

# Review of the use of certain allowances under the Assembly Members (Salaries and Expenses) Determination (Northern Ireland) 2016

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## Introduction

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1. On 16 October I was asked by the Assembly's Clerk/Chief Executive, in her role as Accounting Officer for the Northern Ireland Assembly Commission ('Assembly Commission'), to carry out a short review of the recovery of certain costs under the Assembly Members (Salaries and Expenses) Determination (Northern Ireland) 2016 ('the 2016 Determination').
2. The review was occasioned by concern arising from publicity surrounding two persons who had been employed by Members of the Assembly ('Members'), namely Mr Michael McMonagle and Mr Caolán McGinley. Mr McMonagle was convicted of serious offences and jailed on 8 November 2024. Mr McGinley had provided an employment reference for Mr McMonagle and later resigned from a role described as a 'Sinn Féin press officer'.<sup>1</sup>
3. Members are entitled to recover the costs of employing individuals to assist them 'in connection with their role as Members'. Typical examples of such work would include a Member employing an individual to carry out parliamentary research, or to manage a constituency office. However, Members cannot recover costs for the employment of individuals not incurred in connection with the exercise of their function as Members.
4. Thus, if a person carries out work as a press officer for a political party, a matter considered in this report, that is something for which they should be remunerated by the party and not expenditure in respect of which a Member may recover costs. However, it is often difficult to draw a line between political work for an elected Member, which will generate an indirect benefit to the political party to which the Member belongs, and work which benefits the political party but not the Member.
5. It should also be recognised that a person may legitimately have more than one job for which that person is remunerated, and that many people may choose to carry out unpaid work for a political party whose policy preferences they share.
6. The terms of reference for the review required me to establish:
  - the dates of employment of individuals involved,
  - the job role of those individuals,
  - the extent to which (if any) those employees carried out work for a political party rather than the employing Member in their contracted hours,

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<sup>1</sup> Notably in a statement to the Assembly by the First Minister, Ms Michelle O'Neill MLA on 7 October 2024 and in a number of media reports

- the extent to which persons employed by Members may properly carry out work for political parties alongside their constituency roles,
  - any ambiguity in the terms of contract under which Members may employ staff to carry out constituency work, and
  - the adequacy of oversight by the Assembly Commission of the roles of Members' employees.
7. Part 1 of the review deals with relevant background. This includes the terms of the 2016 Determination, and its amendment. It deals with the role of Members of the Assembly, and the role of Members as employers. It also deals briefly with restrictions imposed during the 2020/2021 COVID-19 pandemic, which are relevant to this matter. Part 2 considers details established around the employment of Mr McGinley and Mr McMonagle. Part 3 deals with such structural issues as emerged from consideration of these issues.
8. I am obliged to the Members who provided information respect of this review and to colleagues in the Assembly Commission's Finance Office, who provided a large volume of relevant data.

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Jonathan McMillen  
Head of Legal Services  
7 January 2025

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## Executive summary

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In carrying out this review, I have focussed on whether evidence suggests that it is more likely than not that a particular event occurred or did not occur. My conclusions are as follows:

- Mr McGinley cannot be shown to have carried out work for a political party during his contracted hours with a Member.
- Mr McMonagle cannot be shown to have carried out work for a political party during his contracted hours with a Member.
- Mr McMonagle is likely to have been subject to three separate contracts of employment in a three-month period between 2 March 2020 and 31 May 2020.
- It was not realistically possible for Mr McMonagle to carry out all the work for which he was employed between 2 March 2020 and 31 May 2020. This is indicative of misrepresentation by Mr McMonagle to his employers, and but for the particular circumstances set out in this review, would call into question the role of the employer.
- Sinn Féin provided centralised employment services to elected Members who belonged to that party. Sinn Féin ought to have known that Mr McMonagle was contracted to work for around eighty hours a week in the period March – May 2020.
- Ms O'Neill MLA, who employed Mr McMonagle in March 2020, is unlikely to have been aware of all the employment contracts to which Mr McMonagle was subject at that time, and is unlikely have become aware of those contracts during his employment with her.
- In the period in which Ms Dolan MLA employed Mr McMonagle, the latter also carried out work for Sinn Féin which was not inconsistent with his contracted hours.
- In the period in which Mr McAleer MLA employed Mr McGinley, the latter also carried out work for Sinn Féin which was not inconsistent with his contracted hours.
- The documentation provided to the Assembly Commission's Finance Office by Members concerning the employment of Mr McGinley and Mr McMonagle was accurate in all material regards.
- The claims for expenses made under the 2016 Determination in the period covered by the review by Ms Dolan, Mr McAleer and Ms O'Neill are well within the average range for Members and give no cause for concern.
- There are various lacunae in the 2016 Determination, and consequently in the documentation required by the Finance Office for assurance purposes, which should be addressed.

- The steps taken by the Finance Office to ensure compliance by Members with the terms of the 2016 Determination were reasonable and proportionate.
- The generic nature of published job descriptions for Members' employees makes it difficult for Members and the Assembly Commission to draw a line between work for Members, work which indirectly benefits a political party, and party-political work.
- The audit mechanism, under which the expenses claims of a random selection of 25% of Members each year are reviewed, provides a sufficient level of assurance that Members' expenses are being properly incurred, particularly should the recommendations set out be progressed.
- In a five-year period, audits of Members' expenses by the Assembly Commission's Internal Audit Team, and subsequently by experienced external auditors, gave no cause for concern.

This review has identified a number of areas in which processes for recovering costs can be improved. The proposed changes will be of benefit both to the employing Members and to the Assembly Commission. The proposed changes, and the basis for those changes, are as follows:

- While Members' employees may legitimately carry out work for a political party alongside their role in supporting Members, employees engaged in party political activity should keep a record of that activity, and the hours spent on that activity, to be retained by the employing Member.
- In addition, the contract of employment published as part of the 2024 Determination should include a provision which prohibits any significant party political activity during the hours of employment.
- Building on an extant requirement in the 2016 Determination, Members should provide details of employees who hold other employment remunerated from public money in Form A1.
- The annual declaration of compliance to be prepared by Members should make specific provision regarding Members' employees.
- Save in extreme cases, it is difficult to draw a line between activity undertaken by Members' employees for an elected Member, for which expense may lawfully be recovered, and party political activity. Revised job descriptions should be introduced for Members' employees. This will more clearly delineate activities which benefit the employing Member and activities which directly or indirectly benefit the political party to which the employing Member belongs.

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## Part 1: Background

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### Statutory basis for the payment of allowances

9. Section 47 of the Northern Ireland Act 1998 ('the 1998 Act') is the statutory basis for the payment of salaries and allowances to Members. Section 47(2) provides that *'the Assembly may pay to members of the Assembly such allowances as may from time to time be determined.'*
10. In practice, the Assembly Commission, as the Assembly's corporate body, administers the scheme for the payment of salaries and allowances to Members on behalf of the Assembly, principally through the Assembly Commission's Finance Office.<sup>2</sup>
11. In 2011, the Assembly enacted the Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011 ('the 2011 Act') under which a new body, the Independent Financial Review Panel ('IFRP'), was established to make determinations fixing the salaries and allowances to be paid to Members. The IFRP made the 2016 Determination.
12. Part 1 of the 2016 Determination deals with salaries for Members and office-holders. Part 2 deals with expenses, including constituency office expenses. Part 3 deals with allowances, including travel allowances. Part 4 deals with staff costs. A contract of employment for Members' employees, the use of which is mandatory, is set out in the Schedule to the 2016 Determination.
13. In 2020, following review of the structures of the 2011 Act, the Assembly Commission determined that a return to the pre-2011 position, under which allowances were determined in-house, would be appropriate. By a resolution of the Assembly of 30 June 2020, the power to determine salaries and allowances was conferred on the Assembly Commission.
14. Subsequent to that, the Assembly Commission made the Assembly Members (Salaries and Expenses) (Amendment) Determination (Northern Ireland) 2020 ('the 2020 Determination'), which significantly amended the 2016 Determination and came into effect on 27 August 2020. A number of amendments made to Part 3 the 2016 Determination, dealing with staff costs, had retrospective effect from 1 April 2020.
15. In the period covered by this review, Members' employees will have been employed under both the 2016 Determination and the 2016 Determination as amended by the 2020 Determination. Generally, when I refer to the 2016 Determination, it will be to the unamended text, and when this is not the case I will make this clear.

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<sup>2</sup> Under section 40 of the 1998 Act, the Assembly Commission is to provide the Assembly with services required for the Assembly's purposes

16. I understand that a new Determination, the Assembly Members (Office and Staffing Costs and Allowances) Determination (Northern Ireland) 2024 ('the 2024 Determination') is awaiting consideration by the Assembly Commission.

#### Limitations on the functions of Members' employees

17. Part 3 of the 2016 Determination deals with staff costs and paragraph 31 is the first paragraph of Part 3. It is a purpose clause: that is, an introductory provision setting out what the paragraphs in that part are intended to do. It provides as follows:

##### *'Purpose of this Part*

*31. (1) The purpose of this Part is to ensure that members do not suffer a financial detriment by reason of staff costs incurred in connection with the exercise of functions as members.*

*(2) But the purpose of this Part is not to –*

- (a) allow political parties to benefit from staff costs incurred by members, or*
- (b) allow resources made available to members for the exercise of functions as members being used for other political activities' (my emphasis).*

18. A provision of this kind was not included in pre-2016 Determinations, made variously by the IFRP, the Secretary of State, and the Assembly. However, such provision is a reasonably common feature of parliamentary expenses regimes, and I have noted provision elsewhere which seeks to restrict the extent to which the employees of members of the legislature may undertake party political work.
- In Wales, the Determination on Members' Pay and Allowances: 2024-25<sup>3</sup> provides at paragraph 1.3.3. that '*claims must not be made for expenditure relating to party political activity*'.
  - In Scotland, the Reimbursement of Members' Expenses Scheme<sup>4</sup> provides at section 3.1.4 that '*staff shall not undertake any significant party political activity during any hours of work which are included within claims submitted under this Section*'.
  - For the House of Commons, the Scheme of MPs' Staffing and Business Costs 2024-25,<sup>5</sup> published by the Independent Parliamentary Standards Authority ('IPSA'), does not contain a routine prohibition, but in a section dealing with '*expenditure during the dissolution period*' provides at paragraph 10.19 that '*staffing costs may not be claimed for any party political or campaigning activity. Staff wishing to undertake party political*

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<sup>3</sup> The Independent Remuneration Board of the Senedd, *Determination on Members' Pay and Allowances 2024-25*, March 2024

<sup>4</sup> Scottish Parliament, *Members' Expenses Scheme*, June 2023

<sup>5</sup> Independent Parliamentary Standards Authority, *The Scheme of MPs' Staffing and Business Costs, 2024-25*

*activity must not do so during their working hours and must instead take paid or unpaid leave’.*

### The 2016 Determination and FAPP

19. Under the Financial Assistance for Political Parties Act (Northern Ireland) 2000 ('FAPP') the Assembly Commission is empowered to make Schemes under which payments may be made to political parties for the purpose of assisting Members connected with such parties to perform their Assembly duties. I have considered the provisions of the Financial Assistance for Political Parties Scheme 2016 ('the 2016 Scheme') and the Financial Assistance for Political Parties Scheme 2024 ('the 2024 Scheme'). The Assembly Commission has published Guidance on the 2016 Scheme ('the Guidance') which I have considered.
20. Paragraph 1.3.2 of the Guidance suggested that support under the 2016 Scheme might take the form of (among other things) *'provision of central administrative support by the party to assist Members of the Assembly, who are connected with [a] political party, to perform their Assembly duties'* and *'provision of central research, to assist Members of the Assembly, who are connected with [a] political party, to perform their Assembly duties'*. The Guidance does not refer to human resource ('HR') support, but this could reasonably be included in 'central administrative support'. The Guidance states that *'Assembly duties'* in the 2016 Scheme has the same meaning as *'[M]ember's functions'* in the 2016 Determination.
21. Paragraph 47(3) of the 2016 Determination sets out a list of *'functions as a member'*, which are as follows—
  - 'attending a sitting of the Assembly,*
  - attending a meeting of a committee or sub-committee of the Assembly,*
  - undertaking research or administrative functions which relate directly to the business of the Assembly,*
  - establishing or maintaining a constituency office,*
  - providing an advice service to constituents,*
  - attending meetings for the purpose of representing constituents in Northern Ireland, including meetings with a constituent or constituents, and*
  - attending, with the approval of the Commission, any ceremony or official function or national or international conference as a representative of the Assembly, but not including attendance that relates wholly or mainly to that member's role as a party spokesperson or representative'.*
22. This means that, between March 2017 and 2024, the functions for which Members could recover expenses under the 2016 Determination and the purposes for which parties could provide services to Members under the FAPP Scheme were essentially the same. It is unclear why in these circumstances two

different schemes were required, since ultimately payments were made for the same purposes. This is likely to have created confusion among Members as to those expenses which were attributable to the party and those to their role as individual Members.

#### The meaning of paragraph 31 of the 2016 Determination

23. I have found some difficulty in determining what the IFRP intended in drawing a distinction between allowances paid to Members for *'the exercise of functions as members'* in paragraph 31(1) of the 2016 Determination and those *'allowing political parties to benefit from staff costs incurred by members'* in paragraph 31(2)(a) and those allowing *'resources made available to members for the exercise of functions as members being used for other political activities'* in paragraph 31(2)(b).
24. As regards paragraph 31(2)(a), paying allowances to Members to employ staff enables Members to provide (inter alia) constituency services. This contributes to a Member's profile in a constituency and may ultimately contribute to their re-election. The re-election of the Member benefits the political party to which they belong. Is this a benefit within paragraph 31(2)(a)? Perhaps what was intended was a *direct* benefit to a political party, but save in very clear case (for example, an individual employed by a member in constituency A is campaigning in constituency B during his or her normal hours of work), it is unclear how such a direct benefit would be demonstrated.
25. The distinction between allowances made available to Members for the exercise of functions as Members *'being used for other political activities'* at paragraph 31(2)(b) is also unclear. Implicit in the reference to allowances being used for *'other'* political activities is recognition that the functions of members necessarily include political activities. Again, it is unclear when an activity passes from being a political activity for which an allowance may be recovered into a political activity in respect of which an allowance may not be recovered – for example, if a Member was a party spokesman on health and asked an employee to draft a statement for a debate on health, would that be a service provided to the Member or the party? It benefits the party, but it is equally an *'administrative function'* which relates *'directly to the business of the Assembly'*, an example given in paragraph 47(3) of the 2016 Determination.
26. There is, unsurprisingly, very little definition in caselaw on what is meant by *'political activities'*. However, a useful example is contained in the Data Protection Act 2018, at paragraph 22 of Schedule 1. It states that *"political activities" include campaigning, fund-raising, political surveys and case-work*. Of these, one might say that *'fund-raising'* is clearly a party political activity and *'case-work'* is a constituency political activity. *'Campaigning'* could be either – Members might campaign on behalf of their party, but might equally campaign for the retention of an accident and emergency service in their constituency. A *'political survey'* might be entitled principally to benefit a Member, or to benefit



their party, and could well benefit both. And what is true of Members is true, *mutatis mutandis*, of the work which may be carried out by their employees for which costs may be recovered under the 2016 Determination.

27. The work of Members, and therefore their employees, is inherently political. It is difficult to draw a line, as the IFRP purported to do, between political activities as a Member and other political activities, or to separate Members' roles as advocates for their constituents and their roles in the Assembly. In this regard I have found assistance in a 2007 *Report of the Select Committee on Modernisation of the House of Commons*<sup>6</sup> ('the Select Committee'), which conducted a detailed analysis of the role of Member of Parliament ('MP') and noted as follows:

*'[F]or all the different approaches to being a Member it is possible to discern a number of commonly recognised tasks, including:*

- supporting their party in votes in Parliament...*
- representing and furthering the interests of their constituency;*
- representing individual constituents and taking up their problems and grievances;*
- scrutinising and holding the Government to account and monitoring, stimulating and challenging the Executive;*
- initiating, reviewing and amending legislation; and*
- contributing to the development of policy whether in the Chamber, Committees or party structures and promoting public understanding of party policies.*

28. These are functions which are similarly exercised by Members in their constituencies and the Assembly. In her evidence to the Select Committee, Professor Dawn Oliver, a Professor of Constitutional Law at University College London, noted the various competing pressures which arise in the role of an elected representative who is a member of a political party. Again, these pressures seem equally applicable to Members.

*'MPs have to exercise [their] role in a system of what might be called a "web" of pressures, some of them in tension with others. For instance, they have to be concerned about whether they will retain their seats in the next election—both for the sake of their constituents who are judges in part of their performance as advocates and voices for interests in the constituency, and for the sake of their own livelihoods... They are concerned for the future of their own parties, both because they may consider their own party to be best suited to promote the general good, and because they aspire to hold ministerial office in it...*

*[T]he constituency role... is an advocacy role, and a vital one. The MP should convey to Parliament and to government the concerns of their constituents...*

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<sup>6</sup> Modernisation of the House of Commons, *First Report*, ordered by the House of Commons to be printed 20 June 2007.

*[I]n maintaining the position of their parties... backbenchers have to maintain a balance between (i) exercising their own judgements, particularly on issues on which they have little expertise; (ii) nursing their constituencies; (iii) accepting the judgments of their parties as to what is in the public interest or general good, even taking the view that whatever their parties decide, it is in the general interest that their party should be in government...'*

29. Members carry out a wide range of constituency work. For example, they may provide advice services to constituents, write to and lobby Ministers on behalf of constituents, and assist constituents with claims for social security benefits or other disputes etc. Members' constituents are *'judges in part of their performance'*, but Members are not elected as social or advice workers. Their advocacy role on behalf of constituents is exercised in the Assembly, as well as in their constituency office and in correspondence with public authorities. Their election by constituents depends not just on their performance as a constituency Member (if they are seeking re-election) but in large part on the platform of the political party of which they are a member.
30. There is therefore no bright line by which one can divide *'functions as a Member'* into constituency work, legislative work and party political work, and allocate employees neatly to each of the first two of these functions: all these functions are inter-related. Constituency work is necessarily party political: it contributes to the re-election of members of political parties. Each Member intends that the political party to which he or she belongs will form (part of) government and promote the interests of the Member's constituents and the general good through bringing forward or improving legislation. The scrutiny and amendment of legislation is itself party political, in that Members will seek to shape legislation in a way intended to give effect to that party's policies.
31. That the work of members of any legislature is inherently political is, I think, reflected in the more realistic terms used in the Scottish Reimbursement of Members' Expenses Scheme. This scheme prohibits any significant party political activity during any hours of work for a Member of the Scottish Parliament, and the IPSA Scheme, which deals with *'party political or campaigning activity'* by employees of MPs only as regards periods of dissolution.
32. It seems to me therefore, that save in a bright-line case – and I have been able to conceive of only limited examples in this regard – it is difficult to give effect to paragraph 31 of the 2016 Determination in a meaningful way. This is particularly the case when, at the material time, the authorised purposes for which political parties could use money provided under FAPP and the functions of Members under the 2016 Determination were the same.

#### [Paragraph 33 of the 2016 Determination](#)

33. Paragraph 33 of the 2016 Determination is headed *'general criteria for staff costs'*. It provides as follows

- (1) The Commission will not pay, and the member is not entitled to recover, any staff costs which breach any of the following conditions.*
- (2) Employees must be individuals (not, for example, a company).*
- (3) Employees must be appointed on merit after having been identified by a fair and open competition or engaged on a temporary basis via a temporary work agency.*
- (4) An employee must be employed on the contract set out in the Schedule to this Determination, and this contract must be the exclusive statement of the terms of employment.*
- (5) A member must not employ more than one person at Grade 3.*
- (6) A member must not require an employee to work more than 37 hours per week.*
- (7) Where an individual is employed by more than one member, the individual must not be required to work more than 37 hours per week in total in respect of work for all members.*
- (8) In total, member must not require employees to work more than 74 hours per week.*
- (9) A member must keep records sufficient to show and explain the Member's staff costs'.*

34. Paragraph 33 was amended by the 2020 Determination to permit employment of temporary workers, and to omit paragraphs 5 and paragraph 8. These amendments are not relevant to the review. It is not suggested that any of the allowances claimed by Members for the employment of staff were inconsistent with the rules set out at paragraph 33 of the 2016 Determination; the concern is rather with the more uncertain provisions of paragraph 31.
35. The 2016 Determination does not preclude centralised support arrangements for Members provided the employee is identified by a fair and open competition and the employee is employed directly by the Member (there is no provision, as there is in Scotland, for Members to pool staffing allowances).
36. The advertisement for the job under which Mr McMonagle was employed with Ms O'Neill MLA described the employer as '*Sinn Féin ('Elected Representative')*'. It did not mention Ms O'Neill at all, although it did include the address of her constituency office. Applications were available through [jobcentreonline.com](http://jobcentreonline.com) and from [hr@sinnfein.ie](mailto:hr@sinnfein.ie). The role with Mr McAleer MLA for which Mr McGinley applied also described the employer as '*Sinn Féin ('Elected Representative')*', with Mr McAleer's name included as '*other information*'. Applicants could apply online at [www.sinnfein.ie/vacancies](http://www.sinnfein.ie/vacancies) or via a named [@sinnfein.ie](mailto:@sinnfein.ie) e-mail address. For the role with Ms Dolan MLA, the employer was again described as '*Sinn Féin ('Elected Representative')*' and Ms Dolan's name included as '*other information*'. Applications were available through [jobcentreonline.com](http://jobcentreonline.com) and from [hr@sinnfein.ie](mailto:hr@sinnfein.ie). This is indicative of a degree of centralised administration, but it must be set against the legal documents completed by the Members and employees, most notably the contracts of employment, and is not inconsistent with anything in paragraph 33. I also note that more recent job advertisements

by these Members are more orthodox in making obvious that the Member is the employer and omitting irrelevant reference to Sinn Féin.

#### Paragraph 35 of the 2016 Determination

37. Paragraph 35 applies where a Member seeks to recover, or have the Assembly Commission pay, staff costs for the employment of an associated person. The definition of an associated person is extremely broad – presumably because the definition is also relevant where a member is buying services from, or renting a constituency office from, an associated person. Associated persons, included, inter alios, a member, employee or officer of a political party, a member of a district council, and an employee of another Member of the Assembly. A person employed by an MP is not an associated person.

#### Paragraph 38 and 39 of the 2016 Determination

38. In the 2016 Determination these paragraphs contained salary rates for Members' employees at Grades 2 and 3. Unlike, for example, the Scheme published by IPSA specific job descriptions for each grade are not provided.<sup>7</sup> However, it may be assumed that those staff remunerated at Grade 3 will be the most experienced or senior staff – in 2019 the starting salary for employees at Grade 1 was £16,000; for employees at Grade 3 it was £22,750. The current starting salaries are £26,694 and £42,249 respectively.

#### Structure of the 2016 Determination

39. The 2016 Determination is structured into pay bands within which Members may employ individuals and sets an annual cap on the total salary costs which Members may incur. A Member may employ individuals on a part-time or full-time basis, but no individual may work for a Member or Members for more than 37 hours per week. Members may employ as many individuals as they wish, but they cannot recover salary costs beyond the annual cap.<sup>8</sup>

#### The contract

40. Each employee must be employed using the contract of employment in the 2016 Determination. As introduced, this was a short six-page contract setting out the rights of employees. It also contains a detailed disciplinary and grievance procedure.
41. Paragraph 6 of the contract is headed 'Place of work', and provides:

*'6.1. Your place of employment is (specify address of employment)*

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<sup>7</sup> The Assembly Commission Human Resources Office does publish 'best practice' guidance on recruitment which includes 'job descriptions' of roles as an Annex.

<sup>8</sup> Until 2020, Members could not require the collective hours of their employees to exceed 78 hours a week

6.2. [Optional] *You may be required to work at the following additional addresses (specify addresses)*'

42. Paragraph 8 of the contract is headed 'Hours of work', and provides:

*'8. 1 Your normal hours of work are from (time) to (time), (day of week) to (day of week) inclusive. A (one hour) (unpaid) break may be taken for lunch between (time) and (time).*

*8.2 Your hours of duty may be variable but will not exceed 37 hours per week'.*

43. The contract contains provision for the grade of the employee to be specified at paragraph 5, but it does not contain any description of an employee's duties. This is not particularly unusual for contracts where duties may vary. It reflects the fact that each Member may wish to structure his or her office in a different way, with different job descriptions.<sup>9</sup> However, the Assembly Commission is an outlier, in that, in other legislatures in the UK and Ireland the expenses regimes are structured by job titles as well as bands, often supplemented by guidance on job descriptions.

44. Any contract of employment will also contain a range of implied duties. ACAS has published a useful summary of the legal duties inherent in any employment (sometimes called implied terms)<sup>10</sup>. The main duties are—

- a duty of care
- a duty of fidelity
- a duty of trust and confidence

45. The duty of care relates principally to an employer's duty to protect their employees' health, safety and wellbeing at work.

46. The duty of fidelity essentially means that the employee must not conduct himself or herself in a way which is contrary to his or her employer's interests. Importantly, the duty of fidelity does not prevent an employee taking up work with other employers, but it does prevent the employee competing with his employer.

47. The duty of trust and confidence concerns the mutual understanding between employers and employees. An employee has a duty to carry out his work conscientiously and honestly and obey the reasonable instructions of the employer.

48. There is nothing in the contract or the Determination which prevents an employee working both for a Member and for the political party to which that Member

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<sup>9</sup> As the Sinn Féin Chief Whip explained it to me, a Member may have one employee with them most days at Parliament Buildings, and another employee based full-time in the constituency office. Both roles are equally attributable to supporting the Member with their '*functions as a Member*' for the purposes of the 2016 Determination.

<sup>10</sup> ACAS - *Employment contracts and the law, Employer and employee duties*  
<https://www.acas.org.uk/employment-contracts-and-the-law/employer-and-employee-duties>.  
Accessed 14 11 2024

belongs. For example, one could lawfully work part-time three days a week for a Member and two days a week for a political party

### Members as employers

49. Members employ their staff directly. There is no employment relationship between Members' employees and the Assembly Commission. While the contractual freedom of Members is limited (in that if they wish to recover staff costs they must employ staff within the terms of the 2016 Determination), Members are otherwise in the same position as any other employer: they are responsible for managing staff attendance and performance, approving periods of holiday, and considering grievances and disciplinary matters within the disciplinary framework set out in the 2016 Determination. Members may receive centralised support for these functions from persons employed by the political party of which they are a member under the various FAPP Schemes, or get advice from the Assembly Commission Human Resources Office or a third-party employment services agency, but it is ultimately for the Member to manage his or her staff .
50. In the case of Members, it seems clear that if allowances are being recovered by a Member, this must reflect a cost actually incurred by the Member in employing an individual in connection with that Member's functions. While there is no obligation on Members to be efficient constituency workers or assiduous parliamentarians, if a Member claims an allowance to employ one or more individuals or some particular purpose, it is implicit in the claim that the employee is carrying out work for that Member.
51. A Member who claims an allowance for an employee, but then gives the employee no work to do, may not be breaching his or her contract with the employee, but if the Member has represented to the Assembly Commission that an employee is carrying out work for the Member, and does not assign work, the Member is acting in a manner contrary to the 2016 Determination.
52. I observe at this point that it is not necessary for a Member to be satisfied that an employee has work to keep that employee occupied for every minute of his or her contracted hours. Some employees will be more efficient than others, and do the same work in less time. The needs of a Member for work of a particular kind may change when the Assembly is in recess, or if the Member becomes an office-holder. The point is only that if a Member recovers an allowance for a full-time employee, the Member should be satisfied at the time they submit the contractual documents to the Assembly Commission that they have claimed for the cost of support for their functions as a Member that they have actually incurred. Should the level of work change, and the costs incurred increase or diminish, the employee's contract should be varied accordingly.

## The Finance Office

### *Role*

53. The Finance Office is one of the business areas through which the Assembly Commission provides support and services to Members and Members' employees. It is responsible for the administration of the 2016 Determination on behalf of the Assembly Commission. It also administers payments to political parties under the FAPP Schemes.
54. The Finance Office publishes the Administrative Guide – Financial Support For Members, which, provides further guidance to Members on the interpretation by the Assembly Commission of the 2016 Determination ('the Guide'). The Guide constitutes '*guidance*' for the purposes of paragraph 44 of the 2016 Determination, under which the Assembly Commission may from time to time publish any code, guidance or direction related to this Determination. The Assembly Commission has regard to the Guide in assessing the extent to which conditions set out in the 2016 Determination have been satisfied. The provisions of the Guide do not provide assistance on the meaning of paragraph 31 of the Determination – this is perhaps unsurprising, since as I have noted, it would be hard to formulate these provisions as a rule.
55. As regards Members' employees, the Finance Office publishes a range of forms. These forms must be completed by Members as a condition of the recovery of expenditure on staff costs under the 2016 Determination, and are particularly directed to allowing the Finance Office to be satisfied of the matters specified at paragraph 33 of the 2016 Determination. These may briefly be considered.

### *New employees*

56. The Finance Office publishes to the contract appended to the 2016 Determination as an editable document. It publishes a *New Support Staff Payroll Form* (Form A1). In Form A1, Members must:
  - state whether the new employee is an associated person and if so, state details of the association,
  - detail of the job title, grade, annual salary and hourly rate payable;
  - detail the hours worked per week and start date, and
  - make a declaration by which the employing Member confirms that the information provided on this form is accurate.
57. Members are also encouraged to include a P45 or HMRC Starter Checklist for the employee to enable the tax code of the new employee to be accurately assessed, but this is not mandatory, and I understand that it is sometimes omitted even where Members indicate that it has been provided.
58. The Form A1 is accompanied by a Declaration of Compliance on Recruitment (Form DC1). In respect of each employee, Form DC1 requires the Member to provide:



- a copy of the job advertisement,
- the job description,
- the person specification,
- all payroll documents as required on the Form A1,<sup>11</sup>
- the original employment contract, signed by both parties, and
- details of the number of applicants for the job, the number of candidates interviewed and the number of successful candidates.

### *Existing employees*

59. A number of forms under which members may vary the contracts under which their staff are employed, collectively known as '*Existing Staff Forms*' are also published by the Finance office. These include the form Support Staff Contracts Amendment Form (Form A2) and the Support Staff Additional Hours (Form AH1), which allows recovery of costs for staff who have worked additional hours (perhaps because an absence elsewhere on a Member's team). While not significant for the purposes of this review, these do reflect provision under which Members may quickly give effect to changes in the working patterns of staff.

### Audit

60. The Assembly Commission's *Annual Report and Accounts* routinely include the following statement:

*'Payments made to Members under the provisions of the Determination are subject to regular reviews for compliance, both by the on-going compliance testing carried out by the Assembly Commission's Finance Office, and through the annual review by Internal Audit. During the reporting period, any issues of non-compliance or inadmissible expenditure that are highlighted, as a result of these reviews, are dealt with through the established administrative processes as prescribed in the Determination'.*

61. The process for annual audit of expenses claims made by Members is well-established. In 2008 the Senior Salaries Review Body published a report in which they recommended that '*a random sample of the expense claims of 25 per cent of Members be audited annually*'. This recommendation was adopted by the Assembly Commission in 2010, and continues to form the basis of the annual audit of Members' expenses. Over the five-year period for which each Assembly is elected, sampling 23 Members each year is likely to be representative of Members' claims under the 2016 Determination, as well as providing an effective review of the controls for claims put in place by the Finance Office.
62. Some five internal audit reports are available for the period covered by this review, for financial years 2018/2019 ('year one'), 2019-2020 ('year two'), 2020-2021 ('year three'), 2021-2022 ('year four'), and 2022-2023 ('year five'). Reports in respect of years one to four were prepared by Assembly Commission

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<sup>11</sup> I note here a degree of overlap with the Form A1



employees ('Internal Audit'), after which the audit function was contracted out to Ernst and Young LLP ('EY').

63. Considering first the Internal Audit Reports for years one to four, these each identify as one of three audit objectives *'to verify as far as possible that salary payments made through Members' financial support were [made] to Members' support staff, and in compliance with the [2016] Determination'*. Each report also notes as one of three risks *'that salary payments are non-compliant with the Determination'*.
64. The Internal Audit reports for years one to four are relatively light-touch – they set out how many claims have been reviewed, their assessment of the claims, and specify areas of concern. The reports do not exceed five pages for any year (although I note that in each year both interim and final reports were prepared). Internal Audit based these reports on a review of Finance Office records and visits to Members' constituency offices.
65. In years one to three, Internal Audit concluded that *'the framework of control, risk management and governance governing the management of Members' expenses'* provided a *'satisfactory level of assurance'*. In year four, Internal Audit concluded that *'a substantial level of assurance is provided over the framework of control, risk management and governance operating in respect of compliance with the Determination'*. Not more than two areas of concern are recorded in each of years one to three, and no area of concern was recorded in year four.
66. The EY report for year five is more substantial, coming to some 15 pages, but most of this is focussed on processes within the Finance Office. One of the matters described as 'within the scope' of the EY review is *'a sample test of Members' expenses incurred during the 2022-23 year, to assess adherence to the requirements of the Determination (to include a sample of 25% of Members)'*. EY *'performed testing of staff costs for each Member who had been included within our sample'*.
67. EY state that staff costs and other transactions *'were assessed to ensure that internal procedures had been correctly followed, that they had been subject to appropriate review and approval, that record keeping was accurate, and that expenses were permissible under the provisions of the Determination'*. Neither Internal Audit or EY raised any concern around salary payments being non-compliant with the 2016 Determination in any year.
68. As regards the Finance Office, EY *'noted a number of discrepancies during our testing... many of the issues noted were administrative in nature and low in value, such as documentation being held within the wrong file, while others related to the accuracy of data input and the correct coding of expenditure within the Finance system'*. Again, none of the issues noted by EY referred specifically to the recovery of staff costs, and EY did note that *'Members are also routinely asked to verify the accuracy of their expenditure reports, especially prior to*

*publication of expenditure figures, completion of the year end accounts and in advance of the year end HMRC reporting, which further helps ensure accuracy of transactions.'*

69. EY commented adversely on the wide range of paper and electronic forms required for completion by Members, and encouraged the Assembly Commission to move more quickly to an electronic monitoring and approval system. However, EY ultimately concluded that *'there is a satisfactory system of governance, risk management and control'*. I would note that the focus here is on whether claims are made and appropriately verified, not whether a person employed to assist a Member is doing what he or she is employed to do.
70. **I do not consider that any more extensive process of audit would have prevented the issues which gave rise to this review. The audit mechanism, under which the expenses claims of a random selection of 25% of Members each year are reviewed, provides a sufficient level of assurance that Members' expenses are being properly incurred, particularly should the recommendations in this review be progressed.**
71. Short of monitoring the daily work of Members' employees, the auditors are entitled to assume that the employee is doing the work the Member is claiming for.

#### The Coronavirus Restrictions

72. For part of the period covered by this review, various public health measures were in place which affected the way all Members' employees carried out their work. This took on more significance than I had anticipated, and I here deal briefly with the restrictions.
73. Following an announcement by the then UK Prime Minister, an informal 'lockdown' came into place from 16 March 2020, when everyone was encouraged to *'stop non-essential contact and travel'*. On 18 March 2020 the then Speaker of the Assembly announced that *'all non-essential Assembly business will be avoided in order that it does not distract from the delivery of public services to deal with the impact of COVID 19'*, and that the Assembly would move to one plenary sitting per week. A reduction in the number of Members present in the chamber was agreed. Members' constituency offices were closed and services to constituents moved (to some extent) online.
74. This de facto lockdown became de jure on 28 March 2020, with the coming into force of the Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2020 (the 2020 Regulations). Constituency offices were not specified in the list of business required to close in Part 2 of Schedule 2 to the 2020 Regulations. However, regulation 5 thereof provided that *'during the emergency period, no person may leave the place where they are living without reasonable excuse'*. A reasonable excuse included the need *'to travel for the purposes of*

*work or to provide voluntary or charitable services, where it is not reasonably possible for that person to work, or to provide those services, from the place where they are living’.*

75. The forms of service provided by Members were not those which it would be reasonable for a person to travel to access. In-person constituency surgeries and constituency outreach became (in effect) unlawful, although a reduced service could be provided by telephone or online. Those services would, over time, come more effectively to be provided remotely, but the IT equipment provided to Members before the lockdown was not intended to facilitate remote working in the way which has now become familiar.
76. The 2020 Regulations were subject to some 20 amending regulations, and around 12 supplementary regulations dealing with specific matters such as a travel restrictions were made between March 2020 and December 2021. Lockdown began to ease from the middle of May 2020, with non-essential business reopening from the middle of June. Further restrictions, including additional lockdowns, followed in late 2020 and extended into April 2021, after which increasing vaccination rates allowed a gradual relaxation of restrictions.
77. In periods of lockdown and when restrictions on the numbers of people allowed to meet were in force, the nature of work carried out by Members changed significantly, as both constituency work and the work of the Assembly were considerably reduced and moved to remote provision. Face-to-face interactions between Members and their employees would have reduced significantly, if not ceased entirely. This would have reduced the extent to which Members could oversee the day-to-day work of their employees, as well as reduced the work to be undertaken by those employees.

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## Part 2: The Employees

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### Introduction

78. As part of the review, I contacted the Members who had employed Mr McGinley and Mr McMonagle in the relevant period with written questions on their employment. It should be noted that while there was no legal obligation on Members to respond, all did so promptly.
79. I also reviewed records held by the Assembly Commission's Finance Office provided when Mr McGinley and Mr McMonagle took up employment with particular Members, notably the Forms A1 and DC1 explained above, and the supporting documents provided with those forms.
80. I requested a limited amount of information from IPSA, since for part of the period covered by the review Mr McMonagle was employed by an MP. After careful consideration of the respective obligations of the duties of the Assembly Commission and IPSA under the UK General Data Protection Regulation ('UK GDPR'), IPSA provided relevant information.
81. This was a paper-based exercise. It quickly gave rise to the difficulty of how one was to establish the nature of the work carried out by Members' employees in the review period. The suggestion that Mr McGinley and Mr McMonagle were not carrying out work for the Members by which they were employed, but were carrying out work for a political party, has a limited evidential base – essentially it follows from media reports and a statement in the Assembly by the First Minister in which they are referred to as '*press officers*'. The presence of Mr McGinley and Mr McMonagle at Parliament Buildings may have been recorded, but their activities within Parliament Buildings were not.
82. It cannot be shown how much work these individuals were carrying out for Members each week to a reasonable standard of probability. Their work may have been formal or informal. It may not have been recorded, since Members do not have to maintain filing systems, at least for political work, in the manner a public authority maintains records. I considered asking media representatives in Parliament Buildings about how they perceived the role of these Members' employees. However, such evidence would be no more than anecdotal, and the probative value of such recollections against the view of the employing Members and the records held by the Assembly Commission's Finance Office would be limited.
83. To proceed on the basis that costs for these employees were not recovered in accordance with the 2016 Determination also assumes bad faith on the part of Members, for which there is no evidence – no audit in the period covered by this review has identified an issue with the use of staff costs allowances, and there is no reason the claims submitted to the Finance Office in respect of Mr McGinley and Mr McMonagle should not have been accepted.

84. Every Member is entitled to claim staff costs under Part 3 of the Determination and every Member does so. There is nothing in any way unusual about the staff costs claimed by Ms O'Neill MLA, Ms Dolan MLA and Mr McAleer MLA in the review period. Indeed, in the four financial years between 2019 and 2023 (more recent figures not being available), there is an obvious consistency in the allowances claimed by these Members. Mr McAleer's staff costs in each year were very close to the average staff costs of all Members in each year. Ms Dolan's staff costs were below average in three out of the four years and varied within <10% of the average claim in all four years. Ms O'Neill's staff costs were above average in three out the four years and also varied within <10% of the average claim in all four years.<sup>12</sup>
85. It is likely that, because these Members' claims are so very average, they reflect the normal use to which staff allowances are put by most Members, and it would require cogent evidence to suggest that what was in fact taking place was a disguised form of subsidy to a political party. Logically, if a Member's employee was carrying out work for the party and not the Member, one would expect the Member to offset that by employing staff for additional hours to compensate for work lost to the party. There is no evidence of this in the claims made by Ms Dolan, Mr McAleer and Ms O'Neill. (There is, however, evidence that Mr McMonagle may have represented his ability to carry out work for Ms O'Neill, which is discussed below).

### [Mr McGinley](#)

#### *Dates of employment*

86. Mr McGinley began his employment with Mr Declan McAleer MLA ('Mr McAleer') on 1 June 2018, initially on a fixed term contract. This role was advertised on 19 April 2018. There were 15 applicants, all of whom were interviewed. Mr McGinley was successful, and was employed for 37 hours per week as a '*press/research adviser*'. He was remunerated at the starting point for Grade 3. The box '*P45 or starter checklist attached*' on the Form A1 is marked 'no'. On 4 December 2018, Mr McAleer submitted a Form A2 extending Mr McGinley's contract, and on 1 November 2019 a further Form A2 making the contract permanent. Mr McGinley's employment with Mr McAleer ended on 28 September 2024.
87. Sinn Féin have stated that Mr McGinley was not employed by the party at any point in his employment with Mr McAleer. Mr McAleer has, however, noted that outside the hours that Mr McGinley was contracted to work for him, Mr McGinley also carried out work on a part-time and voluntary basis as a Sinn Féin press officer.

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<sup>12</sup> In ascertaining the average, I exclude members who resigned, we co-opted or retired in each year. The mean and median staff costs were within c.£2,000

## Job role

88. Mr McAleer has indicated that—

*‘As a Press/Research Adviser Mr McGinley would have carried out most of his work in Parliament Buildings. Outside of office hours he would have worked from home. He did not need to work from my constituency office...*

*I was aware that outside of the hours that he was contracted to work for me he also carried out work on a part-time and voluntary basis as a Sinn Féin Press Officer’.*

89. Mr McGinley’s contract of employment specifies that he is to carry out work for 37 hours a week, and that he will be based at ‘Stormont’. His hours of work are not specified, save that there is indication in the job description that these are ‘*work hours, to be agreed with the employer*’. Mr McGinley also carried out part time, voluntary work for Sinn Féin as a press officer. Thus, it must be that for 37 hours per week, at Parliament Buildings, Mr McGinley was working for Mr McAleer. Outside those times, perhaps in Parliament Buildings or elsewhere, he carried out work for Sinn Féin.

90. Mr McAleer has indicated that the work carried out by Mr McGinley as a Press/Research Adviser was as follows:

*‘to provide press support to me in my role as an MLA by closely following the business of the Assembly and advising me of what was pressworthy and/or what required a public/media position in relation to Assembly and Committee business or in relation to constituency issues that arose*

*to ensure that I was kept informed of issues in the media that related to my Assembly, Committee, and constituency roles as an MLA and to prepare draft press statements, where necessary.*

*to draft responses to media enquiries or requests sent to me in my role as an MLA on Assembly, local or constituency issues for my consideration’.*

*The extent to which (if any) Mr McGinley carried out work for a political party rather than the employing Member in their contracted hours*

91. It may be considered that there is a considerable overlap in the functions Mr McGinley was employed to provide to Mr McAleer and those which might be expected of a party press officer. On one view this means that lines between the two functions could easily become blurred. However, this line is already blurred - it is difficult to draw a line between work which would benefit Mr McAleer alone, work which would benefit Mr McAleer and also the party, and work of benefit only to the party. The main risk is perhaps that if not adequately managed, an employee might seek to carry out unpaid work on his employer’s time.

92. The fact that Mr McGinley was carrying out part-time unpaid work to the party has also generated confusion about his employment. In a statement to the Assembly by Ms O’Neill MLA on 7 October 2024, she said:

*'The issues that have arisen over recent days result primarily from the actions of two former press officers who have now resigned from their employment and from Sinn Féin. I now want to set out clearly and comprehensively the circumstances surrounding the departure of those two press officers...'*

93. One of these press officers was Mr McGinley, the other was Mr Seán Mag Uidhir. The implication, and one may assume the language to have been chosen carefully, is that both had resigned from their employment as Sinn Féin press officers. The factual position is that Mr McGinley was employed by Mr McAleer and Mr Mag Uidhir was employed by the party under the FAPP. Mr McGinley was not employed by, and did not resign as an employee of, Sinn Féin.
94. Reporting on this matter reflects a general view that Mr McGinley was a Sinn Féin Press Officer (as Mr McAleer has confirmed he was, but on a '*part-time and voluntary basis*'). This may be because Mr Mag Uidhir was based in Parliament Buildings and presumably interacted regularly with Mr McGinley and the employees of other Sinn Féin Members based in Parliament Buildings. But it is not evidence that Mr McGinley was carrying out work for the party when he should have been carrying out work for Mr McAleer.
95. That being said, there was no contract of employment between Sinn Féin and Mr McGinley. This makes it more difficult to ascertain the work he was carrying out for the party and when. In circumstances where party work is voluntary and unpaid, and sits alongside paid work for an elected Member of that party, there may arise a suspicion (whether or not well-founded) that party work is being carried out at the Member's (and thus the public's) time and expense. That suspicion does arise in this case.
96. However, Members are in the best position to understand and explain the role their employees carry out, particularly where, as with Mr McAleer and Mr McGinley, the employment relationship lasted for a significant period (some six years). This suggests that Mr McGinley was carrying out work valued by Mr McAleer, and is not indicative of an excessive focus by the former on party political work. It is relevant to note that Mr McGinley was employed by Mr McAleer initially on a fixed term contract, which was then extended, and then made permanent. This was followed by a number of annual performance reviews in which Mr McAleer stated that Mr McGinley was performing satisfactorily.<sup>13</sup> These matters must be given weight.
97. Conversely, I have seen no evidence of the voluntary work carried out by Mr McGinley for Sinn Féin, or any indication that such work could not have been carried out by Mr McGinley outside his full-time work for Mr McAleer. There is nothing to suggest that, when based in Parliament Buildings, Mr McGinley was

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<sup>13</sup> Satisfactory performance is necessary for an employee to advance on the post 2020 salary scales, and such documents are provided to the Finance Office.

mainly working for Sinn Féin and not carrying out press and research functions for Mr McAleer.

98. I think it is more likely than not that the staff costs used to employ Mr McGinley were used to support Mr McAleer's functions as a Member, rather than for party political purposes. However, I consider that both Members and the Assembly Commission could benefit from clearer dividing lines where Members' employees wish to carry out a party role on a voluntary basis.

#### Mr McMonagle

##### *Dates of employment*

99. This review covers the period from March 2017 to date. Mr McMonagle had a number of jobs in this time, which sometimes overlapped.
100. Mr McMonagle began his employment as a secretary or research assistant to Ms Órfhlaith Begley MP ('Ms Begley') on 7 January 2019. His employment with Ms Begley ended on 31 May 2020. Mr McMonagle was contracted to work 37.5 hours per week for Ms Begley. I have limited information on this employment, but based on the *MPs' Staff job descriptions and pay bands for 2019-20* I note that starting salaries (depending on the role) for MPs' employees ranged from £20,572.50 to £30,290. The starting salaries and bands are revised by IPSA each year.
101. Mr McMonagle began his employment with Ms Michelle O'Neill MLA ('Ms O'Neill') on 2 March 2020. This role was advertised on 23rd January 2020 and, per the Form DC1, Mr McMonagle was the only applicant. His employment with Ms O'Neill ended on 31 May 2020. The Form A1 for this employment indicates that Mr McMonagle was employed as a press/research advisor. He was employed for 37 hours per week and was remunerated at the starting point for Grade 3 (which, at the material time, was £27,500). Mr McMonagle is identified as an associated person, and the nature of the association is declared as '*Sinn Féin party member*'. While the box '*P45 or starter checklist attached*' has been marked 'yes', the Finance Office have indicated that this document was not provided.
102. At an unspecified date in March 2020, Mr McMonagle also began employment with Sinn Féin as a press officer (his dates of employment are described as '*March through August 2020*'). The work was '*demand-led*' rather than for a contracted number of hours. The remuneration payable, however, which was c.£280 per month, suggests some 6 hours work per week at the UK average salary in 2020, or 11 hours work per week at the 2020 minimum wage.
103. Mr McMonagle began his employment with Ms Jemma Dolan MLA ('Ms Dolan') on 1 June 2020. The role was advertised on 7 May 2020 and there were two applicants. Mr McMonagle's employment with Ms Dolan ended on 8 July 2022. The Form A1 indicates that Mr McMonagle was employed by Ms Dolan as a press/research advisor. He was employed for 37 hours per week and was



remunerated at the starting point for Grade 3. Mr McMonagle is identified as an associated person, and the nature of the association is declared as '*Sinn Féin party member*'. While the box '*P45 or starter checklist attached*' has been marked 'yes', the Finance Office indicate it was not provided.

#### *Job role*

104. As regards the work carried out by Mr McMonagle for Ms Begley I have limited information, other than the dates of employment and the fact that the role was full time.

105. As regards his work for Ms O'Neill, the job description stated that the role included—

- Monitoring events in Assembly and ensuring the dFM [deputy First Minister] is fully briefed on potential questions and motions to be put to the House;
- Conducting research and briefings;
- Preparing and developing Assembly Questions;
- Drafting speeches/briefing papers, press releases, opinion pieces and content for a range of social media platforms;
- Preparing material for meetings/conferences;
- Identifying media/press opportunities and advising on press strategy;
- Providing rapid, accurate and detailed research on a wide range of issues to deliver written and oral briefings as required for press and media;
- Analysing, evaluating and interpreting press, broadcast and social media to ensure Member is accurately informed on key issues;
- Providing analysis and advice in line with party policy;
- Responding to correspondence and enquiries from the media, lobbyists and pressure groups;
- Supervising/managing staff where appropriate;
- Leading on project work as required; and
- Other duties as required in support of the dFM carrying out their Assembly duties

106. I sought elucidation from Ms O'Neill as regards those provisions of the job description which seemed to me particularly relevant, as regards the reference to the role of Ms O'Neill as deputy First Minister ('dFM')<sup>14</sup>, and as regards the particulars of the work carried out by Mr McMonagle. I summarise that response below.

- Ms O'Neill employed Mr McMonagle shortly after her appointment as dFM and as the pandemic started to impact. Mr McMonagle's role was to ensure that Ms O'Neill maintained a focus on her role as a Member despite her enormous responsibilities as dFM in that period. Mr McMonagle's role was to

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<sup>14</sup> The 2016 Determination dealing with staff costs relates only to their role as Members.

closely monitor the media, follow and summarise debates, question time and other business in the Assembly and in Assembly committees.

- Mr McMonagle had no duties arising from Ms O'Neill's role as dFM - the use of the term 'dFM' in the job description was a shorthand reference.
- Mr McMonagle's duties were to ensure that, at a time when Ms O'Neill's role as dFM was consuming an enormous amount of her time, she was aware of and had a media response where necessary to issues that related to her Assembly and constituency role as an MLA.
- Mr McMonagle's duties included ensuring that, as far as possible, responses to enquiries or requests from the media, lobbyists and pressure groups to Ms O'Neill as an MLA on Assembly issues outside her role as dFM and on local or constituency issues were drafted for her consideration.
- Mr McMonagle was not required to manage other employees.
- Ms O'Neill expected Mr McMonagle to carry out the bulk of his work in Parliament Buildings. Where necessary, work could also be carried out from the constituency office or out of office hours from home. Work from home became the norm in the context of the lockdown.
- Mr McMonagle was not at any time unable to carry out his work as a press/research advisor.
- Ms O'Neill was not aware of any work carried out by Mr McMonagle during his contracted hours which did not relate to her functions as a Member.
- Ms O'Neill was aware that Mr McMonagle was also carrying out work as a Sinn Féin press officer.
- Ms O'Neill did not recall specific articles written by Mr McMonagle in *An Phoblacht* in this period.
- Ms O'Neill was aware that Mr McMonagle had worked for Ms Begley. Ms O'Neill employed him as a full-time Press and Research Advisor, but held no information on passes to the House of Commons.
- Mr McMonagle was working for Ms O'Neill on a full-time basis during the relevant period. Ms O'Neill was aware that Mr McMonagle was also employed on a part-time basis by Sinn Féin outside his contracted hours in this period.

*The extent to which (if any) Mr McMonagle carried out work for a political party rather than the employing Member in their contracted hours*

107. Sinn Féin have set out (albeit by month rather than day) that Mr McMonagle was employed by the party as a press officer on a part time basis between March and August 2020. I have concluded that the level of work suggested by the limited remuneration paid is not inconsistent with carrying out work full time for a Member of the kind described by Ms O'Neill.

108. In this regard, I found it much easier to draw a line between the work carried out by Mr McMonagle for Sinn Féin and the work carried out by Mr McMonagle for Ms O'Neill than was the case with Mr McGinley's work for Sinn Féin and his work for Mr McAleer. Where a contract of employment with a third party exists, as it did in the case of Mr McMonagle, both Members and their employee will have a clear idea of the time the individual can allocate to work for the party and the time they must spend supporting the individual Member.
109. I have noted reference in Mr McMonagle's job description to '*ensuring the dFM is fully briefed on potential questions and motions to be put to the House*' and '*carrying out other duties as required in support of the dFM*' (my emphasis). I do not think that there is any significance in Ms O'Neill being referred to as *dFM* in the job description. This is described by Ms O'Neill as a 'shorthand'. Ms O'Neill may not have prepared this document, and the error is not carried through into Mr McMonagle's contract of employment, the Form A1 or the Form DC1. The Finance Office accepted Ms O'Neill's claim, which suggest there were no contemporaneous concerns about the use of the term *dFM*. Ms O'Neill has also explained the work Mr McMonagle carried out for her and distinguished this from her work as *dFM*.
110. This term of reference was concerned with '*work for a political party rather than the employing Member in their contracted hours*'. However, I also thought it appropriate to consider Mr McMonagle's work for Ms Begley – she is a member of the same political party as Ms O'Neill and Mr McMonagle was a member of that party at the time.
111. It is of considerable concern that, for a three-month period, Mr McMonagle was employed on a full-time basis by Ms O'Neill and Ms Begley, which would have required him to carry out work for some 75 hours each week. In addition, he was remunerated for carrying out some 8-11 hours work each week for Sinn Féin in this same period.
112. Ms O'Neill stated that '*I was aware that Mr McMonagle had worked for Ms Begley MP*'. In fact, at the time the Form A1 was submitted in respect of Mr McMonagle, Mr McMonagle continued to be employed full-time by Ms Begley MP. This became known to Sinn Féin at some point: the party stated to me:
- 'Michael McMonagle worked for Órfhaith Begley MP until 31 May 2020. During the final three months of his employment with Órfhaith Begley he also worked for Michelle O'Neill from 2 March 2020 to 31 May 2020. During these three months he was also employed part time by Sinn Féin. It was his personal responsibility to make all declarations in relation to his employment.'*
113. It appears that this did not become known to the party until October 2024, although since the party provided centralised HR services to Members and Mr McMonagle was also working part-time for the party between March and August 2020, I think this strains credibility – it is certainly something which *ought to have*

*been known* to Sinn Féin in 2020, even if, as I think likely, Mr McMonagle misrepresented details of his employments.

114. I do not think that Ms O'Neill was aware, when she signed the relevant Form A1, that Mr McMonagle already had another full-time job and another part-time job. In most circumstances, however, that an employee had two full-time jobs would quickly become apparent to any competent employer, even if it was not apparent at the time at which the parties entered into the contract. As a matter of common sense, even if an employee set out to deceive both employers, no competent employer could fail to notice an employee working two full-time jobs simultaneously: at best the employee would be providing half the work the employer expected.
115. It may be noted that neither the House of Commons nor the Assembly meets at weekends, and indeed neither body does much legislative business on Fridays, which MPs and Members spend in their constituency. Ms O'Neill expected that Mr McMonagle would carry out 'the bulk' of his work in Parliament Buildings (although in fact he did it at home - see below). It is in the highest degree unlikely that in the 100-hour period from Monday to Friday Mr McMonagle could carry out 37 hours work for Ms O'Neill and a further 37.5 hours work for Ms Begley each week, even if he did party political work at weekends.
116. In most cases, an employment pattern of this kind would suggest that the supervising employer was (at best) naïve. It would not be sufficient to say it was for the employee to declare a second and third job. However, this is a case with particular facts, which lead me to a different conclusion.
117. The antecedents of the persons involved are relevant. Mr McMonagle is a man with serious criminal convictions. The offences of which he was convicted contain significant elements of deception and misrepresentation. By contrast, Ms O'Neill has been a Northern Ireland Minister since 2011, becoming dFM in 2020 and First Minister in 2024, in which period there is no record of any complaint under the Ministerial Code of Conduct or Assembly Members' Code of Conduct against her being upheld.<sup>15</sup> Ms Begley is an MP and (non-practising) solicitor, with all the professional obligations the latter entails.
118. Taking the respective character of these individuals into account, I think it more likely than not that Mr McMonagle is likely to have misrepresented his employments and that neither Ms Begley nor Ms O'Neill were aware of this. As I have already noted, Sinn Féin *may not* have been aware of these multiple employments, but *ought to have been* aware of them. In reaching this view, I am informed by the fact that Mr McMonagle was employed by Ms O'Neill and Ms Begley simultaneously for only two weeks before the Prime Minister's '*stay at home*' message of March 2020, and for the remainder of his double full-time employment, the first lockdown was in place. What would ordinarily have been

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<sup>15</sup> Although it is to be noted that until 2020 there was no established mechanism by which complaints of breach of the Ministerial Code could be investigated

readily apparent to an employer – that an employee was working two equally time-consuming jobs – would not have been readily apparent to Ms O'Neill, particularly given that she was the legally co-equal head of a regional government at a time of crisis.

119. I think it is very likely that the responsibilities imposed on Ms O'Neill as dFM in the period from 16 July 2020 until 31 May 2020, which she describes as '*enormous*' and '*consuming an enormous amount of her time*' made it impossible for her adequately to oversee the work of Mr McMonagle. Mr McMonagle was working from home, in a period when the work of both the Assembly and Parliament had diminished. In the same period, the work of the Executive Committee, chaired by Ms O'Neill jointly with the then First Minister, had hugely increased. If Mr McMonagle set out to deceive, it was a particularly propitious time for him to do so.

120. Mr McMonagle resigned from employment with both Ms O'Neill and Ms Begley MP on 31 May 2020. This is something of a coincidence, but since this was well into the first lockdown, and given the demands on their time, it seems unlikely that Ms O'Neill and Ms Begley would have compared notes on former employees. To confuse matters further, it would appear that Mr McMonagle continued to be paid, in error, by IPSA for a further five months: this error is perhaps explicable given that the resignation occurred in the middle of the first lockdown, and Mr McMonagle subsequently repaid the money.

121. Immediately after he left employment with Ms O'Neill, Mr McMonagle took up employment with Ms Dolan. The Form F1 supplied by Ms Dolan did not provide a P45 regarding Mr McMonagle's employment with Ms Begley MP, presumably because he did not yet have one from IPSA, and had been employed by Ms O'Neill for only three months.

122. The period in which Mr McMonagle was employed by Ms Dolan may be more briefly considered. The job description used by Ms Dolan for the recruitment of Mr McMonagle was materially identical to that used by Ms O'Neill (with the references to dFM removed). Ms Dolan has described his role as follows:

*'Mr McMonagle's role was to support me in my role as an MLA by closely following and keeping me updated on the business of the Assembly and Assembly Committees, and to draft Assembly Questions, Motions, and press statements on these and other Assembly and constituency related issues, for my consideration.'*

*Mr McMonagle's duties were to ensure that I was aware of, and where necessary had a media response, to issues that related to my Assembly and constituency roles as an MLA. This would include engaging with the party press and policy managers, keeping me informed on issues in local, regional and national media, and advising me on specific responses, where necessary, and overall media approach to these issues.'*

*Mr McMonagle's duties included providing me with draft responses to enquiries or requests to me as an MLA on Assembly, local and constituency issues from the media, lobbyists, pressure groups and campaigns for my consideration.*

*As a press/research officer Mr McMonagle was expected to be located for most of the time in Parliament Buildings. There was no expectation that he would regularly work from my constituency office. Much of this period of employment was over the Covid-19 lockdown.*

*I was aware he did part-time work in the Sinn Féin Press Office in addition to his contracted hours working for me'.*

123. Sinn Féin have set out that Mr McMonagle was employed by the party as a press officer on a part time basis between March and August 2020, during the latter part of which period he was employed by Ms Dolan. I have concluded that the level of work suggested by the limited remuneration paid to Mr McMonagle by Sinn Féin in this period is not inconsistent with carrying out work full time for a Member of the kind described by Ms Dolan. Importantly, the employment commenced after the point at which Mr McMonagle had resigned from his second full-time job with Ms Begley, albeit he continued to be paid by IPSA in this period in error.
124. A final matter which occurred in the period when Ms Dolan employed Mr McMonagle but did not involve her, was the publication of an article in *An Phoblacht* on 15 August 2021 by Mr McMonagle which carried the rider '*Michael McMonagle is a Sinn Féin Press Officer*'. That is after the date in August 2020 when, the party indicates, Mr McMonagle had ceased to be employed by Sinn Féin.
125. Mr McMonagle has published a large number of articles in *An Phoblacht* over time, many outside the period covered by this review, and there seems to me no reason he should not have continued this practice in full-time employment. In the period between March 2017 and the current date, Mr McMonagle contributed some seven articles to *An Phoblacht*. These short (200-300 word) articles could easily have been prepared outside the hours in which Mr McMonagle was contracted to work for Ms O'Neill and Ms Dolan, either before or after his press officer role with Sinn Féin – they average less than one per month, and may well have passed under the notice of both employing Members.
126. It is, however, curious that four of these articles were published in the period when Mr McMonagle was working part time as a Sinn Féin press-officer, in none of which was he identified as a press officer, and that he was then identified as a press officer after he had ceased to carry out that role. Given that *An Phoblacht* failed to disclose Mr McMonagle's party interest in any earlier articles, I do not consider that much turns on this. Mr McMonagle may have held himself out as a press officer or, more likely, given that he had been a press officer, the newspaper erred in continuing to represent him as such. Certainly, there is no

reason Sinn Féin should misrepresent Mr McMonagle's dates of employment as a press officer, given that his limited hours of work in that role were not inconsistent with coterminous full-time employment by a Member.

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### Part 3: Structural issues

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127. The third part of the review deals with what I have termed ‘structural issues’ – that is, any inherent issues with the manner in which 2016 Determination is used by Members and use of allowances scrutinised by the Assembly Commission. The three heads of the Terms of Reference relevant to this part are as follows—
- The extent to which persons employed by Members may properly carry out work for political parties alongside their constituency roles
  - Any ambiguity in the terms of contract under which Members may employ staff to carry out constituency work
  - The adequacy of oversight by the Assembly Commission of the roles of Members’ employees
128. To some extent I have been informed by the factual matters referred to above in considering these matters. However, I bear in mind the unusual factual background to this review. It considered the employment histories of two individuals, employed by three Members. There are 90 Members, each of whom (going by the annual recovery of staff costs) must employ at least two and is likely to employ three or more individuals, leading to a minimum of 180 Members’ employees and more likely a number of Members’ employees greater than 270. An evidence base of two employees and three Members is unlikely to be representative.
129. That being said, and as has been noted, Ms Dolan, Mr McAleer and Ms O’Neill are entirely average in their claims for staff costs, taken across the claims for staff costs allowances for Members between 2019 and 2023. Issues which arise for them may equally arise for other Members.
130. There is nothing unusual about public money being used to fund political parties as well being used for payment of allowances as to individual members of a legislature. Short money payments to opposition political parties were introduced in the House of Commons in 1975. The Scottish Parliament pays short money to opposition parties. In Wales, the Determination on Members’ Pay and Allowances provides for payments to Members and payments to political parties in the same Determination. The problem arises when money for one purpose bleeds into the other purpose, since in every legislature the payments to individual Members comfortably outweigh the payments to parties.
131. As I have noted in Part 1, I find it difficult to draw the line between work for a Member, who is a member of a political party, and work for a political party. I have found it instructive to consider the payments made to parties under FAPP and payments made to members under the 2016 Determination. The most recent complete figures available for Members’ claims for staff costs and FAPP claims for staff costs are those relating to the financial years between 2019 and 2022. These are as follows—



Year	FAPP staff costs claimed	Member staff costs claimed	Total staff costs paid	Percentage of FAPP costs
2019/20	£545,852.33	£4,268,113.28	£4,813,965.61	11.34%
2020/21	£464,711.81	£6,879,949.49	£7,344,661.30	6.33%
2021/22	£521,396	£7,896,488.95	£8,417,884.95	6.19%

132. It will be seen that in 2019/20, when the terms and conditions of Members' employees were fixed by the 2016 Determination, FAPP represented some 11% of expenditure by the Assembly on the total staff costs of Members and political parties. In the two subsequent years, after the terms and conditions of Members' staff were altered, FAPP represented around 6% of the total spent on staff costs. Given these figures, it does not seem to me possible that there is a significant issue with Members' employees providing services to political parties. If this was a structural problem, there would be more output from political parties than could conceivably fill every political publication which is published, broadcast or made available online, and Members would have limited political and constituency support.

133. It seems highly unlikely that Members, no matter how committed to their party, would allow this state of affairs to obtain. It is important to Members, for both policy and personal reasons to provide an effective service to constituents and to be active in the Assembly. I think it is more likely that most persons employed by Members do broadly what is set out in their job descriptions. This may on occasion shade into party political work, but for the reasons I have given this line is not always going to be clear to Members or their employees, or indeed the Assembly Commission.

134. I have taken into account that Sinn Féin is a party represented in the UK Parliament, the Houses of the Oireachtas and the Assembly as well as at district council level. There is an implication that Assembly Commission resources may be used for the interests of the party outside Northern Ireland. However, there is no evidence for this supposition: it is no more likely that Westminster resources have been used by the party in campaigns for Dail Eireann or resources from the Houses of the Oireachtas Commission used in Assembly elections. A possibility that this *could* occur is not evidence that a Member has not complied with the 2016 Determination.

135. It may be said that because the party operates across a number of jurisdictions that there is more demand for party work in Sinn Féin than there is for other parties. However, I note that the Alliance Party of Northern Ireland, ('APNI') the Democratic Unionist Party, ('DUP') the Social Democratic and Labour party ('SDLP') and the Ulster Unionist Party ('UUP') also have representation at Westminster and at district council level. This concern could equally arise as regards any of these parties. This review has not considered the activities of

employees of Members of any other political party. It is appropriate that any recommendations in this Part are of equal application to all political parties.

The extent to which persons employed by Members may properly carry out work for political parties alongside their constituency roles

136. In the course of this review it was pointed out to me that the 2016 Determination does not require that persons employed by Members provide support to them in *'their constituency roles'*. A Member may properly employ and recover costs for a person based predominantly or exclusively at Parliament Buildings to assist that Member. It follows that this head would be better formulated as *'the extent to which persons employed by Members may properly carry out work for political parties alongside their work for the Member'*. I have used this revised formulation in the analysis below.
137. It appears to me appropriate that persons employed by Members can also carry out work for political parties. Persons who apply for employment with Members are likely to share the policy preferences of the Member and may seek to advance in the party to which that Member belongs. This may not always be so – a potential employee may simply be interested in a well-paid secretarial or advisory job in their local town - but those potential employees for whom political activity is important may see it as the first step on a political career, and this should be rather encouraged than otherwise.
138. It is therefore reasonable that Members' employees can carry out work outside their contracted hours which demonstrates their value to the party and not just to the Member – for example, in drafting policy papers for the party, or lines to take on political matters. It is, however, important that such party political work is not carried out when the employee should be providing the services to the Member for which the Member has claimed costs under the 2016 Determination.
139. I have considered a number of ways of making this less likely. For example, I have considered whether a limitation in the contract of employment might provide that a Member's employee should not carry out more than 10 hours work for any other employer (which would bring a full-time employee close to the limit set out in the Working Time Regulations (Northern Ireland) 2016). I do not think this appropriate. Employment relations are essentially private law matters. A Member's employee should be able to express their political views freely in their spare time, and could in theory spend many hours each week writing about political matters for newspapers or for the party without breaching the 2016 Determination. In addition, a person should (if they so wish) be able to work more than 48 hours per week.
140. In this regard I recommend that the **contract of employment published as part of the 2024 Determination include a provision which prohibits any significant party political activity during the hours of employment. I also**

**recommend that the clause in the 2024 Determination equivalent to the staff costs purpose clause refer to significant party political activity.**

141. Building on the requirement in paragraph 33(9) of the 2016 Determination, under which '*a member must keep records sufficient to show and explain the member's staff costs*', I recommend that **Members require their employees to complete a quarterly or bi-annual declaration of party political activity by the employee, including a requirement to provide approximate hours on that activity (whether paid or unpaid) each week.** The employing Member should retain the employee's declarations of political activity. **As part of the performance review process, the Member should confirm that he or she has reviewed and agreed the employee's declaration of political activity.**
142. The various forms published by the Finance Office do not explicitly require Members to include a declaration of compliance for staff costs, although I understand this will form part of the 2024 Determination. **I recommend that the annual declaration of compliance refer expressly to staff costs as well as other costs.**

#### Public employments

143. The most serious issue to emerge from this review is that Mr McMonagle took up full time employment with Ms O'Neill at the same time he was employed by Ms Begley. If Sinn Féin did provide centralised recruitment facilities to members of the party, as seems likely, it is odd that this was not picked up until October 2024, particularly when Mr McMonagle was at the same time working part-time for the party. The result was that Mr McMonagle was for a three-month period entitled to two full-time salaries from two different sources, both drawing on public funds.
144. I do not think it is necessary for the Assembly Commission routinely to ascertain whether Members' employees have any outside employment – these roles are not sufficiently well-paid or senior that an exclusive contract of employment could be justified. However, I do think it necessary that the Assembly Commission should be aware of any other work carried out by Members' employees which is paid from public funds.
145. This is not in my view a significant departure from the 2016 Determination – it already requires, for example, disclosure of an association where the employee is a member or employee of a district council or an employee of a Northern Ireland department, but not disclosure of whether a new employee is also employed (to take a few examples) by an MP or Teachta Dála, or by a non-departmental public body, or in a maintained school.
146. This appears to be a gap in the 2016 Determination. **I recommend that paragraph 46 of the 2016 Determination (or the equivalent in the 2024 Determination) be revised to require Members to declare if an employee is in receipt of any remuneration from public funds, and the nature of that**

**employment, including the contracted hours. This should be declared on appointment and each year after as part of the declaration of compliance.**

147. This would represent an evolution of the current list of public employments at paragraph 46(d)(i)-(vi), but it seems to me necessary to prevent future cases of this kind falling through the gaps. This is somewhat different to the requirement for a record to be kept of political activity, but is directed to a slightly different mischief: if a person is remunerated from public funds, it is right that the totality of that work is such that it may realistically be carried out by the person within credible working hours.

#### Work for other elected members

148. The 2016 Determination contemplates that the employee of one Member may carry out work for another Member. If it is thought that there is a particular issue with employees of members of political parties carrying out comparable role across different legislatures – the sample is too small to reach any concluded view on this - the Assembly Commission might consider liaison with IPSA and the parliamentary corporate bodies to agree a common declaration on employment of staff by members of each legislative body.

149. Some form of information sharing among parliamentary corporate bodies might also be considered, although careful consideration would need to be given as to whether there is sufficient risk to the public purse to make the sharing of the personal data of Members' employees lawful under the UK GDPR.

150. I note that to identify employees also carrying out work for members of other legislatures may not have been a particular issue when the 2016 Determination was promulgated, but at present five parties are represented in the Assembly and the House of Commons, and Sinn Féin are, additionally, represented in the Oireachtas.

#### Any ambiguity in the terms of contract under which Members may employ staff to carry out constituency work

151. As I have noted above, this Term of Reference refers to 'constituency work', which is an unnecessary gloss on the 2016 Determination. I have thus considered whether there is an ambiguity in the terms of contract under which Members may employ staff to carry out work for them. I do not consider that there is any ambiguity in the contract, since there is simply no provision in the contract setting out the role of Members employees.

152. I have noted that in the expenses scheme for the House of Commons, Houses of the Oireachtas, Scottish Parliament and Senedd Cymru, jobs are structured into bands (equivalent to grades), but that each job has a specific title, and some are grouped (particularly by the Scottish Parliament and IPSA) into job 'families'. For example, the Scottish Scheme has the following families - Administration & Office Management, Casework, Communications, and Research & Policy. A minimum

and maximum salary applies to each family, and the salary is related to the demands of the role – for example, *Communications* is described thus:

*‘This family comprises the following activities: promoting the Member’s parliamentary work, including via broadcast, print and social media, building relations with journalists, drafting press materials and organising campaign activities. Moving up the range, individuals will also carry out research into local, regional, national and international issues as required, brief the Member on relevant issues and produce high quality written materials, manage provision of communications/press advice, oversee the running of the office, including ensuring work is commissioned out effectively and managing staff in accordance with the Member’s office structure’.*

153. I have previously observed that the way in which a Member understands his or her role is principally for that Member, and thus the support each Member requires will vary. However, some form of employment structure will provide clarity to Members and employees about the roles they are performing and incentivise employees of Members’ to advance in their specialism. The development of more specialised support roles for Members’ staff will also contribute to enhancing parliamentary culture in the Assembly.

154. In 2008 by the Senior Salaries Review Board that *‘the [Assembly Commission] provide job descriptions and guideline paybands for staff employed by [Members]’*. No such provision is made in the 2016 Determination. While three generic job descriptions are provided to Members by the Assembly Commission HR Office as part of its ‘Best Practice’ recruitment guidance, these are not linked to the 2016 Determination, and I do not consider that these adequately reflect the range of duties which may be undertaken by Members’ employees. I recommend that they be revised.

**155. I recommend that the Assembly Commission develop three or four job families, linked to Grades 1, 2 and 3, describing the work to be carried out by Members’ employees in each job.**

#### [The adequacy of oversight by the Assembly Commission of the roles of Members’ employees](#)

156. It is a feature of the parliamentary allowances schemes for the House of Commons, the Houses of the Oireachtas, the Scottish Parliament and Senedd Cymru, as well as the Assembly, that members of the legislature directly employ their staff but payroll services are provided centrally, in most cases by the parliamentary corporate body, and for the House of Commons by IPSA.

157. The performance of Members’ employees is not a matter for the Assembly Commission, not least because every Member may want to operate in a different way. The concern of the Assembly Commission is rather to ensure that allowances paid under the 2016 Determination reflect expenditure that a Member has actually incurred.

158. There are a number of compliance checks performed by the Assembly Commission when a new employee begins work for a Member. These are set out in the section *The Finance Office* above. It is apparent that in this case the employing members completed the Form A1 and Form DC1 to the satisfaction of the Finance Office. The various documents to be included with the DC1 allows a Member to provide evidence that he or she has complied with the 2016 Determination, particularly with paragraph 33.
159. A review of the forms relevant to Mr McGinley and Mr McMonagle illustrate only minor lacunae – for example, Members indicating that a P45 has been provided when it is not; non-material errors arising from the requirement imposed by paragraph 37(3) of the 2016 Determination, under which employee salary costs *'are to be paid into an account in a financial institution for which the employee is the sole signatory, or for which the employee and the employee's spouse, civil partner or cohabitant are the sole signatories'*.<sup>16</sup>
160. The completion and submission of these forms by Members is routine. I do not think a number of minor oversights justify any conclusion that the Finance Office is in some way credulous. There is no reason for the Finance Office to assume that when a Member takes on a new employee, they intend that employee to do anything other than provide parliamentary or constituency services to that Member.
161. Effective oversight of the use of public money does not start from an assumption of bad faith when the Assembly has recognised and made provision for Members to cover expenses for these purposes. It is relevant to note that in a five-year period, audits of Members' expenses by the Assembly Commission Internal Audit Team, and subsequently by experienced external auditors, gave no cause for concern.
162. The controls in place in the Finance Office were found to be satisfactory, although, consistently with this review, the most recent EY audit does note that expenses forms which are in minor ways incomplete are routinely accepted. This does not suggest a systematic issue with approvals in the Finance Office. Taken as a whole, **I consider that the work undertaken by the Finance Office to ensure compliance by Members with the terms of the 2016 Determination was reasonable and proportionate.** However, as EY recognise, a more efficient electronic request and authorisation system is likely to further enhance compliance.

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<sup>16</sup> In Form A1 in respect of Mr McGinley, he gives the account name as 'student' rather than his name. Since he was 18 at the time, this is likely a simple mistake. In the Form A1 completed when Mr McMonagle takes up employment with Ms O'Neill, he confirms that he is the sole signatory to an account in the name of Michael McMonagle, but in the form A1 completed by Mr McMonagle when he takes up employment with Ms Dolan, he does not fill in the name of the account. Given the sort code and account number are the same as that on the Form A1 when he began work for Ms O'Neill, this is not significant. This form is unsigned by anyone, but was submitted mid-lockdown.