Proposed changes to the Determination regarding allowances for Assembly Members in the Fifth Assembly

Remuneration Board of the National Assembly for Wales

November 2014
The Remuneration Board

The Remuneration Board of the National Assembly for Wales is the independent body responsible for setting the pay, pensions and allowances of Assembly Members and their staff. The Board was established by the National Assembly for Wales (Remuneration) Measure 2010, which received Royal Approval on 22 July 2010.

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As part of its preparations for the Fifth Assembly the independent Remuneration Board is reviewing all aspects of its Determination\(^1\). We intend to complete this work by Spring 2015, a year before the Welsh General Election in order that prospective candidates know exactly what support will be provided to them if they are elected.

Our work is split into four streams:

- Remuneration - salary;
- Remuneration - pension;
- Assembly Member Support and Allowances

This consultation involves a series of proposals under the Allowances stream. Members receive allowances for travel for themselves and their staff, residential accommodation while away from their homes, office costs and on leaving office. It does not include proposals for the salary of Assembly Members, which will be consulted on in November 2014. Our proposals for the whole Member remuneration, support and allowance arrangements, including a combination of each of our work streams, will be issued for consultation in the New Year. This will give Assembly Members and the public the opportunity to see all of our proposals in their entirety.

We have considered whether the current Determination strikes the right balance between appropriate pay and support for Members and value for money for the tax payer. We commissioned a report from Bangor University\(^2\) evaluating the barriers to becoming a Member which we are taking into account when making our proposals for the Fifth Assembly Determination.

We are clear that the principles set out in the current Determination remain as valid as ever. While the Members’ Business Support team which support Members in relation to these matters can advise Members, it remains the responsibility of individual Members to ensure that their claims are within the rules and to maintain records sufficient to support claims. Openness and transparency about how Members spend their allowances are important to public trust. The Assembly’s Allowance Publication System which provides a searchable database of Members’ claims is exemplary in this respect.

The Assembly’s Standards Commissioner notes in his annual report that the Assembly has established a responsible culture:

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\(^1\) 2014 Determination on Members’ Pay and Allowances
\(^2\) Evaluating Barriers to Entering the Assembly: What Prevents Us from Standing? Bangor University, July 2014
“I believe it right to state, therefore, that our Assembly Members take their responsibilities under the Code of Conduct very seriously and that the public has every reason to assume the integrity and transparency of both Members and the Assembly itself, and little or no reason currently to doubt it.”

Current Assembly Members and their staff will have an obvious interest in our proposals but they may also be relevant to many outside the Assembly. We welcome responses to this consultation from any organisation or individual.

The closing date for the consultation is 15 December 2014. Details of how to respond are included on the next page.

While the powers and responsibilities of the Assembly have increased throughout its existence and will increase further in the future, the number of Members remains at 60, with little apparent prospect of change in the short term. Whatever the size of the Assembly, we will strive to ensure that our Determination equips Members with the appropriate allowances to do their job, giving particular attention to value for money for the taxpayer.

We believe that our proposals offer Members greater flexibility, while maintaining those essential safeguards which protect Members, the taxpayer and the reputation of the Assembly.

We look forward to receiving your views.

Sandy Blair (CBE)
Cadeirydd / Chair
Bwrdd Taliadau/Remuneration Board

3 Standards Commissioner Annual Report 2013-14, para 01.06
Proposed changes to the Determination regarding Allowances for Assembly Members in the Fifth Assembly

This consultation sets out proposals for the following areas of allowances (and refers to the relevant section of the 2014 Determination on Members’ Pay and Allowances):

- Residential Accommodation (Chapter 4)
- Provision for Carers
- Member and Support Staff Travel (Chapter 5)
- Office costs and Virements (Chapter 6)
- Members leaving office (Chapter 10)

How to submit a response to this consultation

If you wish to submit a response, please send an electronic copy of your submission to Remuneration@wales.gov.uk and entitle the email “Consultation – AM Allowances”

Alternatively, you can write to:

Gareth Price, Clerk
Remuneration Board
National Assembly for Wales
Cardiff Bay, CF99 1NA

Submissions should arrive by 15 December 2014. It may not be possible to take into account responses received after this date.

When preparing your submission, please keep the following in mind:

- your response should address the questions posed by the Board. The final question (6.2) provides an opportunity to raise other issues.
- in the interest of transparency, the Remuneration Board has agreed that it will normally makes responses to public consultations available on our web pages. If you do not want your response or name published, it is important that you clearly specify this in your submission.

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4 The Determination on Members Pay and Allowances is updated annually and can be downloaded by clicking http://www.senedd.assemblywales.org/documents/s29730/Determination%20on%20Members%20Pay%20and%20Allowances%20-%20August%202014.pdf

5 This support is not found in one location in the Determination. For example, Exceptional Expenses is section 2.4; travel for partners or children is covered in section 5.18.
01. Proposal – Residential Accommodation

After careful consideration our proposals to alter the Determination for Residential Accommodation allowances for Assembly Members are as follows:

– retain the current system of determining eligibility for Residential Accommodation in Cardiff (RAC) based on constituencies. However, we propose more flexibility for incoming Assembly Members following an election, giving them an opportunity to make a business case for RAC eligibility where their case is anomalous;

– remove the allowance for inner area members.

– retain the current allowance for hotel costs: £95 per night maximum hotel cost (except for London and Brussels where the limit is £150). However, we will provide Members Business Support (MBS) with the flexibility to reimburse Members’ claims which exceed these limits where exceptional demand means it is not possible to find accommodation at these rates.

Rationale

If it is necessary for a Member to stay away from home overnight, in connection with the performance of their role as an Assembly Member, the cost of doing so may be reimbursed.

At present, the rules governing this reimbursement are dependent on the constituency or region the Member represents:

Members in the ‘outer area’ (defined by those representing constituencies within the boundaries of the Mid & West Wales region, and North Wales region) may claim up to a maximum cost of £8,820 for overnight stays in Cardiff in each year. This allowance is generally used to cover the cost of rented accommodation in Cardiff up to a maximum of £735 per month;

Members in the ‘intermediate area’ (defined by those representing the South Wales West constituencies of Gower, Neath, Swansea East and Swansea West) may claim up to a maximum of £3,420 for overnight stays in Cardiff in each year;

Members in the ‘inner area’ (all other Assembly Members) may claim up to a maximum of £1,425 for overnight stays in Cardiff in each year.
The rigidly defined geographical boundary means that a small number of Members in the intermediate area can have significant daily travel time to and from the Assembly. This can, in fact, be greater than that faced by some Members in the outer area. We have reviewed the system and the boundaries on several occasions and concluded that any system based on rigid rules could potentially disadvantage some Members.

We therefore propose to retain the current system for Members in outer and intermediate areas but to introduce greater flexibility. In the next Assembly, we will include provision for newly elected (or re-elected) Assembly Members to make a business case to MBS to request that, in the light of their personal travel circumstances, they should qualify for RAC if they are disadvantaged by the location of their constituency.
For example, a Member living in the intermediate area, but whose travel to the Assembly takes greater than an hour (i.e., a greater time than a number of Members in the outer area) might have a reasonable case for RAC.

In order to be exempt from tax, HM Revenue and Customs require that the cost of overnight hotel accommodation needs to be ‘necessarily incurred’. Following a change in guidance from HMRC, all inner area Members’ stays in Cardiff hotels are now subject to tax as HMRC does not consider them ‘necessarily incurred’ unless there are exceptional circumstances.

Since the allowance became subject to tax, the number of applications has reduced markedly. The Board is also in agreement with HMRC that it is difficult, save in exceptional circumstances, to justify the cost of a hotel for a Member living within approximately an hour’s travel time of the Assembly. Many people working in the Cardiff area – and the rest of Wales – would commute a similar distance or for a similar time and Members are able to claim for the cost of travel between their home and the Assembly.

We therefore propose removing the allowance for overnight stays for Members in the inner area. We will however give Members the opportunity to apply to the Members Business Support team for agreement for reimbursement in exceptional circumstances.

In recent years, there have been times when Members have found the maximum hotel cost (£95) insufficient, as hotels frequently vary their charges based on the level of demand. For instance, hotel rooms within this price range might not be available when large events occur in Cardiff.

The Board also noted that all the other UK Parliaments and Assemblies have maximum rates at a higher level. While the Board is not minded at present to increase the maximum allowance, we propose some extra flexibility to exceed the maximum rate when agreed in advance with the Members’ Business Support team.

**Costs**

It is difficult to estimate the costs of these amended provisions given that these changes would apply to new Members in the Fifth Assembly whose travel times may be significantly different from current Members.

There would be definitely be savings from scrapping the inner area allowance and additional costs from the Board’s more flexible approach at the boundaries.

The increased flexibility on hotel costs would only apply in exceptional cases and the marginal costs should be minimal.
Questions

1.1 Do you support the Board’s proposal to allow any Members in the intermediate or inner areas who have to travel a further distance or a longer time than those in adjacent areas to submit a business case for an exception to be made?

1.2 Do you agree with the Board’s proposal to remove the provision for Members in the Inner Area?

1.3 Do you agree with the Board’s proposal to permit the current maximum hotel rates to be exceeded with prior agreement from MBS?
02. Proposal – Provisions for carers

The Board is aware that there are demands on Assembly Members which make it difficult for them to strike an appropriate work-life balance. While this is true for all professional positions, the work pattern and demands on Members are distinctive.

The research we commissioned from Bangor University underlined that work-life pressures and the distance between the constituency/region and Cardiff are two of the main factors that might influence the decision to stand as a candidate. The pressure to attend meetings in the constituency/region and to fulfil their duties in the Senedd can come in to conflict with Members’ family life and caring responsibilities.

We have previously looked at creating some kind of allowance for carers and drawn comparisons with arrangements in other UK legislatures. Having sought the views of Members, the Board decided to review this area more fully as part of its consideration of Members’ remuneration package in the Fifth Assembly.

The Board is conscious of the range of measures already undertaken in the Assembly to support those with caring responsibilities. Although the Board has a responsibility to support Members to conduct their work to the best of their abilities, we also feel that the political parties have a significant role to play in balancing the work-life pressures of their Assembly Members.

Our proposal for provision for carers is as follows:

- We will adopt a similar approach to Westminster whereby outer area Members who have children or other dependents residing routinely with them in Cardiff may be eligible for additional allowance in respect of their accommodation.
- We will ensure all Members are made aware of the Exceptional Expenses provision within the Determination.

Rationale

The Board’s remit is not only to set a level of Member remuneration which reflects the complexity and importance of the functions Members discharge, but also one which does not deter individuals from seeking election to the Assembly on financial grounds. The Board is therefore keen to address the barriers that might prevent people from putting themselves forward to be Members. Our research, including the report from Bangor University, has highlighted concerns about work-life balance and distance from Cardiff as key areas of concern.

The definition of a ‘carer’ is someone of any age who provides unpaid support to family or friends who could not manage without this help. This could be caring for a child, relative, etc.

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6 See Section 2.4 of the 2014 Determination on Members Pay and Allowances
partner or friend who is ill, frail, disabled or has mental health or substance misuse problems.  

In order to seek an external view of our proposals, we will invite comments on this issue from Diverse Cymru, who have been commissioned to advise us on equality issues and assist us in developing an Equality Impact Assessment.

We feel that the Assembly’s current arrangements to assist Assembly Members with caring responsibilities include examples of best practice. In some circumstances they are more generous than the provisions available in other UK Legislatures.

The following arrangements are already in place:

- Members may claim unlimited travel between their home or constituency and Cardiff Bay;

- Members living in the outer area are able to claim up to £735 a month for the rental of furnished accommodation in Cardiff. The figure is set at a rate which should be sufficient to include two bedrooms, and is reviewed annually. There are currently no provisions for claiming more when a Member has more than one dependent living with him or her;

- Members are elected and not employed and therefore are not subject to any restrictions on holiday leave, adoptive, maternity and paternity leave, time off for caring duties or any other special type of leave;

- The Assembly’s Standing Orders enshrine the requirement that timetables have regard to the family and constituency or electoral region responsibilities of Members. This means that timetabling formal business outside the hours of 09:00-18:00 is generally avoided and recess periods coincide with most school holidays. That said, we acknowledge that Assembly business often goes on later than 18:00 and due to the nature of the role of Member attending engagements on weekends and evenings is commonplace. We are aware however, that the party groups can be flexible on occasions as to when they require Members to participate in Assembly business;

- Members with children can receive childcare vouchers through a salary sacrifice scheme, and limited places – charged at market rates – are reserved at a Cardiff Bay nursery, for the benefit of Members;

- Many of the day to day business requirements on Members are set by their political group. It is the responsibility of the Member and group to manage these appropriately;

- For Members who are unable to attend Committee meetings in person there is some scope to use video conferencing facilities; and

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*Carers Trust*
Members who feel that they require financial support above or beyond what is provided can apply to the Remuneration Board for Expenses. We considered the provision available in other legislatures, and are minded to introduce flexibility similar to that available in Westminster whereby Members in the Outer Area who have caring responsibilities for dependents living with them while they are in Cardiff, would be eligible to apply for an enhanced allowance.

We are very mindful that all Members are individuals with unique needs and responsibilities. In drawing up rules, we understand that, from time to time, exceptional circumstances will arise. We will ensure that all Members are aware of the Board’s ability to provide financial support in exceptional circumstances to ensure that the role of the Member can be properly fulfilled.

Cost
This will depend on the numbers involved. We will calculate the additional allowance for outer area Members whose dependents live with them when we review the Residential Allowance budgets annually in January.

Exceptional payments, by their nature, are impossible to predict. For all of the changes we propose, we anticipate the marginal cost to be small.

Questions
2.1 Do you agree with the Board’s proposal to enhance the residential accommodation allowance for Outer Area Members who have dependents residing routinely with them in Cardiff?

2.2 Do you agree that the other steps proposed by the Board are a reasonable way of addressing support for carers?

2.3 We are keen to ensure that the Assembly does all it can to attract candidates from a wide cross-section of society, and we would welcome any further specific proposals.

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8 See Section 2.4 of the 2014 Determination on Members Pay and Allowances
03. Proposal – Assembly Member and Assembly Member Support Staff travel

Our proposals to amend the Determination for Assembly Member and Assembly Member Support Staff Travel are as follows:

- Remove the existing £2,000 cap for Assembly Members and their Support Staff to claim for travel and overtime subject to the funds being available in the staffing budget;

After careful consideration, we propose no change to the following elements of the Determination:

- Retain the provision for 36 single journeys by support staff per office between the constituency and Cardiff Bay;
- Retain the existing mileage rates for Assembly Members, in line with the HMRC approved mileage rate allowances;
- Retain the current arrangements for travel within the EU, and to countries outside the EU.

Rationale

Feedback to the Board has highlighted concerns that the £2,000 limit on what may be claimed from the staffing budget for staff travel and overtime is unnecessarily restrictive. This limit on additional travel costs predominantly has an impact on Regional Members where the larger constituency area means more staff travel is needed.

The £2,000 cap was one of the recommendations of the Independent Review Panel in its 2009 publication ‘Getting it Right for Wales’. It was introduced at the same time as the removal of the ability of Members to pay bonuses to their staff. However, Members have been afforded some flexibility to exceed this cap in exceptional circumstances with the provision of a business case.

There is not a similar cap in place in any of the other UK legislatures.

In addition to the staff travel budget, support staff are also permitted to travel on 36 single journeys per office between the constituency and Cardiff Bay. Westminster permits 96 single journeys per office. However, there are more staff on average per office in MPs’ offices. As no Member’s staff have equalled or exceeded 36 single journeys, the Board is not minded to increase the number.

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9 Getting it Right for Wales - National Assembly for Wales, July 2009
Mileage rates are paid in accordance with HMRC approved mileage rates. For cars, these rates are currently 45p per mile for the first 10,000 miles travelled and 25p per mile thereafter. We are of the view that HMRC approved mileage rates should apply to Assembly Members in line with other public sector bodies, including by the Welsh Government, the National Assembly and the other UK legislatures.

The Board has received no feedback on the provision for Members to travel on four occasions per annum to any other member state or region of the EU on Assembly related business. Members are able to claim for two nights’ accommodation, the air fare and relevant associated costs. We propose that the existing provision for Assembly Members to travel within the European Union does not need a change.

In 2013, the Board introduced an allowance permitting Members to travel to countries outside of the EU, subject to an appropriate business case being submitted. Members are able to claim for five nights’ accommodation, the air fare and relevant associated costs. As we have received no feedback on this provision, we have concluded that it is appropriate as it stands.

**Cost**

The costs of any changes to remove the staff travel and overtime cap will be minimal because any spend would be limited by the amount of remaining balance that the Member has in their staffing costs budget.

**Questions**

3.1 Do you support the Board’s proposal to remove the cap on staff travel costs and overtime (subject to there being sufficient funds in the Member’s staffing budget)?
Proposal – Office costs and virement of funds between budgets

After careful consideration, our proposals for amendments to the Determination for office costs and virement of funds between budgets are as follows:

– Allow Assembly Members to source their office furniture direct from suppliers without specific restrictions. However, the Members Business Support team would be available to provide assistance if required.

– Introduce a provision for a one-off grant of £1,000 to be extended to longer serving Members (those having already served two terms) to replace office furniture in the first year of the Fifth Assembly.

– Reduce the threshold beyond which the cost of the security and Health & Safety work is met by the Assembly. The threshold is currently £1,000, and will drop to £500.

– Introduce provision for Assembly Members to vire from their unallocated staffing budget to their office costs budget, up to a maximum of 25% of the office costs budget.

We are proposing no change to the following elements:

– Retain the existing definition of the items permissible for reimbursement from the office costs allowance (as outlined in section 6.2.1 of the Determination).

– Retain the furniture grant of £5,000 for new Assembly Members.

– Retain the centralised arrangement for the provision of office photocopiers.

Rationale

In the current Determination, Members are entitled to claim for ‘all reasonable costs relating to the running of an office and engaging with constituents’.[10] This definition is clearly very wide and encompasses not just office costs which would be immediately apparent such as rent, rates and utilities, but also less obvious costs such as website development and running costs, advertising, mobile telephones and legal expenses.

In 2011, the Board introduced a provision that enables Members establishing a constituency or regional office for the first time to make a one-off order for furniture, to the value of £5,000. There has been some limited feedback from Members to suggest that the £5,000 new furniture grant is insufficient, although data from Members shows that the majority of Members did not spend the entire budget. Our view is that this allowance remains appropriate.

[10] 2014 Determination on Members Pay and Allowances, section 6.1
In line with our wish to increase flexibility for Members, we propose that Members should be allowed to source their office furniture from suppliers without specific restrictions. Sourcing was previously from a single source, and some Members said they would have liked to use local suppliers. We also acknowledge that longer serving members (serving two terms or more) might need to re-equip their offices in the Fifth Assembly. To address this, we propose a one-off grant of up to £1,000 to be spent in the first year of the fifth Assembly.

The current Determination allows an additional amount of money to be made available to Members to fund any expenditure of more than £1,000 in respect of security or health and safety precautions, where such precautions have been recommended by an appropriate person such as the police. Feedback from Members suggests that the £1,000 threshold is excessive with very few accessing the fund since its implementation. Therefore, we propose that the threshold for the fund should be reduced to £500 in the Fifth Assembly.

The Board has expressed its desire to increase the flexibility afforded to Members and have considered many options, including some flexibility for Members to transfer funds either between Members’ staffing and office costs budgets, or between financial years, or both. Feedback from Members has indicated that the flexibility to allow virements between the staffing budget and office costs allowance would be welcomed.

Prior to 2011, Members were able to vire up to 25% of their office costs budget to their staffing budget, or vice versa. The option to vire was stopped however by the independent panel who were concerned that Members were able to transfer unused office cost funds to their staffing allowance and thereby have additional funds available to make bonus payments to their staff. Bonus payments are no longer permitted.

We propose to allow Members to vire in one direction only - from their staffing budget to their office costs budgets. This capacity will be limited to 25% of the office costs budget. Based on current figures, this would be a maximum of £4,253.

We considered the office rental costs faced by Members, which vary greatly based on location and standard of accommodation, and also the market conditions in the area. We acknowledge that in some parts of Wales it can be difficult to find an accessible building in an appropriate location with the budget available. We hope this additional flexibility will be helpful to those Members.

Cost

The one-off grant of £1,000 to be extended to longer serving members (two terms or more) to re-equip their offices in the first year of the Fifth Assembly may be fairly widely used. 36 Members were elected prior to 2011, and would be eligible – although a number of these have already announced they will not be standing in 2016. Given the proportion of the grant that was utilised in 2011, and the likely number of Members eligible, we estimate that the cost of these one-off grants is unlikely to be more than £20,000. The
office costs budget will not be set for 2015-16 until the start of 2015. Therefore we expect to set indicative figures for office costs for 2016-17 at that point.

Questions

4.1 The Board is proposing to retain most of the current arrangements in this area. Are there any areas where we are not proposing change where you think we should?

4.2 Do you support the Board’s proposal to give Members flexibility in deciding where to get their office furniture? And is £5,000 the right amount for office furniture?

4.3 Do you think a £1,000 one-off allowance for long serving Members to replace some office furniture at the start of their third term is appropriate?

4.4 Do you support the Board’s proposal to reduce the threshold up to which Members have to pay for security and health & safety related work?

4.5 Do you support the Board’s proposal to allow Members to vire a limited amount of unspent staffing allowance to their office costs budget? And if so, is the limit (25% of the office costs budget) at the right level?
We are proposing no further changes to the existing provisions for the Resettlement Grant for Assembly Members who are defeated at elections. However, having considered the report from Bangor University, and considering what would have been the experience of some Members at the 2011 election, we are sympathetic to the challenges faced by Members who lose an election. Some Members may anticipate losing their seats, but for others it will be unexpected or too close to call. Either way, they will be facing a very different future with all the support which comes with the role of a Member abruptly removed.

We intend to explore further whether some form of externally provided advice service could be made available for a limited period to support Members losing their seat at election.

We also propose that the current provision for a winding up allowances should be retained.

**Rationale**

The financial arrangements for Members standing down or losing their seat are made up two parts - a resettlement grant, which is a personal payment to the Member akin to a redundancy payment; and a winding up allowance, which covers costs associated with the conclusion of a Member’s period in office.

The 36 Members elected prior to 2011 are subject to transitional arrangements with regard to their resettlement grant. The Board have already decided that payments for Members who choose to stand down will be phased out over time.

All Members elected since 2011 are paid a resettlement grant, so long as they are defeated at an election, as follows:

- one calendar month’s salary for each completed year of service subject to a maximum payment equal to six months’ salary;

- in addition, Office Holders are entitled to three months’ salary for their additional duties paid at the relevant rate from when they were an Additional Office Holder.

Thus, excepting the amounts payable to Additional Office Holders, the maximum resettlement grant is now equivalent to six month’s salary (which was the minimum payment under the transitional arrangements).

Members who cease being Members are entitled to claim an allowance in respect of the costs incurred in winding up their offices. At the point of ceasing to be a Member, all other allowances cease.
The maximum amount that can be claimed is governed by a winding-up plan agreed between the Member and the Assembly's Member Business Support team. This amount is calculated by reference to the period agreed for winding up the office (currently up to 3 months) and is proportionate to the:

- Office costs allowance;
- Residential accommodation expenditure;
- Staffing expenditure allowance.

Thus Members would receive three months equivalent of these allowances combined into one winding up allowance. The amount payable is commensurately reduced where these budgets have been proportionally overspent.

The report we commissioned from Bangor University\(^{11}\) notes that that the transition from being an Assembly Members to losing a seat and finding alternative employment can be very challenging for the Member and their support staff, particularly if defeat at an election was not anticipated.

Consequently we intend to consider the introduction of an outplacement service providing practical advice and support for those who are not returned to the Assembly after standing for re-election to help their transition to a new job. This is good practice in most public and private organisations when there are staff departures.

We are open to suggestions about how we achieve this kind of support, and whether this support should be organised centrally or left to the individuals to arrange for themselves. We would welcome constructive suggestions about what support would be most helpful and how it should be offered.

Cost

The cost of an outplacement service would depend on the nature of the service provided. However, it would be a short term service, provided for a small group of people once every five years.

Questions

5.1 The Board is not proposing major changes to this part of the Determination. Are there any aspects where you think there should be changes?

5.2 What do you think of the Board's proposal to explore providing an outplacement service for Members and their staff in the event of losing an election? Do you have any views on how this should be offered?

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\(^{11}\) Evaluating Barriers to Entering the Assembly: What Prevents us from Standing?, Bangor University, pages 29-30
06. Equality Impact Assessment and other issues

6.1 Do you consider that any of the proposals set out in this document would disproportionately impact or disadvantage any particular individuals or groups of people?

6.2 Are there any other issues we should consider as part of our review of the Determination in relation to Members’ Allowances?