
STATES OF JERSEY



STATES MEMBERS' REMUNERATION REVIEW BODY: RECOMMENDATIONS FOR 2009-2011 – PART 2, PENSIONS, SEVERANCE AND DIFFERENTIATION

Presented to the States on 12th June 2009
by the Privileges and Procedures Committee

STATES GREFFE

FOREWORD

The Privileges and Procedures Committee is pleased to present to the States Part 2 of the recommendations of the States Members' Remuneration Review Body (SMRRB). The terms of reference of the SMRRB require it to present its recommendations to PPC which is then obliged to present them to the States.

As explained in the introduction to its report the SMRRB's recommendations are divided into 2 parts, Part 1 and Part 2 and, because of the difference in the method of implementation of the recommendations in the 2 parts, PPC is presenting the recommendations to the Assembly in 2 separate reports (for Part 1 see R.61/2009).

This report contains the Part 2 recommendations which relate to matters that cannot be implemented by default and which could only be introduced after debate and approval by the Assembly.

Members will note that the SMRRB has made 2 main recommendations in Part 2 of its report, namely –

- (1) that public funds should be used to contribute to pension arrangements for States members; and
- (2) that the States should give further consideration to the desirability or otherwise of differential remuneration for members and give a clear steer to the Review Body on this issue.

As stated in its previous reports the SMRRB considers that it would be inappropriate for the Review Body to make any firm recommendation on the issue of differential pay until the States have given a clear indication of whether or not Article 44 (which currently precludes differential pay) should be amended or repealed. Article 44 currently reads as follows –

“44 Remuneration of elected members

- (1) *No scheme, agreement or other arrangement whatsoever for the remuneration of, or the payment of any allowance to, elected members out of the consolidated fund shall provide for different elected members to be entitled to receive different amounts of remuneration or allowance.*
- (2) *In paragraph (1), ‘remuneration’ does not include payments out of the consolidated fund –*
 - (a) *into a superannuation fund or pension scheme, for the benefit of an elected member;*
 - (b) *to an elected member, as an allowance in respect of his or her contributions to a superannuation fund or pension scheme for his or her benefit.”.*

The Privileges and Procedures Committee has only just received the recommendations and has not yet had the opportunity to discuss them in any detail. It is clear that there might be a significant cost if pension arrangements were introduced and there is

currently no financial provision for that. In addition the issue of differential pay is a controversial one where opinions are extremely divided. The Privileges and Procedures Committee will therefore now need to consider the recommendations in detail and decide how they should be taken forward.

As mentioned in the Foreword to Part 1 of the recommendations PPC would like to express its sincere gratitude to the 5 members of the Review Body for the work that they have done on an honorary basis on their task and for the very comprehensive way in which they approached it.

**STATES MEMBERS
REMUNERATION
REVIEW BODY**

**RECOMMENDATIONS
FOR 2009-2011
Part 2**

May 2009

Introduction

The States Members Remuneration Review Body presents its recommendations to the Privileges and Procedures Committee in two parts.

Part 1 deals with remuneration including expenses and **Part 2** deals with other matters which arose from its consultations and subsequent deliberations, particularly concerning the issue of pensions for States Members.

This Part 2 contains recommendations which are not governed by the 'one month' default rule above and in accordance with the decision of the States on 22nd July 2005 those recommendations cannot be implemented until they have been debated and agreed by the States.

Part 2

Further conclusions and recommendations with regard to matters other than remuneration

Pensions

The Review Body recommends that pension arrangements should be introduced for States members and that these should be akin to a defined-cost contributory scheme.

Each member would be entitled, upon making a chosen contribution to an approved private scheme of his or her choice, to have that contribution matched to a given level by the States acting as “employer”. No member should be obliged to participate if he or she did not wish to do so.

Contributions from the Consolidated Fund should be subject to a threshold and a maximum amount payable under these arrangements, and further subject to regulations which the Comptroller of Income Tax may apply in respect of the age of the participating member.

The Review Body regrets that it does not anticipate that such arrangements could be back-dated to apply to States members who have left the States prior to their introduction.

Should the above recommendation be accepted by the States its implementation would be subject to the availability of funding which is unlikely before the beginning of 2011. If accepted in principle we recommend that the Review Body should be invited to develop the terms of these arrangements for endorsement by the Privileges and Procedures Committee and the States.

Reason for recommendation

The Review Body recognizes that the engagement of a States member takes the form of one or more short-term contracts, that States members

are technically self-employed, and that there is nothing to stop States members making their own private pension arrangements.

In practice States members tend to get re-elected, yet the nature of their engagement might preclude the progressive career development which applies in most other occupations.

Even if there was such an element of progression the current legislation which requires all States members to receive the same remuneration (pension contributions now apart) might make it difficult for States members to build up the sort of pension cover which could be available to them elsewhere.

If service to the community as a States member is to be encouraged, as stated in the terms of reference appended "*...so that the broadest spectrum of persons are able to serve as members of the Assembly*" it will be increasingly appropriate to offer pension arrangements which are portable and if such prudence in pension provision is to be encouraged among the general public and the wider network of employers, it would seem inappropriate for States members to be excluded from such consideration by the nature of their occupation.

Not everyone who responded to the Review Body's consultation document on this issue endorsed the principle of pension arrangements for States members, but the Review Body took note of the fact that some of those who were not necessarily well disposed towards other elements of States members remuneration supported modest contributory pension arrangements on the grounds that these recognized the reasonable aspirations of States members as professional representatives of the community.

Severance

The Review Body received no evidence which might compel a review of the existing arrangements which preclude severance pay beyond the payment of salary and expenses for one month following the date by which a States member leaves office.

Differentiation

The Review Body received conflicting evidence on the issue of differentiation. The relevant summary page from the responses to our discussion document is set out in Appendix 1 as a re-statement of the diversity of views on this topic.

These responses tend to support the view that differentiation is not just a matter of "More pay for Ministers" (but most who respond broadly along those lines were careful to include others such as the Chairmen of Scrutiny panels in their considerations). Differences in pay were also seen as an inevitable consequence of a number of other unrelated considerations.

The Review Body does not consider it appropriate to consider recommendations relevant to differences in remuneration while Article 44 of the States of Jersey Law 2005 is still in force, but it would again point out (as in previous recommendations) that under the existing terms of reference any amounts available in support of such differentials might be relatively small.

These terms of reference require the Review Body to consider that all States members should be able to enjoy a reasonable standard of living. This might also be taken to imply that no States member should be remunerated to such an extent that this amount was substantially exceeded.

While the Review Body accepts that the law precludes any differences in pay between States members at present, its judgement is that there is sufficient public interest in the issue, and there are sufficient public policy imperatives, to warrant the States revisiting the matter and giving a clear direction to the Review Body on this issue.

Number of States Members

The largest unsolicited response (response to questions the Review Body did not specifically ask) to our discussion document was in respect of what respondents viewed as the excessive number of States members, often linked with observations about the level of States members pay.

Again the “reasonable standard of living” element (above) in the Review Body’s terms of reference precludes the possibility sometimes simplified in the suggestion that that the Island should have “..half as many States members but pay them twice as much”

While the number of States member is beyond the remit of the Review Body response at this level might reasonably be seen as indicating an area of public concern.

There is also the point that, purely from the perspective of States members’ remuneration, a smaller States offers the best prospect of achieving levels which more accurately reflect the value which States members seek to deliver.

Thanks

The Review Body wishes to thank again all who responded to its discussion document and who attended the public meetings.

Thanks are also due to the Greffier of the States, Michael de la Haye, and his staff for their substantial practical help in supporting the activities of the Review Body.

Julian Rogers (Chairman)
Brian Bullock
Maurice Dubras
Christopher Lakeman
John Mills

29th May 2009

APPENDIX 1

**Extract from Summary of Responses (March 2009)
in relation to Differentiation**

d) The 'equal treatment' principle having been set aside with regard to pension provision, is there a case now for differentiating among States Members for remuneration purposes?

33 respondents gave answers which could be considered to be related to this question. 23 responded in terms which implied that differences in pay between States members might be appropriate, and 10 responded in terms which implied that all States members should continue to receive the same pay.

Most of those who suggested differences in pay did so on the grounds of the greater responsibilities of ministerial or other office, and almost all of these included Scrutiny, many pointing out that ministers had access to help which eased the administrative burden.

But about a third of those who argued for differences in pay did so on grounds which were unrelated to ministerial or other office.

Some of these argued for a lower starting rate for new members, "*...now that young people have the vote younger people will be elected to the States...*", some for increased pay based on length of service, some for performance-related pay and some for pay which was related to previous earnings, for example "*the average of their past three years remuneration*" [for newly elected members].

For those in favour of differentiation the response was generally mild, even laissez-faire to the extent "*that the pot be divided between the States members as they see fit.*" or even bemused "*I can't understand why anyone would want to be a Minister under the present system...*"

This topic tended to attract a more deeply-felt response from those opposed to differentiation.

"...should Ministers be paid more? I do not believe so as they are blessed with a myriad of officers to assist them."

"I am not inclined to think that those with ministerial tasks should be paid more. They are compensated by the acquisition of power."

"Equal pay for all members...[is]..absolutely essential until we progress to a fully democratic party political system as adopted by the vast majority of modern western democracies."

"...only the truly politically illiterate could endorse higher pay for Ministers – in the absence of party politics."

...and some suggestions were brave indeed.....

"Perhaps a basic wage with the possibility of a bonus for those people who out-perform their role? And penalties for those who under-perform or behave in an unprofessional manner. With performance monitoring ... the precise role can be defined and targets for achievements laid down for the year ... The whole process would have to be managed and monitored by an independent group to avoid the usual accusations about 'the establishment'."

The SMRRB has no set position on differentiation, though in relation to the last observation above it considers that it would be a courageous body which sought to apply performance monitoring to the work of a States member.

APPENDIX 2

SMRRB Terms of Reference

The terms of reference of the Review Body are as follows –

To make recommendations to the Privileges and Procedures Committee on any matters relating to the remuneration, allowances and benefits available to elected members of the States as it considers appropriate, following the holding of public hearings and the receipt of oral and written submissions from any persons, including members of the States, having taken account of any other matters that the Body considers to be relevant, and having taken particular account, but not being bound by, the following matters –

- (i) the principle that the level of remuneration available to elected members should be sufficient to ensure that no person should be precluded from serving as a member of the States by reason of insufficient income and that all elected members should be able to enjoy a reasonable standard of living, so that the broadest spectrum of persons are able to serve as members of the Assembly;
- (ii) the economic situation prevailing in Jersey at the time of determination and the budgetary restraints on the States of Jersey; and
- (iii) the States' inflation target, if any, for the period under review.

List of Respondents and attendees at public meetings

The SMRRB wishes to express its gratitude to the following who sent written responses or attended the public meetings -

| | | |
|--------------|---------------------|---------------|
| Banks, R | Grigg, B | McMurray, N |
| Barber, P | Harrison, L | Moran, E |
| Baudains, G | Harvey, J | Murphy, B |
| Bellows, A | Haycock, R | Murphy, D |
| Blade, L | Haydon, I | Norman, L |
| Borman, G | Hill, P | Osborn, S |
| Butcher, G | Horsfall P | Perchard, B |
| Caplen, J | Hotton, E | Perrier, D |
| Carter, L | Jehan, A | Prescott, S |
| Clancy, C | Jeune, A | Pitman, T |
| Clarke, A | Journeaux, A | Richardson, M |
| Clarke, B | Keen, K | Robinson, R |
| Coutanche, M | Kisch, R | Romeril, G |
| De Sousa, D | Koradi, M | Rondel, P |
| Dickinson, V | Lawrence Mr and Mrs | Scott, J |
| Dun, M | Le Bail, C | Shaw, P |
| Falle, J | Le Brocq, R | Shield, J |
| Ferguson, S | Le Flem, D | Syvret, S |
| Fergusson, M | Le Hérissier, R | Trevor, E |
| Filleul, D | Le Main, T | Turner, P |
| Gage, V | Le Quesne, D | Walker, G |
| Gates, E | Le Quesne, J | Wells, Z |
| Grainger, R | Le Sueur, T | Willing, B |
| | Lissenden, S | Woodhouse, J |