
STATES OF JERSEY



INDEPENDENT REVIEW OF JERSEY MEMBERS' REMUNERATION PROCESS

**Presented to the States on 27th October 2020
by the Privileges and Procedures Committee**

STATES GREFFE

REPORT

The Privileges and Procedures Committee (PPC) presented the '[States Members' Remuneration Review Body: Recommendations for Remuneration beyond the 2022 General Election \(R.89/2019\)](#)' report in July 2019 (the 'SMRRB Report').

PPC had a number of questions about the methodology that the States Members' Remuneration Review Body (SMRRB) used in the SMRRB Report and also queried whether the arrangements for setting States Members' pay were in line with international best practice. As a result, PPC commissioned Dr. Hannah White OBE to undertake an independent review into the Jersey Members' remuneration process (the 'Review') at a cost of £2,500.

The Review is published with this document as an Appendix. PPC records its thanks to Dr. White for undertaking the Review.

The terms of reference for the Review were:

1. To conduct a paper-based review of the current system for determining the remuneration of Members of the States (including the most recent report of the SMRRB);
2. To examine the equivalent systems used by relevant comparator legislatures (especially smaller and sub-national, ideally including Guernsey, Isle of Man, Westminster, Scotland, Wales, New Zealand, Australia and Canada); and
3. To make recommendations.

PPC intends to consider how to respond to the recommendations provided in the Review in due course.

APPENDIX

Independent review of Jersey Members' remuneration process

Dr Hannah White, July 2020

Background to this review

On 22 July 2019, the Procedures and Privileges Committee (PPC) presented to the Jersey States the latest report of the States Members' Remuneration Review Body (SMRRB): *Recommendations for remuneration beyond the 2022 general election*.

The SMRRB had made five main sets of recommendations: a change to basic remuneration; the introduction of a pension scheme; the introduction of an additional allowance for certain positions; the correction of a tax anomaly; and, a change to compensation for failure to secure re-election (see Table 1).

In its response to the SMRRB report, the PPC said that: "Although there are aspects of the Review Body's report we welcome; we continue to have questions about the methodology used by the Review Body. We also think that the time is ripe to consider whether the current arrangements for setting States Members' pay are in tune with international best practice. We therefore intend to commission a review of how States Members' pay is determined and the report before us."¹

Table 1: SMRRB recommendations 2019

SMRRB recommendation	Implementation	PPC response
Member basic remuneration should increase from £46,600 p.a. to £50,000 p.a. from 1st June 2022 (with an interim increase to £48,000 p.a. from 1st June 2020)	Implemented automatically (as no States Member brought a Proposition within the next month to annul or vary a recommendation).	No comment
Introduction of a pension scheme for States Members	Agreement of the States. Funding for a pension scheme had been included in the States Assembly's budget for 2020 in the forthcoming Government Plan. This is now being implemented.	"PPC had already agreed that a pension scheme for Members is long overdue... Support for this position from SMRRB is welcome."
Introduction of a non-pensionable allowance for Ministers and the President of the Scrutiny Chairs Committee: as per Members plus an allowance of £7,500 and for the Chief Minister: as per Members plus an allowance of £15,000	Change to primary legislation which currently requires all States Members to be paid the same.	No comment
Introduction of a compensatory payment to correct a tax anomaly	Implemented automatically (as not objected to).	No comment
Change to compensation for failure to secure re-election to reflect Statutory Redundancy Framework principles	Implemented automatically (as not objected to).	No comment

¹SMRRB (2019) <https://statesassembly.gov.je/assemblyreports/2019/r.89-2019finalcorrected.pdf> Accessed 25 May 2020

This review was commissioned by the Greffier as requested by the PPC. The terms of reference for the review were:

1. To conduct a paper-based review of the current system for determining the remuneration of Members of the States (including the most recent report of the SMRRB);
2. To examine the equivalent systems used by relevant comparator legislatures (especially smaller and sub-national, ideally including Guernsey, Isle of Man, Westminster, Scotland, Wales, New Zealand, Australia and Canada); and,
3. To make recommendations.

Introduction

How best to set the pay of members of legislatures is a vexed question the world over and has been for over 200 years.² There is no international consensus on the question and the mechanisms adopted by different jurisdictions arise from their particular circumstances, expectations and histories. The size and nature of the legislature, the size and history of the jurisdiction and public attitudes are among the factors that influence approaches to setting members' pay.

Nonetheless, it is possible to identify the main mechanisms currently in use across the world and certain trends in their use. It is also possible to examine the methodology used by review bodies in other countries to determine members' pay and consider the methodology used by the SMRRB in light of this.

Section 1 of this report begins by explaining the current system for determining members' pay in Jersey. Section 2 sets out the key features of equivalent systems used by relevant comparator legislatures (including Guernsey, Isle of Man, Scotland, Wales, New Zealand, Australia, Canada and the UK) and considers the question of whether Jersey's current arrangements are "in tune with international best practice". Section 3 examines the latest report of the SMRRB and analyses the methodology used by the review body in light of questions that have been raised about it. Finally, section 4 summarises this review's conclusions and recommendations about the current process for determining members' pay in Jersey, for the consideration of the PPC.

² Behnke K. et. Al (2008) *The Dynamics of Legislative Rewards: An Empirical Analysis of Commonwealth Countries for the World Bank Institute*, London School of Economics

1. The current system in Jersey

In 2004, when for the first time States' members were all paid an identical salary, a process was established that was intended to reduce any public perception that States' members were responsible for determining their own pay. A body independent of members was established, the States' Members Remuneration Review Body, to make recommendations to the States about all aspects of remuneration and expenses. It remained up to the States whether to accept those recommendations.³

1.1 The SMRRB

Terms of reference: The SMRRB has wide discretion to consider "any matters relating to the remuneration and expenses of elected members as it considers appropriate"⁴ and make recommendations as appropriate.

Membership: The SMRRB is made up of five board members each appointed for a period of five years. The board members are appointed by the Privileges and Procedures Committee, following consultation with the Jersey Appointments Commission, no less than 15 days after a report has been presented to the States setting out the names of the proposed appointees.

Status: The SMRRB was established by decision of the States, but it is not a statutory body. The SMRRB is an independent body because its membership cannot include any current member of the States. In the past, although not at present, its members have included former members of the States. Although proposed board members could be objected to by any member of the States, this has never happened.

Role of the States in implementing recommendations: The SMRRB's recommendations relating to remuneration and expenses are adopted automatically, but members can prevent this by deciding to trigger a debate and vote.

The SMRRB presents its recommendations to the Privileges and Procedures Committee. The Committee is required to present the recommendations to the States forthwith. It may include its own report taking a view on the recommendations – as it did in 2019. If a proposition seeking a debate is lodged 'au Greffe' within one month of the date of the recommendations being presented to the States, then their implementation can be delayed or prevented.

Some aspects of the remuneration of States members are set out in legislation, including the stipulation that all members should be paid the same.⁵ If SMRRB recommendations require primary legislation, as would, for example, the 2019 recommendations relating to differential pay, the States necessarily plays a role in whether they are implemented. Recommendations on matters beyond base remuneration and expenses, such as the SMRRB's 2019 recommendation on the introduction of a pension for States Members, also require the agreement of the States.

³ A potted history of States' members' remuneration, as reported by the Jersey Evening Post, is included at Annex 4.

⁴ SMRRB Terms of Reference (Appendix 1, SMRRB, *ibid*)

⁵ Article 44 of the States of Jersey Law 2005

Determinants of remuneration: The terms of reference of the SMRRB envisage that “as it considers necessary” the body shall consult both the public and States members when formulating its recommendations.⁶ The terms of reference also suggest that the SMRRB should:

“have particular regard to, but not be bound by, the following matters:

- (i) the principles that the level of remuneration available to elected members should be sufficient to ensure that no person is 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 and fiscal situation prevailing in Jersey, any budgetary restraints on the States of Jersey and the States’ inflation target, if any, for the period under review.”

1.2 Current remuneration received by States’ members

The total remuneration received by States members had been held at £46,600 from 2013 up until the most recent review. In 2015 the expense allowance received up until that point (which was then £4000) was abolished and rolled together into members’ then salary of £42,600.⁷

As there was no formal objection made to the SMRRB’s 2019 recommendation that the salary of a States members should be increased (to £48,000 in 2020 and then £50,000 in 2022), these increases were implemented from 1 June 2020.

Due to the PPC’s decision to commission this review, for twelve months there has been no opportunity for members to debate and vote on the remaining recommendations of the SMRRB’s 2019 report, which cannot be made without the agreement of the States. This is inappropriate. Although the current process clearly does allow the PPC to delay the States’ consideration of SMRRB’s recommendations **the PPC should be under a duty to bring any SMRRB recommendations requiring a decision of the States to the Assembly for debate and decision in a timely manner.**

Now that this review is complete, **an early opportunity should be found for all States members to take a view on the SMRRB’s recommendations relating to the introduction of differential pay.**

2. Practice for determining remuneration in relevant comparator legislatures

Relevant comparators for the Jersey system have been selected because they meet one or more of the following criteria: Crown dependencies; small or sub-national legislatures; and Westminster-style democracies. The eight comparators are: Isle of Man, Guernsey, Wales, Scotland, UK, Australia, New Zealand and Canada.⁸

⁶ “2. The Review Body shall take any steps it considers necessary to gauge public opinion on the matters within its purview. Equally, the Review Body shall seek the opinions of members of the States from time to time as it considers appropriate.”

⁷ The SMRRB notes that, when compared to Jersey minimum and median wage, members’ pay in Jersey is low in comparison to that of members in a range of comparator countries (close to and below the lower quartile in value respectively).

⁸ This review draws on: relevant academic literature; publicly available documentation about the process for determining members’ remuneration in the comparator countries; press reports about members’ remuneration in Jersey; interviews with officials involved in the UK, Isle of Man, Guernsey and New Zealand systems, and, interviews with the current chair of the PPC and the former chair of the SMRRB.

The compensation package for members in Jersey is simple; since the former expense allowance was abolished in 2015 it has consisted only of basic pay, although the latest recommendations of the SMRRB would extend this to include responsibility-linked allowances and a pension scheme. This review therefore focuses its comparative analysis on processes for setting salaries, rather than more complicated aspects of systems for determining levels of expenses and wider benefits.⁹ However, as the SMRRB highlighted in its report, the simplicity of Jersey's system could be said to lead to a degree of under-resourcing of its legislators when compared to other jurisdictions. In many other systems, members receive expenses to support their duties, including constituency work, and some benefit from additional expenditure by political parties highlighting the work undertaken by politicians and their views on the principal issues of the day. Neither of these forms of resourcing are available in Jersey. The additional resourcing which is available in Jersey is not equally accessible to different members of the States. There is some funding for local political matters which varies depending on office holders in each parish and due to different levels of funding available in each parish. Ministers and members of scrutiny panels have access to taxpayer-funded events and travel opportunities not available to other members.

Looking at international comparators, there are three main variables in how members' remuneration is determined: who conducts the process; how remuneration is decided; and the extent to which members are involved. Different systems combine these three variables in different ways. The table in Annex 1 summarises the key elements of the systems used in the eight comparator countries.

2.1 Who conducts the process?

There are three main options for who conducts the process of coming up with a recommendation on remuneration: a parliamentary body or other parliamentary process; an independent body (as in Jersey); or nobody – in the case of pay automatically linked to an index or comparator. Countries where pay is determined automatically will often still have some kind of parliamentary or independent body responsible for looking at wider aspects of policy on member support.

In many jurisdictions, including many EU countries, it is a parliamentary body or process that produces a recommendation or determination on remuneration. **But in all the comparator countries, the process of coming up with a recommendation on remuneration is conducted either by an independent body, as in Jersey, or automatically.**

2.2 How remuneration is decided

There are three main routes for deciding on remuneration: pay pegged against an index; pay linked to comparators; and pay set following a review.

In some countries, members' pay is set automatically because – by law - it is linked to an index. For example, in Canada members' pay is automatically adjusted based on a link to the index of average percentage increases negotiated in the private sector. In Guernsey, members' remuneration is automatically adjusted each year, based on any percentage change in median earnings on the island. In the United States, members' pay is subject to an Annual Adjustment Formula based on movements in the Employments Cost Index minus 0.5%.

⁹ In most countries members also receive packages of additional payments. These may include: expense allowances (for staff, stationery, ICT equipment, postal and telephone charges, accommodation, travel, and so on), non-cash benefits (for example, free train tickets, free usage of official cars), and pension benefits, together with support from their legislature, including research services, accommodation and other facilities.

Following a review in 2013, the UK's Independent Parliamentary Standards Authority chose to link annual changes in MPs' pay to the Office for National Statistics' (ONS) index of average earnings in the public sector. As the basic pay of Members of the Scottish Parliament is a percentage of MPs' pay, by default it currently uses the same index. The link in the UK to the ONS index was a decision of an independent body rather than a legal requirement and in theory could change after IPSA conducts its next review, which it is required to conduct once a parliament.

In some countries, member pay is linked to comparators and either automatically updated or updated subject to some form of moderation, such as consideration by a parliamentary body. In the Isle of Man, pay is linked to civil service salary levels, in Belgium to the salary of a supreme administrative court judge, in Slovenia to public-sector salaries and in Spain to salaries of high-ranking civil servants.¹⁰

The rationale often given for making an automatic link between members' pay and an index or comparator is to 'take the politics out' of changes in remuneration. Officials at the UK's IPSA believe its decision to use an index has had this effect. Similarly, officials on the Isle of Man noted that although the link to civil service pay was originally brought in in 1997 as an 'interim measure', its success was indicated by the fact that no one had proposed a change in the last 23 years. Indeed, one of the parameters set for the recent Cochrane review – an ad hoc review set up to look at the whole system of remuneration in the Isle of Man – was that the civil service link should be retained.¹¹

In other jurisdictions, including Jersey, pay is set following a review. Such reviews often take account of indexes and comparators alongside other factors which may include historical issues, wider economic circumstances and public consultation.¹² In some cases the terms of reference of the bodies conducting such reviews stipulate the factors that must be taken into account.

Among the comparator countries, Wales, Australia, New Zealand and the UK all use a review process to set member pay.

2.3 How members are involved

Internationally, there are broadly three main alternatives for member involvement in determining their own pay. In some jurisdictions the process is entirely independent of members. In others, including Jersey, members have an opportunity to vote on a recommendation produced by an independent process (an independent body or a link to an index or comparator). In the third group of countries, members play a more significant role in determining their own remuneration by sitting on a review body or otherwise shaping proposals for their own remuneration.

In all the comparator countries, members play no part in the process of setting pay, including not voting on the determination.

Members are necessarily excluded from the process in countries where pay is determined automatically through a link to an index or comparator. In France for example, since 1958, the basic salary of members of the Assemblée Nationale has been directly linked to the pay of the senior civil

¹⁰ Mause, K. (2014) Self-serving legislators? An analysis of the salary setting institutions of 27 EU parliaments, *Constitutional Political Economy* 25:154–176

¹¹ Emoluments of members of Tynwald: Report by an Independent Panel (November 2019) PP 2019/0158 <http://www.tynwald.org.im/business/opgp/sittings/20182021/2019-PP-0158.pdf> (accessed 01.07.20)

¹² Reviews may be conducted by an entirely parliamentary body, a mixed body involving members and non-members or an independent body.

service and automatically increased by the average of the highest and lowest rates of SCS pay increase.¹³ Comparator countries using an automatic link to set pay include Canada, Isle of Man, Scotland and Guernsey.¹⁴

In some other countries, members do not participate in setting their own pay because it is determined by decision of an independent body. This is the case in the Wales, Australia and New Zealand, and in four of the EU's 28 countries, as well as the UK.¹⁵ While, in some instances, members are among those consulted by the body, the final determination is for the independent body and members do not have the opportunity for a vote. Other examples of jurisdictions with fully independent processes include Finland, France, Ireland, Sweden.¹⁶

But in many countries, members play some role in determining their own remuneration. In some, member involvement is limited to the opportunity to object to an independently determined proposal (as in Jersey). In the Netherlands and Norway, members are required to vote to accept or reject a proposed change flowing from an index or linkage.

In some jurisdictions, members participate more extensively in the process responsible for determining pay. In a number of countries, including Cyprus, Estonia, Greece, Latvia, Portugal, and Romania, members have an unconstrained ability to set their own pay.¹⁷ In Spain, a Parliamentary Board is responsible for establishing salaries and pensions, although as far as possible pay is linked to that of the Spanish Junior Minister equivalent (which is set by Government).

2.4 What has led to change in the process for determining members' remuneration?

Over time, most countries have seen the gradual professionalisation of their politicians. Riddell (1993), talking about the UK, describes a transition during the course of the twentieth century from a situation in which politics was a part-time activity mainly undertaken by individuals with independent means, to a full-time profession conducted by career politicians.

As politicians have changed, so have their expectations of compensation. In the past, independently wealthy part-time politicians were less bothered by the level of remuneration they received, and in many cases were leveraging their status as members to gain lucrative non-executive positions. Today, modern politicians are less likely to have alternative sources of income and more likely to view a political role as a part of a career.

At the same time, in most countries, growing societal awareness of inequality and diversity has strengthened a public desire to ensure that no one should be prevented from becoming a member of a legislature because they would receive insufficient income. This consideration is clearly reflected in the terms of reference of the SMRRB.¹⁸

¹³ Mause, *ibid.*

¹⁴ As remuneration processes are normally set out in primary or secondary legislation, or established through decisions of legislatures, it remains open to members in most countries to change their level of involvement in the process if they decide so to do. In Germany this is harder because rules relating to MPs remuneration form part of the constitution and so require two thirds of MPs to vote to change them.

¹⁵ The other countries are Sweden, which established an independent body to set legislative pay in 1994, Ireland (2000) and Finland (2003). France uses an automatic system which links pay to senior civil service salaries.

¹⁶ Mause, *ibid.*

¹⁷ Mause, *ibid.*

¹⁸ This desire is reflected in the Terms of Reference of the SMRRB which enjoin the body to have particular regard to the principles that "the level of remuneration available to elected members should be sufficient to ensure that no person is precluded from serving as a member of the States by reason of insufficient income

Internationally, these shifts have led to a trend away from members being paid nothing, or simply being compensated for their expenses (something the SMRRB refers to in Jersey as its “historic tradition of honorary service”), towards remuneration systems which reflect modern members’ expectations of a salary, pension and the possibility of progression.

In the vast majority of countries, this has led to the introduction of members’ pension schemes (with Guernsey and Jersey being two of the only exceptions remaining without, until very recently in Jersey’s case). All of those examined for this review have also introduced differentiated pay, something which – according to the SMRRB - has historically been resisted by some in Jersey because of concerns over patronage. The chair of the PPC noted that differentiation was thought by some in Jersey to be inappropriate because of the nature of the States as a legislature in which all members are able to bring forward private members’ propositions and where many perform one or more additional roles on top of their constituency work.

Among all the countries identified by the SMRRB as suitable comparators for Jersey, and the additional comparators examined in this review, Jersey is the only country which does not provide an additional allowance of some kind for its Chief minister and ministers (see Annex 3). Many countries also provide additional allowances for other roles, including scrutiny leads. This provides an alternative career path for members who do not wish to be part of government.

Additional allowances are not given for ‘extra work’ – it being generally thought that all elected members in a modern legislature now expect to work full time. Instead, the rationale for differentiated pay normally involves: acknowledgement of greater responsibilities; recognition of more onerous accountability requirements; and/or, attracting a higher calibre of candidates to seek elected office because of the possibility of progression.

Internationally, as the level and complexity of members’ remuneration has increased, so has the need for more formal and robust mechanisms to determine how it should be set. The previous section discussed the various mechanisms which have been established and evolved in different countries.

Mause (2014) argues that members have “a rather low incentive to abdicate the right and privilege to set their own compensation voluntarily.” Consequently, the most common reason for a change in a country’s process is some kind of scandal which leads to an abrupt increase in that incentive. When changes occur in such circumstances, they have always been towards greater independence and aimed at reducing the role of members.¹⁹ An obvious example is the UK’s 2009 MPs’ expenses scandal which triggered the creation of the Independent Parliamentary Standards Authority (IPSA): an independent body regulating MP expenses, salaries, and pensions.

Other systems have changed over time in less dramatic circumstances as a result of growing public pressure for change. Particularly in countries where members play a visible role in determining their own remuneration, there can be regular and – for members - uncomfortable controversy about the level at which it is set: some citizens believe that members are ‘overpaid,’ while others feel that they

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.” SMRRB, *Ibid*.

¹⁹ Bolleyer et al. (2019) describe as ‘modernisation’ the process which led to the creation of a new independent regulatory body in charge of members pay and allowances in the UK and conclude that the IPSA system is ‘unusually robust by international standards.’

are ‘underpaid’, with their particular viewpoint normally affected by their own life experience.²⁰ Meanwhile members themselves are understandably reticent about making a positive case for their own remuneration.

Bush (2012) describes how public pressure led to the establishment of the independent Remuneration Board in Wales.²¹ A proposal was made by the Assembly Commission in 2008 to increase the pay of Assembly Members to reflect the additional legislative responsibilities they had gained under the Government of Wales Act 2006. But the proposed increase attracted such a high level of public controversy that the Commission decided to set up a panel to look into the question of the remuneration of AMs. The panel made far-reaching proposals for change, including that all aspects of the remuneration of AMs should in future be determined by a wholly independent statutory body. In a context of growing public hostility to politicians and their expense claims linked to the contemporaneous Westminster expenses scandal, the Assembly agreed to implement the panel’s recommendations in full.

2.5 Do Jersey’s current arrangements reflect international best practice?

As discussed, the mechanisms adopted by different countries for determining members’ pay arise from their particular circumstances, including the history, size and nature of the legislature and public attitudes to the remuneration of politicians.

States members will have their own views about the particular circumstances that have shaped the system for setting pay in Jersey. However, looking at Jersey in relation to the eight comparator countries (see Annex 1), in terms of the three variables considered above, it is possible to say that:

- In terms of **who conducts the process, Jersey is in line with all the other countries**, in which the process is conducted either, as in Jersey, by an independent body or automatically.
- In terms of **how a recommendation on remuneration is decided, Jersey is in line with Wales, Australia, New Zealand and the UK** in using a review process. The remaining countries, Canada, Scotland, Guernsey and the Isle of Man all use comparators to set pay automatically.
- In terms of **how members are involved in the process, Jersey is the only country in which members can play a part in the process of setting their own pay** if they choose to do so, by lodging a proposition seeking a debate.

3. The 2019 report of the SMRRB: *Recommendations for remuneration beyond the 2022 general election*

As set out above, four of the eight comparator countries use the same approach as Jersey to determine their members’ remuneration - a review process conducted by an independent body. These are: the UK, Wales, Australia and New Zealand.

This section compares the characteristics of the SMRRB as a review body and the process it follows to conduct a review (as set out in its latest report), with the bodies and processes in these four

²⁰ Examples of such controversy in Jersey have been reported in the media:

<https://jerseyeveningpost.com/news/2019/04/11/states-members-pay-body-accused-of-incompetence/>;
<https://jerseyeveningpost.com/news/voices/comment/2013/12/11/should-states-members-be-paid-only-for-what-they-do/>; <https://www.bbc.co.uk/news/world-europe-jersey-21043251>

²¹ Bush, Keith (2012) A Tale of Two Cities—Legislating for Member Remuneration at Cardiff Bay and at Westminster, *Statute law review* 33.2, 141-150

jurisdictions. Obviously, there are many differences between these countries and Jersey – in particular, all apart from Wales have large parliaments. Nonetheless, their practice provides a benchmark against which the practice of the SMRRB can be assessed.

Annex 2 summarises the main characteristics of the independent bodies which conduct reviews of member remuneration in Jersey and the four comparator countries. Annex 3 sets out key features of the review process undertaken by the SSRMB and by the independent bodies in the comparator countries.²²

3.1 The review body

Status

The SMRRB is an independent body, as are all the bodies responsible for conducting reviews of member remuneration in the four comparator countries. But it is the only body without a statutory basis. In all the four comparator countries, the determination made by the independent body is final and not confirmed by the parliament (or government), whereas in Jersey, States members can prompt a debate and vote on the recommendations of the SMRRB.

If it is seen as desirable to bring Jersey's practice into line with international comparators, that would indicate **establishing the SMRRB as a statutory body and removing the option for members to generate a debate on its remuneration determinations.**

If the SMRRB was made a statutory body, members could still subsequently change its role if they wished to do so, by passing amending legislation, but this would be a more significant decision than simply passing a motion to amend the body's terms of reference.

It might be considered 'a sledgehammer to crack a nut' to create a statutory body to review members' pay in Jersey. All the statutory independent bodies in the four comparator countries are responsible for determining wider aspects of schemes for members' expenses and allowances as well as members' pay (and in the case of IPSA for administering that system as well), and all except Wales for much larger parliaments. The role of the SMRRB in Jersey is much more limited.

The advantage of a statutory body which made recommendations that were implemented automatically would be to enhance the independence of the SMRRB and underline to the public that members were not able to vote for their own remuneration, removing the need for an annual decision or debate and reducing public controversy around changes in pay.

Membership

The SMRRB is of a similar size to the independent bodies responsible for conducting reviews of member remuneration in the four comparator countries, although it is at the larger end of the spectrum with five members – Australia and New Zealand each have only three. **It seems feasible to explore whether the SMRRB could be reduced in size to a three-person body if there was appetite to do so, which would provide a small cost saving.** However, this should not be done without consulting with past members as it is not possible to determine the level of administrative support received by the bodies in different countries, and this may vary significantly.

Of the comparator countries, both the UK and Wales are in line with Jersey in specifying that current members cannot be members of the review body. This is to ensure that the bodies are perceived as

²² This analysis is based on examination of the legislation setting out the responsibilities of the independent bodies, the narrative included in their most recent determinations and any strategy documents issued by the bodies which are available online.

independent of those whose pay they are determining. Australia and New Zealand do not have a rule that precludes a member being on their review bodies, but none of their current members are members.

By contrast, the UK specifies that a *former* MP *must* be among its members. This was a requirement introduced to ensure that IPSA had a good understanding about how MPs might use the various different allowances it administers, and the impact of its administrative requirements on MPs and their staff.

The UK also specifies in legislation the qualifications of two other members of IPSA – one must be an auditor and another a former senior judge. This emphasis on the technical skills required to audit and come to balanced judgments on the administration of MPs' pay reflects the circumstances in which IPSA was established - a sudden and significant break with past practice in the wake of a very high level of public concern arising from the MPs' expenses scandal.

The IPSA approach is unusual amongst the comparator countries but it would be possible for Jersey to **specify the qualifications needed by members of the SMRRB** if it wanted to follow the UK example.

Practice on the process of appointing members of the bodies diverges. In Jersey, the UK and Wales members are appointed by the legislature. In Australia and New Zealand it is the Governor-General who makes the appointments. Both approaches seem reasonable but could theoretically lead to allegations of partiality. It is difficult, however, to identify an alternative. **There appears to be no reason to recommend a change to the way members of the SMRRB are recruited.**

Timing of the review

Practice on the timing of reviews diverges. Australia's Remuneration Tribunal is required to review its determination every year. Both New Zealand and the UK require their bodies to initiate a review immediately after a general election. This might be seen as problematic if members in those jurisdictions were able to play any part in affecting the outcome of those reviews – because it would look like newly elected members getting to set their own pay as one of their first acts. As the processes in these two countries are entirely independent, this concern does not arise.

The Welsh body undertakes its reviews prior to an election so that those standing for election can do so in full awareness of the remuneration they will receive if successful.

The timing of its review is a matter of discretion for the SMRRB. The 2019 report set out the view of the latest SMRRB that it was most appropriate to undertake its review prior to an election (as in Wales). This approach means that members will take their view on the SMRRB's recommendations in the awareness that they will shortly have to submit themselves for re-election and might not benefit from any change. The history of member remuneration in Jersey and academic literature looking at systems elsewhere suggest that timing the review in this way is likely to depress pay progression among members who do not want to be seen to accept a pay rise shortly before an election.²³ But as Jersey members continue to have the option of playing a role in determining their own remuneration, it could be seen as problematic for reviews to take place after an election as they do in some comparator countries for the reason set out above.

There is no reason to recommend a change from the current position which leaves the timing of any review to the discretion of the SMRRB.

²³ Mause, *ibid.*

Transparency

Among the comparator countries, only the bodies in the UK and Wales have a statutory duty to act transparently. The UK's IPSA and the Welsh Remuneration Board both have accessible and well-presented websites which explain the status, role, approach and membership of the bodies. No requirement of transparency is made of the Australian Remuneration Tribunal or the New Zealand Remuneration Authority but both bodies provide considerable information about their roles and determinations on their websites.

The 2019 report provides some useful background on the SMRRB, its role and how it goes about fulfilling its remit. However, given that the recommendations of the SMRRB have proven controversial in Jersey in the past, to increase public confidence in Jersey's system **the SMRRB should be given a requirement to act transparently, and more information about the body – including its status, role, membership and approach - should be made available online.**

3.2 Key features of the review process

This section analyses the factors taken into account by the SMRRB and by comparator bodies in their review processes.

The 2019 report lists the factors that the SMRRB took into account in its analysis (see Table 2). It used these factors to reach its recommendation of the appropriate level of remuneration for States members and also to inform four proposed changes in policy: the introduction of responsibility-linked allowances; the introduction of a pension scheme; the introduction of a compensatory payment to correct a tax anomaly; and, a change to compensation for loss of office.

Table 2: Factors taken into account by the SMRRB

Factor
relevant pay levels in Jersey
international practice for politicians' remuneration
the outcomes of opinion surveys
the views of current and former States Members
solutions that it considered affordable in the prevailing financial climate

Fairness and equality

The Terms of Reference of the SMRRB require it to have regard to the principle that... "the level of remuneration available to elected members should be sufficient to ensure that no person is 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."

The Welsh Remuneration Board is legally required to have regard to a very similar principle; to set "a level of remuneration which does not, on financial grounds, deter persons with the necessary commitment and ability from seeking election to the Senedd." The other comparator bodies do not have any such fairness requirement.²⁴

²⁴ Two other bodies – the UK's IPSA and the New Zealand Remuneration Authority both refer to the need for pay to be fair to members but balance this with the need to be fair to the taxpayer who funds their remuneration. This is strictly an affordability criteria rather than a criteria designed to allow anyone who wishes to to become a member.

From the narrative in the 2019 report and an interview with the Chair of the SMRRB, it is clear that the body placed considerable weight on this requirement in its determination of pay. In the view of the SMRRB, this requirement meant that it was not required to set pay at a level that would protect the income of anyone who wished to be a member (in which case arguably it would need to match the income of the best paid person in Jersey), nor to 'price' the job of a member.

In any case, it was the view of the SMRRB that it would not be possible to price the job of a member within the market because: there are no other equivalent jobs to compare it to: it does not sit within a corporate structure which is necessary for a normal job evaluation; and, because members choose to undertake their roles differently it is not possible to specify definitively the skills required to undertake the role successfully. Focusing on the principle of 'not precluding' anyone who wished to become a member led the SMRRB to select an index-based approach to setting pay. Looking at the other listed factors and having opinion-tested its thinking, it chose a level between the 70th and 75th centile of the local earnings distribution as meeting the requirement in its Terms of Reference.

Comparators and indices

The index-based approach which the SMRRB selected as a result of its review is in line with many other jurisdictions. As noted in section 2, some have established an index-based approach without any accompanying review process: in Guernsey, members' remuneration is automatically adjusted annually, based on any percentage change in median earnings; in Canada, members' salaries are adjusted annually based on index of the average percentage increase in base-rate wages resulting from major settlements negotiated in the private sector. Both the Isle of Man and Scotland have established fixed links to comparators (civil service pay and MPs' salaries respectively). The UK's IPSA, like the SMRRB, arrived at the answer of an index-linked salary following a review process.

The remaining three comparator countries all state that they take indices and comparators into account when making their determinations. The Australian Tribunal states that its reviews take into account movements in remuneration in the public and private sector. The Welsh Board is legally required to make determinations which are reasonable in the context of Welsh earnings and the New Zealand authority is required to recommend pay on the basis of "fair relativity with comparable positions". All three bodies disagree somewhat with the SMRRB in indicating it is possible to make some assessment of the value of a member's job role – both Wales and Australia assess the characteristics of the role of a member and reflect its complexity and importance in making their determinations.

States members should consider establishing a fixed link between members' salaries and an index or comparator, which would remove the need for future reviews of members' pay. It would not remove completely the need for some kind of review body to undertake work on other aspects of members' remuneration and conduct periodic reviews of the appropriateness of the link. But it would reduce the political sensitivity around changes to members' pay. Obviously, indexes can move down as well as up, but the potential for members' salaries to reduce during a period of economic uncertainty might be seen as appropriate given the connection between their work and the performance of the Jersey economy, as well as being an advantage in terms of public perceptions.

Economic circumstances

The Terms of Reference of the SMRRB say it should have regard to "the economic and fiscal situation prevailing in Jersey, any budgetary restraints on the States of Jersey and the States' inflation target, if any, for the period under review."

Likewise, all the comparator countries, apart from the UK, specify in their documentation that they take into account the wider economic circumstances in their country when setting pay. Wales and New Zealand are legally obliged to do so. Australia states that it does so. The CEO of IPSA confirmed in an interview that IPSA does take this into account, even though no reference to this was found online.

It is notable that the Australian Tribunal has made adjustments to its determination this year in light of COVID-19. IPSA has changed its allowances scheme to facilitate members' increased caseload of constituency work because of the pandemic. New Zealand has had to pass new primary legislation to allow it to reduce remuneration for MPs and statutory office holders in response to COVID-19. This was a measure announced by the Prime Minister to show solidarity with people who lost income or jobs because of the epidemic.

The SMRRB formulation on taking account of economic circumstances is a useful one. If no decision is taken to link future members' pay to an index or comparator, it allows the SMRRB the latitude to reflect economic circumstances as it sees fit.

Recruiting and retaining competent individuals

Three of the four comparator review bodies specify that among the factors they take into account in making their determination is the need to attract and retain suitable candidates for the role of a member (the UK being the exception). The formulations vary slightly: Wales puts the emphasis on capability and diversity "a wide range of capable and diverse candidates"; Australia focuses on the capability of candidates "individuals of the calibre and with the skills necessary"; and, New Zealand limits its aspiration to securing "competent" candidates. The SMRRB's terms of reference refer to attracting "the broadest spectrum of persons" but not to the competence of those candidates.

However, in its 2019 report the SMRRB does make reference to the importance of recruiting and retaining candidates of sufficient calibre in the section titled "Rationale for Recommendations". Specifically, on pensions it says "The SMRRB is persuaded that lack of pension provision for States Members acts as a disincentive for people with appropriate skills, who enjoy pension provision in their current employment, to stand for election to the States." (p.18). Later it argues that if its package of recommendations is not implemented "The relative unattractiveness of a career in Jersey politics for some potential election candidates, especially those who earn more than States Members' basic pay, will remain unchanged." (p.20)

It seems highly likely that the States, in common with comparator legislatures, is concerned to maximise the competence and calibre of the candidates who stand for election to it, as well as their diversity. In addition to the obvious argument that high calibre members will improve the governance of Jersey, it is arguable that the higher the calibre of candidates who are willing to put themselves forward for election to public office, the higher civic engagement and voter turnout is likely to be. This is relevant given concerns about the high proportion of uncontested elections and low voter turnout in Jersey.

If Jersey members agree that a goal of the remuneration process should be to attract candidates who are competent as well as diverse, **consideration should be given to adding into the SMRRB terms of reference a reference to setting remuneration in such a way as to attract candidates of suitable competence, calibre or skills.**

Consultation

There is divergence in the extent and range of consultation required of remuneration bodies in the comparator countries.

The SMRRB Terms of Reference allow it a degree of discretion in the consultation it should conduct. Public consultation is entirely up to the Review Body - it is told that it “shall take *any steps it considers necessary* to gauge public opinion on the matters within its purview.” (emphasis added) whereas some degree of member consultation is required - it “shall seek the opinions of members of the States from time to time as it considers appropriate.” (emphasis added)

Public consultation

None of the comparator review bodies have any requirement to consult the public in reaching their determination. No reference was found online to public consultation having been carried out by the Australian, New Zealand or Welsh bodies.

In an interview, the CEO of the UK’s IPSA confirmed that, although it is not required to do so, the body had, periodically, held public consultations on the rules it sets for members pay and allowances. In 2012/13, IPSA conducted focus groups on UK’s members remuneration and allowances, including the use of ‘learning materials’ to improve the level of information available to participants about the role of members. It was reported that, at the end of the process, participants were ‘more motivated to recognise the need to pay MPs fairly’ than they had been at the start.

During the interviews conducted for this review, a number of those involved in administering processes for determining the remuneration of members in different countries commented, when asked, that public consultation was particularly tricky in relation to members’ pay. The reasons given were: because most members of the public have very little idea what the role of a member involves; members do their jobs very differently; and, comparators are not obvious.²⁵ Members of the public have a tendency to ‘start from where they are’ when hazarding a guess at appropriate remuneration, with AB groups suggesting higher pay and CDE groups suggesting lower. This may be one reason why some remuneration bodies do not make a practice of public consultation. Another is the risk that public views on members’ remuneration can be heavily affected in the short term by unrelated factors, such as an unconnected political scandal or success.

The SMRRB conducted public consultation to inform its 2019 report. It engaged a Jersey based research company - 4insight - to undertake the research. The aim was “to test the public’s understanding and acceptance of a number of potential approaches to States Members’ remuneration.” The consultation consisted of two 90-minute focus groups in March 2019, each composed of eight contributors selected to broadly represent Island demographics, designed to elicit a range of opinion to inform the content of a public opinion survey. The subsequent survey was delivered, primarily on-line, in May 2019 and received 1215 responses.

While it is within the terms of reference of the SMRRB to determine how to approach public consultation, press reporting indicates that some States members disagreed with the way it went about it.²⁶ There appear to have been three main objections: that the SMRRB used the focus groups to pursue a particular agenda (of introducing differential pay); that the research was inappropriately conducted at a time when the States government was in dispute with its workforce over pay; and, that the focus groups were ‘a waste of money’ and of poor quality (described in an email released under FOI as ‘Survey Monkey Part 2’’).

²⁵ Baker (2008), reporting on the consultation he conducted on MPs’ pay, found that “There was agreement that there was no such thing as a precisely comparable role to that of an MP but there were different views on what were the most appropriate comparators. Suggestions ranged from military ranks, to the Chief Executive of a Local Authority, senior civil servants, multiples of the average wage in an MP’s constituency, GPs, and media figures such as political editors.” *Review of Parliamentary Pay and Pensions*. CM7416

²⁶ Jersey Evening Post, 11 April 2019; 22 July 2019.

It seems appropriate to address each of these criticisms in turn:

- *The SMRRB used the focus groups to pursue an agenda of introducing differential pay.*

This criticism was made by a member who observed one of the focus groups. The question of differential pay is controversial among members of the States – having been the subject of a tied vote when last debated in 2017. This report takes no view on the merits of the question, which is for the States to determine in light of Jersey’s particular history and the current context (as discussed above). However, given the intention of the survey shaped by the focus groups was to test the “understanding and acceptance of a number of potential approaches” to members’ remuneration, it seems unsurprising that differential pay was a subject introduced by the SMRRB for discussion.

The 2019 report does not use the results of the focus groups or the survey to justify its recommendation to introduce differential pay. It explains the rationale on the evidence-based grounds of job-evaluation, international and local comparators, saying that the introduction of differentiation would – “reflect the impact of [office-holders’] decisions on the Island and on Islanders, their duties of public accountability, and the demands of the role on their time. This approach is consistent with practice in all jurisdictions in the international comparator group, and mirrors employment practice locally.”

From the 2019 report, it is impossible to assess the content of the focus group discussions objectively. The reported results of the opinion survey indicate that questions on differential pay formed a substantial part of it. This does not seem inappropriate given that differentiation was probably the most controversial aspect of the SMRRB’s 2019 recommendations.

- *The research was inappropriately conducted at a time when the States government was in dispute with its workforce over pay*

The Jersey Evening Post reported that “the States Members’ Remuneration Body has been instructed not to “progress any kind of pay claim, especially not publicly, while the States remain in dispute over pay with their workforce”.²⁷

If this reporting is accurate, it is understandable that members of the States felt uncomfortable about public consultation about their own pay taking place at the same time as the States was negotiating with its workforce over pay. But this is a good example of why the SMRRB was established as an independent body in the first place – in order to assure the public that the processes are independent.

As the SMRRB is an independent body – as set out in its terms of reference – it should be entirely a matter for the review body to decide when it decides to conduct its research. If the recommendation in this review is followed – to link member pay to a comparator or index – then such circumstances are unlikely to recur again, because if a review is not required then public opinion research will not be needed.

- *The focus groups were ‘a waste of money’ and of poor quality.*

It is within the terms of reference for the SMRRB to conduct public opinion research, and, given that the body does not have the resources to conduct this itself, it seems reasonable that it

²⁷ Jersey Evening Post, 11 April 2019 <https://jerseyeveningpost.com/news/2019/04/11/states-members-pay-body-accused-of-incompetence/> (accessed 06.07.20)

commissioned a local firm to undertake it on its behalf. The funding for the survey was signed off by the Greffier.

It is worth noting that the fact that the SMRRB does not have a dedicated budget of its own, but has to approach the Greffier on a case-by-case basis for money to carry out its role, might be seen as impinging on its independence. It would be preferable for the body to have control of its own budget.

The fact that the Greffier signed off the SMRRB survey expenditure indicates that he must have deemed the expenditure to be reasonable. However, reasonable expenditure is not the same thing as value. The survey results provide a snapshot of public views on members' pay. But, as the SMRRB itself acknowledges, "The on-line public opinion survey, intended to provide a sense of the direction and extent of the public's views about States Members' pay, was designed to capture pre-existing opinion, *not to solicit a considered view based on an understanding of all of the data and argument presented in this report.*" (P.21, emphasis added) As noted above, a number of international interviewees identified the difficulty of conducting meaningful public opinion research on members' pay, and this was not found to be a feature of three of the four comparator bodies' processes for determining remuneration.

There is a question to be considered about whether public consultation is a useful part of a regular review process for determining pay,²⁸ and, if it is, whether a (largely online) opinion survey is a good method of obtaining meaningful information about public attitudes to members' remuneration.

If it is seen as a priority to factor the views of the public into determination of members' remuneration on a regular basis then, the next time the SMRRB conducts a review, it would be more effective to use a deliberative process – a citizens' jury or assembly – to ensure the consultation results are meaningful. This approach, which it should be noted would also be more expensive and time-consuming, would involve a representative group of citizens being given time and resources to learn about, reflect on, and discuss the topic of members' remuneration in-depth before indicating their views.

If the recommendation of this report is taken up, that a fixed link between members' salaries and an index or comparator be established, a deliberative process could be used to inform a determination of the basic level of members' pay which would thereafter be changed in line with the index/comparator.

Member consultation

Practice on member consultation diverges between the comparator countries. The bodies in Australia and New Zealand have no requirement to consult members before making a determination. But the UK and Welsh bodies, both of which have responsibilities for allowances as well as pay, both have a legislative requirement to consult members. The UK's IPSA is required to consult "persons appearing to the IPSA to represent persons likely to be affected by the determination or the review" and carries out an Annual User Survey of MPs. The Wales

²⁸ There is potentially a stronger case for public consultation when a remuneration system is first being established, in order to build public understanding of and trust in the new process, than as part of regular reviews. IPSA conducted extensive public consultation in its early years when it was establishing a complex new pay and expenses scheme in the wake of the 2009 MPs expenses scandal. It appears that this was designed to inform and reassure the public that the system of MPs' remuneration had changed radically and would thereafter be subject to close controls.

Remuneration Board “must, where it considers it appropriate, undertake consultation with those likely to be affected by the exercise of its functions, including Assembly members.”

The Welsh body lays particular emphasis on the value of the consultation it conducts with Senedd members: “Throughout its work, the Board has actively sought evidence to inform its decisions by engaging with a range of stakeholders including Members and support staff...The Board values the input of the Assembly Member and Assembly Member support staff Representative Groups and will continue to engage with these groups to promote its decisions and to consider issues and concerns affecting Members and their staff.”²⁹

The SMRRB drew on evidence of States’ members’ views about remuneration from four sources: a States Greffe 2017 survey; a States Greffe 2018 survey of retirees from the States; a States Greffe 2019 survey of new Members to the States; and responses from States Members to the opinion survey conducted by 4insight.

Press reports indicate some concern from States’ members about whether the SMRRB had a full understanding of the role, work and hours of States members when it made its determination³⁰ although, no specific criticism appears to have been made of the description included in the 2019 report (p.8). In an interview, the chair of the PPC argued that States’ members had lost confidence in the SMRRB because it had not made sufficient efforts to understand the roles they played.

Members are clearly concerned about the SMRRB’s understanding of their role. To inform their work and help restore members’ confidence, members of the SMRRB should conduct qualitative research to build their understanding of what States’ members do, as well as drawing on quantitative survey data. With the assistance of current States members, this could include interviews and opportunities to shadow members undertaking different roles (ministers, committee chairs etc.).³¹ Qualitative research into the various roles played by members seems likely to be of particular value if the States decides to go ahead with the introduction of differential pay.

Other consultees

Three comparator bodies – the UK, Wales and New Zealand have a number of statutory consultees, apart from the public and members (see Annex 3). Examples include: ministers, the Treasury, parliamentary staff and the Speaker. **Consideration could be given to whether the SMRRB should be required to consult any other consultees before reaching a determination.**

²⁹ Remuneration Board (2019) *Annual Report 2018-19* <https://senedd.wales/laid%20documents/gen-ld12653/gen-ld12653-e.pdf> (accessed 04.07.20)

³⁰ Jersey Evening Post, 11 April 2019 <https://jerseyeveningpost.com/news/2019/04/11/states-members-pay-body-accused-of-incompetence/> (accessed 06.07.20)

³¹ I note that the former Chair of the SMRRB said in our interview that his offer to shadow a States member had not been taken up.

4. Summary of conclusions and recommendations

International best practice

- The States should consider **establishing a fixed link between members' salaries and an index or comparator** which would remove the need for future reviews of members' pay. It would not remove completely the need for some kind of review body to undertake work on other aspects of members' remuneration and conduct periodic reviews of the appropriateness of the link.
- Whether or not this recommendation is accepted, **consideration should be given to establishing the SMRRB as a statutory body and removing the option for members to generate a debate on its remuneration determinations.** In all the comparator countries, members play no part in the process of setting pay, including not voting on the determination.
- **The PPC should be under a duty to bring any SMRRB recommendations requiring a decision of the States to the Assembly for debate and decision in a timely manner.**
- Particularly if future remuneration is linked to an index or comparator, but in any case, **it seems feasible to explore whether the SMRRB could be reduced in size to a three-person body,** which would provide a small cost saving.
- There appears to be no reason to recommend a change to the way members of the SMRRB are recruited. But **it would be possible for the States to specify the qualifications needed by members of the SMRRB,** if it wanted to follow the UK example.
- The fact that the SMRRB does not have a dedicated budget of its own but has to approach the Greffier on a case-by-case basis for money to carry out its role, might be seen as impinging on its independence. **It would be preferable for the SMRRB to have control of its own budget.**
- There is no reason to recommend a change from the current position which leaves the timing of any review to the discretion of the SMRRB, and the requirement for the body to take account of economic circumstances in making its determinations is a useful one.
- **The SMRRB should be given a requirement to act transparently, and more information about the body - including its status, role, membership and approach - should be made available online.**
- **Consideration should be given to adding into the SMRRB terms of reference a reference to setting remuneration in such a way as to attract candidates of suitable competence, calibre or skills.**

The 2019 SMRRB report

- **An early opportunity should be found for all States members to take a view on the SMRRB's recommendations relating to the introduction of differential pay.**
- From the 2019 report, it is impossible to assess the content of the focus group discussions objectively. The reported results of the opinion survey indicate that questions on differentiated pay formed a substantial part of it. This does not seem inappropriate given that differentiation was probably the most controversial aspect of the SMRRB's 2019 recommendations.
- As the SMRRB is an independent body – as set out in its terms of reference – it should be entirely a matter for it to decide when it decides to conduct its research.
- There is a question to be considered about whether public consultation is a useful part of a regular review process for determining pay, and, if it is, whether a (largely online) opinion survey is a good method of obtaining meaningful information about public attitudes to members' remuneration.

- **If it is seen as a priority to factor the views of the public into determination of members' remuneration on a regular basis then, the next time the SMRRB conducts a review, it would be more effective to use a deliberative process – a citizens' jury or assembly – to ensure the consultation results are meaningful.** This approach, which it should be noted would also be more expensive and time-consuming, would involve a representative group of citizens being given time and resources to learn about, reflect on, and discuss the topic of members' remuneration in-depth before indicating their views.
- **Members are clearly concerned about the SMRRB's understanding of their role. To inform their work and help restore members' confidence, members of the SMRRB should conduct qualitative research to build their understanding of what States' members do, as well as drawing on quantitative survey data. With the assistance of current States members, this could include interviews and opportunities to shadow members undertaking different roles (ministers, committee chairs etc.).**
- **Consideration could be given to whether the SMRRB should be required to consult any other consultees before reaching a determination.**

Annex 1: Summary of international comparators for setting basic pay

	Indexation	Comparator	Review Body	Do members vote?
Jersey ³²		A range of local and international comparators taken into account by SMRRB, but no automatic link.	SMRRB produces one set of recommendations during each 4-year States electoral term, with recommendations to take effect for the following term.	Only if a proposition seeking a debate is lodged 'au Greffe' within one month of the date of the recommendations being presented to the States.
Guernsey ³³	Remuneration automatically adjusted annually, based on any percentage change in median earnings.		Ad hoc to review entire system, for example Independent States' Members' Pay Review Panel set up in 2018.	No.
Isle of Man ³⁴		Basic salary calculated annually according to a formula based on civil service pay. Additional sums payable to certain office holders calculated as a percentage of the basic salary.	Ad hoc to review entire system, for example Cochrane Review published in January 2020.	Not unless any change proposed in which case the Treasury or Tynwald Emoluments Committee would need to initiate an Order which would be debated and voted on by Tynwald.
Wales ³⁵			The independent Remuneration Board of the Senedd publishes a Determination ahead of each five year Senedd term, which is reviewed annually.	No. Current AMs excluded from membership of Remuneration Board.

³² SMRRB report, 2019

³³ Members' Handbook for the States of Guernsey <https://www.gov.gg/CHttpHandler.ashx?id=104054&p=0> (accessed 27.06.20)

³⁴ Remuneration and allowances <http://www.tynwald.org.im/memoff/remall/Pages/default.aspx> (accessed 27.06.20)

³⁵ Bush, K (2012) A Tale of Two Cities—Legislating for Member Remuneration at Cardiff Bay and at Westminster, *Statute Law Review* 33(2), 141–150; Remuneration Board, *Review of the Determination for the Sixth Senedd: report*, June 2020 <https://www.remunerationboard.wales/wp-content/uploads/2020/06/Rep-E.pdf> (accessed 27.06.20)

	Indexation	Comparator	Review Body	Do members vote?
Scotland ³⁶		Basic salary set at 87.5 percent of the salary payable to a member of the House of Commons.	Parliamentary corporation can periodically review the entire scheme.	No.
UK	Currently, annual changes in MPs' pay are linked to the Office of National Statistics index of average earnings in the public sector.		Independent Parliamentary Standards Authority reviews and determines members' remuneration early in each Parliament. It is also responsible for administering allowances.	No. IPSA must include one former MP among its members.
Australia ³⁷		Remuneration Tribunal takes into account past and projected movements in remuneration in the private and public sectors (including the Australian Public Service), but no automatic link.	Annual determinations by the independent Remuneration Tribunal .	No.
New Zealand ³⁸		Statutory requirement for Remuneration Authority to consider fair relativity with comparable positions, but no automatic link.	The independent Remuneration Authority must initiate a review after an election and review its determination annually.	No.

³⁶ Members' Salary Scheme https://www.parliament.scot/Allowancesandexpensesresources/Members_Salary_Scheme.pdf (accessed 27.06.20)

³⁷ Parliamentary Business Resources Act 2017 <https://www.legislation.gov.au/Details/C2017A00037>; A brief history of parliamentary remuneration <https://www.remtribunal.gov.au/sites/default/files/A-brief-history-of-parliamentary-remuneration.pdf> (accessed 27.06.20)

³⁸ Remuneration Decisions, <https://www.remauthority.govt.nz/remuneration-process/remuneration-decisions/> (accessed 27.06.20); Remuneration Authority Act 1977, <http://www.legislation.govt.nz/act/public/1977/0110/latest/DLM15637.html> (accessed 27.06.20)

	Indexation	Comparator	Review Body	Do members vote?
Canada ³⁹	Salary adjusted annually based on index of the average percentage increase in base-rate wages resulting from major settlements negotiated in the private sector.			No.

³⁹ Bosc M. and Gagnon A (Eds), 2017, *House of Commons Procedure and Practice*, 3rd Edition
https://www.ourcommons.ca/About/ProcedureAndPractice3rdEdition/ch_04_11-e.html (accessed 27.06.20)

Annex 2: Summary of characteristics of bodies responsible for review process in comparator legislatures (**bold indicates statutory requirement**)

	Jersey⁴⁰	UK⁴¹	Wales⁴²	Australia⁴³	New Zealand⁴⁴
Body	States' Members' Remuneration Review Board	Independent Parliamentary Standards Authority	Remuneration Board	Remuneration Tribunal	Remuneration Authority
Authority	Set up by decision of the States in 2004	Parliamentary Standards Act 2009	National Assembly for Wales Remuneration Measure 2010	Parliamentary Business Resources Act 2017	Remuneration Authority Act 1977
Independence	Independent body. Members can initiate a debate and vote on recommendations.	Statutory independence. Parliament does not confirm IPSA's decisions.	Statutory independence. The Board is not, in the exercise of its functions, to be subject to the direction or control of the Senedd or of the Senedd Commission.	Statutory independence. Determinations are not disallowable by Parliament.	Statutory body. Determinations are binding and final and not considered or confirmed by ministers or Parliament.
Members	Five members including the chair, none of whom can be a member of the States.	Chair and four other members, one of whom must be a former senior judge, one a statutory auditor, and one a former MP. Non-parliamentary members cannot have been an MP in the previous five years.	Five members. Senedd members and staff, other politicians and civil servants are disqualified from being members.	Three members.	Three members.

⁴⁰ <https://statesassembly.gov.je/assemblyreports/2019/r.89-2019finalcorrected.pdf> (accessed 01.07.20)

⁴¹ <https://www.theipsa.org.uk/> (accessed 01.07.20)

⁴² <https://business.senedd.wales/documents/s58010/The%20Remuneration%20Boards%20strategy%20for%202016-2021.pdf> (accessed 01.07.20)

⁴³ <https://www.remtribunal.gov.au/offices/parliamentary-offices> (accessed 01.07.20)

⁴⁴ <https://www.remauthority.govt.nz/> (accessed 01.07.20)

	Jersey⁴⁰	UK⁴¹	Wales⁴²	Australia⁴³	New Zealand⁴⁴
Recruitment	Selected through a process supervised by the Jersey Appointments Commission, and appointed by the PPC	Selected by the Speaker on merit on the basis of fair and open competition with agreement of Speaker's Committee on IPSA and confirmatory vote in the Commons.	Appointed by the Senedd Commission.	Appointed by the Governor-General	Appointed by the Governor-General, on the advice of the Minister of Workplace Relations and Safety.
Timing	SMRRB has decided to conduct one comprehensive report during each 4-year States electoral term, with recommendations to take effect for the following term.	Determination must be reviewed in the first year of any Parliament	Determination produced one year ahead of an election. Requirement to keep it under review.	Determination must be reviewed annually	Review must be begun within 3 months of a General Election with determination once issued back dated to polling day. It must set out any annual change for the duration of the Parliament up to the next expected election.
Transparency	No requirement.	Statutory duty to be transparent.	Statutory duty to be open and transparent.	No requirement.	No requirement.

Annex 3: Key features of the review process (**Bold text represents statutory requirement**)

	Jersey	UK⁴⁵	Wales⁴⁶	Australia⁴⁷	New Zealand⁴⁸
Comparators and indices	<p>SMRRB takes account of:</p> <ul style="list-style-type: none"> • pay movement by sector, median, mean, living and minimum wage, and Jersey RPI • Statistics Jersey’s individual employment earnings database • the relative value that other jurisdictions place on politicians’ work • the components and features of other jurisdictions’ members’ remuneration 	<p>Annual changes in MPs’ pay are linked to changes in average earnings in the public sector using Office for National Statistics (ONS) figures.</p>	<p>Decisions must be appropriate within the context of Welsh earnings.</p>	<p>Takes account of past and projected movements in remuneration in the public and private sectors (including the Australian Public Service), as well as the outcomes of reviews of public offices completed by the Tribunal.</p>	<p>Required to produce determination on the basis of “fair relativity with comparable positions”</p>
Job requirements	<p>Role of a States member is discussed in the 2019 report.</p>	<p>Aims to “reimburse MPs for the costs they necessarily incur in properly doing the job of a legislator in the 21st Century.”</p>	<p>Required to provide a level of remuneration which fairly reflects the complexity and importance of the functions which Members are expected to discharge and enable them to exercise their functions.</p>	<p>In considering remuneration, the Tribunal takes into account the attributes of the office and considerations related to complexity, merit and productivity.</p>	<p>Required to produce determination on the basis of “the requirements of the job”</p>

⁴⁵ <http://www.legislation.gov.uk/ukpga/2009/13/contents> (accessed 01.07.20)

⁴⁶ <http://www.legislation.gov.uk/mwa/2010/4/contents> (accessed 01.07.20)

⁴⁷ <https://www.remtribunal.gov.au/offices/parliamentary-offices>; Remuneration Tribunal Annual Report 2018-19, October 2019 (available at <https://www.remtribunal.gov.au/document-library-search> accessed 01.07.20)

⁴⁸ <http://www.legislation.govt.nz/act/public/1977/0110/latest/DLM15637.html> (accessed 01.07.20)

	Jersey	UK⁴⁵	Wales⁴⁶	Australia⁴⁷	New Zealand⁴⁸
Recruiting and retaining competent individuals	Attracting “the broadest spectrum of persons”.	No requirement.	Articulates its purpose as “to attract a wide range of capable and diverse candidates”	Tribunal aims to determine remuneration at levels that will attract and retain individuals of the calibre and with the skills necessary to perform the particular role.	Required to produce determination on the basis of “the need to recruit and retain competent individuals”
Fairness and equality	SMRRB required to have regard to principle that... “the level of remuneration available to elected members should be sufficient to ensure that no person is 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.” (ToR)	Aims to be “fair to the public purse but also to individual MPs”	A level of remuneration which does not, on financial grounds, deter persons with the necessary commitment and ability from seeking election to the Senedd. The Board will have regard to the principles of equality of opportunity and fairness.	Not specified.	Required to produce determination on the basis of “the need to be fair both to the individuals whose pay is being set, and to taxpayers”
Public consultation	“shall take any steps it considers necessary to gauge public opinion on the matters within its purview.” (ToR)	Not explicitly required, but IPSA consults the public on the rules it sets including on MPs’ pay and remuneration.	None mentioned.	None mentioned.	None mentioned.

	Jersey	UK⁴⁵	Wales⁴⁶	Australia⁴⁷	New Zealand⁴⁸
Member consultation	“the Review Body shall seek the opinions of members of the States from time to time as it considers appropriate.” (ToR)	Requirement to consult “persons appearing to the IPSA to represent persons likely to be affected by the determination or the review”. IPSA carries out an Annual User Survey of MPs.	Board must, where it considers it appropriate, undertake consultation with those likely to be affected by the exercise of its functions, including Assembly members.	None mentioned.	None mentioned.
Other consultees	None specified.	<ul style="list-style-type: none"> • The Review Body on Senior Salaries, • the Minister for the Civil Service, • the Treasury, and • any other person the IPSA considers appropriate. 	<ul style="list-style-type: none"> • staff employed by Assembly members, • relevant trade unions, and • such other persons as it considers appropriate. 	None mentioned.	<ul style="list-style-type: none"> • The Speaker of the House of Representatives • the Minister who is, with the authority of the Prime Minister, for the time being responsible for Ministerial Services • the Commissioner of Inland Revenue
Economic context	ToR require SMRRB to have regard to “the economic and fiscal situation prevailing in Jersey, any budgetary restraints on the States of Jersey and the States’ inflation target, if any, for the period under review.”	Not specified.	Decisions must be appropriate within the wider financial circumstances of Wales.	Takes account of economic conditions in Australia.	Required to produce determination on the basis of “any prevailing adverse economic conditions (which may lead the Authority to set remuneration at a rate lower than might otherwise have been the case).”

	Jersey	UK⁴⁵	Wales⁴⁶	Australia⁴⁷	New Zealand⁴⁸
Differentiated pay	Precluded by Article 44 of the States of Jersey Law 2005, which states that all States Members must receive the same amount of remuneration.	Yes. Allowed in law but not required.	Yes.	Yes. Additional salary for parliamentary office holders is expressed as a percentage of base salary. The Tribunal makes recommendations to the government on ministers' additional salary, and the government may accept or reject the Tribunal's advice.	Yes. “Margins recognising the additional responsibilities in these positions have developed over time [and]... does not match either public or private sector remuneration for similarly responsible positions.”

Annex 4: History of members pay in Jersey

[Jersey Evening Post](#) 11 April 2019

“Up until 1969 being a States Member was an honorary position.

Following concerns that it meant only the well-off could afford to be a politician, the first salary payments were made in 1969 after nine failed attempts to get a scheme started from 1955 onwards.

The first means-tested payment scheme included a £750 allowance with provision for a couple’s joint earnings of up to £1,500 before any reimbursement was required.

That system remained mostly unchanged for 22 years – apart from the introduction of an expense allowance initially set at £250 and an annual increase set by the average of the cost of living and wage increases – and by 1990 the scheme included payment of £6,000 and an expense allowance of £2,000.

In 1991 a working party of non-States Members successfully recommended reform of the scheme.

Their new scheme provided an income support allowance of £10,000, an expense allowance of £8,000 and a £5,000 income ceiling above which the main allowance had to be paid back on a pound-for-pound basis.

In 1995, the system was changed again to allow Members to claim back Social Security contributions and by 1996 there were 20 out of 53 States Members claiming some money from a scheme that provided an allowance of £14,500, an expenses allowance of £8,000 and an income ceiling of £6,250 before some money had to be paid back.

By 1998 a new independent committee had recommended a scheme with a maximum payment of £24,000 along with £8,000 in automatically paid expenses, along with an £8,000 limit on income from other sources before the main payment was reduced.

In 2000, the annual cost of States Members pay was put at £1.1 million.

In 2004, as the job of being a States Member increasingly became a full-time one, the ‘means test’ was scrapped, meaning that all Members – regardless of their income from other sources – were being paid the same amount.

In the same year, a proposition led to the creation of a States Members Remuneration Review Body of independent members, which makes recommendations about politicians’ pay.”