



Northern Ireland
Assembly

Committee for Finance and Personnel

OFFICIAL REPORT (Hansard)

Civil Service (Special Advisers)
(Amendment) Bill: Mr Jim Allister MLA

7 October 2015

The Bill is directed at addressing the two issues that flow out of that, as well as a third issue. The two issues that flow out of that are the number of special advisers. I suggest that that should be tackled primarily by addressing the surplus within OFMDFM. Presently, that comprises three for the assistance of the First Minister, three for the assistance of the deputy First Minister and one each for the assistance of the junior Ministers. That was an innovation in 2007. Until 2007, the junior Ministers did not have the services of a special adviser, but, presumably, there was an agreement between the two parties that shared that office in 2007 to add to the number of special advisers.

What this Bill proposes is that the total number of special advisers in OFMDFM should be reduced from eight to four. The mechanism that would be deployed would reduce the number for the First Minister and deputy First Minister from three to one each. There are other ways of doing that. You could revert to the situation of not having a special adviser for the junior Ministers and retaining two if that was thought to be the right number for the First Minister and deputy First Minister. But whatever way one comes at this, I think it is unsustainable to have the same number of special advisers in OFMDFM as we have in Wales.

I indicated the excessive costs involved, and what the Bill suggests for that is to tie the salary scale to a recognised Civil Service grade in the Senior Civil Service. The suggestion is to tie it to grade 5. The most recent figures on the DFP website for the salary range for grade 5 range from £65,422 to £78,275. So, the Bill is not saying that that is what special advisers should be paid; it is saying that salaries would be capped at that. Of course, they could be paid less, but no one could be paid more than the relevant scale for grade 5. That would still keep us at the top end of costs. That is why I think this is quite a measured proposal, in that it is probably keeping us still the most expensive region for special advisers but recognising that salaries have got out of hand and are out of kilter with the rest of the devolved regions and, indeed, with significant grades in the Civil Service. So, by tying it to a specific grade, there also is the advantage that it no longer is at the whim of Ministers because, in 2011, we had the spectacle of the top end of band B, at the stroke of a pen, being increased at SpAd behest and, specifically, at the behest of the First Minister, and thereafter the Finance Minister, of increasing the top line in band B in round figures from £80,000 to £90,000. That was at a time when there was a pay freeze in the Civil Service — special advisers are civil servants — yet, in 2011, at the stroke of a pen, special advisers were gifted a top band of £90,000. The two existing bands, band A and band B, could continue, but the effect of the Bill would be to cap what anyone is paid at grade 5.

The third issue that the Bill addresses is the disciplining of special advisers. That arises from the highly unsatisfactory picture that emerged in the Red Sky investigation, when Mr Stephen Brimstone, special adviser, was subject to a fact-finding, independent investigation by DFP, which recommended the instigation of a disciplinary investigation. The Minister was able to override and bin that and, therefore, to ride to the rescue of his special adviser. That, I think, is wrong. Special advisers are civil servants, and, therefore, they should, I suggest, be subject to the discipline and procedures of the Civil Service. Therefore, there is a clause in the Bill that makes that abundantly clear and underscores it by outlawing any ministerial interference or involvement in that process.

Those are the three aspects of the Bill. It is something that I would like to see dealt with by self-regulation and self-restraint, but, in all the years, quite the reverse has applied, and there has been no indication of self-restraint or self-regulation. Therefore, legislative action is appropriate.

The Deputy Chairperson (Mr D Bradley): Mr Allister, thank you very much. First of all, what was the breakdown of respondents to your consultation, including the numbers of individuals and public and representative bodies?

Mr Allister: There were a total of 148. I think that I heard you refer to the research pack. There is a paper in that that gives an analysis of the responses. There were 148 responses. In their entirety, they were from individuals, if I recall correctly. The consultation document was circulated to organisations, but I do not recall there being any responses from organisations.

The Deputy Chairperson (Mr D Bradley): Were any issues raised by stakeholders, such as trade unions, the Equality Commission or the Human Rights Commission?

Mr Allister: No. None whatsoever.

The Deputy Chairperson (Mr D Bradley): Or the Department?

Mr Allister: None whatsoever.

The Deputy Chairperson (Mr D Bradley): You outlined restricting the remuneration of SpAds by linking it to the salary scale applicable to assistant secretaries, which is grade 5. The current band is £65,422 to £78,275. That is in our papers. What is the rationale for setting it at grade 5? Has any job evaluation been carried out to indicate that that is the level that it should be set at?

Mr Allister: No job evaluation as such; there is a recognition that it is appropriate that a special adviser should be able to aspire to be paid at a scale that approximates to grades for senior civil servants, with whom they would frequently engage. There was a subjective decision, I suppose, on my part that grade 5 seemed to give the right range, as it is generous by allowing salary of up to £78,000 but caps it at a level that is manageable. I would have thought that the present figure, which I think is £92,000 and even more than a Minister earns, is excessive. There is no magic about grade 5, but I thought that assistant secretary level was an appropriate and sufficiently generous level to apply to special advisers.

The Deputy Chairperson (Mr D Bradley): It says in the Bill, I think, that the remuneration should not be above the maximum for grade 5 but could be less. Is that what you are saying?

Mr Allister: There are bands A and B, band A being the lower one and band B being the one that tops out at something like £92,000. The Bill is suggesting that the upper cap — you could still have bands A and B — would be the grade 5 Civil Service rate, so it would rise as and when grade 5 salaries rise. It would take it beyond the reach and intervention of Ministers themselves, because of the 2011 experience, when the First Minister and the Finance Minister tried to raise salaries by a phenomenal range, from £80,000 to £90,000, during a Civil Service pay freeze against the advice of civil servants at that time.

The Deputy Chairperson (Mr D Bradley): How would it be decided at which point on the scale a person would begin, and who would decide that? Would it be the Minister, the permanent secretary or, indeed, the head of the Civil Service?

Mr Allister: At this stage and as the arrangements presently sit, under the Bill it would continue to be set at appointment by the Minister when determining the contract terms. That does not mean that, if the Bill proceeds, at Committee Stage, for example, people could not fine-tune that and decide, "Really, we need to be more specific and give more direction". That could be amended in the Bill to suit whatever the consensus is. At the moment, it would be set as it is presently, namely as and when the appointing authority, which is the Minister, concludes the contractual arrangements with the appointee.

The Deputy Chairperson (Mr D Bradley): You made some comparisons between the number of SpAds in Wales and the number we have here in Northern Ireland. How can you be sure that the roles and responsibilities of SpAds in Wales and Northern Ireland are directly comparable? For example, do we need to give any consideration to the fact that there are certain complexities here arising out of political divisions and the form of government that we have? That would maybe be relevant to OFMDFM in particular.

Mr Allister: I think that is already reflected in the doubling up of representation of SpAds in OFMDFM. The deputy First Minister and his junior Minister have four, and the First Minister and his junior Minister have four. They are matching each other in those terms, and that already reflects very generously the issue that you allude to. I am suggesting that, when that produces a totality of eight, which is the same totality as in an entire Government in Wales, it is so out of kilter that you cannot ignore it and need to address it. The right figure for OFMDFM would be a generous total of four. That is what the Bill suggests, but again, if and when the Bill proceeds and there are views that that is too many or too few, there is scope for adjustment through amendment.

The Deputy Chairperson (Mr D Bradley): The Bill will not commence until the beginning of the next mandate.

Mr Allister: Yes.

The Deputy Chairperson (Mr D Bradley): Does that mean that there are no issues with adjusting pre-existing contractual obligations or retrospective application?

Mr Allister: Yes. All special advisers' contracts will come to an end upon their Ministers' departing office in anticipation of the election, and 6 May was chosen as the date post the election when new contracts would be put in place and new special advisers would be appointed, or maybe the same special advisers would be re-appointed but on a new contractual basis. It was thought that that was the natural cut-off point to make those changes, rather than to complicate it by trying to do it sooner.

The Deputy Chairperson (Mr D Bradley): You mentioned the particular case of Mr Brimstone and the investigation and so on, and you expressed your view that the Minister overrode the outcome of the investigation. You are now suggesting in the Bill that SpAds should be subject to the Civil Service disciplinary proceedings. As a result, is there any need to in any way amend or change the current Civil Service disciplinary procedures to include SpAds?

Mr Allister: If the legislation is enacted and says that SpAds are subject to the code, I would have thought that the provisions of the code would apply. If that requires any specific fine-tuning of the code, that would come as an administrative act subsequently for the code. I do not think that that needs to be provided for, and I am not sure that it would be required anyhow. I do not think that it needs to be provided for in the Bill.

The Deputy Chairperson (Mr D Bradley): You spoke in detail during your introductory remarks about OFMDFM. Can you outline again for us the rationale of your proposal that the number of SpAds in that Department be reduced from eight to four?

Mr Allister: It is simply that eight is a staggering number when compared, as I said, with Wales. It does not really matter whether it is divided, as the Bill suggests, with one to each Minister in that Department, there being four Ministers, or whether it is divided with two to the First Minister and two to the deputy First Minister. Four seems a sufficiently generous allocation to a single Department, and it would do something to address the fact that the present arrangements are so out of kilter with what prevails elsewhere.

The Deputy Chairperson (Mr D Bradley): There has been discussion about the amalgamation of certain Departments. In the future, some Departments may be larger than they are currently and will have extra responsibilities. Have you given any thought to how that restructuring may impact on the necessity for the number of SpAds in a restructured, larger Department?

Mr Allister: I do not think it would impact on it. If the number of Departments goes down, the number of SpAds will go down accordingly. When you look across the water at the Westminster Government, you see that many of the Departments, including the Secretary of State for Scotland and the Secretary of State for Wales have a single SpAd. I would have thought that the Department for Communities or the Department for the Economy or whatever would be more than adequately furnished with one Minister and one SpAd.

The Deputy Chairperson (Mr D Bradley): OK. Thank you very much, Mr Allister. I will now call members for questions.

Mr Wells: Mr Allister, I want to check a couple of your stats. You say that the average cost per SpAd is £103,538. I assume that that is not what they actually get in the form of a salary.

Mr Allister: No, that includes National Insurance, pension contributions and whatever.

Mr Wells: What is the average salary?

Mr Allister: We do not actually know that, because there has been great reluctance to publish as they are published elsewhere the actual salaries, but we know, for example, that until last week three of the SpAds in OFMDFM were on the maxed-out rate of £92,000-odd. We know that as a fact. However, for other Departments, we do not know that, other than the band that they are in and whether they are at the top, bottom or middle of that band. We know, for example, that in OFMDFM three of the DUP SpAds were on the top rate, whereas various Sinn Féin SpAds were shy of that. There seems to be a variation within Departments. They operate on a band, and all that is really published is the band range, rather than the actual salaries. If you look across the water, you will find the precise salary. You will know precisely what, for example, the Secretary of State's SpAd is paid.

Mr Wells: Just out of interest, what is that?

Mr Allister: £69,266.

Mr Wells: Is that the cost of that post, or is that what that person actually physically brings home?

Mr Allister: That is their salary, so the cost is higher.

Mr Wells: So the cost could be something like £80,000.

Mr Allister: It could be. The average cost of all the SpAds in the United Kingdom Government is £81,500. That includes their National Insurance etc.

Mr Wells: Is there not a danger in what you are suggesting, in that some of the SpAds are extremely well-qualified people who, in the real world, would be very successful but have come in to provide their services?

Mr Allister: I am sure that they would say that this is the real world, but it is interesting that you think it is not. *[Laughter.]*

Mr Wells: You cannot win with this character.

Mr Allister: Maybe you are right.

Mr Wells: Out there in the commercial sphere, to put it that way, they would probably earn significantly more, whilst others seem to have no qualifications whatsoever. Is there not a danger in what you suggest here that some folk who have no obvious qualities for being a SpAd will be on the grading that you suggest, whilst others who clearly bring an awful lot more to their office will have their salary lowered?

Mr Allister: There always is the dichotomy between what is paid in the private sector and what is paid in the public sector. These are people who choose to work in the public sector, so I do not think that they can expect private sector salaries in the public sector.

This would not be to give every one of the 19 SpAds the top line of a grade 5. This proposal would retain band A, which starts at something like £40,000, and band B, which it would simply cap at the grade 5 limit.

Mr Wells: Inevitably, what will happen is that every Minister will appoint their SpAd at the highest rate possible.

Mr Allister: It is interesting that you say that. If you go back a few years, you will find that there were a number of SpAds on band A, which was the lower grade, who were deliberately and responsibly appointed by their Ministers, but, because others appear to have been putting everyone to the top of band B, by last year every single SpAd was in band B. When the Minister of the Environment appointed a new SpAd, I think, last July, he appointed that person back in band A, which was the first indication in some years that Ministers were at all exercising any control in these matters. The tendency, because it has been wholly uncontrolled, has been a rush to the top, but the retention of band A and band B should, if you have responsible Ministers, be reflected in the Minister making the right choice within those bands according to the experience and skill of the person they are appointing.

Mr Wells: Without naming the person, it is well known that the special adviser in Health is a qualified doctor.

Mr Allister: Yes.

Mr Wells: Obviously, that is an extremely relevant qualification to that post. As a Minister, it is extremely helpful to have that input, and I speak as someone with direct experience of that. How, under your proposal, could we attract someone of that quality to be an adviser when he or she could earn far more practising as a GP or —

Mr Allister: First of all, we do not know what the SpAd in Health is paid; we know that he is in band B. We do not know whether he is on £92,000 a year or is at the bottom end of band B. This suggests that he could earn up to £78,000 a year.

Mr Wells: A GP would earn more than that.

Mr Allister: Yes, but if that individual, who is presently earning less than a GP wherever he is in band B, has chosen to be a special adviser, he is not to be rewarded for that by people simply saying, "Oh, if he hadn't made that choice, he could've been earned more". Some of us could earn more if we did other things.

Mr Wells: We are not comparing like with like. If a Minister resigns, the SpAd falls with him or her. Therefore, there is a volatility about the post of SpAd —

Mr Allister: And an available termination package of, I think, up to three months' salary. It is not that they are left on their uppers, Mr Wells.

Mr Wells: Yes, but the reality is that, in most jobs, if you were sacked or made redundant, you would receive some form of compensation. That is not abnormal.

Mr Allister: In theory — I do not know about in practice — it would apply to the Ministers who are currently resigned. Their SpAds would have lost their posts, and it would appear from the criteria in the code of conduct that they would be entitled to a compensation package, even though next week or whatever they might be reappointed to the £92,000-a-year post.

Mr Wells: If someone is a doctor or a solicitor or something like that, they are guaranteed that, in six months' time, they will still, with reasonable conduct, be a barrister, solicitor or doctor. Under the volatile system that we have — you know the number of times that the Assembly and institutions have fallen — people are to some extent taking a risk that they may not be in any form of employment because of that. That may be absolutely nothing to do with their conduct or the quality of the product that they give in their advice; it could be just because of the volatile nature of the place.

Mr Allister: There are two things about that. If you are in private practice, as the solicitors or barristers whom you referred to would be, you would have no assurance of income other than what you earn for yourself. You are not in the public sector.

The experience of these institutions since 2007 is not that special advisers have been made redundant and left without work; the experience is that they are reappointed. Indeed, the provision in the code is that, if you are out of office for seven days and then reappointed, you have total continuity. Therefore, where there is a switch of Minister and he keeps the same special adviser, that special adviser, technically, has left office. However, for all practical purposes, he has not, and there is no detriment whatsoever, because he is reappointed within the seven days. That is the position for all special advisers. The picture that you paint of altruistic individuals who take a dip in salary and then run the horrendous risk of finding themselves unemployed is some sort of fantasy, Mr Wells. Normally, I associate you with the prudent use of public finances, and I must say that I am surprised that you want to be so squandering in your approach to this matter.

Mr Wells: We are here to tease out the nuances of your Bill, and that would not be helped by saying, "It is a wonderful Bill, Mr Allister". We have to ask you difficult questions.

Mr Allister: Sure.

Mr Wells: The other question that I have to ask you is on something of which you have direct experience. Many SpAds are highly qualified legal professionals. If they take up a SpAd post and are here for, say, six or seven years and then return to practising, they will be miles behind their colleagues and have great difficulty getting back into the mainstream of the legal profession. That also applies to the medical profession, accountancy or wherever they come from. There is volatility in the sense that you put a severe dent in your career prospects.

Mr Allister: You may or you may not, but you have made a career choice. You have decided that your career is as a special adviser. If you decide that you will do that for a few years and then go back to your former profession, you have made that conscious choice, so you have factored in all of that. I

do not think that paying that person up to virtually £80,000 a year is an undue penalty upon them. They make the choice to be a special adviser.

Mr Wells: Mr Allister, in my time on the Finance Committee, the figures were released on what, in the real world, these barristers and solicitors were earning. None was surviving on less than £80,000 a year.

Mr Allister: Maybe none of those applied to be SpAds.

Mr Wells: What I am saying is that leaving your career for eight or 10 years to serve as special adviser to a Minister will undoubtedly damage that career, and the remuneration must, to some extent, reflect that.

Mr Allister: The remuneration is generous. For many people, assistant secretary level in the Civil Service is a career attainment in itself, and it is one that takes many years. I do not think that we are treating a special adviser who walks into that position unduly unfairly; we are treating them generously.

The Deputy Chairperson (Mr D Bradley): Mr Allister, does Mr Wells not have a point? My understanding is that the existing salary structure is designed to enable Ministers to attract talented people from, for example, the world of industry and people who have practical experience in the particular field of the Ministry. Mr Wells gave the example of a doctor being a special adviser to the Minister of Health. Will curtailing the remuneration not make it less attractive for people who otherwise might have worked in government and whose taking up such a position might have been advantageous to a Minister?

Mr Allister: It is a question of proportionality. If all of these special advisers are great specialists, should there not be specialist criteria for appointment? Should they not be able to demonstrate what their specialty is? I can think of special advisers who have no obvious specialty. I can think of a situation affecting the Department of Finance and Personnel. When a Minister was appointed, he said that he did not want or need a special adviser, but he was told by his party that he would have one. That person did not bother going to any meetings for several months until I started to ask questions. I asked why, when we were paying a special adviser, he was not even at meetings. Suddenly, that person started to appear at meetings. That person was appointed not because he had any specialty but because he had been a party apparatchik. That is the abuse of this system. Certainly, let us appoint special advisers who are specialists, but, if we simply leave it that we appoint people whom we call special advisers but who have no specialty whatsoever, it is not unreasonable to say that the salary will be generous but linked to something like the generous salary for a grade 5 civil servant. There has been far too much abuse of the system, and the Bill is an attempt to rein it in.

Mr Ó Muilleoir: Good morning, Mr Allister.

Mr Allister: Good morning.

Mr Ó Muilleoir: You have an encyclopaedic knowledge of the wages paid to SpAds and have done an awful lot of research. You say that £92,000 is the wage paid to some SpAds, and Mr Wells questioned you about that. Is that the salary or the package?

Mr Allister: The salary.

Mr Ó Muilleoir: The package is —

Mr Allister: I cannot say what the total package is. There are, of course, National Insurance and pension contributions. All I can tell you is that the average salary of all 19 SpAds — the gross average — is £103,500.

Mr Ó Muilleoir: Just to follow that through, I think that you would agree with me that, even in your previous profession, that would be a handsome package. There are, of course, QCs or eminent barristers who earn much more than that, but I think that you would agree that, in commercial life, that is a handsome package.

Mr Allister: I think that, generally, across the private sector, a £100,000 package would not be sniffed at by most.

Mr Ó Muilleoir: To be fair, you know that Sinn Féin has argued for a reduction in MLAs' wages, so we will certainly not be against a reduction in SpAd wages. None of the Sinn Féin special advisers is on that high salary level. I think that, if we are going to argue across the board that we tighten our belts in this wonderful Building as people outside are tightening theirs, you have a friend in court.

Let us move on to the journey of the Bill. You suggest that the provisions will come into force in the next mandate — if there is a next mandate, of course — and apply to Departments. Do you accept that, if we went into the new arrangement with a reduced number of Departments, there would be a reduced number of special advisers?

Mr Allister: Yes.

Mr Ó Muilleoir: What will be the journey of your Bill in that respect? What is your best-case scenario? I presume that you anticipate some hurdles, but what will be the journey of the Bill from now to next April?

Mr Allister: If it passes Second Stage next Tuesday, it will, I presume, come back to the Committee for Committee Stage. I anticipate returning to the Assembly for Consideration Stage in January, I hope. It will then go to Further Consideration Stage, if the Assembly runs its course, in March, and that should see it complete.

Mr Ó Muilleoir: You had an enigmatic smile when talking about January and the journey of the Bill. Do you think that it may be smothered or suffocated before 2016?

Mr Allister: It could be suffocated next week by the abuse of a petition of concern or — to this I could not object — by the democratic, unrestrained vote of the House against it. If that happens, so be it.

The experience of us all is that the template for Committee Stage tends to be seldom lived up to. More often than not, there are applications for extensions of time. I do not see the need for that in this case, in that the Bill deals with very discrete, concise points. I do not think that there is a need to deliberate endlessly on it. I hope that the normal six weeks will be adequate.

Mr Ó Muilleoir: Thank you. My last question could be one for 'Mastermind': do you know what the president of Estonia earns?

Mr Allister: In which currency would you like that? *[Laughter.]*

Mr Ó Muilleoir: You should google that, Mr Allister. Thank you very much.

Mr Lyons: I do not think that anyone disputes the fact that people are concerned about the cost of government in Northern Ireland. You will welcome, Mr Allister, the steps that we have taken to cut the number of MLAs. Unfortunately, that will not happen until 2021; I would prefer it to happen sooner. We are also reducing the number of Departments, and, as a result, the number of MLAs. Action is being taken, and I hope that you can see that action will be taken and we will reduce the number of SpAds by at least three. There will, of course, be ongoing discussion about the new Executive Office and the number of Ministers who will be in that. I am sure that the position of junior Ministers will be up for discussion as part of that, and, if they were to go, their special advisers would go as well.

Your Bill would reduce the number of SpAds even further to two in the entire Department. I wonder whether you can give us the rationale for that or let us know a little about the research that you carried out. How did you come up with these numbers? Why does the Bill specifically state that the number should go from three to one for each Minister in that Department? What research have you done into the role of special advisers and what is required?

Mr Allister: I am sure that it is easy to find excuses for doing nothing. That is pretty much the default position in all of these matters: saying that things are changing here, so let us leave this alone. However, the reality — it is an unpalatable and unsellable reality for the general public — is that we squander far too much on special advisers and are far too generous in number and in remuneration. Therefore, it has to be addressed.

I am looking holistically at the idea of reducing the number of special advisers in OFMDFM. At present, it has eight; historically, it had six, and then the junior Ministers were added and each was given a special adviser. I am not hung up on reducing from three to one the number for the First Minister and for the deputy First Minister and keeping special advisers for the junior Ministers; if you want to revert to none for the junior Ministers, two for the First Minister and two for the deputy First Minister, you will find no argument from me. I am not hung up on that at all. What I am saying is this: the total number of eight is unconscionable, given that eight run the entirety of the Welsh Government. Saying that Northern Ireland needs eight special advisers in one Department, which equates to the total number in Wales, seems to be utterly indefensible.

Mr Lyons: Mr Allister, you say that nothing is being done, but something will be done on cost. You take issue with the cost and number of special advisers. The overall cost will come down.

I want to come back to my earlier question: what, in your mind, is the role of special advisers? Why did you come to the conclusion that we need that specific number?

Mr Allister: My starting point is that, before anyone is appointed as a Minister, they should have some innate capability to be a Minister. It should not be a case of rewarding somebody for something and then surrounding them with special advisers so that they can do the job. A Minister should have an inherent capacity and ability to do the job himself or herself, and the special advisers should be a bonus to help them.

Very often, Health is given as an example. I think that it is sensible and right that somebody with medical expertise should be a special adviser in the Department of Health. If I look at the Department for Social Development and ask myself what specialty the special adviser brings to the post or what specialty he brought to the Department of Finance, I find it hard to answer. We have to introduce accountability into the system. That is why I would be interested in and probably supportive of any amendment to the Bill to introduce a specialty clause as a qualification for the appointment of special advisers. Then, you might get the value from them. This idea or mindset that you can appoint someone as special adviser because he is a good chap who has helped the party for years and not been that generously paid for doing so perverts the system.

Mr Lyons: If I bring you back to the numbers needed in that Department, you would concede that the new Executive Office — OFMDFM, as it is now — is very different from any other Department —

Mr Allister: It is not working.

Mr Lyons: — when it comes to what is happening in the relationship between them. You would concede that, in a coalition, there is an extra need for advice in that area — for example, in negotiations.

Mr Allister: One could be very cynical and say, "My goodness, they have had the advice of eight sterling people, and look at the dysfunctional mess that we are in". I am sure that it is a complex office that has its difficulties, but that is not a justification for saying, "Let us have an endless number of special advisers trooping about the place and pay them the maximum amount".

Mr Lyons: Do you concede that there are difficulties in that office that do not exist in majority Governments?

Mr Allister: Is that not why I suggest that OFMDFM could be permitted to hold four special advisers, which is very generous? In reply to the consultation, many people asked, "Why leave four? It is far too many".

Mr Lyons: Yes, but you concede that there is an additional need and that it is not a Department like any other.

Mr Allister: It is certainly not a Department like any other. *[Laughter.]*

Mr Cree: That is an understatement.

Mr Lyons: You made comparisons with Wales and Scotland, and we made the point that they are very different. However, there are still at least seven individuals in the Scottish Government — seven SpAds — who work, in part at least, for the First Minister and are answerable to the First Minister.

Mr Allister: They are not in the First Minister's office.

Mr Lyons: We have their names. They are Liz Lloyd, chief of staff to the First Minister; Noel Dolan, senior special adviser to the First Minister; Stuart Nicolson, senior political spokesman for the First Minister; Colin McAllister, special adviser to the Deputy First Minister; Campbell Gunn, deputy spokesman for the First Minister; at least two others; and Katy Bowman. You will understand that the Office of the First Minister and deputy First Minister perhaps requires more than a standard Department.

Mr Allister: Scotland certainly seems to have a structure based on various facets of expertise — the deputy spokesman for the First Minister is also a communications adviser etc. I do not know the minutiae of its departmental arrangements, but I know this: anyone standing back and looking at the Northern Ireland arrangements will wonder why, for this to work — leaving aside the fact that it is not working — we need to have 19 special advisers and pay them, on average, a gross package of over £100,000 a year; otherwise, the Government will grind to a halt. We have been doing that, and the Government have ground to a halt, so I do not think that we can paint a picture that we dare not touch SpAds. These are not untouchable positions, and they should not be beyond the reach of austerity, if that is what is required, or beyond the reach of cutting back on squandering and waste. Special advisers are not some unique category to be preserved from the financial pressures on government, yet, to date, they have been.

Mr Lyons: We are looking at cutting them, and that will go ahead —

Mr Allister: You are looking at cutting the number of Departments, not the number of special advisers in, for example, OFMDFM. It sounds to me as though you want to build a hedge around OFMDFM and let it continue to have eight special advisers.

Mr Lyons: We have already said that, when looking at the structure of the new Executive Office, if the number of Ministers goes down, the number of SpAds could well go down as well.

Finally, you have placed a lot of emphasis on the difference in Scotland and Wales. Have you looked at any other multi-party Governments where special advisers are in place?

Mr Allister: No.

Mr Lyons: OK.

Mr McCallister: Sorry, Mr Allister, for missing the start of your presentation. I have a couple of points. It is pretty staggering that our average cost is £103,000. That is £30,500 above Scotland and a staggering £45,000 above the salary paid by the Welsh Government. Considering that an MLA gets paid £48,000, that is quite a difference.

Your Bill is very timely if, as expected, the transfer of functions to Departments happens this autumn, as Mr Lyons mentioned. If the new Executive Office is created, it will shed so many of its departmental responsibilities that you certainly could make the argument at that point that four would be too many. In fact, I would probably make the argument that, if we move to nine Departments, as proposed under the new arrangements, the junior Ministers would probably be better served by being in the Department of Health, the Department of the Economy or, indeed, in the Department of Education than in the Executive Office. From that perspective, I think that the Bill is very timely. May I have your thoughts on the debate about the new Executive Office, what it will be like as a much more coordinating Department and why you would keep the number of special advisers there at four?

Mr Allister: To an extent, we are operating in the dark, but there is an advantage in a process that takes some months to reach fruition — the processing of a Bill. Should more clarity begin to apply to the new Executive Office and the other Departments, it would be possible at Consideration Stage to make adjustments, if those were thought to be more rational than how the Bill started out in terms of the number of special advisers in what is still OFMDFM. I am not saying that, come Consideration

Stage, we should simply shut our mind to anything that is going on around us. If there are things going on around us that change the setting, it would be possible to adjust the Bill accordingly.

Mr McCallister: Yes, I accept that, and I think that it would be reasonable. Bear in mind that we were to do away with the Department for Employment and Learning in autumn 2011 — some four years ago — yet we still have it and a SpAd is still in post there. You are saying that, if the Bill is successful next Tuesday, and I hope that it is, you will keep an eye on developments as we look at how we might restructure the statutory structures of Government.

Mr Allister: I think that you have to take a flexible approach going forward, until you get to Consideration Stage and Further Consideration Stage.

Mr McCallister: On the point about the multi-layers of government, only the two main parties are in the existing OFMDFM. From 1999 until 2007, the Scottish Government had two parties. Between 2010 and 2015, the UK Government had two parties. Are there any indications that the cost of SpAds rose or fell dramatically in those multi-party Governments? The Welsh also had two parties in their Government from, I think, 1999 until 2011. I think that Plaid Cymru and Labour were in the Government together for quite a while.

Mr Allister: I do not have that information to hand, but I am sure that I could look at it.

There are figures relating to the Scottish Government for the period from 1999 to 2003. I think that there was a Labour majority.

Mr McCallister: Labour-Lib Dem, I think. Nobody was expecting to win a majority.

Mr Allister: Back then, in 2003, for example, the Scottish Government had nine special advisers, and they now have 14.

Mr McCallister: I am fairly certain that it was a Labour-Lib Dem coalition. Two parties were in the Scottish Government at that time, so the argument about needing more advisers to negotiate between two parties does not seem to hold much water.

Mr Allister: I would not disagree.

Mr McCallister: Thank you, Chair.

The Deputy Chairperson (Mr D Bradley): Mr Allister, on two occasions during your evidence, you mentioned the fact that you would not be opposed to the inclusion of what I think you called a "speciality clause". If that is the case, why did you not include such a clause from the outset?

Mr Allister: There are two reasons. The Bill specifically focused on what appeared to me to be the current abuse of the system, namely the excessive number, the excessive salaries and the disciplinary issue, and I wanted to keep it primarily focused on that. However, I was mindful that, if and when the Bill progresses, there would be the opportunity, on foot of useful discussions like this, to consider further widening the ambit. It is a question of whether or not there is an appetite for that. My primary ambition at this point is, I suppose, to get the Bill past Second Stage, and then, if in the scrutiny of it the Committee comes up with a view that special advisers should be special or specialists there would be scope to address that.

The Deputy Chairperson (Mr D Bradley): Given the fact that the word "special" is in the title of the Bill, one would expect that perhaps there would have been an emphasis on the definition of what exactly is meant by the speciality of a special adviser.

Mr Allister: I was also mindful that, as a single MLA, I am taking on the established wisdom in this matter, which has been endorsed by the parties that dominate the Assembly, and, therefore, to draft a Bill with another peg to hang opposition on in it probably dissuaded me from doing that.

The Deputy Chairperson (Mr D Bradley): Some people might put it another way and say that you did not have the courage of your convictions in the Bill.

Mr Allister: I think that I have the courage of my convictions about most things. If the Committee wishes to strengthen, improve and widen the Bill, no one will be happier than I.

Mr Cree: You just stole my thunder. One of the points that I was intrigued by was what makes these special advisers special. Is it their qualifications? Is it a gratuitous settlement for something else? We do not have that, and I guess that we are not going to get it now. Having served on the OFMDFM Committee, I agree with your summation that that Department is totally dysfunctional. To have so many SpAds is ridiculous; they just do not deliver.

There is reference — I am sure that you found this in preparing the Bill — to unpaid advisers in other jurisdictions. Was there any benefit to, or did you find any evidence during your research, the existence of unpaid advisers in Stormont?

Mr Allister: No, I have no knowledge of unpaid advisers. I suppose that one has to watch the language: "advisers" I am taking as advisers as opposed to lobbyists. I do not think that there is evidence as such of the existence of unpaid advisers. Certainly, there is no facility in the structural form for someone to be appointed as an honorary adviser. Elsewhere, there are part-time special advisers, but we have not gone down that route here. I do not think that there are, in any recognised form, honorary advisers in our system.

Mr Cree: I go back to a point raised by one of my colleagues — the passage of the Bill. It seems to me that the time frame is not as generous as we would have liked. All legislation is going to be rushed, I guess, and telescoped or dropped, but one of the easiest ways of dealing with legislation that may not be palatable is simply to allow it to run out of time.

Mr Allister: Yes. Obviously, I will be watching to see whether that attempt is made. The presumption is a time frame that should have the Bill back in the House at a sufficiently early time for consideration. If the Committee decides to seek leave to extend that time, I will be looking to see an explanation for that. Really, the answer lies in the Committee.

Mr Cree: Hopefully, that will not happen.

Mr Allister: In answer to your first point, I am not saying that all special advisers are undeserving. Of course they are not. Some of them are very able, talented and capable and deserve to be properly remunerated. The more there are in the correct coterie of special advisers who meet that standard, the better. However, the present arrangements have got out of hand, which is why we need to rein it in.

Mr Wells: I have just a couple of questions. Given the importance of this, why have you presented the Bill at such a late stage in the mandate? I would have thought that a man of your intellect would have been beaver away at this and had it out in the system, say, two years ago.

Mr Allister: I do not think that this was as hot an issue two years ago. You will recall that I brought through a Bill on special advisers in 2013. As we then got into deeper issues of austerity etc, a focus began to fall on waste in Stormont. Finding that there were hikes in salaries and a surplus of special advisers, it seemed timely. Maybe I should have come sooner, but we are where we are.

Mr Wells: You are aware of the situation, without naming the individual, where, at one stage, in one of our Departments we had an outstanding special adviser who came with an impeccable background in industry and commerce, and he went on to become the chief executive of a very important body in Northern Ireland. If we wanted to attract that extremely high calibre of person because we needed him or her for some specific issue like a major economic development scheme involving billions of pounds, how, under your scheme, could we attract that person as an adviser?

Mr Allister: As a special adviser? I do not think that we are being meagre at all with people by offering them assistant secretary salary in the public service. The Strategic Investment Board (SIB) and others have means of bringing on particular talent; it does not necessarily have to be through the route of special adviser. You cannot set a threshold and say, "Oh, we should be able to pay a quarter of a million pounds to special advisers because we just might, one day, come upon one who's worth it. Meanwhile, let the rest of them take advantage of that". You cannot work on that basis; this is public money. That is the one point that needs to be remembered.

Mr Wells: I am not saying that for one moment. What I am saying is that, for instance, that person went on to a salary that a special adviser's would be only a fraction of because of his quality. Are you making no exceptional circumstances, such as a need to identify a particular set of skills that can only be obtained from the open market at quite a substantial salary above what you are recommending? Are you open to any —

Mr Allister: I am reluctant to open that door, but if the Committee or you wanted to bring an amendment, no doubt the House would pass its judgement upon it. My concern is that, once opened, that door would be exploited and that all special advisers might say, "Oh, well, you know, I might just go somewhere else unless you pay me top whack". I think that we have had a bit of that before. You need to be careful about that approach.

Mrs Pengelly: This issue cannot be understood without placing it in the context of the growth of special advisers across the UK. It is unfortunate that your consultation paper does not do that. As you will be well aware, the role of special adviser has grown significantly over past decades, particularly in the Westminster system. You made a considerable point about aligning our system with, for example, the Welsh system, but what you did not do was point out that the coalition Government in Westminster, at the tail-end of the last mandate, had over 50 SpAds in the office of the Prime Minister and the Deputy Prime Minister. Nick Clegg had 23 special advisers in that office. There is plenty of literature to demonstrate that; an assessment has been done of the very complex role of negotiation in a coalition system.

That brings me to my key point: I have serious concerns about your consultation paper. I have taken a look through it and have looked at the responses. There is no explanation in your paper of what a grade 5 is; there is no job specification for a grade 5. There is no explanation of the roles or qualifications of SpAds. There is no job specification of a special adviser. The pay listed in your paper represents only about 10% of SpAds across the United Kingdom, so it is a partial representation of the remuneration given to SpAds. There is no mention, as I said, of the 50-plus SpAds in the Prime Minister and Deputy Prime Minister's office. There is no justification in your consultation paper of why you have picked £75,000 as the cap, and there is no explanation of the role of OFMDFM and the role that it plays across Government.

I have concerns about the consultation paper. Looking at the responses, it is clear that there was some confusion around it. I am not sure what value the consultation paper adds, beyond telling us what we already know: that there is a bad perception of SpAds among the general public.

In relation to the general issue and some of the issues that you have already discussed, do you believe that there should be an annually earned cap on barristers' fees of £75,000 from the taxpayer?

Mr Allister: Mr Chairman, I was waiting for the declaration of interest, but I did not hear one.

Mrs Pengelly: I am not a special adviser.

Mr Allister: You recently exited that role, so I thought that it might have been mentioned.

The Deputy Chairperson (Mr D Bradley): I think that I mentioned at the beginning of the meeting that the declarations of interest from the two new members would be available shortly on the Assembly website, but there is nothing to prevent either of them —

Mr Allister: I am just making the point that I thought that, in a discussion about special advisers, someone who had been a special adviser would have declared that. But, there we are.

The Deputy Chairperson (Mr D Bradley): If people have declarations of interest to make, they are free to do so either at the beginning of the meeting or before they make a contribution.

Mrs Pengelly: I have taken a look at the guidance on this issue. It is absolutely clear that I have been a special adviser before, but I am currently not a special adviser. In relation to the guidance, there is no conflict in relation to that issue.

Mr Allister: Let me deal with the issues. There is no point in seeking to compare two situations that are totally unlike; the thrust and purpose of the consultation is to compare like with like. Therefore, I have compared devolved institutions in the United Kingdom and looked at Scotland and Wales because there is no comparison between a fully fledged, proper Government such as at Westminster, which has international affairs and everything else to deal with, and a parish-pump devolved institution. There is no comparison whatever. Therefore to say, "The Prime Minister has a surplus of special advisers, so we must have a surplus of special advisers" seems to me to be a totally flawed approach.

We need to examine this in the context of what is appropriate for a devolved institution. If we take what happens in the other devolved institutions as a starting point, we reach the conclusion that, not only are we over-subscribed with special advisers, but we are overly generous in what we pay them. There is no escaping that. As to the frailties or otherwise of the consultation, Mrs Pengelly had the opportunity to respond to it and point all that out, but she chose not to. In fact, under the Bill Office's rules, because the Bill was drafted personally by me it did not have to go to consultation at all; I could have asked for the Bill to be introduced at First Stage because I drafted it personally. It did not involve the processes of the House or those of the Legislative Counsel. The consultation was a plus over and above that.

As for the foolish question as to whether barristers' fees should be capped at £75,000, barristers are people in the private sector who are self-employed. There is no comparison with those who choose to be in the public sector and then want to operate as if they operated in some beneficial aspect of the private sector. There is no comparison whatever.

Mrs Pengelly: There certainly are comparisons. Many people in Northern Ireland care very much about the issues that the Assembly, the Committee and the Department discuss; they do not see them, as you just described, as "parish-pump" issues. Those issues are important to people, and they need to be dealt with correctly and with the proper expertise.

In relation to your comments about barristers, I think that this is relevant. Barristers in Northern Ireland, despite being self-employed, take considerable funds — hundreds of thousands of pounds every year — from the taxpayer through legal aid. In relation to Máirtín's point, if you look at the Legal Services Commission's website you will see that the top 100 barristers last year earned well above £75,000. The earnings from the taxpayer are considerably higher. The issue that I put to you, Mr Allister, is that, if you want to attract people with expertise and the same qualifications and skills to the role of special adviser in public service, there needs to be a recognition of the variety of skills that can be brought in. If you are saying that you believe that those skills should be capped at £75,000, surely there is no justification for arguing that the same skills being paid for by the taxpayer in private practice or in self-employment should go well beyond £75,000 for providing defence for criminals rather than advising government. There is an inconsistency there.

In relation to your issue —

Mr Allister: I must say that it is an absolute nonsense point. By the way, the figure is £78,000; it is not £75,000. It is an absolute nonsense point to compare what people, through self-employment, might earn by dint of their efforts with people who put themselves in the public square as public servants and who think that they should have unlimited and uncapped access to funds far in excess even of some of the Ministers whom they advise. We are in a situation where special advisers can earn more than a Minister. I do not think that that has got the balance right.

Mrs Pengelly: It is an issue of interest to people. Criminal barristers' earnings from the taxpayer through legal aid has been an issue of interest. If you are looking at equatable skills and qualifications and you want to cap one but not the other, that is a valid argument. You made a point about devolved comparators in relation to this issue. There is no doubt that working in a coalition system you have parties that are ideologically opposed on many issues and there are complex issues to be negotiated by special advisers. I said that there were 50-plus SpAds in the office of the Prime Minister and deputy Prime Minister, but, as you know, there were scores of other special advisers across the other Departments. In relation to that issue, I believe that it is a much better and more accurate comparator —

Mr Allister: Across the entirety of the UK Government there were 103 special advisers, and their average cost was £81,000. In little Northern Ireland, we have 19 special advisers and their average cost is £103,500. The figures speak for themselves. If a national Government can be run with salary

levels at four fifths of what is required to pay special advisers in Northern Ireland, which is a mere devolved Administration with none of those national issues, there is something seriously wrong.

Mrs Pengelly: If this debate is to happen honestly, all those issues need to be out there. People need to understand these issues and how the situation with special advisers works elsewhere. It is not a product of the Stormont system; it is a product of the UK-wide system of the growth of special advisers. Governments, Ministers and others feel that there is a value to that role. We have already made it clear that there will be a reduction in special advisers. I think that, with teasing out the evidence today, a key issue —

Mr Allister: There will not be a reduction of special advisers per se; it will be courtesy of a reduction in the number of Departments. Nobody will touch the issue of there being eight special advisers in OFMDFM unless this Bill does it.

Mrs Pengelly: It is a fact that there will be a reduction in the number of special advisers and —

Mr Allister: Because of a reduction in the number of Ministers.

Mrs Pengelly: There will be a reduction in the number of special advisers. There is a reform across government. However, what we have teased out in the evidence today, in my view, is that the concern is really about the qualifications and where people fall along that scale. To be honest, from what I have heard and looked at, I do not believe that your Bill will address that issue. I think that what you are trying to address is that somebody coming in without the requisite skills and qualifications should not get a high-level remuneration. You referred to your view that special advisers should be at grade 5 because that is the level that they are communicating with. In my view, that demonstrates a lack of understanding about the role and spectrum of special advisers. Many special advisers communicate at grade 3 or permanent secretary level, and many operate at a senior level, although many others probably operate at a much lower level. There needs to be a spectrum. The concern here is that you are going after a cap at the top end while doing nothing in your Bill to ensure that those coming in with low skills at the very junior end get —

Mr Allister: And so says someone who benefited from the top end but did not want to tell us.

The Deputy Chairperson (Mr D Bradley): In any case, the Second Stage of Mr Allister's Bill will be on 13 October when there will be an opportunity to air these issues. The Second Stage is meant to examine the Bill's underlying principles, so there will be the opportunity for all members to contribute and to express their views. We will take one more question from Ian.

Mr I McCrea: Just a point of clarification, and I apologise if somebody asked it when I was out. Are you aware whether any other devolved Administration or the Westminster Government is bringing forward similar legislation?

Mr Allister: No, and I think the reason for that is that there has been obvious pay restraint in the other devolved institutions and restraint in the numbers appointed. However, in Northern Ireland it has been wholly unrestrained in that we have an excessive number, disproportionate to the size of our Administration and Province. The salaries that we pay are also disproportionate. I said at the beginning that this matter could have been dealt with by self-restraint and self-regulation, but the years have shown that quite the reverse has been happening. Therefore, it is time to apply some legislative brakes to the matter.

The Deputy Chairperson (Mr D Bradley): OK. Mr Allister, during the discussions this morning you used, I think, the word "waste" in relation to the number and remuneration of special advisers. You referred to the period of austerity that we are experiencing and suggested that this should be reflected in the remuneration of special advisers. I am not sure whether you used the word "corruption"; I think that you might have at the beginning —

Mr Allister: I do not think so.

The Deputy Chairperson (Mr D Bradley): No? OK, I apologise for that. Considering what you have said, can you give us an estimation of the possible savings that will accrue as a result of your Bill?

Mr Allister: I cannot be definitive, obviously, because we do not know how many are actually on £92,000. All we know is the average outturn figure of £103,500.

Mr Wells: There were three.

Mr Allister: We know that there are at least three; an FOI request revealed those three. However, there may be others for whom the answer was simply that they are within the bands.

We know that the average cost is £103,500. If you begin to cap it by reducing the top-rate line from £92,000 to £78,000, you have the potential to make modest but significant savings. It is not just about the pounds and pence; it is about the message that we send out. I talked about austerity in the context that, in 2011, at a time when the Civil Service was subject to a pay freeze, we had the amazing spectacle of special advisers, who are civil servants, getting special treatment and having their salary bands increased, in round figures, from £80,000 to £90,000. What message did that send out to the general public, whom politicians keep urging to tighten their belts? It sends out a very wrong message, and that is how we got to this point.

The Deputy Chairperson (Mr D Bradley): OK. Máirtín, quickly.

Mr Ó Muilleoir: I will be very brief, Mr Allister. I hope that you will not interrupt me as you interrupted Mrs Pengelly. I am sure that you will not.

I suspect that your former colleagues may halt the progress of the Bill, but it is very useful and helpful for the Committee to look at the area. As we move forward, this is an area of government that we need to get better at. If that involves people coming down to the same payment or remuneration as Sinn Féin special advisers or those from other parties, then maybe we will do that.

I would like one last piece of information. There is an argument that I hear often from the USA, which I do not accept, that you should pay people a lot of money because it will stop corruption. You do not want politicians to be tempted by corruption, so you pay them very well. I have heard that about Westminster as well, although it is not something to which I personally hold. My feeling is that if you are in public service you should take public-service remuneration, which can be very handsome. Do you have any thoughts on that?

Mr Allister: Anyone who chooses to serve in the public sector knows the parameters and should, before they make that decision, decide that those are financial parameters within which they can live. They should not think that they have a right to supplement that by bending the system, whether you call it corruption or whatever else.

The public expectation is that we need special advisers, they need to be specialists, and we need to pay them a fair rate. However, the random approach that we have needs to be drastically reined in, because there has been an abuse of it to date.

The Deputy Chairperson (Mr D Bradley): OK. Thank you very much, Mr Allister. I take it that if the Committee needs any further information in due course you would be happy to provide it.

Mr Allister: I am much obliged to you. Yes.

The Deputy Chairperson (Mr D Bradley): Thank you very much.