



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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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)^{1 2}
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 MLA³

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

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

³ 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)⁴

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:

⁴ 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 reference⁵ 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

⁵ <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.⁶ 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.⁷
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;

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

⁷ <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.⁸
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 Day⁹.
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.**

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

⁹ 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.¹⁰
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

¹⁰ <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).¹¹
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*

¹¹ <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.*¹²

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).¹³
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.

¹² See Appendix 3.

¹³ 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.¹⁴ 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 Manual¹⁵), 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) 2021¹⁶ 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.**

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

¹⁵ See Chapter 5:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/60641/cabinet-manual.pdf

¹⁶ <https://www.legislation.gov.uk/nia/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

Read the:

- [Review of the Adequacy and Effectiveness of the Statement of Entitlements for an Official Opposition at the Northern Ireland Assembly.](#)
- [Addendum to the Report](#)

This review was commissioned by the Assembly and Executive Review Committee and prepared by Trevor Reaney.

Appendices

Appendix 1: Written response from Procedures Committee

- Read the written response from the Committee on Procedures to Mr Trevor Reaney's Report on the Statement of Entitlements for an Official Opposition

Appendix 2: Written response from the Assembly Commission

- Read the written response from the Assembly Commission to Mr Trevor Reaney's Report on the Statement of Entitlements for an Official Opposition

Appendix 3: Written response from Sinn Féin

- Read the written response from Sinn Féin to Mr Trevor Reaney's Report on the Statement of Entitlements for an Official Opposition

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.

- Read the Official Report of Mr Reaney's briefing with the Committee on 29 June 2021

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