

13 December 2019

Dear all

**Re: Decisions on parts two and three of the Review of the Determination for the Sixth Assembly**

I am writing to you with a summary of the Board's decisions following its consideration of the responses received from the **second and third consultations** arising from its review of the Determination for the Sixth Assembly. The Board is very grateful to those who shared their views as part of the consultation processes. Having carefully considered the responses it received, the Board's conclusions on each of the proposals is outlined under the relevant proposal below. For the purposes of part two of the review some proposals have been grouped together for ease of reference.

**Part two of the Review: Support for Members and Political Parties including changes to the Members' Pension Scheme Rules**

***Proposal 1: The Board is proposing to amend the recruitment policy to clarify that there is no restriction on the ability of Members to recruit to fixed term contracts and for those contracts longer than six months in duration, to be subject to an open and fair recruitment process.***

The Board considered the responses to this proposal and noted that all respondents agreed and welcomed the proposal to allow more flexibility for Members and Political Parties to recruit to fixed term contracts, subject to some concerns.

The Board noted some reservations about introducing this greater flexibility, and a suggestions that this proposal should be reviewed following its implementation. The Board also noted the request for the proposal to be implemented for the remainder of the Fifth Assembly in order to maximise flexibility available to Members in the final year ahead of the 2021 Assembly election.

After considering the responses, the Board agreed that it would be appropriate to amend the original proposal and set a maximum period of 18 months for fixed term contracts. It

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remained of the view that all contracts longer than six months in duration be subject to an open and fair recruitment process.

The Board believes it would be appropriate to implement this for the remainder of the Fifth Assembly, subject to consultation. This proposal is now subject to consultation as part of the annual Review of the Determination for 2020-21, as noted in the Board's update letter (dated 6 December 2019) following the November meeting. The closing date for the consultation is 7 February 2020.

The Board also agreed that this provision should be reviewed after 12 months. The purpose of doing so is to provide an update on the effectiveness of the provision and to ensure that it does not detrimentally affect the rights of staff. The Board also agreed that if there are any future changes to employment legislation then the provision may need to be amended to reflect that.

Having agreed to implement the amended proposal, the Board also considered the issue raised relating to fixed term contracts for covering periods of maternity leave. There was concern that in the case of maternity leave being longer than six months in length that having to undergo a formal recruitment process for a further duration when cover is already in place can be a waste of time and resources for both the Member, staff and potential job applicants. As such the Board agreed that fixed term contracts to cover maternity leave of staff should be set at 12 months in line with statutory maternity provisions. These contracts will also be subject to an open and fair recruitment process. The Board also agreed that this provision should apply to maternity, adoptive and shared parental leave.

***Proposal 2: The Board is proposing to allow Members to decide on the starting salary of their support staff and decide on incremental pay rises following probation subject to the Starting Salary Criteria.***

***Proposal 6. The Board is proposing to allow the Leader of a Political Parties to determine the starting salary of their support staff and decide on incremental pay rises following probation, subject to the Starting Salary Criteria.***

All respondents agreed with the intention of the proposal to allow a Member/Party Leader to place new staff on a higher starting salary than the scale minimum (though all new staff are expected to enter on the scale minimum for the appropriate band). All respondents also agreed with the proposal to allow a Member/Party Leader, following the completion of the probation period, to move the staff member up the incremental scale to point 2 in

advance of the anniversary of the commencement of employment. Members and Party Leaders will be expected to pay regard to guidance on the starting salary criteria prior to taking any decisions on starting pay of their support staff.

Some respondents asked for clear guidance in relation to the starting salary criteria to be made available.

The Board therefore agreed to the proposed changes for the Sixth Assembly. In doing so the Board also agreed for the secretariat to engage with the Representative Groups in developing the relevant guidance. In addition, the Board also agreed to a 12 month review of this provision to evaluate its implementation and the application of the guidance.

***Proposal 3. The Board is proposing to allow support staff who are made redundant as a result of an office restructure, and who are entitled to a redundancy payment to be entitled to a 100 per cent uplift of the statutory entitlement, which will be funded from the Member's Staffing Expenditure Allowance.***

***Proposal 7. The Board is proposing to allow [Group] support staff who lose their jobs as a result of an office restructure to be entitled to a 100 per cent uplift of the statutory entitlement, which will be funded from their Political Party Support Allowance.***

***Proposal 8. The Board is proposing that [Group] support staff who are made redundant as a result of a Political Party being fewer than three Members in number, or when an individual Member joins a Political Party, be entitled to redundancy payments with a 100 per cent uplift.***

The Board considered the responses to the consultation in relation to Proposals 3, 7 and 8 and noted that not all respondents were supportive of providing 100 per cent uplift on statutory redundancy entitlement for staff who are made redundant in the circumstances outlined in the proposals and that it is funded from the existing Allowance.

The Board also noted the additional circumstances raised by some respondents in which 100 per cent uplifts could apply. Such situations included those where support staff are made redundant as a result of ill health of their employing Member, or staff made redundant as a result of the Board's previous decisions regarding the employment of family members.

The Board's discussions on these proposals centred on which circumstances of redundancy could reasonably be "expected" or "unexpected" for support staff and agreed that in cases

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of “unexpected” redundancy, then a 100 per cent uplift should apply. As such the Board agreed that in all the circumstances outlined in Proposals 3, 7 and 8 and in addition in circumstances of Member resigning due to health reasons, these would “unexpected” situations and in reality could happen very quickly. Therefore the Board agreed that in all these circumstances, a 100 per cent uplift, as outlined, should apply.

The Board agreed that in the circumstance of staff made redundant due to being a family member a long notice period has been given of the decision of the Board concerning family members, which was made in April 2019 and will not take effect until the end of the Sixth Assembly, due in April 2026. As such the Board did not agree that this situation should be subject to a 100 per cent uplift.

***Proposal 4. The Board is proposing to ensure that interns, other than those on higher education placements, who are on placements of longer than four weeks be paid a salary equivalent to the band three scale minimum.***

***Proposal 9. The Board is proposing that interns, other than those on higher education placements, who are on placements with a party group of longer than four weeks be paid a salary equivalent to the band three scale minimum.***

The Board considered the responses to these proposals and noted that not all respondents agreed with them. The Board is keen to reiterate that these proposals are for internships other than those organised through a further or higher education placement which could take place over a number of months. The Board did not consider it necessary to put in place a recruitment process for interns but would encourage Members to undertake one if they felt it necessary to do so.

The Board believes the best interests of both Members and interns are at the heart of the intention of the proposals, and as such it agreed the proposals in full. The Board hopes its proposals will also assist with the objectives of equality, openness and fairness in relation to internships. In keeping with this, the Board also agreed to introduce guidance in relation to interns and for the Representative Groups to be influential in its development.

***Proposal 5. The Board is proposing to introduce a procedure for volunteer placements in Members’ offices.***

***Proposal 10. The Board is proposing to introduce a procedure for volunteer placements in party Group offices.***

Considering the responses to these proposals, the Board noted the general support for them and also the suggestion for having guidance for volunteers who are in place for less than four weeks. The Board agreed the proposals and will engage the Representative Groups in the development of a volunteer procedure.

**Part two of the consultation on Part two of the Review: Changes to the Member's Pension Scheme Rules**

***Proposal 1. The Board is proposing to change the Rules of the Assembly Members' Pension Scheme in order to comply with age discrimination requirements with regard to Scheme members aged 75 or over.***

***Proposal 2. The Board is proposing to amend the Scheme rules to allow Scheme members who have a life expectancy of less than 12 months to be given the option for their ill health pension to be fully exchanged for a cash sum. This would be in addition to existing ill health and death in service provisions within the Scheme rules.***

All responses to the proposals to change the Members' Pension Scheme Rules were supportive. The Board agreed to instruct legal specialists to draft the changes on their behalf and the Board will consider and agree the rule changes for implementation as soon as possible.

**Part three of the Review: Members' remuneration and additional support for Members**

***Proposal 1. The Board would welcome your views on its proposal to maintain the current salary levels payable to Members and office holders, subject to annual indexation, for the duration of the Sixth Assembly.***

All the respondents to the Board's first proposal from its third consultation were supportive of the proposal to maintain current salary levels subject to annual indexation. The Board agreed the proposal for the Sixth Assembly.

***Proposal 2. The Board would welcome your views on its proposal to amend the Determination for the Sixth Assembly to provide that a person designated under section 49(6) of the Government of Wales Act 2006 to carry out the functions of the Counsel General is entitled to be remunerated for the period of their designation in accordance with the office holder salary payable to a Counsel General.***

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All respondents who addressed this proposal in their responses were supportive. The Board agreed the proposal.

The Board also considered advice regarding the similar position of a First Minister designate. The Government of Wales Act provides for the Presiding Officer to designate a person to exercise the functions of a First Minister in particular circumstances (section 46). The Board therefore believes it would be prudent to put in place a similar provision. This proposal will be included in the final consultation on the draft Determination early next year.

***Proposal 3. The Board would welcome your views on its proposal that, in order to provide greater clarity, the Determination for the Sixth Assembly should include provision to enable Members to reclaim expenses incurred in the discharge of their responsibilities as an Assembly Member, where such expenses arise as a result of a disability which meets the definition in the Equality Act 2010.***

The Board noted that respondents supported the proposal to develop a new chapter in the Determination to provide support for Members with disabilities. The Board agreed that the intention of this new chapter should be to reduce barriers to and attracting a more diverse range of potential candidates to stand for election to the Assembly. The Board agreed that the chapter should encompass support for Members, support staff and constituents.

The Board will be writing to the Assembly Commission to confirm its decision of the new provisions to support additional needs within the Determination with the intention of providing greater clarity of how support can be accessed from the Determination and that it encompasses matters currently funded by the Commission's Equality and Access Fund. The Board agreed to consult on the detail of these new provisions as part of its consultation on the draft Determination which will be issued in January 2020.

***Proposal 4. The Board would welcome your views on its proposal that Members should be able to claim a contribution to assist them with necessary costs for the care of children or other dependants. Reimbursement will be subject to a specified monthly limit, and will only be payable on the basis of the production of receipts from regulated care providers for additional caring costs incurred to enable Members to carry out their duties as Assembly Members.***

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The Board noted the general support in responses of the proposal to assist Members towards necessary costs for the care of children or other dependents. The Board agreed in principle to include provision within the Determination to assist Members with the costs for the care of children or other dependents and agreed to consult on the specific detail of the provision as part of its consultation on the full Determination in January 2020.

***Proposal 5. The Board would welcome your views on its proposal that, in order to remove a potential barrier that might otherwise deter Members from accessing support relating to their disabilities; childcare or other caring responsibilities; or additional Residential Accommodation Expenditure allowance relating to dependants normally resident with the Member in Cardiff, claims made in relation to these allowances should be published on an anonymised, aggregated basis for each allowance rather than being attributed to individual Members.***

All respondents supported the proposal so that claims by Members of allowances relating to disability, childcare and caring responsibilities are published annually on an anonymised and aggregated basis. The Board agreed the proposal for the Sixth Assembly.

***Proposal 6. The Board would welcome your views on whether the current arrangements in place for Members who wish to take some form of parental leave give rise to any potential barriers, and if so, how those barriers might be addressed.***

The Board noted the broad support for the proposal to strengthen and clarify provisions within the Determination to support Members wishing to take some form of parental leave. In considering the responses the Board noted the Assembly's Business Committee's intention to introduce proxy voting, initially, for Members taking parental leave.

The Board also considered responses calling for similar arrangements available in Westminster for MPs recently with a view to creating provision to support the idea of a "locum AM". The Board noted that it is not possible to replace an elected Member for a temporary period with a "locum" as there are essential elements of the role that cannot be undertaken by anyone other than the directly elected Member. However it is possible to provide additional resource in place to help manage work in the Member's absence, such as is provided for MPs. As such the Board agreed that it would further consider proposals around how to provide additional resource to Members who undertake parental leave.

The Board therefore agreed to consult on detailed provisions as part of the consultation on the full Determination in January.

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The Board also discussed the issue of remuneration for temporary office holders during a period of such leave as it was raised by one respondent. The Board agreed to further consider this issue at its next meeting.

### **Other matters**

The Board considered other matters raised in responses relating to support staff following the Board's Report on the Review of Staffing Support (July 2019). Some respondents highlighted the increase in casework, committee work, Brexit and the enhanced legislative powers of the Assembly have resulted in support staff roles evolving. The Board noted the points made, however it referred to the work it had undertaken as part of the Review and it remains of the view that there is insufficient evidence to support the re-evaluation of salaries of support staff. The Board agreed that it will continue to keep this issue under review as part of its legacy report to the next Board.

The Board also discussed concerns related to the support staff pension scheme. The Board noted the concerns and agreed to consider further options for the scheme at a future meeting.

The Board will be publishing a final consultation on the whole Determination in January 2020.

This letter will also be published on the review section of our [website](#).

Best wishes,



**Dame Dawn Primarolo**

**Chair, Remuneration Board**

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.