



Northern Ireland
Assembly

**COMMITTEE FOR
FINANCE AND PERSONNEL**

OFFICIAL REPORT
(Hansard)

**Allowances to Members of the Assembly
(Repeal) Bill**

16 June 2010

NORTHERN IRELAND ASSEMBLY

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FINANCE AND PERSONNEL**

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Members present for all or part of the proceedings:

Ms Jennifer McCann (Chairperson)
Mr David McNarry (Deputy Chairperson)
Dr Stephen Farry
Mr Simon Hamilton
Mr Mitchel McLaughlin
Mr Adrian McQuillan
Mr Declan O'Loan
Ms Dawn Purvis

Witnesses:

Rev Dr Robert Coulter) Northern Ireland Assembly Commission

Mr Tony Logue) Northern Ireland Assembly
Mr Hugh Widdis)

The Chairperson (Ms J McCann):

I welcome Rev Dr Robert Coulter, MLA and member of the Assembly Commission; Dr Hugh Widdis —

Mr Hugh Widdis (Northern Ireland Assembly):

I am just Mr.

The Chairperson:

I am sorry. I welcome Mr Hugh Widdis, who is the Director of Legal Services, and Tony Logue, the Clerk of the Commission. Please make some opening remarks before members ask questions.

Rev Dr Robert Coulter (Northern Ireland Assembly Commission):

Thank you for receiving us today. I am pleased to have the opportunity to meet with the Committee in relation to the Allowances to Members of the Assembly (Repeal) Bill. I will provide an introduction and my colleagues will give details of the technical side.

On 4 May 2007, prior to the restoration of devolution and the de-suspension of the Assembly Commission, the Secretary of State wrote to the Chairperson of the Review Body on Senior Salaries (SSRB) seeking its agreement to conduct a review of the existing structure for salaries, expenditure and pension benefits payable to Members and office-holders of the Northern Ireland Assembly. Following on from that, in June 2007, the newly-appointed Commission engaged with the SSRB and agreed the terms of reference for a review.

Recommendations arising from the SSRB report were originally included in the Commission's 'Report on the Pay, Pensions and Financial Support for Members of the Northern Ireland Assembly'. However, a motion to approve the report was not moved during the plenary sitting of the House on 30 November 2009. Since then, the Commission has considered the matter further, has consulted with the Assembly parties at length and has taken note of developments in other legislatures.

The Commission has decided to move ahead with the reform of the allowances regime by presenting a modified report to the Assembly and preparing the necessary Bills and draft determination to give effect to the recommendations. This Bill is a small but important part of that work. A further Bill is being developed to establish an independent statutory body to determine the future pay, pensions and financial support for Members of the Assembly. The policy consultation on the draft Bill will begin on 30 June 2010.

For the new allowances regime to come into force at the earliest opportunity, the Commission wishes to seek accelerated passage for the Bill so that its operative provisions can commence on 1 September 2010. The new draft determination making allowances to replace those repealed by the Bill will be put before the House for approval in the week beginning Monday 28 June 2010.

Although the Commission's view is that accelerated passage should not be sought lightly, a Committee stage would generate further delay in bringing the key recommendations into effect, which would consequently delay the necessary changes in improved governance, transparency and accountability. I now invite our director of legal services, Mr Hugh Widdis, to provide further details on the background to the Bill and the proposed legislative timetable.

Mr Widdis:

Thank you. Although members will know me in my role as legal adviser to the Committee, I am not here today in that role. I am here as a witness on behalf of Dr Coulter and the other members of the Assembly Commission as a separate statutory body. Therefore, what I say is not legally privileged; it is not legal advice. I am just here as a senior manager from the Assembly Commission's support secretariat to inform the Committee about the proposal. It will be for the Committee to decide whether it wishes to take legal advice; and if it does so, another lawyer from the office will provide that advice. That should not be a problem in any way.

As Rev Coulter indicated, this is part of a bigger project with several interconnected issues in and around reforming financial support to Members, including the report from the Assembly Commission, which has nearly been finalised and will be before the Assembly soon. The aim is to enhance accountability in the system. It is about adopting the 10 principles that have been devised and agreed between the parties representing the Members of the Assembly.

A big part of this will be the development of an independent body to set salaries, allowances and pensions in the future. The Commission's proposal, which will come to the Assembly, is to create such a body so that the Assembly will no longer have the power to decide those issues. Until we get to that stage, we will be updating our existing allowances provisions in order to provide proper financial support for Members. Therefore, it is that updating of existing provisions on allowances that takes us to the Bill.

There are three allowances that are actually allowances for former Members — winding-up allowance, resettlement allowance and ill-health retirement allowance — and they are currently governed by an Act of the Assembly. In order to change those allowances in the way that has been recommended by the Senior Salaries Review Body, we need to amend that Act of the Assembly or repeal it altogether, which would be preferable in the Commission's view, and make

all allowances covered by a single determination, which, again, will come before the Assembly later in the month. Full details about the Bill, and a copy of the Bill, were set out in the letter from the Commission to the Committee on 4 June.

The reason we are here today is to talk about the proposal for accelerated passage. There was an issue, with respect to Standing Orders, about which Committee would be the proper one to approach. I do not know whether this Committee has discussed that matter, but I assure members that discussions were held between Commission and Committee officials to determine which Committee would be most appropriate to approach. That is why, to some degree, we have ended up here, and I am happy to discuss that issue if Committee members wish me to do so.

I will now speak about the reasons for accelerated passage, and what the consequences and future use of that facility might be in relation to this matter. The reason for requesting accelerated passage is that the Commission thinks it desirable to move on rapidly with allowances now that a position has been crystallised, and to get them in place for the start of the next Assembly year, notionally speaking. We have gone for 1 September even though recess ends on 5 September because it is easier to do financial calculations from the start of the month.

The policy content of the Bill is very low as it is just one part of a whole package. It is a relatively technical part, which just repeals existing provisions so that we can put new provisions in their place. The Assembly will have every opportunity to discuss those provisions when they come before it later in the month. Although it is not for me to decide, there is a question as to whether a Committee Stage would add anything further of value, especially as the Commission has already consulted with the parties and has had quite a lot of meetings to discuss the appropriate approach.

We are also required to state the consequences of not proceeding by accelerated passage. From a procedural perspective, the main consequence would be that there would have to be a Committee Stage, and there may be a wee consequence concerning which Committee would be appropriate to undertake that work. The bigger practical consequence would be that there would have to be a Committee Stage; and perhaps this Committee might take it, or the Assembly might direct that an Ad Hoc Committee should take it, which might put a burden on the Assembly during its already busy legislative year. However, the main practical result, leaving procedural issues aside, would be that the Bill could not all come into force on 1 September, which will be

the Commission's recommendation to the Assembly.

Finally, we have been asked to identify steps taken to minimise future use of accelerated passage. There is a slightly different situation for the Commission compared to, for example, a Minister, because the Commission does not normally bring forward Bills. Unlike a Minister, the Commission does not usually need primary Assembly legislation in order to do its business. This Bill is a one-off, and we therefore think that because there are unlikely to be many future Bills, the Commission cannot really do much to prevent future use of accelerated passage.

That said, the Commission does have one other Bill in mind, and if the Assembly accepts the Commission's recommendation to establish an independent body to set salaries, etc, in the future, a Bill will be required for that. As regards minimising future use of accelerated passage, the Commission has already agreed that that Bill will go through the full Assembly procedure and that there will be no request from the Commission for accelerated passage. I have addressed what I understood the Committee should be informed about, but my colleague Mr Logue and I, and, of course, Reverend Coulter, are very happy to take any questions or have any discussion about it.

The Chairperson:

Thank you very much. To sum up, the Bill is to repeal the current legislation in order to pave the way for other legislation so that an independent body can set pay, salaries and expenses.

Mr Hamilton:

I am sure we are all ecstatic in this Committee that we have been chosen to deal with the ever-popular issue of allowances for Assembly Members.

Forgive me if I get something wrong, but the main thrust of the Bill seems to be to repeal the 2000 Act in order to allow for the creation of an independent body to deal with pay and allowances for Members in the future. Is that correct?

Mr Widdis:

The immediate thrust of the Bill is to repeal the 2000 Act to allow the Assembly to change the existing allowances. That will be done during the next few weeks, when a report from the Commission will be brought to the Assembly, and a determination, which is a legal mechanism at a lower level than an Act, will be made to make provision to take us up to the time when the

independent body can take over the matter from the Assembly entirely.

Mr Hamilton:

I am not sure whether other Committee members feel the same way, but that makes me uneasy. There has been much difficulty and many problems in this area, and everyone wholeheartedly agrees with the sound principle of getting an independent body to deal with it in the future. We have accepted that principle, and it is contained in the explanatory and financial memorandum, and we are moving towards that. However, in the interim, Assembly Members will still be making changes to the allowances, which runs contrary to that principle.

Mr Widdis:

The Commission is conscious that it will take some time to legislate for the independent body and get it up and running. The Commission also has the report from the Senior Salaries Review Body stating the allowances that should be in place. It does not want to leave the issue indefinitely and is trying to put some improvements and enhancements in place.

Mr Hamilton:

I understand. However, it seems to fly in the face of the principle of having an independent body to deal with these types of issues.

Mr Widdis:

The Commission's view is that if the independent body could be set up tomorrow, those decisions would not need to be left in the hands of Members. There is a lead-in time for these matters, and this is an attempt to do it properly and with a full public consultation. The Commission feels that it must not be seen to be leaving the allowance regime unreformed, and that some movement should be made on the issues now. It has spent some time examining the issue and consulting the parties about what is suitable and what everyone wants to happen, and its agreed position is to do something now and not just wait until the independent statutory body comes into existence.

Mr Hamilton:

I have a question about one of the changes that is to be made to the allowances, but it is probably not appropriate for me to ask it at this stage. Indeed, I do not want to do so, because if I ask a question about one of the allowances, I may be asked about why I am doing so and what interest I have in the matter. I will ask my question through other channels, rather than do so now.

I understand that there is a desire in the Commission to set up the independent body as soon as possible. However, there is an inconsistency, and I am slightly uneasy about it.

Dr Farry:

I want to play devil's advocate with this issue to some extent, and I have two questions. Am I correct in saying that you are making a distinction about the nature of public consultation? You are making the argument that there is merit in having a public consultation on the independent body on salaries, and that that would be a good thing. However, are you explicitly saying that on this issue you are satisfied with the consultation up to this point; which, in effect, has been an internal Assembly consultation achieved through soundings by Commission members and their respective political parties? By definition, you are saying that the nature of any consultation is prejudged by that "selectorate" rather than the wider public.

Rev Dr Robert Coulter:

The Commission consulted widely with the SSRB on that point. As far as consultation is concerned, the Commission felt that the SSRB gave it enough of a steer to allow it to go forward with that section of the recommendations without dealing with the actual salaries.

We thought that it would be better if we could clear this section, which is creating difficulties, and take it forward, so that there would be public and internal consultation on the appointment of an independent body.

Dr Farry:

My point is that we are, in effect, making a statement that we do not believe that there is a need for the public to have the opportunity to have their say on the narrow issue of allowances. We are making a prejudgement that that is an internal issue.

Mr Widdis:

That is a very good point. The Commission's response is that setting up an independent body to take responsibility for setting financial support for members in the future is a fairly substantial, constitutional, institutional architecture issue, although not the largest constitutional change that we have seen. Therefore, it is right that there should be full public consultation.

With regard to this mechanism, there is a view that when determinations are made in relation to other allowances, it is an internal Assembly matter. The law currently states that it is an internal Assembly matter and it does not impose, or even suggest, any requirement for public consultation. The Bill is just a technical means to further that mechanism and, therefore, when that is balanced against the desire for the Bill to be passed by 1 September so that it can start at the beginning of the next Assembly year, it is preferable to go for accelerated passage now.

The Assembly Commission's report, which covers all of those issues, along with the determination that generates the coverage for the allowable expenditure for the allowances, will come before the Assembly for full debate later in the month. There is no attempt not to be public about this; this is just the mechanism by which it becomes public. Therefore, it seems to be more appropriate to have the Bill passed by 1 September. There will be a full debate on the determination and the report in the House.

Dr Farry:

It is useful to have that rationale on the record.

You said that it is intended to have this in place by 1 September. Why is there a rush to have the legislation ready by 1 September this year as opposed to 1 May next year, which would seem to be a more obvious break, as it will be the transition from one mandate to another and when much of what is in the Bill will kick in? Demand for the allowances from 1 September 2010 to 1 May 2011 will, I imagine, be fairly low, whereas it may become an issue from 1 May.

Mr Tony Logue (Northern Ireland Assembly):

This has to be taken as part of a wider package of changes that will be brought forward on 28 June. Many of those changes are arising as a result of the public scrutiny of expenses here and nationally at Westminster. The report that we will bring forward on 28 June will deal with a number of issues around governance, accountability and greater transparency. Following the setting up of the Independent Parliamentary Standards Authority, the feeling was that the Assembly was lagging behind in ensuring that governance arrangements were in place. So, this is part of a bigger picture of improved governance and, therefore, it was felt that it should be brought in sooner rather than later. There has been a high level of public criticism in the media as to how we improve or develop.

Dr Farry:

Are you saying that there is a sense that the Assembly is deficient in its current provision and that there is an urgency to rectify that?

Mr Logue:

I would not go so far as to use the word “deficient”. However, in light of the changes in other devolved institutions and changes nationally, there is room for improvement in the proper standards of accountability and transparency that we have in place.

Dr Farry:

Putting that to one side, what would we lose if this were to happen on a timescale leading to commencement on 1 May or just ahead of that date?

Mr Logue:

We would lose a fair degree of public credibility in that we would not have made the necessary reforms that we should have taken forward sooner rather than later: that is the main consideration. In parallel with this work and the determination that we will be bringing forward, we will also be producing a new Members’ Financial Services Handbook that will improve guidance for Members when claiming allowances and expenses. That will come into effect on 1 September.

Much of what we are doing relates to improved governance. We are not acting in isolation, but on the back of a report by the Senior Salaries Review Body that has been in place since 2008. As Members know, we attempted to bring that report to the Assembly in a plenary sitting last November, but the motion was not moved for reasons connected with the salary implications. Some parties were uneasy about bringing forward salary improvements at that time.

The report that we will produce next will be mostly about governance and accountability issues and will recommend no salary improvements. The pressure is on the Commission to act sooner rather than later.

Mr McLaughlin:

We are all in the same area, and I think that Stephen Farry has covered the main line of questioning.

I am not clear about one thing: I am concerned that public perception might be that rather than take this phased approach it would be more appropriate to act in what appears to be the settled view of the Assembly, which was to refuse to support recommendations for salary increases. We should proceed to make the necessary arrangements to repeal the existing legislation, put the new legislation in place, empower the new independent review body, and from that point onwards deal across the board with salaries, allowances and so on.

It is not clear to me why we are taking a piecemeal approach, rather than straightforwardly reflecting the views of the Assembly. The Assembly has clearly set its face against salary increases, and members of the general public will view the other expenses in that context. Why not move from the status quo to the new independent structure and ask it to address these issues in a timely fashion?

Mr Widdis:

That is the Commission's intention, but it cannot be done overnight and it will take a while to scope out the body.

Mr McLaughlin:

I understand that. If it runs into next year, then it runs into next year.

Mr Widdis:

Yes, although that brings us back to the point that I made in one way, Mr Logue made another way and Reverend Coulter made in a third. If that happens, the Commission feels that the Assembly will be seen to be sitting still until it gets the independent body up and running. There are the existing recommendations from the SSRB from November 2008, and improvements or changes that are going on in other institutions, such as the Independent Parliamentary Standards Authority in Westminster and the National Assembly for Wales Remuneration Board. The legislation for that body has been passed; the body is being set up and it is moving on.

In relation to salaries, the report coming to the Assembly does not recommend any increase.

Mr McLaughlin:

I understand that.

Mr Widdis:

It deals only with allowances, and in a relatively restrictive way. For example, in respect of one of the allowances, all that will be done is to change the rules under which Members may receive it. At present, entitlement to resettlement allowance is calculated on a matrix that is based against length of service. However it starts at 10 years, and anybody who has up to 10 years' service will get the same amount. The SSRB recommended that it should reflect length of service more precisely. Therefore, it should be linked directly to length of service. The Commission wants to implement that now rather than wait.

Mr McLaughlin:

I accept the need to reform, update, and reflect best practice elsewhere; I have no difficulty with that. But these are difficult and exceptional economic times, and there is unprecedented scrutiny taking place. I also think that there is cynicism about how politicians deal with these matters. Therefore, I welcome the fact that we are moving to a transparent and independent process.

There is also the issue, the reasons for which I understand and support absolutely, that the transformation of our society in recent years has meant that we are, to a considerable extent, overgoverned. There are too many Departments, too many MLAs and too many office cost allowances. The per capita expenditure here is significantly higher when compared, on a pro rata basis, with that of other Assemblies. I do not know whether that has been factored into the discussion on allowances. We have more MLAs and constituency offices than anywhere else. If one simply were to take a per capita figure in respect of representation and providing constituency service, one might look quite critically at the existing levels of support. It is a job of work. Perhaps the Commission is in a position to do that, or perhaps it is something that the new independent body will have to consider. We are in a transition phase, and I do not support the argument for reducing representation until we have developed the necessary corporate coherence that exists in other Assemblies. We are moving in that direction and making good progress, but we are not there yet, as we see every day in the Assembly and as we see with the difficulties in the Executive.

Therefore, in making the necessary allowances for time to change and mature the process, we have to be conscious that the public are looking at the Assembly and wondering whether it adds up to value for money, or whether it is a case of politicians having with their noses in the trough.

A lot of people, taking their lead from the popular press, will have that view.

Mr Logue:

It is fair to say that this piece of legislation, with the totality of what will come forward on 28 June, will lead to substantial financial savings as a result of the change in the allowances regime that we are going to bring forward. Therefore, from the public perspective, it will be shown clearly that we are cutting back substantially in the level of support across some of the areas. There will be an increase in expenditure in one particular area, which is the resettlement expenditure. However, that is to do with our mirroring of a national scheme, which was around equity in that process, which we had to consider. Therefore, we need to bear that in mind. The other point is that by not taking an increase in salary, and Members have not had a salary increase since 2005-06, which will also show up as a substantial saving in running costs of the Assembly. It is also important to bear that in mind.

The Commission's view is that issues that we are dealing with will lead to greater transparency, improved governance in what we do and improved public perception of how we provide allowances and support Members.

Mr McLaughlin:

Thanks for that Tony, and I accept it. What I am picking at, I suppose, is the timing. Is next year's election and the possible retirement or failure to re-elect individuals driving the timetable?

Mr Widdis:

The allowances for former members are driving it to some degree, but they are not the primary driver. The primary driver is the Commission's desire to move on with what can be done to improve things now rather than wait until an independent body is set up to solve all the problems for all the membership, which was on the back of an SSRB report that was presented in 2008 and a Committee on Standards and Privileges report that was presented in the interim and which made recommendations about improving the system.

Mr Hamilton:

I want to go back to a point that Mitchel raised, because we did not get a satisfactory answer. All of this has to be viewed in the context that, rightly or wrongly, the utterly disproportionate reaction to some of the issues has made us fearful of, or has prevented us from, making sensible

moves forward. We must bear that context in mind. This is not just about salary; indeed, some commentators have said that if salaries had been bigger, some of the scandals and problems at Westminster might not have happened.

I do not think that it is OK to say that you are bringing changes forward, but that as there will be no salary increases, it will be all right. The focus has been on allowances. The point that Mitchel made relates to my original point. If we have acceded to the principle of having an independent body to do this work in future, is this a case of having one last hurrah — which is the way in which this could be characterised — by repealing an Act to bring in a new allowance regime? Tony has made the point that, in one case, some Members will receive much more generous settlements. You said that there would be an increase in expenditure. By doing that in advance of —

Mr Logue:

I would not say that the settlements will be much more generous. There will be an increase for longer-serving Members. However, the overall cost difference will be very small.

Mr Hamilton:

It is hard to know what will be paid, because it is dependent on retirement and the result of an election. One can never predict exactly what is going to happen. Some long-standing Members will do very well; others will do less well.

Mr Logue:

I will give an example of the converse of that. We had a situation in which we had a co-opted Member who stayed for eight weeks and received a resettlement figure of half salary, which was in excess of £20,000. We are moving to a more equitable situation in which amounts are paid on the basis of length of service up to nine months maximum for a year's annual salary.

Mr Hamilton:

Over the past year, I have noticed that logical arguments in response to these issues do not carry much weight. You are absolutely right; situations such as that probably triggered us to look into this matter. However, it does not take away from the fact that, in advance of the independent body being in place, we are paving the way, by repealing the legislation in question, for some individuals to receive much more generous settlements. I understand the principles involved, and

I do not disagree with them, but we have all been burned. We are a little cautious; that is why we are probing the matter in this way.

Mr Widdis:

The current resettlement allowance is calculated in a particular way that guarantees that all Members with less than 10 years' service get the same level of allowance. As Mr Logue says, if a Member is currently co-opted on the retirement of another Member a month before an election and is not re-elected, he or she gets exactly the same resettlement allowance as a Member who has been here for 10 years. That is something that the SSRB criticised, and the Commission recognises that it is wrong.

If the Assembly chooses to do so, the situation could be left the way it is until the 2011 election, and, probably, a wee bit beyond, until the independent statutory body is established and has had time to get its feet under the desk and make new determinations. The Commission's view is that that is not an appropriate way to respond. It feels that the Assembly should act on some of its responsibilities now, where it can do so, in order to show that it is doing what it can in the report. Apart from dealing with that issue, the Commission is dealing with a whole range of other issues, as Mr Logue says, to improve accountability, transparency and appropriateness of different parts of the allowances.

I am driving back to the question of why this is not being left to be solved by the independent body later on. The Commission will be recommending that action is taken on some of those matters now.

Mr Logue:

Over a number of months, there have been independent discussions with parties at a senior level around the issues coming forward in the report. There is cross-party consensus that the report that we are bringing forward is reasonable; and I hope it will be agreed on 28 June. There seems to be a reasonable sense that we are moving forward in the right way.

Mr Widdis:

I will say one last thing about resettlement allowance. There will be a lot of assumptions built in. We based our calculation on the assumption that 30 Members are not returned at the election. That makes a net saving of £30,000. That is just one element of the full package that is being

presented.

Mr Hamilton:

I know. However, there will be a tranche within those 30 people who will be better off under the change than they would be were it not made. Logic and common sense have been jettisoned in this debate, but I take your point.

Mr Widdis:

I am not entirely sure that they would be better off, but I would not know for sure without doing the scoping out. Perhaps we will produce the calculation and provide it afterwards, because the new determination will come before the House in a couple of weeks. I am sure that you would like to be informed before that stage.

Mr Hamilton:

Yes.

Mr Widdis:

I am sure that we could do that calculation and have a look.

The Chairperson:

Further to Simon's point, will the Assembly be able to vote on that determination?

Mr Widdis:

Yes.

The Chairperson:

It will, therefore, be the Assembly's decision.

Mr Widdis:

A motion will be laid by Commission members asking the Assembly to approve the Commission's draft report. Attached to the Commission's draft report will be a new determination, which will cover allowances.

Ms Purvis:

I would like clarity on one point. Have all the parties that are represented on the Commission agreed this?

Mr Logue:

Substantially, yes. It was considered in a Commission meeting yesterday, and it will be brought forward for debate in an agreed motion signed by all Commission members on 28 June.

Ms Purvis:

From that, can we assume that all the parties represented on the Commission will agree to this?

Mr Logue:

Yes.

The Chairperson:

Most members agree that an independent body would be a better place for decisions about salaries and allowances, etc, to be made. Concerns have been voiced here about the resettlement allowances. You are saying that there will be no determination made on that until it goes into the Assembly. So, Members will have the opportunity to look into that in more detail. As Committee members have said, a number of Members might be leaving. I have a concern about that as well. What about Members who leave to go to another Parliament? Will they be considered for a resettlement allowance?

Mr Widdis:

Under the current arrangement, a Member who leaves during the mandate or decides not to stand for election is not entitled to a resettlement allowance.

The Chairperson:

Do you mean Members who are going to another Parliament?

Mr Widdis:

They might be going to another Parliament, or they might be retiring. They will not get a resettlement allowance. They will get a winding-up allowance, which is linked to office costs allowance (OCA), to help them wind down their constituency offices or business. That is an

existing allowance, and it mirrors allowances elsewhere.

The Chairperson:

Will we have an opportunity to debate that and get more clarity on it in the debate?

Mr Widdis:

Yes. This Bill is about repealing the existing arrangements.

The Chairperson:

I understand that. Thank you for attending this morning's Committee meeting.