



Northern Ireland  
Assembly

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**AD HOC COMMITTEE**

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**OFFICIAL REPORT  
(Hansard)**

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**Assembly Members (Independent  
Financial Review and Standards) Bill:  
Northern Ireland Assembly Commission**

29 November 2010

**NORTHERN IRELAND ASSEMBLY**

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Standards) Bill:  
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**Members present for all or part of the proceedings:**

Mr Fred Cobain (Chairperson)  
Ms Sue Ramsey (Deputy Chairperson)  
Mr Daithí McKay  
Mr Paul Givan  
Mr John Dallat

**Witnesses:**

Mr Peter Weir	)	Northern Ireland Assembly Commission
Ms Tara Caul	)	
Mr Tony Logue	)	Northern Ireland Assembly Secretariat
Mr Richard Stewart	)	
Mr Hugh Widdis	)	

**The Chairperson (Mr Cobain):**

Representatives from the Commission will provide oral evidence on Part 1 of the Bill, which relates to the independent financial review panel. Peter Weir will take us through that, along with some of his colleagues.

**Mr Peter Weir (Northern Ireland Assembly Commission):**

I will try to keep my remarks very brief, because I assume that all members of the Committee can read.

**The Chairperson:**

You can make that assumption if you like.

**Mr Weir:**

I will introduce the team; I am sure all the faces will be familiar. We have Tony Logue, who is Clerk to the Commission, Tara Caul, who is a legal advisor in the Assembly, Hugh Widdis, who is Head of Legal Services in the Assembly, and Richard Stewart, who is Director of Resources. I will very briefly outline the background, and Tara will then deal with some of the more technical aspects.

Members will be aware that the issue stems from a broad criticism that, up until now, the Assembly has been effectively setting its own salaries and terms and conditions. There is a consensus that that is not sustainable.

The direct background to the issue arises from the Senior Salaries Review Body (SSRB) report, which was commissioned by the Secretary of State in 2007. Towards the end of 2008, the SSRB published its report. One of the recommendations was for the Assembly to commit itself to accepting the outcome of future independent financial reviews. That was pursued by the Assembly Commission, and a consensus was reached with all the party leaders that an independent body needed to be established in line with other legislatures. Taking that forward required legislation and an amendment to the Northern Ireland Act 1998.

The current legal framework for the payment of salaries, allowances and pensions is covered by sections 47 and 48 of the Northern Ireland Act 1998. Section 47 covers the current determination for payment of salaries and expenses of current Members, and section 48 covers the provision of pensions and gratuities of former Members.

The amendments to those sections were contained in the Northern Ireland Assembly Members Act 2010, which received Royal Assent earlier this year. Arising from that was a report on financial support and pensions for Members of the Northern Ireland Assembly in June 2010. That led to the Assembly Commission bringing forward, following public consultation, an equality screening of the establishment, through that Act, of an independent body. The route being proposed is very similar to that taken in Wales and England, both of which have moved in a

very similar fashion in the past year or so.

**Ms Tara Caul (Northern Ireland Assembly Secretariat):**

I will outline some of the main themes of the Bill. I am not providing legal advice on the Bill. As Committee members will be aware, the Bill has two Parts. Part 1 provides for the establishment of the Independent Financial Review Panel. The panel will consist of a chair and two other members and will have the power to determine all aspects of financial support for Members of the Northern Ireland Assembly. The Assembly Commission will retain responsibility for the administration of the salaries and expenditure.

The panel is required to exercise its functions with a view to achieving a proper balance between the objective of ensuring probity, accountability and value for money in the expenditure of public funds and the objective of securing an adequate level of remuneration for Members to allow them to discharge their functions effectively.

Pursuant to clause 3 of the Bill, the panel is independent and shall not, in the exercise of its functions, be subject to the direction or control of the Assembly or the Assembly Commission. In addition, the panel is required to exercise its functions in an open and accessible manner.

The Assembly Commission will be responsible for the appointment of the panel members, but Members of the Northern Ireland Assembly will not be members of the appointment panel. Each appointment will be for a term of five years. To ensure that the panel is independent of Members, a broad range of connections to the Northern Ireland Assembly or individual Members will result in disqualification from eligibility. The Committee will see that schedule 1 to the Bill makes provisions as to the persons who are disqualified from being appointed as or serving as panel members.

The appointment of a person as a panel member ceases under the circumstances that are set out in clause 6 of the Bill. The Commission may dismiss a person from office on any of the grounds set out in clause 6(2) of the Bill.

The panel is required to issue a code of conduct. Clause 8 of and schedule 2 to the Bill make administrative and financial provision about the panel.

The general rule will be that a determination will be made by the panel only once in each Assembly mandate. Further determinations may be made as necessary to take account of changes in the law and practice relating to pensions or exceptional circumstances. Unless there are changes in the law and practice relating to pensions or exceptional circumstances, there will not be a determination when there is less than a year between an ordinary Assembly general election and an extraordinary Assembly election. The panel will be required, as far as is reasonably practicable, to make its determination before the election of the Assembly in relation to which the determination relates. I will hand over to my colleague Tony Logue who will continue the briefing.

**Mr Tony Logue (Northern Ireland Assembly Secretariat):**

The panel must communicate its determination to the Assembly Commission as soon as reasonably practicable after it has been made. The Commission must publish the determination in full and cannot amend the determination.

To ensure that the panel operates in as cost effective way as possible, schedule 2 to the Bill provides that the Assembly Commission must provide the panel, or ensure that the panel is provided, with such administrative support, including staff, services and accommodation as it reasonably requires. However, the Commission is obliged to consult with the panel about such support to ensure that such provision, in particular the duties of the staff of the Assembly and the separation of the panel's work from the business of the Northern Ireland Assembly or of the Assembly Commission, does not call into question its independence.

The Commission must make available and pay such sums as are necessary for the fulfilment of panel members' terms and conditions of appointment. It must also pay any expenses properly incurred by the panel.

We will need to make some minor drafting amendments to Part 1 of the Bill. Those will be submitted to the Committee for consideration prior to its informal clause-by-clause consideration of the Bill, which is due to take place on 15 December 2010. A delegated powers memorandum has also been attached to the Bill. That will allow the Commission to add or remove certain classes of person from the list of those who are eligible for appointment to and service on the panel.

The initial financial estimate for running the panel is £15,000 a year. It is estimated that the panel could incur costs of up to £100,000 in the first year of its establishment, while it will incur more modest costs of £15,000 per annum in the other three years. It should be noted that both of those estimates include the cost of administrative support to the panel. However, it is expected that that could be provided by existing Assembly staff.

**Mr Weir:**

That concludes our evidence. We are happy to take questions.

**The Chairperson:**

I have a couple of quick questions. Will the appointments to the panel be by advertisement?

**Mr Weir:**

The appointment process will be handed over in its entirety to the Commissioner for Public Appointments.

**The Chairperson:**

Hopefully, as far as possible, there will be a balance in those who are appointed.

**Mr Logue:**

The legislation is not prescriptive about the background of appointees. However, it is expected that they will come from suitable backgrounds.

**The Chairperson:**

Will you clarify why £100,000 will be spent in the first year of the panel's operation and £15,000 each year after that?

**Mr Weir:**

Richard provided us with a short paper that broke down the costs. Perhaps he can take you through those costs.

**Mr Richard Stewart (Northern Ireland Assembly Secretariat):**

The £100,000 is split broadly between £60,000 for costs for staff to support the panel in its work; £20,000 for external specialist advice and support, which would, probably, be along the lines of

pay benchmarking exercises to compare Members' salaries and pension arrangements here with those of other legislatures; then, obviously, the costs to the panel themselves. We estimate that, in the first year, they would work on around four days per month for six months. For estimation, we have used a daily rate of £320. Similar rates were quoted in this morning's evidence session. That gives a total of around £99,000. Therefore, we suggest that the panel would need £100,000 to do its first determination in the first year.

**The Chairperson:**

What would be the costs for administration in following years?

**Mr Stewart:**

Clearly, the first year would be the big year, in which the panel would have to produce its first report, which would last for the duration of the mandate. In following years, we envisage that two support staff might support the panel on a more modest basis. Perhaps, around 10% of their time would be spent doing that. That would amount to around £9,000 or £10,000. The cost of the panel for a much more modest time period would make up the difference.

**The Chairperson:**

Therefore, panel members would get around £1,500 a year each.

**Mr Stewart:**

It depends. From year 2 to year 4 —

**Mr Weir:**

The estimate that we produced for the panel was worked out using a daily rate. We estimate that the panel's work in the second year and beyond would probably cost just under £2,000 per member. We estimate that there will be around six days' work at £320 per member.

**Mr Stewart:**

That comes from an understanding that the panel would probably meet once every two months.

**The Chairperson:**

I would like clarification on whether the Commission must accept the panel's determination when it is made.

**Mr Weir:**

In that sense, the panel is completely independent.

**The Chairperson:**

In that sense, therefore, could the Commission refuse to accept the panel's determination?

**Mr Weir:**

No. That is not my understanding.

**The Chairperson:**

It could amend the determination by saying that it does not agree?

**Ms Caul:**

Clause 14(2)(b) requires the Commission to publish the determination in full, the effect of which would be that it could not amend it before publication.

**Mr Weir:**

The Commission has no power to either accept it or reject it. That is the amount that is payable. The only option is for an individual member to refuse something if he or she wishes to. The position is the same at present. Members are entitled to a certain amount, which is payable to them. It is up to them to decide whether they want to accept their salaries. That is the same position. It has not changed legally. The Commission has no power to reject the panel's determination.

**The Chairperson:**

For clarification, the reason why the proposal is not viable today is because a majority in the Assembly would not accept any increase in salaries. Is that correct?

**Mr Weir:**

Until now, that has been in the hands of the Assembly itself. Therefore, the Commission would bring forward a proposal. Clearly, political judgement is needed. The whole point of the panel is to take the issue entirely out of the Assembly's hands. Essentially, it will set that determination. It is up to any individual, as it is today, to decide whether to accept what is payable. Neither the



Assembly nor the Commission has power to reject or amend whatever comes forward.

**The Chairperson:**

I just want to clarify that issue while the lawyers are here. The Bill states that the determination will be communicated to the Commission. However, it does not state anywhere that the Commission can refuse to accept the determination. The Commission could vote against it.

**Mr Weir:**

It has no power to do that. It is the same as setting a determination, rejecting it and saying that it should be zero. That would, by definition, be an amendment to the determination.

As in any situation, any individual has the power to take action on that. However, as far as I understand it, the Commission has no power at all to amend, reject or welcome that side of it. That is outside its remit.

**Mr Hugh Widdis (Northern Ireland Assembly Secretariat):**

At the moment, it is structured so that the Assembly makes a determination that sets Members' pay, and that amount of pay is payable. The Commission does not have a role to change that. In accordance with the change to the Northern Ireland Act, all the Bill does is to allow the Assembly to delegate that task to the panel. The panel will then make a new determination, which, broadly speaking, will look similar in terms. The amounts might be different but, broadly speaking, the terms will be similar. It might say that there shall be a salary for Members and that it should be the following amount of money. The Commission will simply administer that. The Commission will have no ability to —

**The Chairperson:**

Neither the Commission nor the Assembly will have any power over the panel's determination?

**Mr Weir:**

That is correct.

**Mr Widdis:**

For the sake of fullness, we should say that the Assembly could theoretically, in future, repeal the part of the Act that established the panel. In that case, the panel would have no power, and the

Assembly would make determinations.

**The Chairperson:**

Is that the only power that it would have?

**Mr Weir:**

Yes.

**Ms S Ramsey:**

Thanks for your presentation. I have couple of points. I know that Peter is here to represent the Commission, but he is also a member of the Employment and Learning Committee, which has had problems in the past with the public appointment issue and brought forward a motion on the Get on Board scheme. This Committee could outline the way that public appointments will go, but other Assembly Committees have difficulties with the outworkings of public appointments and find it hard to get a broad range of people on that list. That was mentioned in the Health Committee. Therefore, we need to be careful and possibly look at the debate on the Get on Board scheme.

Peter said that the £60,000 for staff breaks down into the cost of three people for six days a year.

**Mr Weir:**

No. The £60,000 is the cost of staffing in the first year, which is basically six months' work. In the later days, when there will be six days of a work a year, the staffing costs will be about £8,600 for two people.

**Ms S Ramsey:**

OK. The earlier presentation told us that some administration staff could be in-house, and I am concerned about the figure of £15,000 for both of them. If we do that in-house, we need to say that. That is a general concern.

The Assembly is getting crucified on the whole issue of external consultants, and we are talking about doing a lot of this in-house. A figure of £20,000 for external support does not sit right given that the previous presentation said that the general rule would be that the panel will

make a determination only once in each Assembly mandate. I know that it goes on to say that there could be special arrangements, but how can you say that the staffing costs will be in and around £100,000 for the first year when the panel will make only one ruling during a mandate? We need to sell that to the community. We need more information on that.

Tony mentioned the small number of minor drafting amendments. I know that you will send that detail to the Committee, but will you give us an idea of the amount of money that is involved?

**Mr Weir:**

I will deal with a few of those points. Tara will deal the public appointments question. First, the £100,000 is essentially a one-off cost in each term. The £60,000 staffing cost for the year will not be for additional people who have been brought in. The administrative staff will be drawn from people who are already in the system. It is almost like an accounting exercise; if you divert someone from their existing job to do particular tasks, the ultimate cost of that work will still be approximately £60,000. It is not a question of bringing additional people in.

**Ms S Ramsey:**

I think that we need to highlight that, Peter. It is not additional money.

**Mr Weir:**

We are conscious that, sometimes, the Assembly, or any other legislature, can be accused of presenting a particular figure that has additional costs underneath it because staff are being diverted from other jobs. We are trying to be as upfront as possible about the actual cost of the exercise, as opposed to the cost to the public purse. That explains the bulk of the cost.

The cost of the external consultants, who provide a certain amount of required one-off specialist advice, will be approximately £20,000. That advice is to do with job evaluation and benchmarking, and is a specialist task. That cost will only occur in year 1. Tara will deal with appointments.

**Ms Caul:**

It has been agreed that the Commission will follow best practice established by the Commissioner for Public Appointments. As members know, and as Paul Gill outlined earlier, the Assembly not

bound by the public appointments legislation, but the Commission has committed to following best practice, and we have already consulted with the commissioner in that regard.

**Ms S Ramsey:**

May I suggest that you look at the Committee debate?

**Ms Caul:**

I certainly will.

**Mr Weir:**

Ultimately, we are trying to strike a balance between ensuring that there is openness and inclusivity, and showing a degree of independence.

**Ms S Ramsey:**

I appreciate what you are saying. I am not trying to throw a spanner in the works, but there is another Assembly Committee that has a concern about the issue of public appointments, and we need to learn lessons.

**Mr Weir:**

We are also concentrating on ensuring that, in preserving that independence, there is a wide range of disqualifications so that no one can accuse the panel members of bias. My colleagues may want to deal with some of the minor amendments.

**Ms Caul:**

The amendments to Part 1 are minor, and there are only two or three. For example, clause 13(2)(a) contains a reference to “such pensions”; we will probably remove the word “such”. In clause 11(6)(a), we will consider whether the phrase:

“before the coming into operation of this Act”

should be amended to read

“before the coming into operation of this Part”.

There may be one final amendment to one of the schedules, but I assure the Committee that it is a minor drafting issue.

**The Chairperson:**

Briefly, what is the time frame for this exercise, Peter?

**Mr Logue:**

The plan is to have appointments at the start of the next mandate so that the panel will be in place to make a determination by late 2011 at the earliest.

**The Chairperson:**

Some time in 2011?

**Mr Logue:**

Towards the end of 2011.

**The Chairperson:**

This time next year?

**Mr Logue:**

Yes.

**Mr Dallat:**

The figure of £100,000 sounds sensational, even though Peter and Tara have probably explained away a good part of it. I am not one for copying or plagiarising other people's work, but if this exercise has already been done in Wales and Scotland, why does so much work have to be done here?

**Mr Weir:**

There will be a degree of benchmarking. The idea is that we have to look at what has happened elsewhere and in other sectors. There will be a one-off cost in the first year, which will include some benchmarking. That will recur in the first year of each term, but the general running costs for the rest of the exercise will amount to approximately £15,000.

**Mr Dallat:**

It is important to note that the Public Accounts Committee accepts that the Assembly does not have all the specialist skills, and because they are only ever needed on a one-off occasion there is

never any criticism of employing specialist people. That is an efficiency rather than an extravagance.

**Mr Weir:**

I point out that the specialist element in respect of the benchmarking equates to about £20,000. I do not want to give people the impression that it was £100,000 for the specialist side; that was just for the benchmarking exercise.

**The Chairperson:**

Thank you very much.