

STATES OF JERSEY



STATES MEMBERS REMUNERATION REVIEW BODY: RECOMMENDATIONS FOR 2006 – 2008

**Presented to the States on 13th September 2005
by the Privileges and Procedures Committee**

STATES GREFFE

FOREWORD

The Privileges and Procedures Committee, in accordance with an Act of the States dated 25th November 2003, presents the report of the States Members Remuneration Review Body.

Having received the report prior to 31st August 2005, the Committee met with the States Members Remuneration Review Body to review its findings and to express its sincere thanks to the Review Body for having once again produced a thorough and well-researched report. It was nevertheless clear both to the Review Body and to the Committee that the decision of the States to broaden the original terms of reference given to the Review Body (P.101/2005 refers) had been all but nullified by an earlier decision, taken on 11th November 2004, to accept an amendment to the States of Jersey Law 2005. Members will recall that Article 43 of the Law reads as follows –

43 Remuneration of elected members

No scheme, agreement or other arrangement whatsoever for the remuneration of, or the payment of any allowance to, elected members out of the general revenue of the States shall provide for different elected members to receive different amounts of remuneration or allowance.

The Review Body, having obtained legal advice, concluded that Article 43 curtailed its remit severely. In fact, it proved impossible for the Review Body to make specific recommendations on such matters as pension provision and progressive pay scales, or even to adjust the salary figure by an amount sufficient to compensate for the lack of a pension scheme. Turning to the matter of the expense allowance payable, members may wish to note that the scope of the Review Body to recommend any changes was curtailed by the limited amount of relevant feedback submitted on the issue.

In accordance with the decision made by the States on 25th November 2003, unless any Committee of Member of the States pursues a debate on the recommendations within one month of the date of presentation, the recommendations will be implemented as they stand.

Summary of conclusions and recommendations of the States Members Remuneration Review Body (SMRRB)

We conclude that the remuneration currently paid to States members remains such that nobody is likely to be precluded from serving by means of insufficient income and that this level of remuneration affords a reasonable standard of living to all States members

We were presented with no new evidence that the current level of remuneration is materially too high or too low when viewed in the light of the above criteria.

In accordance with our Terms of Reference (see Appendix) we are making recommendations on the appropriate level of remuneration for the years 2006, 2007 and 2008.

We recommend that for each of the above years the remuneration excluding expenses available to States members should be increased by 2.5% as follows –

Currently	From January 1st	2005	£36,568
	From January 1st	2006	£37,486
Recommended	From January 1st	2007	£38,422
	From January 1st	2008	£39,382

We recommend no increase in the current expense allowance of £3,650 throughout this 3-year period. The arrangement whereby States members may declare total expenses in excess of the above amount and receive relief from income tax due on this amount remains in force.

We note that from 2005 the above remuneration consisting of salary and expenses has been paid monthly in arrears and we recommend the continuance of this arrangement.

We recommend the continuance of the system whereby the employer's element of Social Security contribution is reimbursed to members who are liable to pay the Class 2 contribution applicable to self-employed individuals.

We are unable to make any recommendation as to a pension for States members.

We recommend that a States member should be entitled to payment of salary and expenses for one month following the date on which he or she leaves office. New members should be paid pro-rata in respect of the number of days in the month from the day on which they take up office. For clarity the date on which members actually leave office and others take up office on their swearing-in may be some time after that of the relevant election.

Reasons for recommendations

Increase in basic remuneration

The SMRRB received no written submission from any quarter which advocated any difference in treatment of the basic remuneration from that which had applied to its previous report. Article 43 of the States of Jersey Law 2005 (“Article 43” – see Appendix) now enforces the pre-existing situation that all States members are to be paid the same amount.

The Review Body was mindful of the opinion expressed at a meeting of the Privileges and Procedures Committee on 19th May 2005 that, in so far as this was possible to do so within its terms of reference, the SMRRB should not allow the basic remuneration of States members to become eroded relative to other working groups over time.

The Review Body has recommended an increase in consideration of a submission received from the Finance and Economics Committee to the effect that the States' formal inflation target should be 2.5% during the period 2006-2008. This complies with a requirement in its terms of reference that the SMRRB should consider the States' inflation target for the period under review.

The increase is recommended as a specific amount for each year rather than an indexed amount in response to a submission from the Chairman of the Human Resources Sub-Committee of the Policy and Resources Committee, who indicated that future increases should not be linked to the retail price index or any other Jersey index.

In page 9 of its previous report the SMRRB stated that, in so far as it is able to use any yardstick in establishing from external evidence what level of pay might afford a *reasonable standard of living*, it was inclined towards the 2004 average annual earnings of the Financial Intermediation sector of £35,690. The equivalent figure for 2005 recently published by the States of Jersey Statistics Unit is £37,100, an increase of 3.95%. On this comparison States members are at a slight disadvantage if compared with the remuneration increase received by their market-set peers.

Expenses maintained at current level

In its previous report the SMRRB recommended that the expenses then offered to States members and the level at which the Comptroller of Income Tax was prepared to accept such expenses without further documentation were set at the amount of £3,650.

The Review Body was unable to discern any consistent pattern of expenses which was common to all States members nor was any representation made to the effect that the level offered above was inadequate. The Review Body therefore recommends that States members' expenses should be retained at the current level at least until the end of 2008.

It remains possible for States members to use a greater portion of their remuneration for the settlement of expenses incurred in the course of their duties and to claim tax relief on the overall amount on submission of the necessary tax return. Similar tax arrangements apply at various levels to other taxpayers.

Pensions

The SMRRB indicated in its previous report that, while as, in effect, self-employed persons States members would normally have the responsibility to make their own pension arrangements, it was minded to investigate and possibly to recommend a portable pensions scheme where the contributions of the States members were matched by the public purse. The SMRRB saw this as a measure which might assist States members to demonstrate by example that all should make adequate provisions for retirement, and it sought and obtained wider terms of reference so that it could consider such matters at this stage.

After taking appropriate professional advice as to the schemes available in the pensions industry and soliciting the Attorney General's opinion as to the interpretation of Article 43, the Review Body concluded that any such scheme would now fall foul of the latter as it would not be possible to ensure that the

matching contributions available through such a scheme could be applied equally to all States members.

A problem arises in particular from the situation of more elderly States members whose enforced participation in such a scheme has been described as 'actuarial nonsense'. The requirement that all matching contributions from the States should be at the same level would imply that all members should agree to contribute at (at least) the same level. Total agreement to such a scheme might be difficult to secure and impossible to enforce.

The SMRRB appreciates that the above might not have been an intended consequence of Article 43, and the Review Body accepts that a non-contributory scheme whereby the public purse paid the same amount to every States member without any requirement for a matching contribution would not be affected by Article 43. But such a non-contributory scheme would have to apply at a substantial level to be any use as a pension scheme, and this, coupled with the fact that its one-sided nature would make it appear as a further substantial increase in basic remuneration for States members, makes it impossible for the SMRRB to recommend a non-contributory scheme within its terms of reference.

Pensions savings scheme

In considering the difficulties posed by Article 43 on a potential pension scheme for States Members the SMRRB came to the conclusion that the only acceptable scheme would be one which allowed States members to divert part of their remuneration to a pensions saving scheme in the same way as employees in the working population may divert part of their remuneration to a tax savings scheme.

Since such a scheme would not involve any matching contribution from the public purse it could be accommodated within the provisions of Article 43. The SMRRB could see no advantage in such a scheme unless the Comptroller of Income Tax was minded to rule that such savings, when used to purchase pension entitlement, would be eligible for appropriate tax-saving advantages.

Such a scheme does not exist elsewhere, and the SMRRB wrote to the Comptroller of Income Tax to ask whether it might be possible to construct one to fit the above circumstances. The Comptroller replied to the effect that he would be unable to recognise such a scheme in this way. The SMRRB therefore concluded that it would be inappropriate to recommend a scheme of this sort.

Severance

The SMRRB considered that the nature of the service of States members as a series of short term engagements empowered by the electorate did not imply the continuity of employment that might carry with it some form of severance payment.

The Review Body was aware that a statutory right to redundancy pay would not be available to Jersey employees before 2007 at the earliest, at which stage such entitlement would not apply to the self-employed, and therefore, arguably, not to States members. When such arrangements were in place for the working public a future States Members Remuneration Review Body might consider a concession by which they might be extended to States members.

Meanwhile the recommendation for the payment of an extra month's remuneration beyond the date of leaving office both recognises what the SMRRB takes to be normal commercial practice and broadly preserves the situation which existed when States member were paid quarterly in advance.

Other considerations

Submissions received

The SMRRB received one written submission from a member of the public to the effect that her pay rise as a public sector employee was “measly”. She did not make any direct comparison with the remuneration of States members, but on the assumption that she had intended to do so the Review Body again observes that the requirement that it should observe the States inflation target, rather than (say) the Retail Price Index or market conditions would make it unlikely that the percentage increase recommended for States members would exceed that available to public sector employees.

The SMRRB received 10 submissions from States members, 2 of which were essentially to remind the body of elements contained in previous submissions. The rest all contained the suggestion that the Review Body should consider a pension scheme for States members and most of these latter coupled this with the suggestion that severance pay should also be considered.

As has been indicated above the Review Body had it in mind to consider a pension scheme, but found that Article 43 precluded the recommendation of one which was workable and affordable within its terms of reference.

Again as indicated above the SMRRB considered it inappropriate to recommend any severance arrangement at this stage, though it has made a recommendation as to when the last payment of remuneration to a States member who was not continuing in office should apply.

Public Meeting

A public meeting was held on 12th April which was sparsely attended by States members and public alike, but which thus allowed a more detailed statement of the opinions held by the States members and members of the public than might otherwise have been the case. The Review Body found this helpful and it is most grateful to those who attended.

Article 43

At the outset of its deliberations it became clear to the SMRRB that Article 43 would influence its recommendations, and its response to early submissions from States members indicated as much, to the extent that some recipients asked the SMRRB to indicate what it would have recommended if Article 43 had not been in place.

The SMRRB considers that its first report gave every indication that the Review Body had taken close account of the submissions it had received. In particular it reported that it had noted the strong opinions on either side of the requirement that all States members should be paid the same amount, and that any decision which would alter the above position was a matter for the States and not the SMRRB.

Progression

All that the SMRRB would be prepared to remark at this stage is that progression in a remuneration system need not necessarily imply patronage.

For example, given the necessary funding, it would be possible to contemplate a banded system where

States members received small increments on the basis of length of service or on re-election. This would reflect the view often expressed in submissions from States members and from the public that the remuneration of States members seemed high in relation to their effectiveness on first election, but that effectiveness ought to improve with time.

When the comparison is made with the Financial Intermediation sector, as in page 2 above, it is possible to overlook the fact that this sector comprises individuals most of whom enter the range towards the bottom and leave it towards the top. There is thus an element of progression for individuals within the range which is not reflected within the observed movement of the average figure for the range as a whole. A progressive system would achieve the same effect to the advantage of States members.

It is also fair to point out that under the existing terms of reference the remuneration of States members as a whole might be expected to diminish slightly over time (by between half and one percent annually) from the generally market-set increments of other work groups.

Special responsibility pay

The SMRRB had no strong collective opinion about additional pay for ministers or chairmen of scrutiny panels.

One member of the SMRRB expressed the view that the remuneration of States members was bestowed by virtue of the choice of an electorate who had no voice in the award of any subsequent office for which there should thus be no further reward.

Other SMRRB members considered that that there was likely to be an additional burden involved with special responsibility in the States as elsewhere and that if States members were to approve such an arrangement special responsibility might reasonably attract at least a token additional payment.

Any amounts so recommended might be relatively small. The Review Body's terms of reference require 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 an unreasonably high standard of living was afforded.

P.101/2005 – adopted by the States on 22nd June 2005

THE STATES are asked to decide whether they are of opinion –

to refer to their Act dated 13th May 2003 in which they agreed that an independent States Members' Remuneration Review Body comprising persons who were not members of the States should be established, to their Act dated 25th November 2003 in which they approved detailed terms of reference for the Body, and to their Act dated 22nd June 2004 in which they appointed the members of the Body, and –

to agree that the terms of reference of the Body should be amended to enable it to consider and make recommendations on any matter relating to the remuneration, allowances and benefits available to elected members of the States as it considers appropriate, provided that no such recommendations made by the Body on matters other than on the actual level of remuneration payable to all elected members shall be implemented until they have been debated and agreed by the States.

PRIVILEGES AND PROCEDURES COMMITTEE

REPORT

On 13th May 2003 the States adopted a proposition of Senator E.P. Vibert and agreed to establish an independent States Members Remuneration Review Body. On 25th November 2003 the States approved detailed terms of reference for the Body as follows –

to make recommendations to the Privileges and Procedures Committee on the appropriate level of remuneration to be paid to elected members of the States, 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.*

On 22nd June 2004 the States appointed Mr. Julian Rogers as Chairman of the Body and Mr. Philip Barber, Mr. Matthew Braid, Mr. Brian Bullock and Mr. Bob Gaiger as members. The Body completed its first report in October 2004 and it was presented to the States by the Privileges and Procedures Committee on 16th November 2004 (R.C.52/2004).

Having considered the Body's report and discussed the outcome of the first phase of the Body's work with its members it is clear that the members of the Body felt somewhat constrained by the terms of reference agreed by the States. The members felt that although they heard and considered evidence on a wide range of matters, they were effectively prevented from considering in detail any aspects of members' remuneration other than the actual

monetary limit of the amount available to elected members. The Committee believes that this restriction is undesirable and unnecessary as it is difficult for the Body to consider the entire 'package' of remuneration of elected members if it cannot comment on matters such as pensions, severance payments and other benefits. The purpose of this proposition is therefore to enable the Body to consider any matters it considers relevant and, if appropriate, make recommendations when it reports as required to the Committee.

The Privileges and Procedures Committee and the Remuneration Review Body are fully aware that future arrangements for members' remuneration must comply with the provisions of Article 43 of the States of Jersey Law 2005 which was inserted in the Law following the adoption of an amendment of Senator Stuart Syvret and which is in the following terms –

“No scheme, agreement or other arrangement whatsoever for the remuneration of, or the payment of any allowance to, elected members out of the general revenue of the States shall provide for different elected members to receive different amounts of remuneration or allowance.”

As can be seen from the proposition, it is being proposed that recommendations on matters other than the actual level of remuneration should not be subject to the 'automatic approval' process that applies to the Body's recommendations on that matter (the States agreed that those recommendations would be implemented automatically one month after the presentation of the report to the States unless a proposition was lodged to challenge the proposed figure). If the Body makes recommendations on other matters, which may have financial implications, it will clearly be necessary for those to be considered in detail and debated before they could be implemented.

The Committee is extremely grateful to the members of the Body for the work they has undertaken so far and it is hopeful that the Body will have greater latitude to operate if this proposition is adopted.

Financial and manpower implications

There are no additional financial and manpower implications arising out of this amendment to the Body's terms of reference.