

# **Advice to the Secretary of State for Northern Ireland Members of the Northern Ireland Assembly Salaries, Expenses and Allowances**

## **Purpose**

1. The purpose of this paper is to provide advice to the Secretary of State for Northern Ireland on the payment of salaries, expenses and allowances to Members of the Northern Ireland Assembly (MLAs) during the continuing absence of devolved government in Northern Ireland.
2. A summary of recommendations is provided at Annex A and a table setting out the financial recommendations is provided at Annex B.

## **Background**

3. The Secretary of State considers that the issue of payment of full salaries to Members of the Northern Ireland Assembly (the Assembly) is a matter of significant public concern in the continuing absence of devolved government and one that needs to be reflected upon and dealt with proportionately. He believes that it is important to now consider carefully what action might be merited in the continued absence of an Executive and a sitting Assembly.
4. In his letter dated 12 November 2017, the Secretary of State commissioned independent advice to assist in his consideration of this issue. In doing so he emphasised the strong commitment of the Government and relevant parties to restoring the Assembly and Executive as soon as possible and the desirability of ensuring elected members are appropriately rewarded. He requested that the advice be prepared by 15 December 2017.

## **Scope**

5. The scope of the review considers whether, and if so how, the contents of the Assembly Members (Salaries and Expenses) Determination (Northern Ireland) 2016 (the Determination) could be adjusted to suit the current circumstances. Its scope does not extend to a fundamental review of the policies underpinning the Determination but only on those provisions which may need adjustment in the current circumstances.
6. A number of observations on related matters which arose during the review, but which are beyond the scope of the review, are included at paras 105 to 114 for consideration as appropriate.
7. The independent advice provides an assessment of the following issues, as requested in the Secretary of State's letter of 12 November 2017:
  - What should be the appropriate salary level for Members of the Assembly, bearing in mind the balance between their constituency and legislative functions;
  - Whether Members who continue to hold offices in the Assembly should be entitled to additional pay on that account, and if so at what level;

- What support and provision is appropriate for the employment of Members' staff;
- What support and provision there should be for maintaining constituency offices, and for constituency and travel allowances; and
- What other changes should be made to other expenses and allowances provided for in the Determination.

### **Methodology**

8. This advice has been prepared following consideration of relevant reports and academic research and information provided by all Political Parties represented in the Assembly and the independent MLA; the Speaker; the former Chair of the Independent Financial Review Panel; other parliaments and parliamentary pay review bodies; and officials of the Northern Ireland Assembly (NIA). I have also been provided with some background information from the Northern Ireland Office (NIO).
9. The review has drawn on a number of sources to inform judgements as to whether, and if so how, the contents of the current Determination might need to be adjusted to best suit the current circumstances.

### **Context**

10. The salary and allowances payable to MLAs are governed by Determinations issued by the Independent Financial Review Panel (the Panel) which was established under Section 2 of the Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011 (the Act).
11. The Act requires the Panel to exercise those functions with a view to:
  - “(a) ensuring probity, accountability and value for money with respect to the expenditure of public funds,*
  - (b) securing for members of the Assembly a level of remuneration which –*
    - (i) fairly reflects the complexity and importance of their functions as members of the Assembly; and*
    - (ii) does not, on financial grounds, deter people with the necessary commitment and ability from seeking election to the Assembly; and*
  - (c) securing for members of the Assembly adequate resources to enable them to exercise their functions as members of the Assembly.”*

These principles are pertinent to this review.

12. As intended, these new statutory arrangements have resulted in improved governance, increased transparency and greater public confidence around decisions regarding the salaries and allowances of MLAs. The former Panel has issued a number of Determinations, including the current Determination which was issued in 2016.

13. An indicative, but not exhaustive, list of the functions of an MLA are set out in para 47(3) of the Determination and are quoted below:

*“A member’s functions as a member include the following functions –*

- (a) attending a sitting of the Assembly,*
- (b) attending a meeting of a committee or sub-committee of the Assembly,*
- (c) undertaking research or administrative functions which relate directly to the business of the Assembly,*
- (d) establishing or maintaining a constituency office,*
- (e) providing an advice service to constituents,*
- (f) attending meetings for the purpose of representing constituents in Northern Ireland, including meetings with a constituent or constituents,*
- (g) 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.”*

14. The continuing absence of devolved government in Northern Ireland is a matter of deep concern, not least to the MLAs themselves. During the review, all Political Parties and MLAs emphasised their desire to see the reestablishment of devolved government and to being able to undertake the full range of tasks for which they had been elected.

15. It is relevant, by way of context, to appreciate that the role of an elected representative in modern democratic societies is a demanding and precarious one, for which significant personal sacrifices are made. The current uncertainty about the future of the Assembly has added to that sense of precariousness both for the MLAs and their staff. Therefore, giving early certainty is of considerable importance.

### **Salary - MLA**

16. The Secretary of State has asked for advice on what would be the appropriate salary level for MLAs, bearing in mind the balance between their constituency and legislative functions.

#### Context

17. It has not been “business as usual” since the Assembly election in March 2017. The full range of functions are not able to be undertaken by MLAs as the Assembly and its Committees are not meeting.

18. The work of an MLA is not solely a legislative one, and a core part of a member’s responsibility is representing their constituents as included in the indicative list of functions at (d), (e) and (f) in para 13 above. The functions at (a) and (b) above cannot be undertaken and the function at (c) is being significantly impacted.

19. Many MLAs view constituency work as the most important aspect of their role and the one which appears to be most valued by their constituents.
20. It should also be noted that when working at Parliament Buildings a significant element of MLAs' time is spent on constituency work through meetings, emails, telephone, and receiving delegations. It is also relevant to consider that there are usually only 36 weeks of the year when the Assembly is sitting, while constituency work continues for 52 weeks of the year.
21. The reduction in the number of MLAs elected in March 2017 from 108 to 90 has reduced the overall number of hours, taking all MLAs together, which are available for constituency work.
22. The salaries of elected Members in parliaments across the UK are generally assessed using Job Evaluation and Job Weighting methodologies. These follow the principle that pay should reflect levels of responsibility rather than workload. The basis of the MLAs current salary are the recommendations of a report commissioned by the former Panel entitled Remuneration Benchmarking which was prepared by PwC in 2012<sup>1</sup>.

#### Level of Responsibilities

23. The PwC job evaluation scheme evaluates the skills and competencies that the role holder requires to carry out the role effectively. These skills and competencies are measured and allocated to levels under the following headings: Knowledge; Specialist skills; People skills; External Impact; Decision Making; and Creative Thinking. The levels of each of these skills and competencies have inevitably reduced during the period when the Assembly is not functioning and parliamentary responsibilities are not being undertaken.

#### Workload

24. Feedback received during the review indicates that MLAs are largely diverting their unused time from parliamentary work to constituency work and that there is in many constituencies an increasing demand from the public for such services. It was emphasised that MLAs are still working full time, albeit undertaking only some of their usual functions. The allocation of more time to case work may result in an increased service to constituents and demand may fill any time that is available.
25. It has also been explained that MLAs are having to be more creative in methods of advocacy and scrutiny of public services as there are no debates, Committees, Assembly Oral Questions (AQs) or Assembly Written Questions (AQWs). For example, they are undertaking more advocacy and scrutiny directly with Permanent Secretaries and senior civil servants and also undertaking more advocacy directly with the Secretary of State than would be the case in normal circumstances.

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<sup>1</sup> <http://ifrp.org.uk/wp-content/uploads/2012/03/The-Report-of-the-Independent-Financial-Review-Panel-March-2012.pdf> Appendix E

26. In respect of legislation, both Executive and Private Members Bills, and public policy, MLAs are seeking to keep abreast of developments and latest research in preparation for the resumption of the Assembly with a view to being able to “hit the ground running” when the Assembly resumes.
27. MLAs continue to be involved in the work of All Party Groups (APGs) and a number have been established since the election in March 2017. The purpose and value of APGs is in engaging with constituents and representative groups. To date, 23 APGs have been established with 57 meetings having been held. There are 69 MLAs involved in at least one APG.

### Research

28. There has been a range of research undertaken over recent years by parliaments, parliamentary pay review bodies and academics which include commentary on the balance of an elected Member’s constituency and parliamentary workload. The balance and range of hours identified is variable due to the differing basis of each research; the personal style of individual elected Members; and the varying demands of their constituents. However, an elected Member spending 50-60% of their time on constituency work is broadly consistent across all research. The information also shows that the average working week of an elected Member usually exceeds 50 hours and can extend up to 80 hours.
29. The most recent and relevant research for a fully functioning Northern Ireland Assembly was published in 2017 (*Extra-parliamentary behaviour in Northern Ireland: MLAs and constituency service – Sean Haughey (2017) - Journal of Legislative Studies.*) This shows that an MLA spends 27.9hrs per week on constituency work out of a total working week of 50.8 hours (55%).
30. It therefore follows that some adjustment in salary is required but not such as would treat MLAs disproportionately nor precipitate a significant number of resignations of MLAs at a time when an early restoration of a fully functioning Assembly is being sought. Such a potential loss of political experience would also do a great disservice to the future of devolution and consequently to Northern Ireland society as a whole.

### Precedent

31. During the period when the Assembly was suspended between 2002 and 2007, the salary of an MLA was reduced to 77% of its annual value (ie from £41,321 to £31,817) for most of this period and to 50% (ie from £41,321 to £20,660) for a period of six months in 2003. This provides some precedent to consider the appropriate level of salary payable during a period when the Assembly is not functioning. However, while the amount of salary reductions is known, the rationale for these adjustments is unclear from the information available during the review.

### Value for Money

32. The concept of value for money in setting MLAs' pay and allowances is enshrined in the Act governing the work of IFRP and is perhaps even more critical in these days of increased efficiency in public services, including elected representatives. It is inevitable that public frustration with a non-functioning Assembly will continue to increase. The impact of any salary reduction on MLAs' personal circumstances is also acknowledged. Therefore, it is judged that a "stepped" approach to salary reduction is warranted.

### Factors

33. In arriving at recommendations on the appropriate salary payable to an MLA in the current circumstances, the following factors have been taken account of:

- the **level of responsibilities** required in the current circumstances;
- the current **workload** of an MLA;
- the desirability of **retaining the capacity** to restore the Assembly and Executive as soon as possible;
- the aim of dealing with the matter **proportionately** and of ensuring elected members are **appropriately rewarded**;
- the increasing **public frustration** with the non-functioning of the Assembly and Executive;
- the increasing difficulty of **demonstrating value for money** and justifying the full level of expenditure of public funds as set out in the current Determination; and
- the **precedents** set during the period of suspension from 2002 to 2007.

34. Taking all these factors into consideration, it is recommended that the salary of an MLA be reduced to 72.5% of its current level. This reduction should be implemented in two stages - by 15% now, followed by a further 12.5% three months later.

### **Recommendation 1**

**35. It is recommended that the salary for MLAs be reduced in two stages:**

- **First stage - that the annual salary be reduced by £7,425 now (ie from £49,500 to £42,075).**
- **Second stage - that a further reduction of £6,187 be applied three months later giving a total reduction of £13,612 (ie in total from £49,500 to £35,888).**

### Salary Increases

36. Under the Determination, MLAs' salaries rise by £500 p.a. on the 1st April each year, provided that the Consumer Price Index (CPI) as measured in the previous September shows a rise of at least 1%. A rise of £500 per annum was applied in accordance with the Determination on 1 April 2017. If devolution is not restored by 1 April 2018, a further increase would be due to be applied on that date as CPI at September 2017 was above this threshold. This increase would not be appropriate until such times as the Assembly returns to full functioning.

## **Recommendation 2**

**37. It is recommended that future annual increases for MLAs be deferred pending the restoration of the Assembly.**

### **Salaries - other Roles (Officeholders)**

38. The Secretary of State has asked for advice on whether Members who continue to hold offices in the Assembly should be entitled to additional pay on that account, and if so at what level.

39. The Determination provides for salaries in a number of roles other than that as an MLA. These roles include what are sometimes referred to as officeholders of the Assembly and also for Ministers appointed to the Executive. A number of officeholders have remained in office in the current circumstances. These are the Speaker; Principal Deputy Speaker; Deputy Speakers; and Assembly Commission Members.

40. As no appointments have been made to Ministerial roles in the current circumstances, no comment is required on the salaries for these roles.

### Factors

41. In arriving at recommendations on the appropriate salary payable to Officeholders in the current circumstances, the following factors been taken account of:

- the level of responsibilities required in the current circumstances;
- the current workload of officeholders;
- the desirability of retaining the capacity to restore the Assembly and Executive as soon as possible;
- the aim of dealing with the matter proportionately and of ensuring officeholders are appropriately rewarded;
- the increasing public frustration with the non-functioning of the Assembly and Executive;
- the increasing difficulty of demonstrating value for money and justifying the full level of expenditure of public funds as set out in the current Determination; and
- the precedents set during the period of suspension from 2002 to 2007;

### Speaker

42. The Speaker remains in office and receives an inclusive salary covering the four aspects of the role – constituency role as an MLA; procedural role, including as chair of Plenary sessions and the Business Committee; representational role as figurehead of the Assembly; and the role as Chair of the Assembly Commission.

43. As a serving MLA, the Speaker's constituency role has continued and the element of the salary applicable for the constituency role should be adjusted in line with the recommendations for MLAs above.

44. The level of procedural activity has significantly reduced in the current circumstances as the Assembly is not sitting. However, some procedural work continues to be required both in preparation for a sitting and in activities which take place outside the Chamber. The Speaker has full responsibility for calling a future Plenary session of the Assembly, whenever that is required, as a Business Committee has not been appointed. This has involved some planning and contingency preparations since the first and only Plenary session following the election in March 2017. A significant reduction in the procedural element of the Speaker's salary is warranted in the current circumstances.
45. As the figurehead of the Assembly, the Speaker undertakes a representational role on behalf of Members and the institution. While the full range of activities are not taking place, the Speaker continues to host visiting delegations and to represent the Assembly on a number of civic occasions, some of which are organised through his office. Additional representational work has fallen to the Speaker in the absence of a First Minister and deputy First Minister. To date over 25 civic and representational engagements have taken place since the election in March 2017.
46. The Speaker's role as Chair of the Assembly Commission is continuing in the current circumstances but at a reduced level. The current work of the Commission is referred to in paras 56-58. In addition to the formal Commission meetings, a range of informal interactions occur between the Speaker as Chair and senior Secretariat officials to ensure that Commission business progresses effectively.
47. During the full period of suspension from 2002 to 2007 the element of the Speaker's salary payable for the additional responsibilities of the office was reduced from £31,817 to £17,033 (ie by 53%).
48. The annual salary of the Speaker is an inclusive one, currently set at £87,500. To consider the differing impact of the current circumstances on each of the elements of his role, the following estimated breakdown has been judged appropriate for the purposes of this review:
- Role as an MLA – as per the standard MLA salary = £49,500
  - Role as Chair of the Assembly Commission – assuming the same element as Assembly Commission Members plus an estimate of an additional 50% for responsibilities as Chair - £6000+£3000 = £9,000
  - Procedural role – assuming 60% of remainder = £17,400
  - Representational role – assuming 40% of remainder = £11,600



49. In the current circumstances, it is recommended that the salary elements for the additional responsibilities of the Speaker be reduced as follows:
- Assembly Commission role – applying the same reduction as Assembly Commission Members on the notional salary element of £9,000 – reduce by 20% to £7,200.
  - Procedural role – apply a reduction of 60% on the notional salary element of £17,400 – reduce to £6,960.
  - Representational role – apply a reduction of 50% on the notional salary of £11,600 – reduce to £5,800.
50. It is further recommended that these reductions be applied in the first stage of salary reductions.

### **Recommendation 3**

- 51. It is recommended, and incorporating the reduction in the standard MLA salary element as recommended above, that the total salary of the Speaker be reduced in two stages:**
- **First stage - that the annual salary be reduced by £25,465 now (ie from £87,500 to £62,035).**
  - **Second stage - that a further reduction of £6,187 be applied three months later giving a total reduction of £31,652 (ie from £87,500 to £55,848).**

### Deputy Speakers

52. The Northern Ireland Act 1998 and the Standing Orders of the Assembly provide for the appointment of one Principal Deputy Speaker and two Deputy Speakers and that they remain in office until their successors are appointed by the new Assembly. Only one Deputy Speaker remains in office at the time of the review. The procedural role of the Deputy Speakers in chairing Plenary sessions has not been required since the election in March 2017. Ordinarily, the Speaker may also from time to time delegate some representational duties to the Deputy Speakers under Standing Order 5(2) but there has been no requirement to do so since the election. However, should the Speaker be unable to discharge his duties, for any reason, it would be for the remaining Deputy Speaker to ensure the functions of the office are exercised, particularly calling the next sitting of the Assembly.
53. There is no requirement for three of these Officeholder positions to be filled during the current circumstances and it is fortuitous that only one remains in office at this time. However, retaining a contingency cover for the Speaker may be prudent but at a significantly reduced salary.
54. It is therefore recommended that payment for the procedural element of the remaining Deputy Speaker's role be reduced from £6,000 to £1,500 (ie by 75%). It is further recommended that these reductions be applied in the first stage of salary reductions.

#### **Recommendation 4**

**55. It is recommended, and incorporating the reduction in the standard MLA salary element as recommended above, that the total salary of the Deputy Speaker be reduced in two stages:**

- **First stage - that the annual salary be reduced by £11,925 now (ie from £55,500 to £43,575).**
- **Second stage - that a further reduction of £6,187 be applied three months later giving a total reduction of £18,112 (ie from £55,500 to £37,388).**

#### Assembly Commission

56. When the Assembly is dissolved for an election, the Assembly Commission remains in office until its successor Commission is appointed by the new Assembly. It is normal practice that the outgoing Assembly Commission only reconvenes for urgent business that could not await the appointment of a successor Commission. Given that the delay in the Assembly returning to normal business has prevented the appointment of a new Commission, the outgoing Commission continues to hold office and has been required to deal with issues arising from the current situation, particularly managing the level of staffing and services required in Parliament Buildings. All members of the Commission remain in office – the Speaker as Chair and five other members appointed by the previous Assembly.

57. The Assembly Commission has held four formal meetings since the election and other essential Commission business has been conducted through written procedure, the issuing of notifications and holding regular informal discussions. The Commission is the only body to which written Assembly Questions (AQWs) can currently be submitted. Commission Members sign off the answers to AQWs which are drafted by officials. There has been a significant increase in AQWs during the period when the Assembly has not been functioning, increasing for the period September to November from 23 in 2016 to 85 in 2017.

58. Members of the Commission receive an inclusive salary of £55,500 which includes both the standard MLA salary (£49,500) and an additional element for Commission responsibilities (£6,000). It is recommended that the element payable for Commission responsibilities be reduced by an amount which reflects a reduction in the range of issues currently being dealt with, whilst recognising that the Commission continues to carry its statutory responsibilities. A reduction of 20% is recommended as appropriate in the current circumstances (ie from £6,000 to £4,800) It is further recommended that this reduction be applied at the first stage of salary reductions.

### **Recommendation 5**

**59. It is recommended, and incorporating the reduction in the standard MLA salary element as recommended above, that the total salary of members of the Assembly Commission be reduced in two stages:**

- **First stage - that the annual salary be reduced by £8,625 now (ie from £55,500 to £46,875).**
- **Second stage - that a further reduction of £6,187 be applied three months later giving a total reduction of £14,812 (ie from £55,500 to £40,688).**

### Assembly Commission Member who is not a serving MLA

60. One of the Commission Members currently in office was not returned at the election in March 2017 but, under the provisions of the Northern Ireland Act 1998, continues to hold office and to be paid the full salary for the role, including the element of standard MLA salary. This anomaly should be addressed in the current circumstances so that no individual receives a salary for being an MLA who is not so elected.

61. It is understood that the individual concerned has returned the MLA element of the salary received since the election.

### **Recommendation 6**

**62. It is recommended that a Member of the Assembly Commission who is not a serving MLA should no longer receive the element of standard MLA salary during their term of office (ie the salary be reduced now from £55,500 to £4,800).**

### Salary Increases

63. Under the Determination the salary of all roles, including officeholders, rise by £500 p.a. on the 1st April each year, provided that the Consumer Price Index (CPI) as measured in the previous September shows a rise of at least 1%. A rise of £500 per annum was applied in accordance with the Determination on 1 April 2017. If devolution is not restored by 1 April 2018, a further increase would be due to be applied on that date as CPI at September 2017 was above this threshold. This increase would not be appropriate until such times as the Assembly returns to full functioning.

### **Recommendation 7**

**64. It is recommended that future annual increases in the salaries for the roles of officeholders be deferred pending the restoration of the Assembly.**

### **Staff Costs**

65. The Secretary of State has asked for advice on what support and provision is appropriate for the employment of Members' staff.

## Context

66. Under the Determination, Members are able to recover staff costs for the employment of not more than two full time equivalent (FTE) support staff and there is an annual limit of £50,000 for such expenses. There is no annual uprating provision in the Determination. The Assembly Commission, in addition to that amount, pays the costs of employers' national insurance, employers' pension contributions, temporary cover and any redundancy costs.
67. The Determination also sets out various rules for the employment of staff including salary bands, model job descriptions and model contracts of employment. Members' staff move up the pay scales set out in the Determination but they do not receive an annual uprating.
68. As at November 2017, a total of 214 staff are employed by MLAs. This represents 167.5 FTEs out of a maximum permitted of 180 FTEs. Of these staff 201 are on permanent contracts, 3 are on temporary contracts and 10 are on fixed term contracts.

## MLA Staff Appointments

69. As expected in anticipation of a functioning Assembly, new MLAs engaged staff immediately following the election in March 2017 but it is notable that since 1 September 2017 during the ongoing uncertainty 16 permanent staff have been engaged. It would be appropriate in the current circumstances to only make temporary appointments and to amend the Determination accordingly.

## **Recommendation 8**

- 70. It is recommended that, given the ongoing uncertainty, no further permanent appointments of MLAs' staff are made until the restoration of the Assembly is confirmed.**

## Staffing Allowance

71. It is evident that the vast majority of Members' staff time is spent on constituency work. It is also reported that any time previously spent on research or support for Assembly Plenary and Committee work has largely been redirected to constituency work. Some staff time is being used to keep up to date on public policy developments in anticipation for a resumption of the Assembly and therefore to be able to "hit the ground running" when this happens. This seems to be a reasonable approach in these unique circumstances.
72. Any short-term reduction in staffing numbers or budget would have limited benefits and would undermine a significant element of the infrastructure of devolution (ie constituency services). It may also incur nugatory redundancy costs and in due course recruitment costs when the Assembly is restored. The desirability of retaining the capacity to restore the Assembly as soon as possible is also a factor to be considered.

## **Recommendation 9**

- 73. It is recommended that no changes be made to the Determination's provisions relating to the employment of MLAs' staff at this time, other than that of making no further permanent appointments (ref Recommendation 8).**

## Value for Money

74. However, the increasing difficulty of demonstrating value for money and justifying the full level of expenditure of public funds as set out in the current Determination, would indicate that this position should not continue indefinitely. If, by the end of March 2018, the Secretary of State does not consider that there is the prospect of an imminent return of a fully functioning Assembly, it is recommended that the staffing allowance should be reduced by 25% and that three months' notice be given of this reduction. It is recognised that this will impact on MLAs' staff and on the level of constituency service able to be provided but continuation of the full staffing allowance could not be sustained.

### **Recommendation 10**

**75. It is recommended that, if by the end of March 2018, the Secretary of State does not consider that there is the prospect of an imminent return of a fully functioning Assembly, the staffing allowance should be reduced from £50,000 to £37,500. Appropriate notice should be given to MLAs as employers and their staff but implementation should be no later than 1 July 2018.**

76. There has been much concern expressed in recent weeks across parliamentary institutions in the UK following allegations of sexual harassment and bullying of elected Members' staff. The Grievance Procedure for MLAs' staff is currently included in the model contract of employment provided in the Determination. It would be essential to consider if the existing Grievance Procedure and other support mechanisms for MLAs staff are fit for purpose and to learn from the work ongoing in other institutions. It is understood that the Assembly Commission has already begun to consider this issue and what actions, if any, may be necessary by the Assembly at this time and in due course by the next Panel or successor body.

### **Constituency Offices and Travel**

77. The Secretary of State has asked for advice on what support and provision there should be for maintaining constituency offices, and for constituency and travel allowances

#### Constituency Offices

78. The allowances provided under the Determination for operating constituency offices are:

- Rent and rates – rent of up to £8,500 pa plus up to 40% of rental for rates.
- Ancillary expenses - £5,500 pa. (£4900 running costs plus £600 mobile phones)

79. A Member may claim constituency office expenses for only one constituency office at a maximum rent of £8,500 p.a. The costs of rates may be also be reimbursed and these will be capped at 40% of the allowable rent with a maximum of £3,400 p.a., subject to certain conditions and abatements.

80. As long as Members undertake constituency work and engage constituency staff, they require the basic “tool” of a constituency office. Therefore rent, rates and ancillary expenses remain justified.

81. The leases for offices have generally been entered into for the five-year duration of a mandate and any change in advance of that time would incur additional costs to end leases. It is recommended that any new lease entered into for whatever reason, should include a short-term break clause to facilitate the least cost option in ending a lease should this prove necessary.

#### **Recommendation 11**

**82. It is recommended that no change to the Determination’s provisions relating to constituency office rent, rates or ancillary expenses be made at this time, other than requiring early break clauses in any new leases entered into until the restoration of the Assembly is confirmed.**

#### Constituency Office Establishment Costs

83. An MLA is also entitled to recover expenditure on establishing a constituency office or refurbishing an already established office up to £2000 per mandate. It would not be appropriate to make full use of this allowance in the current circumstances, particularly in refurbishing an already established office. However, some provision is required for undertaking essential repairs and maintenance and a reduced limit of £1000 is recommended.

#### **Recommendation 12**

**84. It is recommended that the allowance for establishing a constituency office be reduced to £1000 per annum until the restoration of the Assembly is confirmed.**

85. It is noted that some MLAs choose to contribute to the cost of their constituency office and constituency services from their own resources in order to provide the level of service they believe is appropriate for their constituents.

#### Annual Assembly Travel Allowance

86. The Determination contains provisions for travel to Parliament Buildings based on attendance on at least 72 days a year. The amounts vary by the distance a constituency is from Parliament Buildings and range from £600 to £6,200 per annum. The allowance is reduced by 1% for every day less than 72 attendances. The allowance is automatically paid in advance and reconciled against attendance at the end of the financial year.

87. The Assembly Commission has provided advice to MLAs on the operation of the annual Assembly Travel Allowance in the current circumstances, including the option to nominate that these payments cease. Payments are made on a monthly basis and any recovery of payments made for less than 72 attendances will take place early in the next financial year. The allowance was designed for circumstances when MLAs were attending both Plenary and Committee meetings. If an MLA does not attend any days at Parliament Buildings during the year, they would still be entitled to receive 28% of the allowance (ie 100% less 72 x 1%).

88. It has been highlighted during the review that some MLAs are still attending Parliament Buildings for meetings with constituents, Civil Servants, All Party Groups (APGs) and delegations and also for meetings about the restoration of the Assembly but generally they are attending less frequently than when the Assembly was sitting.

89. The Determination's provisions relating to the annual Assembly travel allowance are not fully appropriate in the current circumstances. To avoid a situation where an MLA is paid an allowance under the provisions of the Determination but has undertaken few or no journeys to Parliament Buildings during the year, it is recommended that the required number of days' attendance is increased from 72 to 100. While appearing convoluted, this will mean that zero attendance will result in zero allowance being paid.

### **Recommendation 13**

**90. It is recommended that under the annual Assembly Travel Allowance the required number of days of attendance is increased to 100.**

### Annual Constituency Travel Allowance

91. The Determination contains provisions for an annual travel allowance for journeys undertaken within a constituency. The amounts vary depending on the geographic size of a constituency and range from £250 to £1250 per annum.

92. As constituency travel continues as a consequence of ongoing constituency work, there is no need to adjust the provisions of the Determination in the current circumstances.

### **Recommendation 14**

**93. It is recommended that no change be made to the Determination's provisions relating to the annual Constituency Travel Allowance.**

### **Other Expenses and Allowances**

94. The Secretary of State has asked for advice on what other changes should be made to other expenses and allowances provided for in the Determination.

95. These expenses and allowances are Winding-up; Resettlement; Recall; Disability; and Ill-health Retirement

96. There are no grounds on which to adjust these expenses and allowances in the current circumstances, the terms of which remain relevant and appropriate.

### **Recommendation 15**

**97. It is recommended that no change be made to the Determination's provisions relating to the Winding-up; Resettlement; Recall; Disability; and Ill-health Retirement allowances.**

### Consequential Changes

98. As a consequence of changes to the quantum of MLAs' and Officeholders' salaries, there may be implications for the calculation of pensions and death-in-service payments, Ill-Health Retirement and Resettlement Allowances. MLAs and Officeholders should not be put at a permanent disadvantage due to a temporary reduction in salaries.

#### **Recommendation 16**

**99. It is recommended that when drafting the legislation necessary to give effect to any recommendations to temporarily reduce salaries, that consideration be given to the potential impact on other allowances and on the Assembly Members' Pension Scheme, so that there is no permanent disadvantage to individuals due to a temporary reduction in salaries.**

100. During the review, Members raised issues relating to some aspects of the current Determination's provisions. These are not matters for this review but should be raised in due course with the next Panel or successor body.

#### **General Recommendations**

101. The following general recommendations are made as a result of this review.

102. If any of the recommendations in this advice are accepted for implementation they will require careful drafting of the necessary legislation. It is important to ensure that there is a smooth translation from legislation into practice.

#### **Recommendation 17**

**103. It is recommended that close liaison be undertaken between legislative drafters and relevant officials of the Assembly Secretariat when drafting any legislation arising from this advice.**

104. The recommendations in this advice have been prepared in the context of the current circumstances and the expressed desire to see the Assembly and Executive fully functioning at an early date. A prolonged period of non-functioning of the Assembly and Executive would prompt a different assessment.

#### **Recommendation 18**

**105. It is recommended that a further review of salaries and allowances be undertaken before the end of 2018, if there is no progress in restoring a fully functioning Assembly by that time.**



## **Observations**

106. In preparing this advice a number of issues arose which are related to the Determination and support for MLAs in their Assembly duties. The following issues are highlighted for the Secretary of State's consideration.

### Assembly Commission Appointments

107. As referred to above under the section dealing with officeholder salaries, one of the Commission Members currently in office was not returned at the election in March 2017 but, under the provisions of the Northern Ireland Act 1998, continues to hold office. This is an anomaly which might appropriately be addressed for the duration of the current circumstances, so that the Commission comprises entirely of Members who are currently elected and serving as MLAs.

108. The underlying principle for Commission membership is that the Commission is a non-political body appointed by the Assembly to act impartially in the best interests of the Assembly and its Members as a whole. In normal circumstances this principle should be protected and appointments to the Commission continue to be made by vote of the whole House in Plenary session.

109. The Secretary of State may wish to consider introducing a temporary mechanism that would permit a replacement to be appointed in the current circumstances. This might be undertaken by the Nominating Officer of the party from which the member who resigns was appointed.

### Future Scenarios

110. A political agreement to restore the Assembly and Executive has yet to be reached and it may be useful to comment on what level of salaries might be considered appropriate in differing scenarios such as the suspension of the devolved institutions (with MLAs still in office but without a functioning Assembly and Executive) or some form of transitional or interim Assembly as was the case during the last period of prolonged suspension.

111. In the context of a scenario where the institutions were suspended the assessment and recommendations made in this advice would appear still to be relevant.

112. In the scenario of some form of transitional or interim Assembly, with some Plenary sessions and a limited range Committee meetings taking place, a higher level of salary than recommended above would be appropriate. However, the full salary would not be appropriate if the full legislative and scrutiny powers of the Assembly are not operational. While fuller consideration might be merited, an MLA salary of 90% of the current salary would seem appropriate in such circumstances (ie £44,550). Officeholder salaries of 90% of those payable under the Determination would also appear to be appropriate.

113. In the scenario that an early election is called when reduced salaries are in operation, the question arises as to what if any amendments should be made during the period of dissolution.

114. In normal circumstances a short dissolution period applies and the salary of MLAs continues until the day of the election. The salaries of the roles as officeholders at the Assembly (ie Speaker, Principal Deputy Speaker, Deputy Speaker and Commission Members) continue until their successors are re-appointed. During an extended dissolution period in 2003, MLAs' salaries were reduced to 50% of that applying at that time.

115. It would appear reasonable to continue the reduced salaries for all roles as recommended in this review during any dissolution period which falls within the current situation.

### **Acknowledgements**

116. The author wishes to express his appreciation to all those who so willingly assisted with this review.

**Trevor Reaney**  
**15 December 2017**

## Summary of Recommendations

### Recommendation 1

It is recommended that the salary for MLAs be reduced in two stages:

- First stage - that the annual salary be reduced by £7,425 now (ie from £49,500 to £42,075).
- Second stage - that a further reduction of £6,187 be applied three months later giving a total reduction of £13,612 (ie in total from £49,500 to £35,888).

### Recommendation 2

It is recommended that future annual increases for MLAs be deferred pending the restoration of the Assembly.

### Recommendation 3

It is recommended, and incorporating the reduction in the standard MLA salary element as recommended above, that the total salary of the Speaker be reduced in two stages:

- First stage - that the annual salary be reduced by £25,465 now (ie from £87,500 to £62,035).
- Second stage - that a further reduction of £6,187 be applied three months later giving a total reduction of £31,652 (ie from £87,500 to £55,848).

### Recommendation 4

It is recommended, and incorporating the reduction in the standard MLA salary element as recommended above, that the total salary of the Deputy Speaker be reduced in two stages:

- First stage - that the annual salary be reduced by £11,925 now (ie from £55,500 to £43,575).
- Second stage - that a further reduction of £6,187 be applied three months later giving a total reduction of £18,112 (ie from £55,500 to £37,388).

### Recommendation 5

It is recommended, and incorporating the reduction in the standard MLA salary element as recommended above, that the total salary of members of the Assembly Commission be reduced in two stages:

- First stage - that the annual salary be reduced by £8,625 now (ie from £55,500 to £46,875).

- Second stage - that a further reduction of £6,187 be applied three months later giving a total reduction of £14,812 (ie from £55,500 to £40,688).

#### **Recommendation 6**

It is recommended that a Member of the Assembly Commission who is not a serving MLA should no longer receive the element of standard MLA salary during their term of office (ie the salary be reduced now from £55,500 to £4,800).

#### **Recommendation 7**

It is recommended that future annual increases in the salaries of roles of officeholders be deferred pending the restoration of the Assembly.

#### **Recommendation 8**

It is recommended that, given the ongoing uncertainty, no further permanent appointments of MLAs' staff are made until the restoration of the Assembly.

#### **Recommendation 9**

It is recommended that no changes be made to the Determination's provisions relating to the employment of MLAs' staff at this time, other than that of making no further permanent appointments (ref Recommendation 8).

#### **Recommendation 10**

It is recommended that, if by the end of March 2018, the Secretary of State does not consider that there is the prospect of an imminent return of a fully functioning Assembly, the staffing allowance should be reduced from £50,000 to £37,500. Appropriate notice should be given to MLAs as employers and their staff but implementation should be no later than 1 July 2018.

#### **Recommendation 11**

It is recommended that no change to the Determination's provisions relating to constituency office rent, rates or ancillary expenses be made at this time, other than requiring early break clauses in any new leases entered into until the restoration of the Assembly is confirmed.

#### **Recommendation 12**

It is recommended that the allowance for establishing a constituency office be reduced to £1000 per annum until the restoration of the Assembly is confirmed.

#### **Recommendation 13**

It is recommended that under the annual Assembly Travel Allowance the required number of days of attendance is increased to 100.

#### **Recommendation 14**

It is recommended that no change be made to the Determination's provisions relating to the annual Constituency Travel Allowance.

#### **Recommendation 15**

It is recommended that no change be made to the Determination's provisions relating to the Winding-up; Resettlement; Recall; Disability; and Ill-health Retirement allowances.

**Recommendation 16**

It is recommended that when drafting the legislation necessary to give effect to any recommendations to temporarily reduce salaries, that consideration be given to the potential impact on other allowances and on the Assembly Members' Pension Scheme, so that there is no permanent disadvantage to individuals due to a temporary reduction in salaries.

**Recommendation 17**

It is recommended that close liaison be undertaken between legislative drafters and relevant officials of the Assembly Secretariat when drafting any legislation arising from this advice.

**Recommendation 18**

It is recommended that a further review of salaries and allowances be undertaken before the end of 2018, if there is no progress in restoring a fully functioning Assembly by that time.

## Tables - Financial Recommendations

### 1. Salaries

Recommendation	Role	Current	First Stage	Second Stage
1,2	MLA	49,500	42,075	35,888
3,7	Speaker	87,500	62,035	55,848
4,7	Deputy Speaker	55,500	43,575	37,388
5,7	Members of Assembly Commission	55,500	46,875	40,688
6,7	Member of Assembly Commission who is not an elected MLA	55,500	4,800	4,800

### 2. Other Allowances

Recommendation	Allowance	Current	Recommended
10	Staff Costs	50,000	37,500 (from 1.7.18)
12	Office Establishment Costs	2,000	1,000
13	Assembly Travel Allowance (Days of attendance required to qualify for full allowance)	72 days	100 days