

NORTHERN IRELAND ASSEMBLY COMMISSION

BRIEFING TO ASSIST THE AD HOC COMMITTEE IN ITS SCRUTINY OF THE ASSEMBLY MEMBERS (REMUNERATION BOARD) BILL

18 February 2025

INTRODUCTION

1. The Assembly Commission welcomes the establishment of the Ad Hoc Committee and looks forward to assisting it in its scrutiny of the Assembly Members (Remuneration Board) Bill.

LEGISLATIVE BACKGROUND AND CURRENT POSITION

2. Section 40(4) of the Northern Ireland Act 1998 ('the 1998 Act') provides the legal basis for the work of the Assembly Commission. Section 40(4) of the 1998 Act states that 'The Commission shall provide the Assembly, or ensure that the Assembly is provided, with the property, staff and services required for the Assembly's purposes.'
3. Section 47 of the 1998 Act states that the Assembly shall pay to Members of the Assembly ('Members') such salaries, and may pay such allowances, as may from time to time be determined. It provides that the function of determining the salaries or allowances to be paid can be delegated to a body established by Act of the Assembly, or conferred on the Assembly Commission by a resolution of the Assembly. The Assembly Commission administers the payment of these salaries and allowances.
4. Under the Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011 ('the 2011 Act'), an independent body called the Independent Financial Review Panel ('IFRP') was created. It was given powers to determine Members' salaries, pensions and allowances.

5. The IFRP last made a determination on salaries and allowances in 2016 (the Assembly Members (Salaries and Expenses) Determination (Northern Ireland) 2016 (“the 2016 Determination”).
6. In 2016, the salary for a Member was set at £49,000. Under the terms of the 2016 Determination, Members’ salaries rise by £500 per year if there has been a relevant increase in CPI inflation. The current salary of a Member is £52,500.
7. Immediately following publication and over the following years, the provisions of the 2016 Determination caused a range of difficulties for Members, but most notably in relation to the unreasonable terms and conditions of employment that they had to impose on their staff.
8. On 30 June 2020, the Assembly passed a resolution to confer the function of determining allowances on the Assembly Commission. In the debate in the Assembly on 30 June 2020, every party in the Assembly acknowledged problems with these elements of the 2016 Determination, along with a range of others relating to Members’ ability to run their constituency offices.
9. On 4 February 2025 the Assembly passed a further resolution conferring the function of determining former Member’s allowances (e.g. winding up allowance) on the Assembly Commission. This was a minor technical change to the existing power conferred on the Assembly Commission on 30 June 2020.
10. Since 30 June 2020, the Assembly Commission has since made two Determinations on allowances. On 27 August 2020 the Assembly Commission made the Assembly Members (Salaries and Expenses) (Amendment) Determination (Northern Ireland) 2020, which principally dealt with allowances payable in respect of Members’ employees.
11. On 7 February 2025, the Assembly Commission made the Assembly Members (Office and Staffing Costs and Allowances) Determination (Northern Ireland) 2025. This was a more wide-ranging modernisation of the scheme for determining Members’ staffing and office costs and allowances and will be the basis of the payment of office and staffing costs and other allowances to Members going forward.

12. Under the 2011 Act, the IFRP is responsible for setting pensions of Members, former Members and office holders. The IFRP last made a determination on pensions in 2016. This is a separate determination, which has not been altered since 2016. Members' pensions are funded by the Assembly Members' Pension Scheme, which is overseen by trustees and follows the rules set by the IFRP.

DEVELOPMENT OF THE ASSEMBLY MEMBERS (REMUNERATION BOARD) BILL

13. In 2015, in advance of the term of office of IFRP coming to an end, the Assembly Commission began to review a range of options for the reform of the system of providing financial support for Members. When the then members of IFRP left office in 2016, the Assembly Commission deferred taking a decision to proceed with appointing a new panel, pending further consideration on the options for reform.
14. It quickly became clear from the experience of Members and the issues being raised with Assembly Commission officials, that the terms and conditions of employment for Members' staff and the system for staffing and office cost expenditure set up by the IFRP in 2016, did not adequately provide for the pressures Members and their employees faced in representing their constituents.
15. The Assembly dissolved for an early election in 2017 and did not resume sitting until 2020. The Assembly Commission did not want to address this matter while the Assembly was not sitting but had a number of further discussions to enable it to make progress when the Assembly resumed business.
16. The Assembly Commission is a corporate body – it does not operate like a committee. The Assembly Commission seeks to operate by consensus as much as possible. Therefore, while parties would naturally have a range of views, the Assembly Commission sought a consensus position with the support of all parties represented on the Assembly Commission.
17. The Explanatory Memorandum of the Bill sets out the stages of the consultation with parties and the options the Assembly Commission considered.
18. Consequently, after this detailed consideration by the Assembly Commission, a few months after the Assembly returned on 11 January 2020, on 30 June 2020, the Assembly agreed a change to the way allowances for the costs of Members' offices were determined.

The Assembly passed a resolution at that time, that the Assembly Commission be given the power to make Determinations on Members' allowances, and that decisions on salaries and pensions continue to be made by an independent body. That has been the settled position of the Assembly for some five years now.

19. The resolution of June 2020 gave the Assembly Commission legal authority to determine allowances, but it was recognised at the time that further legislative change would be needed to regularise the legal position. This was because technically the IFRP retained power to make determinations on allowances for Members' offices under the Act passed in 2011.
20. Should the IFRP, or similar successor body, be reappointed without the necessary legislative change, two separate bodies would have the power to make determinations on staffing and office cost expenditure that can be reclaimed by Members at the same time. This is undesirable and could lead to legal uncertainty.
21. After the resolution was passed by the Assembly in June 2020, the Assembly Commission first sought to address this legal uncertainty when it introduced the Assembly Members (Remuneration Board) Bill in December 2020.
22. However, as it soon became clear that the pandemic had not ended as soon as we would all have liked, the Assembly Commission decided not to take the Bill further at that point, when a heavy amount of legislation was also coming in front of the Assembly.
23. Since then, the Assembly Commission has continued to consider the Bill, and it is only now, a year after the Assembly has returned, and before the anticipated heavy legislative workload towards the end of this mandate, that the Assembly Commission has reintroduced this Bill.
24. This Bill will remove the legal uncertainty by reflecting, in law, the position that the Assembly has already resolved twice, in June 2020 and this month, and thus provide for an independent body to deal with the issue of Members' salaries and pensions alone.

CONTENTS OF THE ASSEMBLY MEMBERS (REMUNERATION BOARD) BILL

25. The Explanatory Memorandum sets out the detail of each clause of the Bill. Therefore, in this paper the Assembly Commission will focus briefly on the main substantive contents of the Bill.

26. Clause 1 of the Bill renames the IFRP as ‘the Remuneration Board’. This name reflects the focus of the new independent body on salaries and pensions.
27. Clause 2 amends the 2011 Act to give the legal consistency required, as mentioned previously, with the resolutions of the Assembly in June 2020 and in February 2025. This ensures that the Board does not have power to determine the staffing and office cost expenditure that can be reclaimed by Members and the allowances payable to former Members who have resigned or have lost their seat.
28. Clause 3 inserts a new section 2(A) into the 2011 Act requiring the Board to have regard to the salaries payable to Members of the House of Commons, the Scottish Parliament, the Welsh Parliament, the House of Representatives of Ireland and the Senate of Ireland, when making a Determination under Section 2(1) of the 2011 Act.
29. It is not unusual for benchmarking exercises to be used in public and private sector organisations as part of evaluation processes to help ensure that relevant and comparable roles are taken into consideration when examining appropriate levels of remuneration.
30. As there is only one legislature in Northern Ireland, it is logical for the Remuneration Board to begin with a benchmarking comparison alongside the other legislatures in these islands where legislators carry out comparable roles.
31. The Bill does not prevent the Remuneration Board from considering any other factors it thinks relevant - it is expected that benchmarking will be just one element that the Board will take into account. Ultimately, as the Remuneration Board will be independent, it will be for it to decide the range of factors it wishes to consider, the weight it gives to benchmarking against other places, and the view it takes on appropriate salary levels for members and office-holders.
32. The Remuneration Board will also need to be mindful of its duty under Section 2(2) of the 2011 Act to exercise its functions with a view to achieving the objectives of –
- (a) ensuring probity, accountability and value for money with respect to the expenditure of public funds;

- (b) securing for members of the Assembly a level of remuneration which—
 - (i) fairly reflects the complexity and importance of their functions as members of the Assembly; and
 - (ii) does not, on financial grounds, deter people with the necessary commitment and ability from seeking election to the Assembly.
- 33. Clause 4 inserts a new section 6A into the 2011 Act to permit the appointment of a temporary Chair of the Board, and temporary members of the Board, pending the usual process for five-year fixed-term appointments under section 4 of the 2011 Act.
- 34. The temporary appointments lapse after 12 months but may be renewed. This should ensure continuity in the functioning of the Board.
- 35. Other provisions of the Bill provide for the Board to approach the dates for publication of determinations in a structured way, and absence in membership of the Board would be undesirable.
- 36. Clause 4 will also provide the Assembly Commission with an order making power to allow it to make further provision about temporary appointments. Any order would have to be approved in draft by the Assembly before it could take effect. The effect of this power is set out in more detail in the delegated powers memorandum.
- 37. Clause 5 removes the bar on former Assembly Members being members of the Remuneration Board, therefore putting former Assembly Members on the same footing as former Members of other Parliaments and former councillors for example, but ensures that no more than one former Assembly Member may serve on the Board at any one time.
- 38. The Bill does not require that a former Member be on the Remuneration Board. There will be an open recruitment process for the Remuneration Board, which will be independently overseen by the Clerk/Chief Executive of the Assembly, who will form a recruitment panel of internal and external people of appropriate experience. The recruitment panel will not involve Members of the Assembly Commission, or Members or former Members of this Assembly.

39. Members from across the House will recognise that there was a perception that there were a number of decisions made by IFRP which did not reflect the realities of the role of a Member of this Assembly on the ground. The Assembly Commission considers that allowing for the insight of a former Assembly Member's first-hand experience could add value to the Remuneration Board's work, while retaining a balance of other perspectives on the Board by only allowing one former Member to serve on the Board at a time.
40. This provision is not out of step with other places. The Independent Parliamentary Standards Authority (IPSA) at Westminster doesn't just have the option of appointing a former MP to its board, it is legally required to appoint a former MP to its board.
41. Clause 6 of the Bill amends section 11 of the 2011 Act to provide a more clearly structured process around making determinations. First, it provides that the Board must, so far as reasonably practicable, make a determination at least 6 months before the date of the poll for the next Assembly election – so that those considering standing for election have notice of the remuneration they would receive, if elected. Secondly, it provides for publication of determinations in draft and consultation on these drafts before a determination is made.
42. Finally, it provides that if the Board intends to form an opinion that, due to exceptional circumstances, it should make more than one determination in respect of each Assembly, the Board must consult the Assembly Commission. Consultation would also be required if the Board was considering making a determination ahead of an election which was occurring within a year of the previous election. This allows a balance to be achieved between making determinations in response to necessary circumstances and ensuring value for money, on the basis that Members of the Remuneration Board will be paid for the number of days their work requires.
43. Clause 7 makes a range of minor and consequential amendments, including amendments throughout the 2011 Act to reflect the change of name from 'Panel' to 'Board'.

44. Clause 8 provides that determinations made under sections 47 and 48 of the 1998 Act, or under the 2011 Act, will continue to have effect until superseded. This ensures continuity of the law.
45. Finally, clauses 9, 10 and 11 respectively define terms in the Bill, provide for its commencement and set out its short title.

CONCLUSION

46. As set out above, the Assembly Commission has taken time in developing this Bill and has waited a considerable time to bring it back to the Assembly following its initial introduction in December 2020.
47. The Assembly Commission is approaching this as a technical Bill dealing with a limited number of issues of process. Contrary to what others have stated, the Assembly Commission is not focused on the outcome which will emerge from the decisions of the independent body if this Bill is passed. The Assembly Commission has never at any time discussed, or sought to take an agreed position on what the salary of a Member should be.
48. The resolution passed by the Assembly in June 2020 to give the Assembly Commission the function of determining the allowances for staffing and office cost expenditure that can be reclaimed by Members, has been the settled position of the Assembly for almost five years.
49. The Assembly Commission has published two determinations in this time which have enabled the Assembly Commission to address a range of issues which were either addressed insufficiently, or not at all, in the Determinations made by IFRP.
50. These have included reasonable changes on a range of issues such as the salaries and terms and conditions for Members' staff including holiday, sickness and maternity pay, the level of staffing support made available, the ability of Members to put their telephone number on their office signage, the provision of maternity leave support for Members and, just recently, specific provision for Members to put security measures in place in their constituency offices and homes.
51. The core purposes for the introduction of this Bill are firstly, to ensure a consistency in law with the resolutions previously agreed by the Assembly in June 2020 and February 2025, and secondly to return to having arrangements

in place for the salaries and pensions of Members and pensions of former Members to be determined independently.

52. The Assembly Commission acknowledges that there will be a range of strongly held views on the question of what the salary of a Members should be. However, the Assembly Commission has not taken, and will not take, a position on that issue. The Assembly Commission is clear that that is an issue that will be determined solely by the independent Remuneration Board, not this Bill.