



**Northern Ireland
Assembly**

**Assembly and Executive Review Committee
and
Northern Ireland Assembly Commission**

**Independent review of the adequacy and effectiveness of
the Statement of Entitlements for an Official Opposition
as set out in the Fresh Start Agreement**

Background and Terms of Reference

Background

Introduction

1. The New Decade, New Approach¹ (NDNA) deal, which was published in January 2020, included, the following recommendation:
'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)

Statement of Proposed Entitlements for an Official Opposition

2. The 'Statement of Proposed Entitlements for an Official Opposition' was contained within Appendix F4 to *A Fresh Start Agreement*² (published November 2015) and is attached in full at the **Annex**.
3. On 8 February 2016, the Assembly resolved:
*'That this Assembly endorses the Statement of Proposed Entitlements for an Official Opposition, as set out at Appendix F4 of the Fresh Start Agreement, and calls on the Speaker to take forward the implementation of these provisions before the end of the current Assembly mandate.'*³
4. Following this, on 14 March 2016, the Assembly agreed a new Standing Order 45A (which made provision for the recognition of an official opposition); an amendment to Standing Order 20A (to provide that the first Topical Question to a Minister will be from the Opposition); and an amended Standing Order 10 (which facilitated the recognition of a new category of business entitled 'Opposition Business').⁴

5. Speaker McLaughlin made other arrangements to provide for enhanced speaking rights during plenary business for the Official Opposition, as set out in the Statement of Proposed Entitlements, by amending his own procedures following consultation with the Business Committee. In addition, Speaker McLaughlin and the Business Committee agreed arrangements in relation to opposition debates.⁵
6. In September 2016, the Business Committee subsequently put in place arrangements for 10 'opposition days' per Assembly session. An opposition day consisted of four hours of business selected by the official opposition. These arrangements continued until the dissolution of Assembly in January 2017.
7. Financial assistance for the political parties represented in the Assembly is paid via a scheme made under section 2 of the Financial Assistance for Political Parties Act (Northern Ireland) 2000⁶ ('the FAPP Act'). On 15 March 2016, the Assembly approved a revised scheme to give effect to the proposals for additional FAPP funding to be made available for opposition parties in the Assembly from the start of the new mandate in May 2016.⁷
8. Around the same time that the Assembly endorsed the Statement of Proposed Entitlements for an Official Opposition, a Bill was passing through the Assembly making provision for the formation and arrangements for an official opposition. The Bill passed its Final Stage on 29 February 2016, and became the Assembly and Executive Reform (Assembly Opposition) Act (Northern Ireland) 2016⁸ ('the 2016 Act') after it received Royal Assent on 23 March 2016. Although there were similarities between the entitlements for an Official Opposition arising from the Fresh Start Agreement and the envisaged standing orders arising from the Act there were also some differences.
9. The 2016 Act amended section 1 of the FAPP Act by adding the following new provision:

'(2) If there is an Assembly Opposition (within the meaning of the Assembly and Executive Reform (Assembly Opposition) Act (Northern Ireland) 2016), the scheme shall provide for additional payments to be made to political parties in the Opposition.'

Current Position

10. In light of the abovementioned recommendation in NDNA, 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 recommendation. This resulted in the Assembly agreeing the following motion from the Commission on Tuesday 13 October 2020:

*'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.'*⁹
11. Arising from the above Assembly resolution, the following terms of reference were agreed by the AERC on 19 November 2020 and by the Commission on 9 December 2020.

Terms of Reference

Purpose

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

- ‘The review should recommend increased allowances for Opposition parties and should explore the creation of additional funding for the Offices of the Leaders of Opposition parties.’

Process & Output

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

Timescale

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

AERC consideration and report to the Assembly

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

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

Statement of Proposed Entitlements for an Official Opposition

- (i) Those parties which would be entitled to ministerial positions in the Executive but choose not to take them up, to be recognised as an official opposition. Those parties which choose to go into opposition should elect to do so at the time they decline the offer of a ministerial position in the Executive when d'Hondt is run.¹⁰
- (ii) Provisions for an official opposition to be put in place by administrative, or other, means not requiring primary legislation. Parties noted that giving the provisions a legislative footing would require Westminster legislation as the issue was an excepted matter.
- (iii) No formal titles are to be conferred upon individual members, including leaders of parties, within the official opposition. It is acknowledged that titles may come to be conferred informally on such office holders through custom and practice.
- (iv) Provision should be made for cost neutral financial and research assistance for opposition parties, either through the Financial Assistance to Political Parties Scheme (FAPP), or a ring-fencing of Assembly research facilities.
- (v) Official opposition should have enhanced speaking rights during plenary business, and these should comprise the following:

(a) Question Time

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

(b) Executive Business - Budget and PfG debates

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

(c) Executive Business - Legislation

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

(d) Ministerial Statements

The first question to the Minister following an oral statement.

(e) Matters of the Day

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

(f) Opposition Debates

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

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

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/856998/2020-01-08_a_new_decade_a_new_approach.pdf

2

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/479116/A_Fresh_Start - The Stormont Agreement and Implementation Plan - Final Version 20 Nov 2015 for PDF.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/479116/A_Fresh_Start_-_The_Stormont_Agreement_and_Implementation_Plan_-_Final_Version_20_Nov_2015_for_PDF.pdf)

³ <http://aims.niassembly.gov.uk/officialreport/report.aspx?&eveDate=2016/02/08&docID=257727#1909498>

⁴ <http://aims.niassembly.gov.uk/officialreport/report.aspx?&eveDate=2016/03/14&docID=263221#2090904>

⁵ <http://www.niassembly.gov.uk/globalassets/documents/business-committee-2011-2016/minutes/2015-2016/20160308bcminutes.pdf>

⁶ <https://www.legislation.gov.uk/nia/2000/1/contents>

⁷ <http://www.niassembly.gov.uk/your-mlas/financial-support-to-members-and-political-parties/financial-assistance-for-political-parties-scheme/>

⁸ <https://www.legislation.gov.uk/nia/2016/10/contents>

⁹ <http://aims.niassembly.gov.uk/officialreport/report.aspx?&eveDate=2020/10/13&docID=310908#2998453>

¹⁰ Standing Order 45A was amended on 13 October 2020 (following the Committee on Procedures consideration of the recommendation at paragraph 3.6 in NDNA) to provide that a party may choose to be recognised as part of the Official Opposition up to two years after the formation of the Executive following an Assembly election.