided in Senedd Cymru/Welsh Parliament, Westminster and the Dáil.

The provision of a separate Whips Allowance is unique to the Assembly with such funding being part of the main funding stream for the party in other parliaments. Also a separate travel budget is allocated in Westminster but this is an allowable expense under the current FAPP Scheme. There is merit in simplifying the FAPP Scheme into a single stream of funding covering all categories. This approach would provide the official opposition with the discretion to appoint the type and level of staff that it judges necessary to effectively support their work.

The potential for the official opposition to access dedicated Assembly Secretariat resources has been suggested. Such a dedicated facility is not available in any of the

other parliaments, rather funding is provided through the respective funding schemes for the parties to engage their own staff according to their needs and priorities. There is also a risk of compromising the impartiality of Secretariat staff in such an arrangement. The model used in other parliaments and under the current FAPP Scheme remains appropriate.

Inflationary increases are generally applied in other parliamentary schemes but it is also noted that no inflationary increase has been applied to the current FAPP Scheme since its introduction in 2016. A catch-up figure in the region of 10% (based on CPI) would be required to address increasing costs over this period. This would add in the region of £80,000 to the annual FAPP budget. The funding under the FAPP Scheme should also be sufficient to enable the official opposition to offer their staff fair and appropriate levels of salaries and term and conditions. The Assembly Commission should address the absence of inflationary increases in recent years in its ongoing review of the Scheme.

The Terms of Reference state that the review should explore the creation of additional funding for the Offices of the Leaders of Opposition parties. Where parliaments provide funding for party leaders it is done in varying ways, dedicated funding is only provided for the Office of the Leader of the Official Opposition at Westminster. The fundamental issue is that a party should have sufficient funds for its opposition role, no matter how it is categorised or ringfenced. Specific and separate funding for an Office(s) of the Leader of the Official Opposition is not judged necessary but should be included in the increased funding recommended as part of this review.

### **8.7 Access to Information**

The effectiveness of an official opposition will be undermined if relevant and timely information and briefings are not provided by government Ministers and their Departments. The difficulties faced by the Assembly and its Committees in obtaining information has been highlighted during the consultation process and this also impacts on an official opposition. The examples of action taken to address these difficulties of The Cabinet Manual (UK) and The Functioning of Government (Miscellaneous Provisions) Act 2021 provide a basis to develop a more robust approach. Such an approach could be codified in protocols, Standing Orders or legislation, or a combination of these, to ensure the government does not inadvertently or deliberately frustrate the role of an official opposition.

## **9. Observations**

In the course of the review, a number of issues arose that are related to the review but not covered by the Terms of Reference. These issues are recorded as Observations below for consideration as appropriate.

**Observation 1**

The relative deficiency of research on opposition issues and the absence of specific research on the entitlements provided to opposition parties proved a hindrance to the review. The Assembly may wish to encourage or facilitate such research that could be helpful in any future review of entitlements.

**Observation 2**

The speaking rights of parties not qualifying for official opposition status and of independent MLAs, both of whom act in an opposition role, were voiced strongly during the consultation phase of the review. This frustration is common across all parliaments and reflects the respective parliamentary size of the parties and independent MLAs. However, it is an issue which merits ongoing attention to ensure fairness and the balance of debate.

**Observation 3**

The current approach of the Business Committee to include one representative from the small parties and independents has been a helpful development for the smaller parties and independent members.

**10. Options**

The Terms of Reference require an assessment of the options for addressing any changes or improvements arising from the review. The approach to addressing each recommendation is relatively straightforward and is noted below.

The lead time for considering and implementing the recommendations has the potential for all recommendations to be in place before the end of the current Assembly mandate, if progressed in a timely manner.

**Adoption by the Assembly**

Recommendations 1, 2 and 5 are guiding principles which merit formal adoption by the Assembly to guide the implementation of the remaining recommendations. They can be included as recommendations in the AERC report to the Assembly following this review with a recommendation for formal adoption.

**AERC Forward Work Programme**

AERC can take forward recommendation 3 and 18 as part of its forward work programme. Recommendation 18 may require legislation, subject to the outcome of the Committee's work on this issue.

### **Committee on Procedures**

New or amended Standing Orders will be required to implement a number of recommendations and the Committee on Procedures can progress this work. The relevant recommendations are: 4, 6, 7, 8, 10 and 11. The Speaker and Business Committee may need to adjust their current arrangements once relevant Standing Orders are agreed.

### **Assembly Commission**

The Assembly Commission can take forward recommendations 12-17 as part of its ongoing review of the FAPP Scheme.

### **Official Opposition**

Recommendation 9 is more of an internal matter for a multi-party official opposition but would be linked to Recommendation 4.

## **11. Findings and Conclusions**

The findings and conclusion of the review are drawn from the analysis in Section 8 and are set out below.

The range of entitlements provided to the official opposition should be set at a level that acts neither as an incentive nor a disincentive to a party considering entering official opposition. A principle to this effect should be adopted by the Assembly.

In times of political contention there is a risk that opposition entitlements may be frustrated or abused if they are not formally codified. All entitlements and their operation should be formally committed to writing and agreed as appropriate.

Evidence from experience of operating official opposition entitlements at the Assembly would enhance the consideration of their adequacy and effectiveness. A review should be undertaken after a substantive period of operation.

The issue of official opposition has been on the agenda for some years. It would be helpful for the functioning of the Assembly, and its credibility, that the agreed recommendations arising from this review be implemented in a timely manner.

The procedural provisions of the current Statement of Entitlements of themselves are less than adequate to provide for an effective official opposition. However, taken together with the provisions of the 2016 Act and the points highlighted below, collectively provide a sounder basis for the work of the official opposition. The additional points are:

1. the first Oral Question to Ministers should come from the official opposition.

2. the official opposition should have the opportunity to be represented on all Statutory Committees.
3. that consideration be given to facilitating the creation of political or technical groups which may have the potential to meet the criteria for recognition as part of the official opposition.

Recognition of political groups or technical groups are a feature of three of the comparator parliaments and merit further consideration to assess their potential for enhancing the overall capacity of the Assembly for scrutiny of the Executive.

The operation of a multi-party official opposition, or indeed a political or technical group, brings with it the positive and negative dynamics that are a part of a mandatory power sharing government. The workability of such agreements are challenging and require careful consideration. The parties involved should agree and publish their operating procedures. This would greatly assist the Speaker in managing Plenary business.

The resource entitlements for the official opposition are inadequate to support it in being effective in its Assembly duties. There is a need to significantly enhance the level of funding provided as outlined in the Analysis section above. Using the example of an opposition party of 10 members, the enhancement over parties in government should be at the level of £100,000.

The absence of applying inflationary increases to the FAPP Scheme since 2016 (creating a real terms reduction in value of over 10%) also needs to be addressed to ensure that there is no dilution of the value of the FAPP Scheme nor any unfair impact on the salaries of staff employed under the scheme.

The review has not considered the current level of funding provided under the FAPP Scheme nor the access to this funding by parties in government, other than identifying the need for a catch-up inflationary increase to be applied and an annual cost of living increase mechanism to be consistently applied in future. The review has focused on the additional funding necessary to effectively support an official opposition.

With increased resources comes increased accountability. The conditions and guidance associated with receiving funds under the FAPP Scheme should be set out in more detail to increase transparency, probity and fairness. Parties should have discretion on how best use of the resources in appointing staff with the mix of skills and seniority most appropriate to their needs but should be subject to a cap on the maximum salary payable.

The effectiveness of an official opposition will be undermined if relevant and timely information and briefings are not provided by government Ministers and their Departments. A more robust approach should be explored through the development

of protocols, Standing Orders or legislation, or a combination of these, to ensure the government does not inadvertently or deliberately frustrate the role of an official opposition.

## **12. Recommendations**

The following recommendations are made on the adequacy and effectiveness of the entitlements available to the official opposition.

### **General**

1. That the following principle be endorsed by the Assembly and reflected in all considerations of the range and scale of entitlements provided to the official opposition - *that the resources, profile and status provided for the official opposition should not of themselves be an incentive or a disincentive to opt for official opposition.*
2. That the entitlements for the official opposition should be clearly codified so as to avoid misinterpretations, contention or dispute in their implementation.
3. That the entitlements should be reviewed after a substantive period of operation to draw lessons from a meaningful period of experience (at least two years).
4. If the official opposition comprises more than one party, that the parties involved should develop and publish operating procedures for their voluntary grouping in relation to the business of the Assembly. This should be done at the commencement of the operation of the official opposition and be a condition of accessing funding under the FAPP Scheme.
5. That all recommendations should be implemented in a timely manner and that all Standing Orders should ideally be in place before the end of the current Assembly mandate.

## Procedural

6. The following provisions for enhanced speaking rights should continue as set out in the Statement of Entitlements:

### Question Time:

- The first supplementary question after the tabling member for the first 3 listed Oral Questions to each Minister. (*Subject to enhancement if recommendation 7 below is adopted*)
- The first Topical Question to each Minister to be allocated outside the ballot. (*Subject to enhancement if recommendation 8 below is adopted*)
- The first supplementary after the tabling member for a Question for Urgent Oral Answer.

### Executive Business - Budget and Programme for Government (PfG) debates:

- The first contributor following the Minister to Budget and PfG debates.

### Executive Business – Legislation:

- The first contributor following the relevant Statutory Committee Chairperson in Executive Bill debates; subordinate legislation motions; and legislative consent motions.

### Ministerial Statements:

- The first question to the Minister following an oral statement.

### Matters of the Day:

- The first contributor after the tabling member to a Matter of the Day.

### Opposition Debates:

- The frequency of opposition debates to be determined by the Speaker in consultation with the Business Committee. (*Note: 10 days agreed by Business Committee in 2016 and Section 8 of the 2016 Act requires a minimum of 10 days*)

7. An additional facility to strengthen the questioning of the Executive should be provided to the official opposition by amending Standing Order 20(7) to provide that the first Oral Question to Ministers should come from the official opposition.

8. That all the Standing Orders required under the Assembly and Executive Reform (Assembly Opposition) Act (Northern Ireland) 2016 be developed and implemented. In summary, the sections of the Act specifically relating to the official opposition are:

- 2 – Formation of the Opposition
- 3 – Timing of formation of the Opposition
- 4 – Dissolution of Opposition
- 5 – Leadership of the Opposition
- 6 – Topical Questions from the Leadership of the Opposition
- 7 – Speaking Rights in the Assembly
- 8 – Enhanced speaking rights for the Opposition
- 9 – Opposition right to chair Public Accounts Committee
- 10– Membership of Business Committee for the Opposition
- 15(1&2) – Topical questions

9. The existing provision in the Statement of Entitlements for apportioning speaking rights if the official opposition comprises more than one party should continue (ie on the basis of party strength and in a manner similar to the allocation of Private Members' Business by the Business Committee). Where more than one party is in official opposition this should also be formalised as part of the official opposition's operating procedures (see Recommendation 4).

10. When an official opposition is operational, it should have the opportunity to be represented on all Statutory Committees.

11. That consideration be given to facilitating the creation of political or technical groups which may have the potential to meet the criteria for recognition as part of the official opposition.

## **Financial**

12. A significant increase in resources available to the official opposition should be provided in the FAPP Scheme to support the effectiveness of the official opposition. The increase should provide an opposition party of 10 members with an addition of £100,000 over the general FAPP funding, with figures for official opposition parties of larger or smaller size varying according to size.

13. The FAPP Scheme should no longer be constrained by the requirement to adhere to a "cost neutral" principle (i.e. that additional resources are made available to increase the FAPP budget and that no reduction should be made

to the level of funding provided to other parties if an official opposition is in place).

14. The conditions and guidance associated with receiving funds under the FAPP Scheme should be set out in more detail to increase transparency, probity and fairness, including a cap on the maximum salary payable under the Scheme.
15. The FAPP Scheme should be simplified into a single funding stream which incorporates the current Whips' Allowance and provides support for all aspects of the work of the official opposition including support for the Office of the Leader of the Official Opposition.
16. The review of funding for the official opposition (and that available to all parties) should take account of the fact that there has been no increase in the rates payable under the FAPP Scheme since 2016.
17. A mechanism for an annual cost of living increase should be built in to a revised FAPP Scheme.

#### **Access to Information**

18. An official opposition should have adequate access to information from Ministers and Departments. A more robust approach should be explored through the development of protocols, Standing Orders or legislation, or a combination of these.

## **Acknowledgements**

The author acknowledges the very willing and helpful assistance and information provided throughout the review by consultees, academic and research sources, other parliamentary institutions and the NI Assembly Secretariat.

## **List of Annexes**

**A. Terms of Reference**

**B. Statement of Proposed Entitlements for an Official Opposition**

**C. Master consultation letter and questionnaire**

**D. Written consultation responses:**

- i. Alliance Party**
- ii. Green Party**
- iii. Democratic Unionist Party**
- iv. Mr T Lunn MLA**
- v. Social Democratic and Labour Party**
- vi. Sinn Fein**
- vii. Traditional Unionist Voice**
- viii. Ulster Unionist Party**

**E. Bibliography**

## **Review of the Statement of Entitlements for an Official Opposition - Terms of Reference**

### **Purpose**

1. The purpose of the independent review is to consider the adequacy and effectiveness of the Statement of Entitlements for an Official Opposition in accordance with the applicable provisions of paragraph 3.7 of Annex C of the NDNA, including that:
  - ‘The parties recognise that additional funding should be made available to parties who form the Opposition.’;
  - ‘the review should have regard to relevant comparators.’; and
  - ‘The review should recommend increased allowances for Opposition parties and should explore the creation of additional funding for the Offices of the Leaders of Opposition parties.’

### **Process & Output**

2. The ‘appropriate independent person’ (as cited in paragraph 3.7 of Annex C of the NDNA) will be appointed in accordance with the Commission’s procurement policy, with a tender process and representatives of the AERC involved in the evaluation of tenders and the selection of the appointee.
3. Following their appointment, the independent person will conduct the review in accordance with paragraph 3.7 of Annex C of the NDNA. In considering the adequacy and effectiveness of the Statement of Entitlements for an Official Opposition, the review will also take account of the views of stakeholders (e.g. the parties and independent Members represented in the Assembly, the Commission, the Committee on Procedures) and of relevant provisions in Assembly Standing Orders and in legislation (e.g. the 2016 Act, the FAPP Act).
4. The independent person will make a report to the AERC setting out their findings and recommendations. The review report will include all supporting evidence, together with information on the financial and procedural implications of recommendations.

### **Timescale**

5. The independent person appointed to conduct the review must submit a report on the review to the AERC within four months of being appointed.

### **AERC consideration and report to the Assembly**

6. The AERC will consult with the Commission on any financial implications and with the Committee on Procedures on any procedural implications arising from the review recommendations.

7. In accordance with the Assembly resolution of 13 October 2020, the AERC will report to the Assembly on the outcome of the review. The AERC report to the Assembly will include a copy of the review report received from the independent person and will set out the Committee's consideration of the findings and recommendations contained therein

**Statement of Proposed Entitlements for an Official Opposition**

Appendix F4 to A *Fresh Start Agreement* (November 2015)

- (i) Those parties which would be entitled to ministerial positions in the Executive but choose not to take them up, to be recognised as an official opposition. Those parties which choose to go into opposition should elect to do so at the time they decline the offer of a ministerial position in the Executive when D'Hondt is run.
- (ii) Provisions for an official opposition to be put in place by administrative, or other, means not requiring primary legislation. Parties noted that giving the provisions a legislative footing would require Westminster legislation as the issue was an excepted matter.
- (iii) No formal titles are to be conferred upon individual members, including leaders of parties, within the official opposition. It is acknowledged that titles may come to be conferred informally on such office holders through custom and practice.
- (iv) Provision should be made for cost neutral financial and research assistance for opposition parties, either through the Financial Assistance to Political Parties Scheme (FAPP), or a ring-fencing of Assembly research facilities.
- (v) Official opposition should have enhanced speaking rights during plenary business, and these should comprise the following:
  - (a) Question Time**  
The first supplementary question after the tabling Member for the first 3 listed Oral Questions to each Minister. The first Topical Question to each Minister to be allocated outside the ballot. The first supplementary after the tabling Member for a Question for Urgent Oral Answer.
  - (b) Executive Business - Budget and PfG debates**  
The first contributor following the Minister to Budget and PfG debates.
  - (c) Executive Business - Legislation**  
The first contributor following the relevant Statutory Committee Chairperson in Executive Bill debates; subordinate legislation motions; and legislative consent motions.
  - (d) Ministerial Statements**  
The first question to the Minister following an oral statement.

**(e) Matters of the Day**

The first contributor after the tabling Member to a Matter of the Day.

**(f) Opposition Debates**

The frequency of opposition debates to be determined by the Speaker in consultation with the Business Committee.

- (vi) Should the official opposition comprise more than one party the apportionment of speaking rights amongst parties will be determined by such parties themselves on the basis of party strength, in a manner similar to the allocation of Private Members' Business by the Business Committee.

*(Note: Standing Order 45A was amended on 13 October 2020 (following the Committee on Procedures consideration of the recommendation at paragraph 3.6 in NDNA) to provide that a party may choose to be recognised as part of the Official Opposition up to two years after the formation of the Executive following an Assembly election.)*

## Master Consultation Letter and Questionnaire

Letter to Whips and Independent MLAs

Trevor Reaney  
Independent  
Parliamentary Consultant

Date 4 March 2021

Dear xxx

### Independent Review of the Statement of Entitlements for an Official Opposition

I am writing to seek your views on the adequacy and effectiveness of the Statement of Entitlements for an Official Opposition at the Northern Ireland Assembly.

#### Background

The review arises from the New Decade, New Approach (NDNA) deal and is part of its recommendations. In Annex C (para. 3.7) of NDNA the relevant recommendation is outlined which includes that:

- 'The parties recognise that additional funding should be made available to parties who form the Opposition.';
- 'the review should have regard to relevant comparators.'; and
- 'The review should recommend increased allowances for Opposition parties and should explore the creation of additional funding for the Offices of the Leaders of Opposition parties.'

In pursuance of this recommendation, a resolution was passed in the Assembly on 13 October 2020 which referred the commissioning of an independent review to the Assembly and Executive Review Committee. Subsequently, the Assembly Commission and the Assembly and Executive Review Committee commissioned the review and I have been appointed as the independent person to undertake that review.

The Terms of Reference for the review are attached for your information (Annex A), along with a summary of the current Statement of Entitlements for an Official Opposition (Annex B). Financial support for opposition parties is set out in the Financial Assistance for Political Parties Scheme 2016 which can be accessed through the following link

[http://www.niassembly.gov.uk/globalassets/documents/your\\_mlas/fapp-scheme-2016---final-colour-coded.pdf](http://www.niassembly.gov.uk/globalassets/documents/your_mlas/fapp-scheme-2016---final-colour-coded.pdf)

I will be consulting widely during the review and wish to obtain the views of Political Parties and independent Members of the Assembly. This consultation will include the following opportunities to contribute to the review:

- a written submission using the attached questionnaire template (Annex C) and I would be grateful if you would return the completed questionnaire by **31 March 2021**;
- a meeting (virtual) to discuss the review and your views before the **end of April 2021**; and
- an opportunity to submit any supplementary comments in writing **up to the 30 April 2021**.

Please note that any written responses will be appended to the report on the review and will be included in the AERC report to the Assembly on the outcome of the review.

I would be grateful if you would complete the attached questionnaire and I will contact you shortly to arrange a meeting at your convenience.

If you wish to contact me at any time, my contact details are - email address [REDACTED] and mobile phone number [REDACTED].

Many thanks in anticipation of your participation and response.

Yours sincerely

A large black rectangular redaction box covering the signature area.

Trevor Reaney  
Independent Parliamentary Consultant

## **Review of the Statement of Entitlements for an Official Opposition**

### **Terms of Reference**

#### **Purpose**

8. The purpose of the independent review is to consider the adequacy and effectiveness of the Statement of Entitlements for an Official Opposition in accordance with the applicable provisions of paragraph 3.7 of Annex C of the NDNA, including that:
  - ‘The parties recognise that additional funding should be made available to parties who form the Opposition.’;
  - ‘the review should have regard to relevant comparators.’; and
  - ‘The review should recommend increased allowances for Opposition parties and should explore the creation of additional funding for the Offices of the Leaders of Opposition parties.’

#### **Process & Output**

9. The ‘appropriate independent person’ (as cited in paragraph 3.7 of Annex C of the NDNA) will be appointed in accordance with the Commission’s procurement policy, with a tender process and representatives of the AERC involved in the evaluation of tenders and the selection of the appointee.
10. Following their appointment, the independent person will conduct the review in accordance with paragraph 3.7 of Annex C of the NDNA. In considering the adequacy and effectiveness of the Statement of Entitlements for an Official Opposition, the review will also take account of the views of stakeholders (e.g. the parties and independent Members represented in the Assembly, the Commission, the Committee on Procedures) and of relevant provisions in Assembly Standing Orders and in legislation (e.g. the 2016 Act, the FAPP Act).
11. The independent person will make a report to the AERC setting out their findings and recommendations. The review report will include all supporting evidence, together with information on the financial and procedural implications of recommendations.

#### **Timescale**

12. The independent person appointed to conduct the review must submit a report on the review to the AERC within four months of being appointed.

#### **AERC consideration and report to the Assembly**

13. The AERC will consult with the Commission on any financial implications and with the Committee on Procedures on any procedural implications arising from the review recommendations.
14. In accordance with the Assembly resolution of 13 October 2020, the AERC will report to the Assembly on the outcome of the review. The AERC report to the Assembly will include a copy of the review report received from the independent person and will set out the Committee’s consideration of the findings and recommendations contained therein.

Appendix F4 to *A Fresh Start Agreement* (November 2015)**Statement of Proposed Entitlements for an Official Opposition**

- (i) Those parties which would be entitled to ministerial positions in the Executive but choose not to take them up, to be recognised as an official opposition. Those parties which choose to go into opposition should elect to do so at the time they decline the offer of a ministerial position in the Executive when d'Hondt is run.
- (ii) Provisions for an official opposition to be put in place by administrative, or other, means not requiring primary legislation. Parties noted that giving the provisions a legislative footing would require Westminster legislation as the issue was an excepted matter.
- (iii) No formal titles are to be conferred upon individual members, including leaders of parties, within the official opposition. It is acknowledged that titles may come to be conferred informally on such office holders through custom and practice.
- (iv) Provision should be made for cost neutral financial and research assistance for opposition parties, either through the Financial Assistance to Political Parties Scheme (FAPP), or a ring-fencing of Assembly research facilities.
- (v) Official opposition should have enhanced speaking rights during plenary business, and these should comprise the following:

**(g) Question Time**

The first supplementary question after the tabling Member for the first 3 listed Oral Questions to each Minister. The first Topical Question to each Minister to be allocated outside the ballot. The first supplementary after the tabling Member for a Question for Urgent Oral Answer.

**(h) Executive Business - Budget and PfG debates**

The first contributor following the Minister to Budget and PfG debates.

**(i) Executive Business - Legislation**

The first contributor following the relevant Statutory Committee Chairperson in Executive Bill debates; subordinate legislation motions; and legislative consent motions.

**(j) Ministerial Statements**

The first question to the Minister following an oral statement.

**(k) Matters of the Day**

The first contributor after the tabling Member to a Matter of the Day.

**(l) Opposition Debates**

The frequency of opposition debates to be determined by the Speaker in consultation with the Business Committee.

- (vi) Should the official opposition comprise more than one party the apportionment of speaking rights amongst parties will be determined by such parties themselves on

the basis of party strength, in a manner similar to the allocation of Private Members' Business by the Business Committee.

*(Standing Order 45A was amended on 13 October 2020 (following the Committee on Procedures consideration of the recommendation at paragraph 3.6 in NDNA) to provide that a party may choose to be recognised as part of the Official Opposition up to two years after the formation of the Executive following an Assembly election.)*

# **Review of the Adequacy and Effectiveness of the Statement of Entitlements for an Official Opposition**

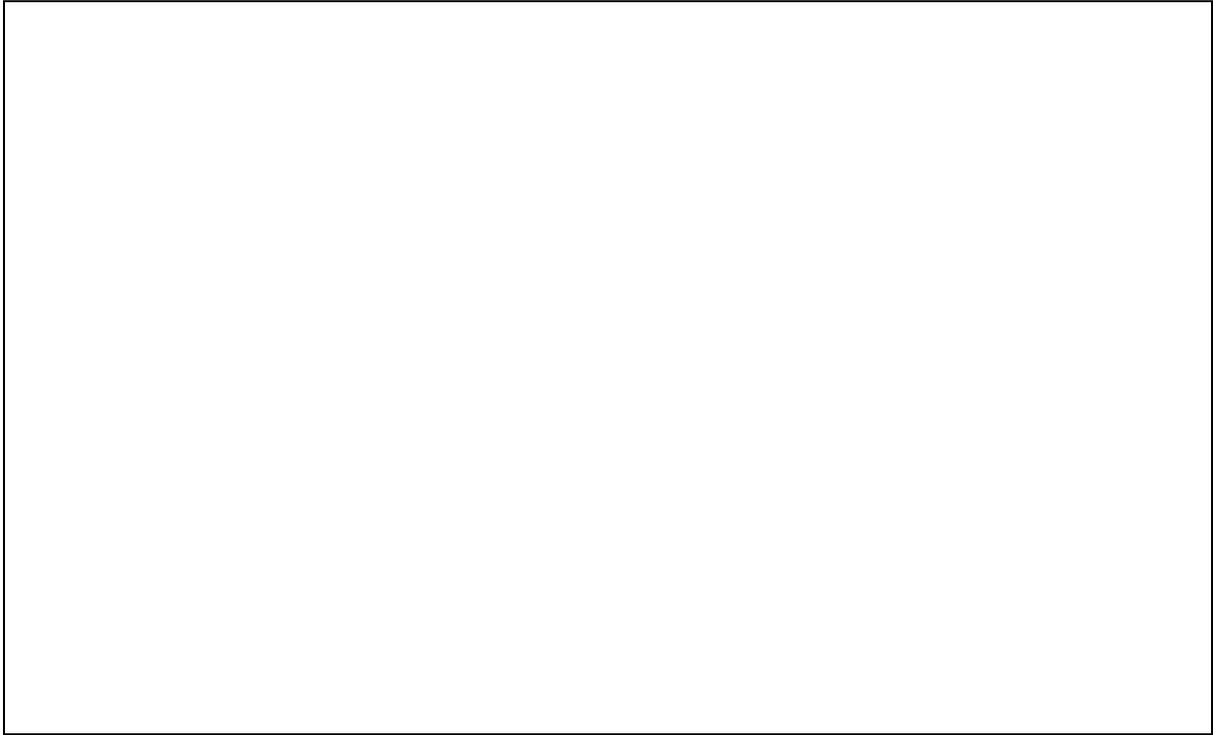
## **Consultation Questionnaire**

**Name of Party/Member:**

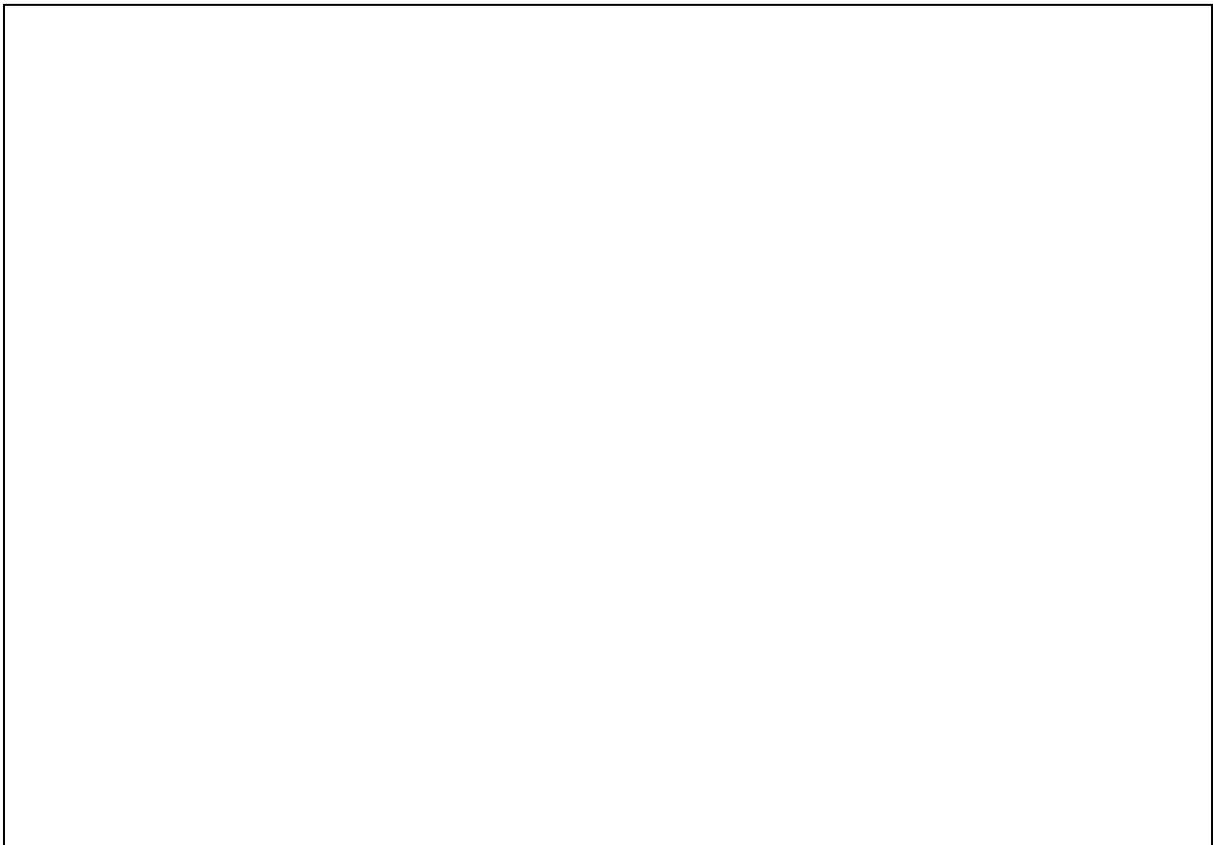
- 1. How have you, or how would you, use the existing entitlements and resources available for Official Opposition parties?**

- 2. Do you consider the existing entitlements and resources available for Official Opposition parties are adequate and appropriate? If not, why not?**

**3. Do you consider that additional funding for Offices of the Leaders of Opposition parties would be helpful, and if so, how and at what level of funding?**



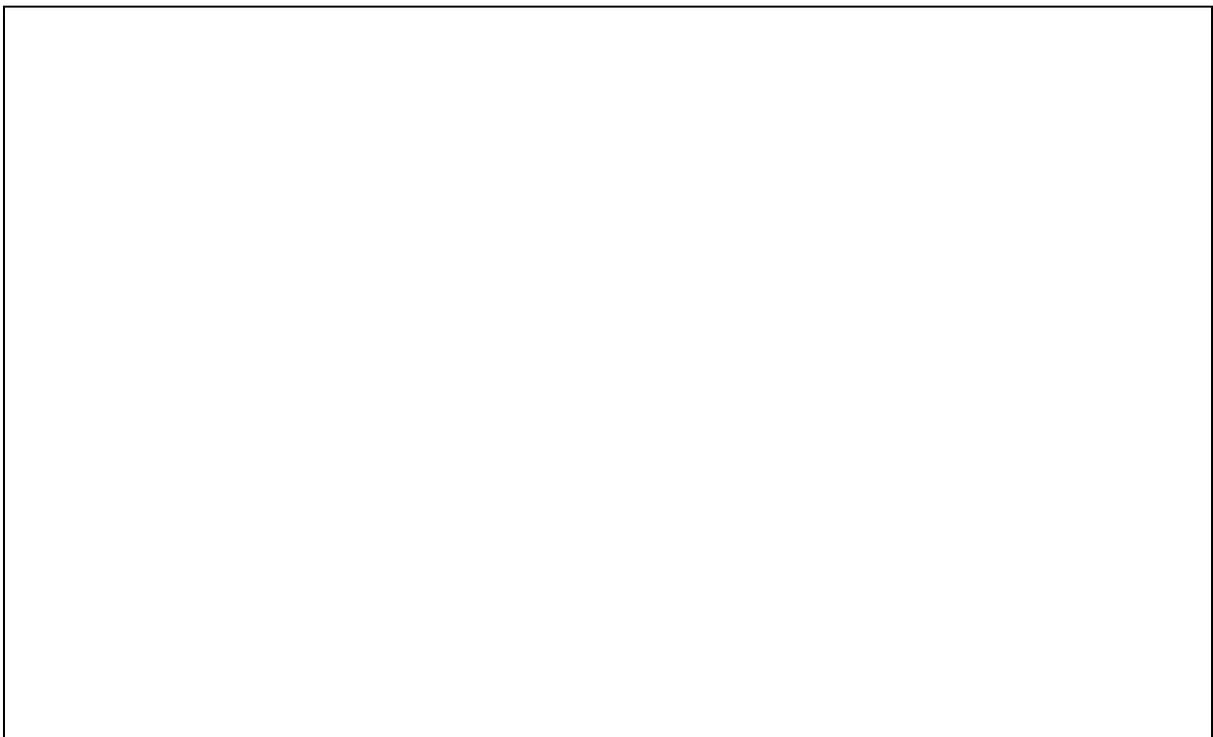
**4. Against what criteria would you assess the adequacy and effectiveness of the current Statement of Entitlements for Official Opposition parties?**



- 5. Are you aware of any models in other parliamentary institutions which you believe would provide a more effective framework of support for Official Opposition parties?**



- 6. What other entitlements, both type and quantum, do you believe would be helpful to the work of Official Opposition parties and Leaders Offices at the Assembly and why?**



**7. Do you have any other comments or suggestions to make on the review?**

**Completed by:**

**Signed:**

**Date:**

**Please email return completed questionnaires to Trevor Reaney at:  
[REDACTED] by 31 March 2021.**

# Review of the Adequacy and Effectiveness of the Statement of Entitlements for an Official Opposition

## Consultation Questionnaire

**Name of Party/Member:** Alliance Party of Northern Ireland

**8. How have you, or how would you, use the existing entitlements and resources available for Official Opposition parties?**

Alliance believes in order to have an effective Opposition; it needs to be confirmed in Standing Orders and appropriately resourced.

Alliance believe that the 'Short Money' process as used in the House of Commons (HoC) should be used as a template for NI Assembly Official Opposition resources. For example: Official Opposition should have access to the Bills Office and RAISE and any Opposition staff salary, terms and conditions should be no less than those of MLA constituency staff.

Opposition Parties who wish to group together as a voluntary opposition coalition may do so and avail of resources. The Party responsible for staff recruitment and management is the largest Party of the coalition.

An official opposition would physically sit opposite government in the Chamber.

Official opposition will provide the Chair of PAC and is guaranteed at least one seat on each of the following: AERC, Standards and Privileges, Procedures and the Whip of each qualifying Opposition Party will sit on the Business Committee.

Proposed Qualifying criteria for Official Opposition is:

- Any Party that refuses a Ministry under D'Hondt
- or following D'Hondt, a Party that subsequently refuses a Ministerial role and holds 8% of MLAs (7 MLAs or more)
- Any Party with 7 or more MLAs (8%)

The relevant legislation to be implemented and Standing Orders amended before May 2022.

Official Opposition Speaking Rights:

Alliance agrees with the proposals suggested in Annex A

The Leader of the Official Opposition will have right of reply after Government in each debate. The Speaker will then balance speakers between the Parties in Government and Parties in Opposition.

There will be one Opposition Debate per week

**9. Do you consider the existing entitlements and resources available for Official Opposition parties are adequate and appropriate? If not, why not?**

There is no current Official Opposition as none of the Parties outside Government qualify for Opposition.

As Standing Orders were never updated, the allocations for Official Opposition are moot.

**10. Do you consider that additional funding for Offices of the Leaders of Opposition parties would be helpful, and if so, how and at what level of funding?**

Same as Short Money in HoC

**11. Against what criteria would you assess the adequacy and effectiveness of the current Statement of Entitlements for Official Opposition parties?**

Same as Short Money rules in HOC.

Parties claiming Official Opposition financial support must provide the Accounting Officer of the Assembly an annual signed report confirming that all expenses claimed were incurred exclusively in relation to the Party's Parliamentary business. In addition, parties have to provide information on staff employed and other costs funded through Official Opposition Support

**12. Are you aware of any models in other parliamentary institutions which you believe would provide a more effective framework of support for Official Opposition parties?**

House of Commons

**13. What other entitlements, both type and quantum, do you believe would be helpful to the work of Official Opposition parties and Leaders Offices at the Assembly and why?**

FAPPS and Whips needs to be reviewed and updated to prevent staff employed from being paid less than minimum wage.

**14. Do you have any other comments or suggestions to make on the review?**

Need to update the designation system to ensure Parties of all political opinions are treated equally. All Parties' votes must be counted equally in a cross community vote.

**Completed by: Kellie Armstrong MLA, Chief Whip, Alliance Party**

**Signed: Kellie Armstrong**

**Date: 4 May 2021**

**Please email return completed questionnaires to Trevor Reaney at: [REDACTED] by 31 March 2021**

# **Review of the Adequacy and Effectiveness of the Statement of Entitlements for an Official Opposition**

## **Consultation Questionnaire**

**Name of Party/Member: Green Party NI**

- 1. How have you, or how would you, use the existing entitlements and resources available for Official Opposition parties?**

The Green Party NI has not, to date, been a member of the Official Opposition.

If the Party were to enter Official Opposition, we would maximise opportunities to use the enhanced speaking rights. However, the availability of such rights would depend on how many parties comprised the Opposition and their relative proportions. In terms of the additional financial resource, we anticipate that we would use this primarily to provide additional research and policy support for our MLAs.

- 2. Do you consider the existing entitlements and resources available for Official Opposition parties are adequate and appropriate? If not, why not?**

When the Official Opposition was established in 2016 under 'A Fresh Start', the role and responsibilities of the Official Opposition were not set out. There is no clarity around what the Official Opposition is intended to be in the context of the consociational Assembly. It is not clear what sets the Official Opposition apart from those parties who do not meet the criteria, ie, those parties who did not receive enough votes to be entitled to join the Executive. It is odd then to be asked to decide whether or not the entitlements and/or resources are sufficient when it is not clear what the Official Opposition is supposed to do.

In addition, given that the first Official Opposition lasted less than one year and we do not have an Official Opposition during the present term, it is almost impossible to measure the effectiveness of those additional entitlements or to comment on their adequacy and appropriateness.

**3. Do you consider that additional funding for Offices of the Leaders of Opposition parties would be helpful, and if so, how and at what level of funding?**

In principle, yes. However, without clarity on the role of the Official Opposition and in turn the 'unofficial' opposition parties, it is difficult to determine the appropriate level of funding. The role, function and responsibilities must determine the necessary funding. However, we would take the view generally that opposition parties should be supported so that they are capable of competently holding the Executive to account and able to properly scrutinise legislation.

The appropriate level is difficult to ascertain without clarity also on the total financial resource (ie, including the civil service support afforded to the Executive) given to the First and Deputy First Minister offices. We understand that there is no additional funding provided the 'official' opposition in the Welsh and Scottish devolved assemblies. There is no additional funding in the Welsh assembly for opposition members. While there is additional funding for MSPs, it is relatively low, amounting to around £8,000 per MSP with no distinction between opposition parties or roles.

If the additional funding for the leader of the Official Opposition in Westminster (currently £852,481.98) were adjusted by reference to the relative basic salaries of MPs and MLAs (an MLA salary is just under 60% of an MP salary), this would equate to around £511,000. In the Dáil, a Parliamentary Activities Allowance is paid to qualifying opposition parties at the following rates:

| <b>Party TDs</b>     | <b>Annual Rate per Member</b> |
|----------------------|-------------------------------|
| First 10 Members     | €64,368                       |
| 11 to 30 Members     | €51,493                       |
| More than 30 Members | €25,754                       |

Additional sums are paid in respect of Senators as part of the Parliamentary Activities Allowance.

**4. Against what criteria would you assess the adequacy and effectiveness of the current Statement of Entitlements for Official Opposition parties?**

Again, as stated above, given the lack of clarity around the role of the Official Opposition, it is difficult to see how criteria can be determined.

**5. Are you aware of any models in other parliamentary institutions which you believe would provide a more effective framework of support for Official Opposition parties?**

This has been beyond the scope of our research capacity at this time. As you will no doubt be aware, academic research on parliamentary opposition is relatively light and it would require a substantial amount of time and resource to investigate, analyse and examine alternative frameworks. If your work has included this research, we would be interested to discuss your findings.

**6. What other entitlements, both type and quantum, do you believe would be helpful to the work of Official Opposition parties and Leaders Offices at the Assembly and why?**

Referring to our statements above, without clarity on the intended role and function of the Official Opposition, it is difficult to make any comment on this question.

**7. Do you have any other comments or suggestions to make on the review?**

There is no clarity on the role of function of the Official Opposition and critically, there is no clarity on why they are determined to be a distinct group from the

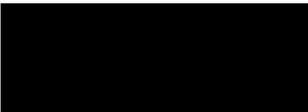
remaining parties who did not meet the criteria for entering the Executive. There seems no substantive justification for creating two tiers of 'opposition' and the procedure seems primarily designed to privilege the larger Assembly parties.

Under current funding arrangements, it is the case that where there is an Official Opposition in place, funding for other parties is reduced. The reductions are relatively small, but it is unclear why they are applied – the existence of an Official Opposition does not, on the face of it, change the work of the 'other' parties.

In terms of opposition parties more generally and in particular where smaller parties and independent MLAs are concerned, there is no provision here for additional support on research or policy development or more practical issues, such as managing human resource issues. The role of MLA should be open to any person in our society, which means ensuring that any social or class disadvantages are mitigated by a high standard of support, including training on parliamentary process, running a parliamentary office, managing a staff team etc. It is worth noting here that independent MLAs cannot access FAPP at all, but are expected to carry out the same workload as a party associated MLA.

The current funding provided to smaller parties through FAPP is insufficient. When taken together with the expenses permitted for a staff team, it allows only for an essential staff team and does not provide the required level of support proportionate to the workload. Parties require substantial administrative, communications and research support to manage the demands placed upon them in a modern political environment. The current level of funding, in the absence of accessible research and other support resources in kind, is simply too low. You will be aware that the Electoral Commission provides policy development grant funding of £2m to parties with at least two sitting MPs. This type of grant funding would be transformational for smaller parties within the Assembly. Smaller parties do not have the private fundraising capacity of their larger counterparts, and there are question marks over the transparency of private fundraising. Our Party would support instead public funding of political parties and their elected representatives.

**Completed by: Kate Barry, Chair, Green Party NI**

**Signed:** 

**Date: 14 April 2021** 

**Please email return completed questionnaires to Trevor Reaney at:  by 31 March 2021.**

Review of the Adequacy and Effectiveness of the Statement of Entitlements for an Official Opposition

Consultation Response from the Democratic Unionist Party.

11<sup>th</sup> May 2021

We note that this review arises from the New Decade, New Approach document which was presented to the Northern Ireland political parties by the UK Government and the Irish Government.

In Annex C (para. 3.7) of NDNA the relevant recommendation is outlined which includes that:

- \* ‘The parties recognise that additional funding should be made available to parties who form the Opposition.’;
- \* ‘the review should have regard to relevant comparators.’; and
- \* ‘The review should recommend increased allowances for Opposition parties and should explore the creation of additional funding for the Offices of the Leaders of Opposition parties.’

We would make the following points for consideration.

1. While we do support proper resourcing for those parties who may be entitled to ministerial positions in the Executive but who choose not to take them up, we would not wish to see such parties supported in a more advantageous way by means of funding than those parties who, while having Ministerial positions, also have backbench MLAs who have a duty to scrutinise the role of Ministers at both committee and plenary level.
2. We take the view that parties should elect to make the choice of opposition roles at the time they decline the offer of a Ministerial position in the Executive when d’Hondt is run. This, in our view, is less disruptive in the running of an Assembly term.
3. In circumstances where a party or parties elect to go into opposition there should be recognition of that choice in enhanced speaking rights during plenary business including at Question Time, Ministerial Statements and the tabling of business for Opposition Debates.
4. We are not convinced of the merits of the creation of formal title of Leader of the Opposition and do not see how that could sit alongside the current Assembly structures given the potential for a number of parties and individual members.

5. Consequently we would not be persuaded of the need for additional funding for a specific Office(s) of the Leader(s) of Opposition parties although this may be a matter that should be revisited in the context of wider reforms of the machinery of devolved government in Northern Ireland.
6. Presently all qualifying parties in the Assembly benefit from the FAPP scheme in support of their members who are not holders of Ministerial office. This funding supports those members in the discharge of their duties by means of research, communications support etc and we would view such support as necessary to members/parties in the discharge of their duties as they hold all Ministers to account in the Assembly.
7. Any additional financial support to Opposition parties should not be to detriment of those members of “Government parties”. All MLAs have a role in holding the Executive to account. All resources should be allocated on a proportionate basis taking account of parties’ strengths in the chamber.
8. The provision of neutral factual research should be expanded and made available to parties in the Assembly through the Library and Research facilities provided by the Northern Ireland Assembly corporately.
9. While there are a number of models in other parliamentary institutions which provide an effective framework of support for Official Opposition parties it is difficult to argue that they are an easy fit for Northern Ireland’s current governance arrangements.
10. We make no comment on the quantum of entitlements for the work of opposition parties or indeed more generally. We are mindful that in light of the pandemic and the on-going pressure on public resources that there should be no additional demands placed on the public purse at this time.
11. We will further reflect on the more detailed aspects of this review and where appropriate are available to have discussions as appropriate.

*(Received via email on 26 May 2021)*

# **Review of the Adequacy and Effectiveness of the Statement of Entitlements for an Official Opposition**

## **Consultation Questionnaire**

**Name of Party/Member: Trevor Lunn Independent**

- 1. How have you, or how would you, use the existing entitlements and resources available for Official Opposition parties?**

I haven't used the facilities available, not being a political party member I doubt if they apply to me.

- 2. Do you consider the existing entitlements and resources available for Official Opposition parties are adequate and appropriate? If not, why not?**

I think the entitlements available are probably adequate and appropriate.

- 3. Do you consider that additional funding for Offices of the Leaders of Opposition parties would be helpful, and if so, how and at what level of funding?**

It will be interesting after next years election to see if any Party elects to become an official opposition. If the Assembly is still functioning and a Party chooses that route they should be financed adequately. Possibly a comparison with other Assemblies could provide a guideline for funding levels.

**4. Against what criteria would you assess the adequacy and effectiveness of the current Statement of Entitlements for Official Opposition parties?**

I wouldn't know what criteria should be used. As regards effectiveness I don't know how that could be assessed until the system had been used for a period.

**5. Are you aware of any models in other parliamentary institutions which you believe would provide a more effective framework of support for Official Opposition parties?**

No.

**6. What other entitlements, both type and quantum, do you believe would be helpful to the work of Official Opposition parties and Leaders Offices at the Assembly and why?**

Official opposition Parties should have the same entitlements as Parties of Government. The current system does give all Parties an allowance based on numerical strength but it would have to be strengthened if a full opposition role was to be undertaken.

**7. Do you have any other comments or suggestions to make on the review?**

I think the current proposals as detailed in NDNA are probably adequate, the test would be if any Party elected to take on an Opposition role. Frankly the attraction of high office makes this improbable although UUP did move out of Government briefly in the past.

They did of course take on their Ministerial entitlement after the next election. We have coalition Government for a reason and a shift to a formal Government/Opposition system might seem to be a backward step despite the failings of the last number of years.

**Completed by: Trevor Lunn MLA**

**Signed: Trevor Lunn**

**Date: 23/3/2021**

**Please email return completed questionnaires to Trevor Reaney at:**  
**[REDACTED]** **by 31 March 2021.**

# **Review of the Adequacy and Effectiveness of the Statement of Entitlements for an Official Opposition**

## **Consultation Questionnaire**

**Name of Party/Member: Social Democratic and Labour Party**

- 1. How have you, or how would you, use the existing entitlements and resources available for Official Opposition parties?**

The Social Democratic and Labour Party has direct experience of the existing rules and resources for official opposition parties, having served in opposition during the 2016-17 mandate.

During that period, the SDLP used the resources available under the Financial Assistance for Political Parties Scheme to develop policy proposals that represented an alternative to the Programme for Government objectives of the Executive and to apply additional scrutiny to Executive Ministers and their work streams. Most notably, the party held Ministers to account over failing related to the Renewable Heat Incentive Scheme.

Official Opposition places a significant responsibility on those parties that qualify, with a duty to scrutinise the work of Executive Departments, Ministers and their MLAs in the Northern Ireland Assembly. The scale of this work and the resource required to apply effective scrutiny should not be underestimated.

The specialised nature of the work demands additional researchers, policy development officers and policy communications professionals to compete with the resource available to Executive Departments, the allocation of Special Advisers and through the Executive Information Service. None of this was provided then or is available under the current entitlements for opposition, placing parties in opposition at severe disadvantage and resulting in a substantial imbalance in our democratic structures and processes of accountability.

**2. Do you consider the existing entitlements and resources available for Official Opposition parties are adequate and appropriate? If not, why not?**

The existing framework under which Official Opposition operates is deficient both as it applies to speaking entitlements in the Assembly and the resource allocated to parties.

An equitable position on speaking rights should be based on the principle that Official Opposition parties are given parity with Ministerial counterparts and priority over Executive party MLAs in the course of questioning or contributions on legislation.

The Fresh Start Agreement framework, for example, gives no priority in the tabling of oral questions to members of the Official Opposition, instead relying on a preference in the calling of supplementary questions limited to the first three questions. A more robust position, in the interests of scrutiny and democratic accountability, would be to reserve the opening question or questions for Official Opposition parties during each Question Time rota with supplementary questions then called at the discretion of the Speaker. This would preclude a ludicrous situation, and one replicated in few if any democratic chambers, where the first responder to a government statement is a member of that same government.

The framework also gives speaking priority to statutory committee chairs in the conduct of Executive legislation. In practice this provides an additional benefit to Executive parties who hold more chair positions. This should be reversed to ensure that a member of the Official Opposition will be the first contributor following a Minister.

The alterations to the Financial Assistance to Political Parties Scheme to reflect enhanced resources for opposition parties are welcome. But the cost neutral caveat to the overall framework places an arbitrary limit on the resource available to opposition parties based on determinations of appropriate levels of assistance that were made before parties operated in an Executive/Opposition relationship. The resourcing of Opposition parties should be based on determinations related to the effective operation of the Executive/Opposition dynamic rather than a simple book balancing exercise. These determinations should reflect the need for additional researchers, policy development officers and policy communications staff to allow opposition parties to compete with the generous entitlements of Executive membership. A scenario where an opposition party has zero funding for any such staff, while government parties can employ Special Advisors and their Ministers have the support of civil service policy making teams and the Executive Information Service, is manifestly unjust.

A full and fresh review of the objective needs of Opposition parties is required

**3. Do you consider that additional funding for Offices of the Leaders of Opposition parties would be helpful, and if so, how and at what level of funding?**

Yes. The Offices of Leaders of Opposition parties carry an additional burden to those of individual shadow spokespeople. These offices are required to provide an effective alternative to the Executive at a strategic level rather than a more basic departmental shadowing role. This requires specific resource dedicated to developing alternative Programmes for Government, scrutinising the delivery of outcomes under the Executive PfG and preparing Leaders of Opposition parties for their enhanced role in the Assembly. Such a system is currently in place in the Republic of Ireland and in Westminster and should be replicated here.

The provision of additional researchers should be a basic consideration of the review.

**4. Against what criteria would you assess the adequacy and effectiveness of the current Statement of Entitlements for Official Opposition parties?**

The current Statement of Entitlements should be assessed against the degree to which it:

- Creates effective scrutiny of Executive Ministers and their Departments.
- Increases the opportunity for effective questioning of Ministers.
- Guarantees priority rebuttal for non-Executive MLAs.
- Enhances the speaking time of Official Opposition parties above those who do not qualify for opposition.
- Allows the opposition to develop credible and costed alternatives to Government policies.
- Sets aside guaranteed space for Opposition business.
- Ringfences resource provided by the Assembly Commission through RaISe, the Bills Office and other appropriate Members' services.
- Supports the Leader of the Opposition in his/her work in holding the Executive parties to scrutiny.

The guiding criteria should be how the framework gives the Official Opposition the freedom, parliamentary space and resource to effectively hold the Executive accountable

**5. Are you aware of any models in other parliamentary institutions which you believe would provide a more effective framework of support for Official Opposition parties?**

The review may wish to consider how other jurisdictions implement elements of their opposition entitlements framework.

This should include how direct questioning of the Heads of Government can more effectively work. Currently there is no guaranteed way for the Leader of an Official Opposition party to question the First Ministers on a weekly basis. Instead, they have to wait for a fortnightly ballot which gives them a less than one in five chance of being listed for a question every two weeks and guarantees only a single topical question outside of the ballot. In comparison, the British Prime Minister answers six questions from the Leader of the Opposition each week. In Dáil Éireann, opposition leaders are entitled to ask a question on matters of public importance of the Taoiseach during Leaders' Questions each Tuesday and Wednesday (with additional questions to the Tánaiste on Thursday). There should be a more rigorous examination of the joint Heads of Government which should not be strictly limited to their departmental responsibilities but the entire Programme for Government.

The review should also consider the resourcing of political parties in other jurisdictions like Dáil Éireann where corporate donations have been replaced by state funding and where a Party Leader's Allowance based on the number of representatives is at a level which allows effective opposition. The role of an opposition leader is a role of great importance in any parliamentary democracy and should be funded accordingly. Effective opposition can serve democracy and give representation to voters. This would build confidence in voters that those charged with the delivery of public services and proper management of public monies can be better held to account.

Westminster operates a similar system through the provision of 'Short Money' for opposition parties and this could also be explored.

**6. What other entitlements, both type and quantum, do you believe would be helpful to the work of Official Opposition parties and Leaders Offices at the Assembly and why?**

The nature of Northern Ireland politics means that parties here have established relationships with political parties and other groups across Ireland, the UK, the European Union and North America. While government parties are facilitated in building and sustaining these relationships by v, no scheme to support engagement

(including travel) with parties and other groups in other jurisdictions. This places opposition parties at a distinct disadvantage.

**7. Do you have any other comments or suggestions to make on the review?**

**Completed by:**

**Signed:**

**Date:** *(Received via email on 4 June 2021)*

**Please email return completed questionnaires to Trevor Reaney at:**  
[REDACTED] **by 31 March 2021.**

# **Review of the Adequacy and Effectiveness of the Statement of Entitlements for an Official Opposition**

## **Consultation Questionnaire**

**Name of Party/Member: Sinn Féin Chief Whip**

- 1. How have you, or how would you, use the existing entitlements and resources available for Official Opposition parties?**

I do not envisage Sinn Féin using the resources available to official opposition parties.

- 2. Do you consider the existing entitlements and resources available for Official Opposition parties are adequate and appropriate? If not, why not?**

Under the New Decade New Approach it states :

- 'The parties recognise that additional funding should be made available to parties who form the Opposition.';
- 'the review should have regard to relevant comparators.'

We await the outcome of the review, and will assess 'additional funding' against the principles of the Good Friday Agreement, other comparators used and the continued financial pressures on the public purse.

**3. Do you consider that additional funding for Offices of the Leaders of Opposition parties would be helpful, and if so, how and at what level of funding?**

**NDNA states** 'The review should recommend increased allowances for Opposition parties and should explore the creation of additional funding for the Offices of the Leaders of Opposition parties

Opposition party/s should be funded appropriately in relation to their role, however parties should not be attracted to opposition by money but rather attracted to making the Executive work based on the power sharing principles of the GFA.

**4. Against what criteria would you assess the adequacy and effectiveness of the current Statement of Entitlements for Official Opposition parties?**

Entitlements for official opposition parties in the Assembly need to be seen in the context of our unique arrangements developed as part of the Good Friday Agreement, which offer participation in the Executive for parties with sufficient electoral mandate.

An increase of financial support to the Opposition needs to be judged against the growing financial pressure facing the public purse.

**5. Are you aware of any models in other parliamentary institutions which you believe would provide a more effective framework of support for Official Opposition parties?**

The power sharing arrangements that operate in the Assembly are the result of the Good Friday Agreement and are designed to ensure cross community involvement in the institutions of government. Parties should avail of this opportunity to deliver political leadership and social change through participation in the Executive rather than refusing to take up these responsibilities.

**6. What other entitlements, both type and quantum, do you believe would be helpful to the work of Official Opposition parties and Leaders Offices at the Assembly and why?**

We have no proposals at this time.

**7. Do you have any other comments or suggestions to make on the review?**

We have no other comments or suggestions at this time.

**Completed by: John O'Dowd MLA**

**Signed:** 

**Date: 13 April 2021**

**Please email return completed questionnaires to Trevor Reaney at:  by 31 March 2021.**

# **Review of the Adequacy and Effectiveness of the Statement of Entitlements for an Official Opposition**

## **Consultation Questionnaire**

**Name of Party/Member: TUV - Traditional Unionist Voice**

### **1. How have you, or how would you, use the existing entitlements and resources available for Official Opposition parties?**

TUV has always been clear that the lack of opposition is a major flaw in the Stormont system which means government parties escape scrutiny and challenge. The litany of scandals which has dogged devolution since 1998 is due in no small part to politicians in government believing – correctly – that they will not be exposed to the scrutiny which they would be under in a chamber where democratic norms exist.

While recognising that it is beyond the scope of this review TUV would add the elementary point that the role of government or opposition for any party in a democratic system should be a choice not for a political party but for the electorate.

Should TUV be in a position to avail of the position of official opposition after the next election we would certainly do so rather than give cover to a failed, undemocratic system.

However, we must stress that the present restrictions on who can form the Opposition imposes a serious restraint on even the availability of opposition opportunities. At present only a party entitled to, but declining, a place in the executive would be capable of forming the Opposition. So, for example you could have say 8 Alliance, 8 UUP and a collection of 12 or more others, but no Opposition. Maybe a third of MLAs in parties outside the Executive but no right to an Opposition.

This would be a farcical and absurd situation. So, legislative change is required to allow an amalgam of parties (maybe with a qualifying threshold of say 10 MLAs) to form an Opposition. This could even be allied with provision for the formation of a technical group (such groups exist in other legislatures) to facilitate such.

### **2. Do you consider the existing entitlements and resources available for Official Opposition parties are adequate and appropriate? If not, why not?**

No. Given the vast resources available to the parties which form the Executive with access to the NICS and 14 SPADs etc the proposal to fund the opposition via the FAPP scheme or Assembly research facilities is totally inadequate. In order to challenge, scrutinise, develop alternative policy it is essential that the opposition has access to a dedicated stream of funding to employ its own staff and commission its own research. It is TUV's view that a system akin to Westminster's short money system would be best (ie a base rate for a single seat plus a sum linked to the number of votes achieved by that party). There should also be funding for a leader of the opposition office. It is noteworthy that short money has been a feature of devolution in Scotland from day one. Section 95 of the 1998 Scotland Act provides for such.

**3. Do you consider that additional funding for Offices of the Leaders of Opposition parties would be helpful, and if so, how and at what level of funding?**

Yes. Such funding should be commensurate with the task in hand – including recognising the resources of those being challenged by an Opposition – and be reflective of funding afforded in other jurisdictions. Special Advisers for the Leader of the Opposition would be appropriate.

**4. Against what criteria would you assess the adequacy and effectiveness of the current Statement of Entitlements for Official Opposition parties?**

The current Statement of Entitlements should be considered in the context of arrangements elsewhere in the UK. TUV strongly objects to point (i) which would act as a hindrance to a party when considering if they should quit the Executive in the middle of a mandate. This invites larger parties to treat their junior partners as doormats, safe in the knowledge that should they choose to leave government they will not even be afforded the status of a formal opposition party. No such situation would exist elsewhere in the democratic world.

TUV objects to point (iv). Given the vast resources at the disposal of the Executive parties a cost neutral proposal for an opposition is not reasonable. The system employed at Westminster and by the Sco`sh Parliament is much more sensible.

The other proposals seem reasonable and are welcome.

**5. Are you aware of any models in other parliamentary institutions which you believe would provide a more effective framework of support for Official Opposition parties?**

Yes. These are detailed in previous answers.

**6. What other entitlements, both type and quantum, do you believe would be helpful to the work of Official Opposition parties and Leaders Offices at the Assembly and why?**

This is detailed in previous answers.

**7. Do you have any other comments or suggestions to make on the review?**

To be effective and worthwhile this review must bring rigour and independence to the issue, with no room for deference to what might be perceived to be the consensus view or acceptable to the par6es of government.

**Completed by: Jim Allister Signed:**

**Date: 25 March 2021**

**Please email return completed ques5onnaires to Trevor Reaney at [REDACTED] by 31 March 2021.**



# **Review of the Adequacy and Effectiveness of the Statement of Entitlements for an Official Opposition**

## **Consultation Questionnaire**

**Name of Party/Member: Ulster Unionist Party**

- 1. How have you, or how would you, use the existing entitlements and resources available for Official Opposition parties?**

Following the 2016 Assembly election we entered into the new official opposition arrangements. As the largest party in the Official Opposition, we occupied the role of Leader of the Official Opposition and utilised the entitlements available to us.

We strongly believe in the need to have a fully funded and adequately supported Official Opposition within the Northern Ireland Assembly. It is an important sign of political maturity and can help to grow confidence in the institutions.

- 2. Do you consider the existing entitlements and resources available for Official Opposition parties are adequate and appropriate? If not, why not?**

The existing entitlements only go some way towards allowing the Official Opposition to function adequately and effectively. However, we do believe enhancements are required.

There are a number of gaps that we will outline in more detail in subsequent communications around financial support. Additionally, access to information, and adequate representation on scrutiny

committees we believe need to be addressed to allow an Official Opposition to effectively fulfil its role.

**3. Do you consider that additional funding for Offices of the Leaders of Opposition parties would be helpful, and if so, how and at what level of funding?**

A re-evaluation of funding for Opposition Parties, in order to ensure Opposition Parties are provided a fair chance to hold Executive Ministers and Departments to account:

(1) £TBC in respect of the costs incurred by an opposition political party, as defined in this Scheme, for authorised purposes where that party has two or more members.

(2) An addition £TBC per elected representative as top up to the FAPP

(3) £TBC in respect of the costs incurred by an opposition political party, as defined in this Scheme, in the administration of its Whips' Office where that party has more than two but fewer than eleven connected members.

(4) Circa £TBC to effectively and efficiently run the Leader and Deputy Leader of the 'Official Oppositions' Offices.

(5) Circa £TBC for opposition travel expenses.

This additional funding package, for a party with 10 MLAs, would take a party in 'Official Opposition' from £133,600 to Circa £TBC. A difference of £TBC from the FAPP.

The Leader and Deputy Leader of the 'Official Opposition' should each be allowed a Special Adviser (SpAd) appointed through the NICS to assist with research and specialist research. This should be countered by the TEO - which had 8 SpAds - reducing to 4 who will also be appointed by the NICS.

**4. Against what criteria would you assess the adequacy and effectiveness of the current Statement of Entitlements for Official Opposition parties?**

The criteria we will use is whether the Statement allows the Official Opposition to fully and effectively scrutinise the Executive. This can be measured by whether it reflects the fullness of measures in place in other institutions, particularly Westminster and the other devolved institutions within the United Kingdom.

**5. Are you aware of any models in other parliamentary institutions which you believe would provide a more effective framework of support for Official Opposition parties?**

The example of Westminster demonstrates the importance of a fully resourced and recognised opposition. Despite being seven times larger than the NI Assembly in respect of the number of elected representatives, it still fully accommodates and retains the need to fully fund a Parliamentary opposition.

This model recognises the need to provide adequate general funding, as well as additional resource for the leader's office and access to information to allow it to fully fulfil its role in scrutinising the Government.

**6. What other entitlements, both type and quantum, do you believe would be helpful to the work of Official Opposition parties and Leaders Offices at the Assembly and why?**

Without a doubt one of the major obstacles to any effective and worthwhile opposition is access to information

The lack of briefings from the Northern Ireland Civil Service hampered any ability to scrutinise Executive plans.

As an example of lack of information flow The Executive Office (TEO) closed down the flow of information by stopping access to departmental bids in monitoring rounds to see what had failed to secure funding.

No specialist support to conduct research for the leader and deputy leader of the opposition. This created a virtually impossible situation for the much smaller opposition to have information at their fingertips when needed.

Parties must be permitted to go straight onto opposition or leave the Executive and be recognised as the Official Opposition, even after the running of D'Hondt and accepting a position on the Executive.

The Leader and Deputy Leader of the 'Official Opposition' should each be allowed a Special Adviser (SpAd) appointed through the NICS to assist with research and specialist research. This should be countered by the TEO - which had 8 SpAds - reducing to 4 who will also be appointed by the NICS.(e)The opposition must receive periodic briefings by the NICS who must remain open to the 'Official Opposition'.

The Executive Office must give the opposition access to departmental bids to monitoring rounds and other major financial spending plans.

Assembly Questions from the Opposition must be answered by Ministers and the NICS. The option of simply choosing not to respond to tricky answers must be removed – perhaps this could include further changes to the Assembly Standing Orders to compel Ministers to explain any excessively delayed answers.

Opposition Parties should hold the positions of Chair on the following committees:

- (1) Public Accounts Committee
- (2) Committee for Finance
- (3) Committee for the Executive Office

**7. Do you have any other comments or suggestions to make on the review?**

**Completed by:**

**Signed:**

**Date:** *(Received via email on 21 April 2021)*

**Please email return completed questionnaires to Trevor Reaney at: [REDACTED]  
by 31 March 2021.**

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**Review of the Adequacy and Effectiveness of the Statement of Entitlements for an Official Opposition at the Northern Ireland Assembly (June 2021)**

**8.6 Resource Entitlements - Table - page 28**

Note – amended figures highlighted in bold italics

| <b>Parliament</b>  | <b>Example of Party with 10 Seats</b>                    | <b>Average per Seat</b>                                 |
|--|--|---|
| <b>NI Assembly - no official opposition recognised</b> (inc Whips Allowance) | <b>99,150</b>  | <b>9,915</b>  |
| <b>NI Assembly – for an official opposition party</b> (inc Whips Allowance)  | <b>124,090</b>   | <b>12,409</b>   |
| <b>House of Commons (UK)</b><br>(estimated figure)                           | 283,199  | 28,319  |
| <b>Dáil (RoI)</b><br>(estimated figure converted from € to £ at 0.86)        | 553,564<br>(plus the allocation of party staff resource) | 55,356<br>(plus the allocation of party staff resource) |
| <b>Scottish Parliament</b>   | 89,260   | 8,920   |
| <b>Senedd Cymru/Welsh Parliament</b><br>(estimated figure)                   | 263,372  | 26,337  |

**8.6 Resource Entitlements – 5<sup>th</sup> Paragraph - page 29**

Using the example of an opposition party of 10 seats, the additional funding currently provided to an opposition party under the FAPP Scheme is **£24,940** per annum (see Table on page 28). In effect this allows the party to employ only one additional full time member of staff at a lower grade. A reasonable level of support would provide an opposition party of 10 seats with up to three additional full time staff (depending on grade) covering specialist advice, research, policy development, communications and administration duties. To enable a party to employ this number of staff with the level of skills necessary, and to cover miscellaneous and travel costs, funding of £100,000 (per annum) is proposed over and above the general level of FAPP funding. This would raise the total level of funding for an official opposition party from **£124,090** to **£199,150** or from **£12,409** to **£19,915** per member. This proposed figure is significantly above the level of funding in the Scottish Parliament but below the level provided in Senedd Cymru/Welsh Parliament, Westminster and the Dáil.

# Appendices

## Appendix 1: Written response from Procedures Committee



**Northern Ireland  
Assembly**

## **Committee on Procedures**

Room 247

Parliament Buildings

Tel: +44 (0) 28 9052 1678

[emer.boyle@niassembly.gov.uk](mailto:emer.boyle@niassembly.gov.uk)

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**From: Emer Boyle, Clerk to the Committee on Procedures**  
**To: Shane McAteer, Clerk to the Assembly & Executive Review Committee**  
**Cc:**  
**Date: 17 September 2021**  
**Subject: COMMITTEE RESPONSE TO THE REPORT ON THE  
STATEMENT OF ENTITLEMENTS FOR AN OFFICIAL  
OPPOSITION**

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At its meeting on 15 September 2021, the Committee on Procedures considered and agreed a draft response to the report on the Review of the Adequacy and Effectiveness of the Statement of Entitlements for an Official Opposition at the Northern Ireland Assembly.

Please find enclosed the Committee's response.

**Emer Boyle**

**Enc.**

**RESPONSE: From the Committee on Procedures to Recommendations made in Mr. Trevor Reaney’s report: “Review of the Adequacy and Effectiveness of the Statement of Entitlements for an Official Opposition at the Northern Ireland Assembly”.**

1. The Committee on Procedures (Committee) welcomes the opportunity to review and respond to the recommendations made in this review, either where the implementation of which would fall within its remit or where it has a particular interest. This response focuses specifically on recommendations 4, 6, 7, 8 10 and 11 and notes recommendation 5 which states *“That all recommendations should be implemented in a timely manner and that all Standing Orders should ideally be in place before the end of the current Assembly mandate.”*
  
2. Committee members acknowledge that at the heart of assessing the adequacy and effectiveness of the Statement of Entitlements is understanding the role of the official opposition within the structures of the Assembly and its establishment under the Belfast (Good Friday) Agreement and notes the three possible approaches to the issue of an official opposition at the NI Assembly which the report from Mr Reaney describes:
  - I. Follow consociationalism theory and adopt structures which exclusively facilitate power sharing; or
  - II. Move to a more traditional majoritarian model such as operates at Westminster in the UK or Congress in the USA; or
  - III. Pursue a hybrid model by developing the consociational model of the Belfast (Good Friday) Agreement by adding to it features of a more traditional majoritarian system.
  
3. The Committee also notes that the political approach that has developed since the introduction of provisions for an official opposition in 2016, is that of **a hybrid model and that NDNA continues this approach** and further understands that whilst there are elements of entitlements that can be adapted from other institutions, the review recognises that they do not make for a straightforward fit to the Assembly.

4. The Committee further notes that the absence of meaningful international comparisons has meant that the benchmarking comparisons used in the report have focused on parliaments in the UK and Ireland. The Committee understands that the absence of meaningful data specifically on ***the adequacy and effectiveness of opposition entitlements*** has meant that a greater degree of judgement has been used by Mr Reaney than might otherwise have been the case in similar review.
5. It is apparent from the consultation responses received during the review that **respondents expressed a strong desire to strengthen the entitlements amongst the smaller parties represented in the Assembly** with representations also being made to significantly increase the financial support available to the official opposition and a desire to strengthen aspects of the procedural entitlements. The Committee also notes that representations were made about the role and entitlements of those parties and independent members **who do not reach the threshold for recognition** as part of the official opposition.
6. The review report recommends that the following principle be adopted to underpin the range and scale of entitlements available to the official opposition -

*“That the resources, profile and status provided to the official opposition should not of themselves be an incentive or a disincentive to opt for official opposition.”*

The Committee on Procedures notes and supports this as an underpinning principle of the entitlements available to the official opposition. The paragraphs which follow focus on the individual recommendations in the review which are specifically within the remit of the Committee.

#### **Recommendation 4**

7. **If the official opposition comprises more than one party, that the parties involved should develop and publish operating procedures for their voluntary grouping in relation to the business of the Assembly. This should be done at the commencement of the**

**operation of the official opposition and be a condition of accessing funding under the FAPP Scheme.**

The Committee notes this recommendation but would suggest that, should the Assembly accept the recommendations of the review, implementation of this recommendation may not require a change to Standing Orders. It is the Northern Ireland Assembly Commission which has responsibility for bringing forward any revisions to the FAPP scheme. Committee could therefore liaise with the Assembly Commission on whether an amendment to SOs would be required or whether this recommendation could be accommodated as an element of the review of the FAPP. Committee notes that recommendations 12-16 of the report refer to other revisions to the FAPP scheme as part of this review.

#### **8. Recommendation 5**

**That all recommendations should be implemented in a timely manner and that all Standing Orders should ideally be in place before the end of the current Assembly mandate.**

Although not a recommendation specific to the Committee on Procedures, the Committee accepts the need for expediency in terms of progressing the changes associated with the review in good time and prior to the next Assembly election.

Following the AERC's consideration of responses and the Assembly's subsequent consideration of the AERC report, Committee will prioritise any work associated with progressing the amendments required to the Standing Orders, as agreed by the Assembly. Whether it will be possible to complete this work by the end of the mandate will depend upon a number of factors, not least the timing of any agreement by the Assembly.

#### **9. Recommendation 6**

**The following provisions for enhanced speaking rights should continue as set out in the Statement of Entitlements:**

- **Question Time**
- **Executive Business - Budget and Programme for Government (PfG) debates**
- **Executive Business – Legislation**

- **Ministerial Statements**
- **Matters of the Day**
- **Opposition Debates**

The Committee notes that this recommendation is not new, but rather a recommendation to “continue” the current arrangements for enhanced speaking rights. A number of changes to Standing Orders were made in 2016, along with amendments made by the then Business Committee and Speaker. It would therefore be possible that, should the Assembly approve the recommendation, that the arrangements could be continued without requiring a change to Standing Orders.

#### **Recommendation 7**

10. **An additional facility to strengthen the questioning of the Executive should be provided to the official opposition by amending Standing Order 20(7) to provide that the first Oral Question to Ministers should come from the official opposition.**

An amendment to SO 20(7) could be accommodated, should the Assembly accept this recommendation of the review report.

#### **Recommendation 8**

11. **That all the Standing Orders required under the Assembly and Executive Reform (Assembly Opposition) Act (Northern Ireland) 2016 be developed and implemented. In summary, the sections of the Act specifically relating to the official opposition are:**

- **2 – Formation of the Opposition**
- **3 – Timing of formation of the Opposition**
- **4 – Dissolution of Opposition**
- **5 – Leadership of the Opposition**
- **6 – Topical Questions from the Leadership of the Opposition**
- **7 – Speaking Rights in the Assembly**
- **8 – Enhanced speaking rights for the Opposition**
- **9 – Opposition right to chair Public Accounts Committee**
- **10– Membership of Business Committee for the Opposition**
- **15(1&2) – Topical questions**

12. The Committee notes that this recommendation is not new, but rather a recommendation to enshrine in Standing Orders the relevant listed sections of the AER (Assembly Opposition) Act (NI) 2016.

13. Whilst there are no procedural barriers to making any agreed change to Standing Orders, a previous Committee on Procedures undertook a review of all of the relevant considerations for it arising from the AER (Assembly Opposition) Act 2016. That review – which explored various options for how these matters might be addressed but which had not completed when the Assembly was dissolved in 2017 - had not been able to establish that there would be cross-community support to introduce some of the Standing Orders necessary to give this recommendation effect.
14. The Committee therefore notes that, should the Assembly support this recommendation, it would need to give further consideration to and reach agreement on the implementation of the following sections of the 2016 Act;
  - The Formation of the Opposition, including qualification
  - Timing of the formation of the Opposition
  - Dissolution of Opposition
  - Leadership of the Opposition
  - Topical Questions from the Leadership of the Opposition
  - Speaking Rights in the Assembly
  - Enhanced Speaking Rights for the Opposition
  - Opposition Right to chair Public Accounts Committee
15. Any recommendation made by the Committee to give effect to some or all of these matters through relevant provision in Standing Orders would require cross-community support in the Assembly.

### **Recommendation 10**

**When an official opposition is operational, it should have the opportunity to be represented on all Statutory Committees.**

16. Given current provision in standing orders and the proportional representation formula applied to allocating seats on statutory committees, it is likely that any official opposition already would have the opportunity to be represented on all statutory committees. All members who do not hold Ministerial or junior Ministerial office are offered at least one statutory committee place. Therefore, based on current arrangements, where there are nine statutory committees and nine seats on each statutory committee, the only circumstance where

there is a risk that the official opposition would not be represented on a statutory committee was if the opposition had fewer than nine members.

17. Should the Assembly accept this recommendation then the Committee could seek to bring forward an amendment to Standing Orders. Any amendment would need to be consistent with the requirement in the Northern Ireland Act 1998 that standing orders shall include provision for ensuring that, in appointing members to committees, regard is had to the balance of parties in the Assembly.

### **Recommendation 11**

**That consideration be given to facilitating the creation of political or technical groups which may have the potential to meet the criteria for recognition as part of the official opposition.**

18. The Committee advises that consideration of this recommendation is more appropriate for AERC consideration in the first instance, following which the Committee would be able to provide advice in terms of any (likely) procedural implications associated with the creation of either political or technical groups.
19. The Committee can confirm that there are no procedural obstacles to making provision for political or technical groups via a change / changes to Standing Orders. Should the Assembly accept this recommendation, and should the outcome of such consideration be that the Assembly wishes to facilitate the creation of such political or technical groups (which may have the potential to meet the criteria for recognition as part of the official opposition) the Committee would be of the view that further and detailed information and research would be required in order to inform the development of appropriate procedures to ensure that new standing orders are relevant and would effectively support their operation.
20. The Committee also considers that, should this recommendation be agreed by the Assembly, engagement with the Business Committee with regard to any implications new groups would have on the existing

working arrangements for items of Assembly business would also be helpful.

## Appendix 2: Written response from the Assembly Commission

# Appendix 2

## An Ceann Comhairle

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## The Speaker

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**Peter Weir MLA**  
**Chairperson**  
**Assembly and Executive Review Committee**

**29 September 2021**

Dear Peter

### **RE: REVIEW OF OPPOSITION ENTITLEMENTS**

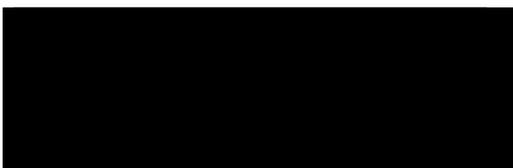
I refer to your predecessor Pam Cameron's letter dated 5 July 2021 to me as Speaker in my role as Chairperson of the Assembly Commission to seek the Assembly Commission's views on the report prepared by Mr Trevor Reaney to inform the Committee's review on the adequacy and effectiveness of the Statement of Entitlements for an Official Opposition.

The Assembly Commission's consideration of the report was naturally focused on the financial implications that might arise from its recommendations given that the Assembly Commission has responsibility for preparing and laying any Scheme that is made under the Financial Assistance for Political Parties (Northern Ireland) Act 2000 ('the 2000 Act'). I should point out that the 2000 Act requires that any FAPP Scheme prepared and laid by the Assembly Commission shall not come into force unless it is approved by a resolution of the Assembly.

The Assembly Commission considered the matter at its meetings on 8 July 2021 and 9 September 2021. In all, the Assembly Commission considered 7 of the recommendations made by Mr Reaney in his report. For ease of reference, the Assembly Commission's agreed responses are set out in the attached table.

I trust that the Assembly Commission's input will assist the Committee in its work.

Yours sincerely,



**ALEX MASKEY MLA**

| <b>Number in Review Report</b> | <b>Recommendation</b>   | <b>Assembly Commission Response</b>  |
|--------------------------------|---|--|
| 4<br>(page 34)                 | If the official opposition comprises more than one party, that the parties involved should develop and publish operating procedures for their voluntary grouping in relation to the business of the Assembly. This should be done at the commencement of the operation of the official opposition and be a condition of accessing funding under the FAPP Scheme.                                    | The Assembly Commission proposes to include this condition in the drafting of a future FAPP Scheme.  |
| 12<br>(page 36)                | A significant increase in resources available to the official opposition should be provided in the FAPP Scheme to support the effectiveness of the official opposition. The increase should provide an opposition party of 10 members with an addition of £100,000 over the general FAPP funding, with figures for official opposition parties of larger or smaller size varying according to size. | The Assembly Commission is currently reviewing the rates payable to parties. The Assembly Commission will be mindful of the will of the Assembly when the Assembly debates the Committee's report on the Review of the Adequacy and Effectiveness of the Statement of Entitlements for an Official Opposition as it prepares a revised FAPP Scheme.      |
| 13<br>(page 36)                | The FAPP Scheme should no longer be constrained by the requirement to adhere to a "cost neutral" principle (i.e. that additional resources are made available to increase the FAPP budget and that no reduction should be made to the level of funding provided to other parties if an official opposition is in place).  | The Assembly Commission's review of the FAPP Scheme has not been bound by a principle of cost-neutrality.  |
| 14<br>(page 37)                | The conditions and guidance associated with receiving funds under the FAPP Scheme should be set out in more detail to increase transparency, probity and fairness, including a cap on the maximum salary payable under the Scheme.  | <p>The Assembly Commission proposes to publish detailed guidance as part of the development of a revised FAPP Scheme.</p> <p>However, the Assembly Commission is not convinced of the need for a salary cap to be included in a revised FAPP Scheme as parties assign differing priorities to the activities that are funded under a FAPP Scheme.</p>    |
| 15<br>(page 37)                | The FAPP Scheme should be simplified into a single funding stream that incorporates the current Whips' Allowance and provides support for all aspects of the work of the official opposition including support for the Office of the Leader of the Official Opposition.   | <p>The Assembly Commission proposes to prepare a revised FAPP Scheme that contains a single funding stream.</p> <p>While financial support will cover an Opposition Leader's Office, this will not be via a separate funding stream. Instead, it will be included in the additional financial support that is made available to an Opposition party.</p> |

| <b>Number in Review Report</b> | <b>Recommendation</b>  | <b>Assembly Commission Response</b>   |
|--------------------------------|--|---|
| 16<br>(page 37)                | The review of funding for the official opposition (and that available to all parties) should take account of the fact that there has been no increase in the rates payable under the FAPP Scheme since 2016. | The Assembly Commission proposes to uplift the rates provided in a future FAPP Scheme.      |
| 17<br>(page 37)                | A mechanism for an annual cost of living increase should be built in to a revised FAPP Scheme.   | The Assembly Commission proposes to include an uprating mechanism in a revised FAPP Scheme. |

## Appendix 3: Written response from Sinn Féin



## **Oifig Mary Lou McDonald TD**

Office of Mary Lou McDonald TD

**Peter Weir MLA**

**Chairperson**

**Assembly and Executive Review Committee**

**Room 276**

**Parliament Buildings**

**Ballymiscaw**

**BT4 3XX**

Tuesday, 21 September 2021

Re: Review of Opposition Entitlements

Peter, a chara,

Thank you for your letter in relation to the review on the adequacy and effectiveness of the Statement of Entitlements for an official opposition that the Assembly and Executive Review Committee is taking forward.

New Decade, New Approach states that the review should recommend increased allowances for opposition parties and should explore the creation of additional funding for the offices of the leaders of opposition parties

Sinn Féin support this recommendation. Any decisions in this regard must also be affordable and provide value for money.

They must also take full account of our unique power-sharing arrangements that derive from the Good Friday Agreement and which provide parties with sufficient support the opportunity to hold Ministerial office.

In most democratic assemblies government office is not available to parties with smaller political mandates. It is therefore my view that parties should be encouraged to take up this opportunity and to play a full part in the power-sharing arrangements.

If parties choose not to take up this option on behalf of those who have voted for them and instead choose to absent themselves from political office then, of course, they should be funded appropriately in relation to their oppositional role.



However, it is critically important that in the interests of the most efficient operation of the political institutions, and in terms of providing the most effective representation for their electorate, parties should not be financially attracted to opposition.

The level of the support available to opposition parties should not disadvantage other parties who choose to provide responsible leadership in the Executive. The level of any financial increase needs to take this into account and, critically, needs to be affordable. In that context the proposed increases may need to be revised.

Many thanks to you and the committee for your work, and to Trevor for undertaking the review.

I hope that this response is helpful to your deliberations.

Is mise, le meas,



**Mary Lou McDonald TD**

*Uachtarán Shinn Féin*

**Appendix 4: Links to the relevant Minutes of Proceedings of the Committee relating to the Report.**

Meetings of 11 November 2020, 16 December 2020, 12 May 2021, 29 June 2021, 6 October 2021 and 20 October 2021:

**Session 2020-2021**

**Session 2021-2022**

**Appendix 5: Link to Official (Hansard) Report of the oral briefing which the Committee received on Mr Reaney's report on 29 June 2021.**

<http://data.niassembly.gov.uk/HansardXml/committee-27037.pdf>

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