



**Cynulliad Cenedlaethol Cymru  
The National Assembly for Wales**

**Pwyllgor Deddfwriaeth Rhif 1  
Legislation Committee No. 1**

**Dydd Iau, 14 Ionawr 2010  
Thursday, 14 January 2010**

**Cynnwys**  
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Proposed National Assembly for Wales (Remuneration) Measure—Stage 1, Evidence  
Session 2

Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal,  
cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg.

These proceedings are reported in the language in which they were spoken in the committee.  
In addition, an English translation of Welsh speeches is included.

**Aelodau'r pwyllgor yn bresennol**  
**Committee members in attendance**

Eleanor Burnham	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Rosemary Butler	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Ann Jones	Llafur Labour
Val Lloyd	Llafur Labour
Nick Ramsay	Ceidwadwyr Cymreig Welsh Conservatives

**Eraill yn bresennol**  
**Others in attendance**

Frank Cuthbert	Panel Annibynnol Cymru ar Gydnabyddiaeth Ariannol Independent Remuneration Panel for Wales
Richard Penn	Comisiynydd Safonau Cynulliad Cenedlaethol Cymru National Assembly for Wales Commissioner for Standards

**Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol**  
**National Assembly for Wales officials in attendance**

Claire Griffiths	Dirprwy Glerc Deputy Clerk
Joanest Jackson	Cynghorydd Cyfreithiol Legal Adviser
Alys Thomas	Gwasanaeth Ymchwil yr Aelodau Members' Research Service
Liz Wilkinson	Clerc Clerk

*Dechreuodd y cyfarfod am 12.59 p.m.*  
*The meeting began at 12.59 p.m.*

**Cyflwyniad, Ymddiheuriadau a Dirprwyon**  
**Introduction, Apologies and Substitutions**

[1] **Rosemary Butler:** We have received apologies from Chris Franks. I am pleased to say that Val Lloyd is joining us. She is replacing Huw Lewis, who, as I am sure you are all aware, has been appointed Deputy Minister for Children. We wish him well in his new role.

[2] I remind committee members that we operate bilingually. Headsets can be used not just to hear the translation, but to amplify the sound. If you cannot hear the proceedings too well, use the headphones. Please turn off all mobile phones, pagers, and any other electronic devices that you may have, as they affect the broadcasting and translation system. If there is a fire alarm, the ushers will escort us from the room. I remind you not to touch the microphones, as they come on and switch off automatically.

1 p.m.

**Mesur Arfaethedig Cynulliad Cenedlaethol Cymru (Taliadau)—Cyfnod 1,  
Sesiwn Dystiolaeth 2  
Proposed National Assembly for Wales (Remuneration) Measure—Stage 1,  
Evidence Session 2**

[3] **Rosemary Butler:** The purpose of today's meeting is to take oral evidence in connection with the Proposed National Assembly for Wales (Remuneration) Measure. The purpose of the proposed Measure is to establish an independent board that will be known as the National Assembly for Wales remuneration board. Once established, the board will be responsible for making decisions in respect of all aspects of financial support for Assembly Members. The committee took evidence from Dafydd Elis-Thomas, the Presiding Officer and the Member in charge of the proposed Measure, at its last meeting in December. Today, we shall take evidence from Richard Penn, in his capacity as National Assembly for Wales Commissioner for Standards and as chair of the Independent Remuneration Panel for Wales. I remind Members that, at our next meeting, we will have evidence from Barry Winetrobe and from Sir Roger Jones.

[4] Welcome, Richard Penn, to the meeting. I understand that you are accompanied by Frank Cuthbert, the secretary of the Independent Remuneration Panel for Wales. We have a list of questions for you. I am sure that, when we have finished, if you have any questions for us, we will be pleased to try to answer them.

[5] I will start off the questions, if I may. The first question that I would like to ask you, Mr Penn, is, in your submission as chair of the Independent Remuneration Panel for Wales, which is referred to as 'the Panel' in the report, you state that

[6] 'there is a need for the proposed National Assembly for Wales Remuneration Board'.

[7] Can you explain why you think this is the case? What do you think the board will provide that cannot be provided by the current arrangements?

[8] **Mr Penn:** Thank you, Chair. In my letter, wearing that hat, as chair of the IRP for Wales, I make the point that it is really an anachronism for elected members to set the level of their own pay, allowances and so on. It is not best practice. Certainly, in the case of local government in Wales, we have the independent panel, which I chair. It is totally independent and it reaches its own decisions based on evidence. It seems to me that, given all the negative publicity about pay and allowances for Members of Parliament and, to some extent, for Assembly Members, there is a strong argument in favour of removing decisions about those matters from elected politicians. Certainly, in the case of my panel, which deals with local government in Wales, councillors have welcomed that. They generally see it as the right model and, in fact, they press upon us to have additional powers, to be even more independent in terms of the decisions that we make and more prescriptive about our decisions. So, I think that the same principles apply to the Assembly as apply to local government in Wales.

[9] **Nick Ramsay:** In your submission as commissioner for standards, you state

[10] 'that any Board set up should be independent of the Assembly'.

[11] Are you content that the proposed Measure provides for that independence? Can you give reasons for your answer?

[12] **Mr Penn:** Yes. It seems to me, from reading the proposed Measure and the various

supporting documentation, that there is a need for the board. That need has been recognised, and it came through very strongly in the ‘Getting it Right for Wales’ document and its recommendations. The proposed Measure does provide for that independence by having members appointed by the Assembly—or by the Commission in this case—who will, from that point on, reach their decisions independently of any influence from elected members. No Assembly Members, by definition, can be involved in the work of the new board, and that seems to me to be a good way of approaching it.

[13] **Nick Ramsay:** Why do you think it necessary to include in the proposed Measure an explicit provision about the independence of the board, similar to that contained in the National Assembly for Wales Commissioner for Standards Measure 2009?

[14] **Mr Penn:** It is a public recognition that these matters should not be determined by elected Members who stand to benefit from those decisions, but by a wholly and truly independent group of people who have expertise and experience in these matters and who can reach their decisions on the basis of evidence rather than personal benefit of any sort. That is the benefit of an independent remuneration panel. As the National Assembly for Wales Commissioner for Standards, my answer would be different, namely that the commissioner for standards has to be wholly independent. He or she may be an officer of the Assembly, but will not be an employee and will not be line managed in the Assembly. That principle of independence applies in both cases.

[15] **Ann Jones:** I have a supplementary question on a point that you made in your first answer. You said that you thought that local government and the Assembly should be almost similar with regard to remuneration. Why did you choose to say that and not to include us, as a legislature, with our colleagues in Westminster?

[16] **Mr Penn:** I suppose that the answer is that I was responding as chair of the Independent Remuneration Panel for Wales. As I have said in my submission, those principles apply to any elected member in any role, whether as Members of the European Parliament, Members of Parliament, Assembly Members or local councillors. Independence should apply to their remuneration for all of those processes.

[17] **Ann Jones:** You chose to link the National Assembly for Wales with local councillors. Do you not think that that downgrades the legislative work of the Assembly by saying that we are just a super-duper council?

[18] **Mr Penn:** I do not think that I said that or implied it. If I did, I apologise, but I certainly was not implying that—

[19] **Rosemary Butler:** The point is that Mr Penn is here as the chairman of that body, so he is obviously reflecting that.

[20] **Ann Jones:** I will move on then. Given your experiences in both the roles that you are here representing today, are you satisfied that the proposed Measure delivers a balance between the independence of the proposed board and its ultimate accountability as a watchdog of the Assembly, as you say?

[21] **Mr Penn:** I would not use the word ‘watchdog’ and I do not think that I have used that word. I do not see the board as a watchdog, actually.

[22] **Ann Jones:** Perhaps you have not.

[23] **Mr Penn:** I do not think that it is a watchdog. That is a point worth making.

[24] **Ann Jones:** It is just that it was in inverted commas in my brief, and I took it that that had been picked up from somewhere. I will move on.

[25] Unlike the commissioner for standards—you—the board, if it were set up, would not be required to report to the Assembly. Is that right or wrong?

[26] **Mr Penn:** I have made the point in my submission that I think there is a need for consistency. I do not know the reasons why the independent remuneration board will be appointed by the Commission rather than the Assembly. The statutory commissioner for standards will be appointed by the Assembly and is accountable to it. The board, as I understand the proposed Measure, will be appointed by the Commission—on behalf of the Assembly, I suppose—and yet, if a member of the board needs to be removed or his or her appointment suspended, the Assembly will be the body that does that rather than the Commission. So, there is some confusion here. I do not know the reasons why the Commission would appoint the panel rather than the Assembly. I have made the point that there is perhaps a case to look at that again, for consistency.

[27] **Ann Jones:** It must be difficult for you to take off these hats and then to put them back on. In your submission as chair of the panel—so we are back to you being the chair of the panel—you state that the proposed Measure, as currently drafted

[28] ‘should achieve an open and transparent process for determining the remuneration of Assembly Members’.

[29] Could you expand on why you think the proposed Measure provides for that?

1.10 p.m.

[30] **Mr Penn:** It goes back to the point about the independence of the board. In making decisions about the future remuneration of Assembly Members, which applies not only to their salaries but to their allowances and other areas of reward, if I may put it that way, this board will be independent. It will not be under the direct influence of either officers of the Assembly or of Assembly Members themselves. Given that there is an important point here about public perception—and, of course, that depends on the credibility, expertise and reputation of the members who are appointed to this new board, but assuming that those are the kind of people who come forward, which I am sure will be the case—I think that the public will have confidence that decisions about remuneration have been removed entirely from those who will benefit from that remuneration, which I think is a good principle.

[31] **Ann Jones:** Some concerns have been raised in other evidence that the proposed Measure does not make adequate provision to ensure openness and transparency in how the board, if it is set up, would operate. It has been suggested that a duty should be placed on the board in that regard. Do you have a view on that? Should such a duty be placed on it?

[32] **Mr Penn:** There is certainly an expectation that its processes will be open and transparent, and I guess that that goes back to the point that I made about the appointments process. It would be more open and transparent if the Assembly, rather than the Commission, dealt with the appointment of members to the board. That is a personal view, based on my experience as commissioner for standards, but that seems to be the right process for appointing statutory postholders, such as members of this board or me as commissioner. There may be good reasons why the Commission will take a lead role on this, but I do not know. I am not sure where the other evidence comes from, which puts question marks over the openness and transparency of the operation of the board. It is difficult to make that judgment because it has not even been set up yet, let alone been working.

[33] In the case of the independent remuneration panel, our processes are entirely open and transparent. We have a website and we publish our reports. The minutes of our meetings are also published and publicly available, so we have a very open and transparent process. I hope that this board would do the same.

[34] **Ann Jones:** In your submission, you raised concerns that there could be scope for potential crossover between the work of the proposed board, which would be set up under this proposed Measure if it is passed, and that of the commissioner for standards. Could you expand a little on that, please?

[35] **Mr Penn:** Certainly. I suppose that there are two possibilities here: one is that—and I touch on this in my submission at some point—it may be that the board itself will, during its work, come across some issues that might lead it to conclude that there has been some abuse or misuse of allowances. I suppose that what is not built into the proposed Measure yet is any process for dealing with what the board might discover. For example, is that to be reported to the Clerk of the Assembly or to me as commissioner for standards so that any potential breach of the Assembly code of conduct for Assembly Members can be investigated? More likely than not, it will be the other way around. During my work as commissioner for standards, certainly in the last two or three years, a number of complaints have been about Assembly Members' use of allowances. I think that it is more likely that, as commissioner, I might have some issues that emerge from investigations into complaints about the use or misuse of allowances. Again, the commissioner would need to engage with the board to ensure that it is aware of any concerns that arise as a result of an investigation. Certainly, in the last two or three years, on at least three or four occasions that I can think of, an investigation into a complaint has led me to communicate formally my concerns about particular allowances and the potential for breaches of the code of conduct for Assembly Members. I have made those points to the Commission. That is where I think the more likely crossover between the work of the commissioner and the work of the board will be: the outcome of investigations into allegations about the abuse of allowances.

[36] **Ann Jones:** Do you think that the proposed Measure should be amended to address your obvious concerns about this potential overlap?

[37] **Mr Penn:** I am not sure whether it needs to be amended or whether some protocol needs to be developed subsequently to make it clear what happens either in the case of the board having concerns about the use of allowances particularly, or when the commissioner has concerns following the investigation of a complaint. I am not sure whether it needs to be in the proposed Measure, but there certainly needs to be an understanding that both those situations could happen, and there needs to be some protocol for dealing with it.

[38] **Ann Jones:** So, you would prefer a protocol rather than an amendment.

[39] **Mr Penn:** Protocols are a less formal way of working than putting it on the face of the proposed Measure, but that is not for me to say.

[40] **Ann Jones:** So, are you happy to have an informal arrangement about any potential overlap?

[41] **Mr Penn:** Not an informal arrangement, but a formal protocol that would link the work of the board.

[42] **Eleanor Burnham:** Mae gennyf **Eleanor Burnham:** I have a question about gwestiwn am fwrdd taliadau Cynulliad the National Assembly for Wales Cenedlaethol Cymru. Mae adran 1(2) o'r remuneration board. Section 1(2) of the Mesur arfaethedig yn nodi y bydd pum aelod proposed Measure provides that the board

gan y bwrdd, gan gynnwys y cadeirydd. will have five members, including the chair.

[43] **Rosemary Butler:** Sorry, Eleanor, but the translation seems to be very quiet. We have a translator, but the system seems to be very quiet. We will adjust our headsets accordingly.

[44] **Eleanor Burnham:** Mae adran 1 yn delio â bwrdd taliadau Cynulliad Cenedlaethol Cymru. Mae adran 1(2) o'r Mesur arfaethedig yn nodi y bydd pum aelod gan y bwrdd, gan gynnwys y cadeirydd. Yn eich swydd fel comisiynydd safonau, yr ydych wedi dweud y gallai fod yn anodd penodi pum aelod sydd â'r arbenigedd perthnasol i wasanaethu ar y bwrdd. **Eleanor Burnham:** Section 1 deals with the National Assembly for Wales remuneration board. Section 1(2) of the proposed Measure provides that the board will have five members, including the chair. In your capacity as commissioner for standards, you imply that appointing five members with the relevant expertise to serve on the board may be difficult.

[45] 'Is the Assembly Commission confident that five candidates with the relevant expertise will be selected for appointment? Should five suitable members not be found, would this have an impact on public confidence?'

[46] A wnewch esbonio pam yr ydych yn pryderu am hyn? Will you explain why you are concerned about that?

[47] **Mr Penn:** I suppose that it is partly because of the exclusions to the membership of the board. There are many such exclusions, which will limit the field of potential candidates. To go back to my independent remuneration panel, all five of us have direct and relevant experience of dealing with the allowances of elected county councillors and elected members in local government. We have all been local government officers or councillors, and so we understand the territory. The exclusions relating to membership of the board will limit the field, I think. I am sure that some of the candidates who come forward will have a very good public profile—the great and the good of Wales, if I may call them that, will produce candidates for this role—but people who have a public profile and experience and also direct experience of issues to do with the remuneration of elected members will be quite a challenge to find. I may be totally wrong, but I have a feeling that it could be difficult. If it proves difficult to appoint the relevant people with the relevant experience, my concern is about the impact that that will have on public confidence.

[48] **Eleanor Burnham:** Yn yr un modd, pan ofynnwyd cwestiwn tebyg i'r Llywydd, dywedodd fod penodiadau i gyrff cyffelyb hyd yma wedi llwyddo i ddenu ymgeiswyr o ansawdd uchel, a'r rheiny â phrofiad eang. A yw hyn yn lleddfu eich pryderon, neu a ydych yn credu'n gryf y dylid cyflwyno gwelliannau i'r Mesur arfaethedig hwn? **Eleanor Burnham:** In the same vein, when the Presiding Officer was asked a similar question, he said that, to date, appointments to similar bodies had managed to attract people of a high calibre with wide range of experience. Does that help to address your concerns, or do you believe strongly that the proposed Measure needs to be amended?

1.20 p.m.

[49] **Mr Penn:** I heard the Presiding Officer's comment—I was in the public gallery when he made it. If the Presiding Officer is confident that the right people will come forward, I am sure that he will probably be right in the end. It was not a major point in my submission; I was simply saying that there are many exclusions and not many people who have been Assembly Members, or who have worked in the Assembly, who are no longer Members or working in the Assembly. There is a small pool of people who have direct experience of what it is to be an Assembly Member who are going to be able to sit on the board. Serving Members or



serving officers of the Assembly cannot, and there are not many other people who have had much experience of the work of the Assembly. We must remember that this board will be assessing the value of the work.

[50] **Eleanor Burnham:** Felly, mae **Eleanor Burnham:** Therefore, you have gennyhch bryderon. Sut yr ydych chi'n concerns. How do you think that we can meddwl y gallwn ni oroesi'r pryderon hyn? overcome them?

[51] **Mr Penn:** Yes, I have concerns; I have made the point in my submission already and again today. I hope that I am wrong. It may well be that what is going to be a very interesting role will be so attractive to the right people who have sufficient experience of the work of the Assembly that there will be no trouble in recruiting and establishing the board. I hope that that is the case. I am simply asking whether, given the nature of the work, the pool is big enough.

[52] **Eleanor Burnham:** I am trying to tease out whether you think some of the exclusions should be changed.

[53] **Mr Penn:** No, I do not think so.

[54] **Eleanor Burnham:** Fine.

[55] Yn olaf ar hyn o bryd, mae'r pwyllgor wedi derbyn tystiolaeth sy'n awgrymu y byddai pedwar aelod, gan gynnwys y Cadeirydd, yn faint synhwyrol i'r bwrdd. O ystyried sut mae ynadon heddwch yn gweithredu mewn llys—tri ohonynt sydd—a ydych yn credu y dylem gael llai o aelodau? Beth yw eich barn chi ynglŷn â'r niferoedd? Finally for now, the committee has received evidence which suggests that four members, including the Chair, would be a sensible size for the board. Considering the way in which magistrates work in a court—there are three of them—do you believe that we should have fewer members? What is your opinion on the numbers?

[56] **Mr Penn:** It just so happens that I have five members on my panel, which seems to set a precedent, I suppose. I am sure that the board could work quite adequately with four or three members. It will not have a great workload. There will be an annual meeting, of course, and other meetings are provided for if necessary, so it is not a huge workload. The workload of my panel has been much greater because we have a much more elaborate piece of work to do. Independent Remuneration Panel for Wales members probably attend 30 or 40 times a year. With five members, given that the board will meet infrequently, it could be difficult if one or two members did not turn up; if there are only three members on the board in total, that could really stop it from being effective. So, I guess that five is a reasonable number, although it could probably do its work with fewer members if necessary.

[57] **Mr Cuthbert:** I will just add to that, if I may. There is one issue that applies to the remuneration panel for councillors that does not particularly apply to the Assembly board, which is that one of the things that the councillor remuneration panel has done is to visit every council. Having five members has certainly helped, because the work can be spread among them. A more significant point, which I think is relevant, is that if you only have three members on the board, and, to put things at its most extreme, one member very firmly believes that allowances should be hiked upwards, and another believes that they should be frozen, then it only takes the one in the middle to side with one or the other and that is the final decision. Having five members, from my experience of dealing with the remuneration panel, means that there is a healthy debate and that good consideration is given to the issues before any final decision is taken.

[58] **Mr Penn:** I would certainly agree with that, Chair. I think that it has been beneficial to have—for our purposes—that many Members. However, we have what appears to be a bigger

workload than that envisaged for the board.

[59] **Rosemary Butler:** Ann, did you want to come in on that?

[60] **Ann Jones:** Yes. What you can do with three, you can do with five or seven. You could have seven or 17 people on the panel and still have a problem. With 17 members, you could have eight on each side and one in the middle. So I do not think that that argument carries any weight. You can always say that you could have two sides and one person in the middle. You could always have an even number of people on both sides and one person in the middle.

[61] **Eleanor Burnham:** I mentioned magistrates and if you were to apply the same logic you would not have three magistrates sitting on a case. I am using that as a very important analogy, because that is what our legal system uses for important decisions, such as chopping people's heads off. You know what I am saying.

[62] **Rosemary Butler:** I think that the issue is about having an odd number.

[63] **Mr Penn:** Yes. That is a good point.

[64] **Rosemary Butler:** Four members have been suggested here. Have you finished, Eleanor?

[65] **Eleanor Burnham:** Yes.

[66] **Rosemary Butler:** We will now move on to Nick Ramsay's questions. I think that some of the questions that Nick was going to ask have been touched upon, but it is quite important that we ask those questions.

[67] **Nick Ramsay:** I will just go through the questions. If it is repetitive, it does give you a chance to put a bit more meat on the bones. Drawing on your experience as chair of the panel, do you consider that the objectives that the board must seek to achieve when exercising its functions are appropriate and reasonable, how do they compare with the objectives of the panel, and what do you think are the practical implications for the board in seeking to achieve its stated objectives, for example, in terms of their measurement?

[68] **Mr Penn:** It seems to me that the proposed Measure is sound. It sets out the functions of the board, and it sets out what it is supposed to achieve, which is a publicly accessible, open and transparent process for setting allowances and salaries for Assembly Members. It seems to me that the proposed Measure will achieve that. You asked me about my experience on the remuneration panel. We have very clear objectives and we stick to them, and we have an open and transparent process. Very early on—I think that the board, in its first period of formation, may have to think about this—we established some principles for the way that we would operate. We try very hard to stick to those principles, do we not, Frank? In terms of any decision that we make as a panel—we make some quite significant decisions about the members' allowances framework—we try very hard to measure it against the principles that we have established for the way that we operate. For example, it is a principle that the allowances scheme should be open and transparent, publicly accessible and understandable. If the board were to really think hard about what it would like to achieve in the way that it operates, and the principles that will govern, manage and determine the way that it operates, I think that that would be quite beneficial to it. I do not see those yet established. The functions and expectations are clear, but I think that the ways of working may need to be established quite early on.

[69] **Nick Ramsay:** Moving on to the issue of disqualification, about which you spoke at

some length earlier, you said that you would stand by the disqualifications proposed. For instance, you think that sitting Assembly Members should be disqualified; you obviously believe that that should stand.

[70] **Mr Penn:** Yes, and the commissioner for standards.

[71] **Nick Ramsay:** Yes, indeed. [*Laughter.*] In terms of disqualification, you also said earlier that you are concerned about the quality of expertise that might be available. I believe that former Assembly Members can sit on the board and I think that, from what you have said, your concern is that, bearing in mind that the Assembly has not been around for that long, it will be difficult to ensure that you would have a former Assembly Member with sufficient expertise who had been in the Assembly long enough to have as full a view of proceedings as we might have, or as someone like Val might have, having been here since the early days. Will it be difficult to get the level of expertise required, and people who know how this place works?

1.30 p.m.

[72] **Mr Penn:** I suspect that there may be difficulty in members of the board having that direct experience of the way that the Assembly works and of the role of Assembly Members. Some of that can be compensated for by research and taking evidence, and certainly one of the things that my panel has done, as Frank said earlier, is to visit all 22 unitary authorities and undertake consultation exercises, including an electronic questionnaire for all councillors. There are ways that the board—even if it did not have direct experience of the Assembly and the way that it worked—could collect evidence to help it with its work. I simply make the point that the independent remuneration panel has members with long, direct experience of the work of local authorities and councillors, and that has seemed very beneficial to our work.

[73] **Eleanor Burnham:** My question is similar to that asked earlier by Ann Jones. You obviously have expertise in local authority matters; would you not be able to look at the similar role of MSPs or MLAs?

[74] **Mr Penn:** Yes.

[75] **Eleanor Burnham:** I just did not want to imply, given Ann's comments earlier, that we were looking down instead of looking up.

[76] **Rosemary Butler:** I would prefer that you said 'looking across'.

[77] **Eleanor Burnham:** I beg your pardon. Quite right, Chair, but I think that you get my point.

[78] **Mr Penn:** I would hope that the research and evidence-taking would include looking at the ways in which the Scottish Parliament and Northern Ireland Assembly operate, as you suggest, and the regimes that they have for allowances.

[79] **Rosemary Butler:** Nick, do you have another question?

[80] **Nick Ramsay:** No, thanks—it has been covered.

[81] **Val Lloyd:** Mr Penn, I want to ask about the appointment of members of the board. I know that you touched on this slightly in answer to question 5 from my colleague Ann Jones. However, for the sake of completeness, I will ask the question. You make the point in your written evidence that any board that is set up should be subject to a robust appointments procedure. Do you consider the arrangements for selecting candidates for appointment

sufficiently rigorous? Would you give reasons for your answer?

[82] **Mr Penn:** Reading the proposed Measure and the documentation that supports it, it certainly seems that the process of recruitment and selection is robust. It is open and transparent. My point of concern is more about who appoints. It is not about the process—it is about whether these posts, which are statutory, are appointed by the Assembly or the Commission.

[83] **Val Lloyd:** That answers my next question—I was about to elaborate and make that point, so you have answered two in one. As a supplementary to that, why do you think the appointments process would be seen as more open and transparent if members of the board were appointed by the Assembly? Is there a danger that the independence of the board could be seen to be compromised if its members were appointed by the Assembly?

[84] **Mr Penn:** The Assembly is a public body, and, certainly in the case of the commissioner for standards, the Assembly at large approves the recommendation that has come from the appointing panel. That will not happen under the current proposal. The appointment will be made by the Commission, which is not a public body, and I do not think that its meetings are in the public domain. You might say that this is symbolic, but with an issue like Members' allowances, given public and media attitudes, the more open and transparent the process, and symbolically open and transparent the process, the better, in my view.

[85] Just to underline the point, it is about not having the five members of the Commission make the appointment, but the 60 Members of the Assembly. The 60 Assembly Members might not have had a very great involvement in the appointments process, which would have taken place earlier, but it is about the public perception of who has appointed these people to make important and perhaps controversial decisions about Assembly Members' remuneration. I would have more confidence as a member of the public to say that the Assembly as a whole appointed them in a public arena than a group of five Assembly Members. That is the only point; it is not a very important point, but it is symbolically important.

[86] **Val Lloyd:** The proposed Measure provides for persons who are disqualified from membership of the board, but it does not make provision for the types of persons who should be members of the board. I would like to draw your attention to the fact that the Parliamentary Standards Act 2009 specifies that the Independent Parliamentary Standards Authority should include a member who has held a high judicial office, a qualified auditor from the National Audit Office and a former Member of the House of Commons. Therefore, they are specifying the type of membership rather than the individuals. Given the importance that you have placed on ensuring members of the board have relevant expertise, do you think that similar specifications in relation to the make up of the board should be provided for in the proposed Measure?

[87] **Mr Penn:** It would help to focus potential applicants' minds if they saw that at least some of the members of the board were expected to come from a particular background or experience. I see no harm in having a similar specification. It could even be applied to all five members or there could be an expectation for there to be a former Assembly Member on the board. I see no harm in that being a specification for the board; it might be beneficial.

[88] **Val Lloyd:** That is clear, thank you. I will take a slightly different tack now and ask some questions on administrative support. The memorandum accompanying the proposed Measure states that

[89] 'The administrative support requirement will be dependent on the activity of the Board.

In a year when there is no full review the level of support is likely to be minimal and equal to approximately two days per day input by the Board’.

[90] Drawing on your experiences as chair of the Independent Remuneration Panel for Wales, do you consider the estimate of the administrative support requirement set out in section 9 of the explanatory memorandum to be reasonable and how does it compare with administrative support provided to the panel?

[91] **Mr Penn:** I was surprised when I read the explanatory memorandum at how limited the work of the board would be with regard to time commitments and so on. If the board is to do a serious piece of work annually, and an even bigger piece of work every four years, at establishing whether the remuneration and allowances for Assembly Members was appropriate and adequate and reflected the level of responsibility and so on, I find it difficult to know how that would be done on the basis of two meetings a year with four days contribution by each member, and with presumably two days for preparation and two days attending a meeting. If that is the way that it is going to be, then administrative support is not difficult because it is a limited activity. With regard to the IRP work, which has been going on for two years, I would be surprised if every member of the IRP had not put in at least 30 days a year, not to mention preparation time—and that is just for attending different meetings and gathering evidence. This board may want to go to the Scottish Parliament or the Northern Ireland Assembly to talk to colleagues and peers there. I am puzzled at the limitation on the workload that seems to be explicit in the memorandum. However, you never know with boards, sometimes they create their own workload, therefore, no matter what it says here, it may be that the board itself may want to get more involved and do more research and take more evidence. If that were the case, there would need to be careful thinking about the level of administrative support. Frank has another job to do, apart from being the secretary of the board, but we are supported by two or three people from Frank’s team, and it is quite onerous, is it not, Frank?

1.40 p.m.

[92] **Mr Cuthbert:** It is. Even on good days—days on which the panel does not do a lot—it would take three days rather than two for typical administrative support, namely the preparation for the meeting, writing up the minutes and so on. If there are papers to be produced, at least another day is needed on top of that.

[93] **Eleanor Burnham:** What are your thoughts on the thorny issue of possible media attention on the work of the board, which could lead to the need for someone to be on hand to answer some of the questions that might arise from media and public concern, which would not be on one day or two days, but would be ongoing?

[94] **Mr Penn:** Local government allowances are not nearly as interesting as those of the Assembly and Parliament, but we have had quite a lot of media interest from the TaxPayers’ Alliance and so on, who are interested in what we are doing and our determinations. It is all about workload. I have not been involved in drawing up any of these proposals, but I am surprised that the board is limited to two meetings a year and four days a year to each member. I suspect that, in the fullness of time, it will become rather more than that, if the board is to do a serious job of collecting evidence. The reason that you collect evidence is to defend your decisions. These are contentious areas of great public and media interest, and as a panel, we make damn sure that we have the evidence to support the determinations that we make. You cannot do it by turning up at a meeting once or twice a year. It goes alongside the question of whether the administrative support is adequate. It is adequate for two meetings a year, but if the board has a bigger workload and does a proper job, I suspect that it will require some dedicated administrative support and back-up.

[95] I feel sorry for Frank and his team, because we just turn up as a panel to the meetings, which are all-day meetings, but the follow-up work and the preparatory work are very onerous. It takes two or three people to manage our work.

[96] **Eleanor Burnham:** In terms of the media—

[97] **Rosemary Butler:** I want us to pursue this issue. Are you following the same tack, Eleanor?

[98] **Eleanor Burnham:** Yes. Media attention will be relentless. The chair of the panel might be available, but as you rightly said, they would need evidence to back up any statement that they made in the press or the media from the administrative staff.

[99] **Rosemary Butler:** I know that you said that you have a wider brief in your role on the independent remuneration panel, but it might be interesting to have a flavour of the additional work that you do that has developed as a result of your brief—perhaps not now. It is a concern that some panels might do a minimal amount, while others might want to expand their remit. That is what we need to investigate. If it is possible, could we have a flavour of the kind of work that you do? The word ‘onerous’ has been used four times this afternoon, and I do not want to make things more onerous. I am sure that our panel will be a joy to be on, but it would be helpful to have a flavour of how the remuneration panel’s work has developed, because it seems to me that you attend an extraordinary number of meetings. In the first year, you might have meetings for which you might have to do some kind of research, but once that research has been done—I do not know how they do it in Scotland, Westminster or Northern Ireland—you would not need to repeat that research. I can see that Members are concerned about the size of this panel and the amount of work that it will have, so, rather than extend our discussion today, could we have some information from you on this?

[100] **Mr Penn:** We will do our best to let you have some flavour of the work. I would make a simple point that there are 22 unitary authorities and we have to ensure that we have evidence about 22 very different organisations. There is only one Assembly, so it is, in a sense, more limited. We have a rolling programme and we can let you have some more detail.

[101] **Rosemary Butler:** Not too much detail, but a flavour might be helpful. Eleanor, do you want to come back in?

[102] **Eleanor Burnham:** My concern would be about how you deal with immediate questions from the media and the general public. There will be freedom of information questions rolling around, and I am concerned about the ability to respond adequately and in a proper manner. This is going to be an ongoing issue of great concern to the general populace.

[103] **Rosemary Butler:** Hopefully, there will be protocols, or something on the face of the proposed Measure, that will make sure that it is transparent. Then, there should not be any need for FOI requests. That is what we have to do. If the proposed Measure is going to happen, we have to make sure that it is clear and that there is no way anybody can hide anything.

[104] **Eleanor Burnham:** I do not mean that. I am talking about the political bombshell that might ensue from a lack of ability to respond in a timely manner on ongoing issues to do with the board.

[105] **Rosemary Butler:** That is a matter for the panel, is it not? Ann Jones, do you want to come in? I thought you wanted to come back in on this point.

[106] **Ann Jones:** No. Val has a question.

[107] **Val Lloyd:** I have one more question if that is all right. The committee has had evidence emphasising the need to ensure that the board has adequate support, including professionally conducted research and comparative information gathering, and that that is provided without interference from elected politicians or the Commission. I am sure that you have views on that, and we would like to hear them. Does your panel receive similar support in carrying out its role, and if so, could you please give an estimate of the cost?

[108] **Mr Penn:** It will be difficult for me to give that estimate here today, but we can certainly provide it.

[109] **Val Lloyd:** I am sure that a note will be fine.

[110] **Mr Penn:** Apart from the expertise that is represented around the table in my panel, and the direct support through Frank and his team, who are involved in local government in Wales on a daily basis, we have had to do other research as well. We have had people, for example, looking into the taxation of allowances. We had to get an expert in to talk to us because we are not experts on the effect of taxation on allowances and how that might interfere with benefits, for example. That is not a concern for the Assembly, but we have not got that expertise around the table so we have had to bring it in.

[111] With regard to the electronic questionnaire that we did, we could not cope with that, and neither could Frank and his team. We had to buy in the expertise of the Wales Audit Office to manage the electronic questionnaire to all councillors. There is the potential for doing extra bits of research and gathering evidence from, as I said, the Scottish Parliament and other bodies. It may be that the board would want to test public opinion on Members' allowances. We are certainly considering testing public opinion through different devices. All of this adds to the workload and the cost. So, there has to be some more thought given to whether what seems on the face of it—two meetings a year and so on—to be good value for money. I would be surprised if, in the fullness of time, that turned out to be the full extent of the board's work.

[112] **Rosemary Butler:** We can put those questions to the Presiding Officer when he comes back. Who is next? Val, are you finished?

[113] **Val Lloyd:** Yes.

[114] **Rosemary Butler:** Thank you very much. Ann, would you like to come in?

[115] **Ann Jones:** You started to touch on the costs. In your written response as chair of the panel, you stated that the estimated cost of operating the board would be £40,000 over a four-year period. I am old enough to know that Topsy grew and grew, so I would say that that £40,000 is only an estimate. You suggest that this represents very good value for money and has a minimal impact on the public purse. How does that compare with the costs incurred by your own panel?

[116] **Mr Penn:** What is the budget for our panel, Frank? It is a contentious issue.

[117] **Mr Cuthbert:** You continue to exceed it. The Assembly Government has provided about £50,000 a year for each year of the panel's existence so far. We are into the third year now.

[118] **Mr Penn:** That does not include any administrative support. That is purely payment for the work of the panel.

1.50 p.m.

[119] **Rosemary Butler:** So, that is £50,000 a year for three years, which is £150,000. Do we know what the cost of the administrative back-up will be?

[120] **Mr Penn:** Priceless. *[Laughter.]*

[121] **Rosemary Butler:** Do not give us the figure now. Perhaps you could let us have that under another item.

[122] **Mr Cuthbert:** When we send the material through to Liz, we can include an estimate for that cost.

[123] **Eleanor Burnham:** Does that include the payments for the people taking part?

[124] **Rosemary Butler:** Yes; that is the £50,000.

[125] **Mr Penn:** The terms are similar to those for similar sorts of bodies.

[126] **Ann Jones:** I wanted to come on to the rates. The daily rates quoted in the explanatory memorandum, pro rata, equate to £85,000 plus for the chair, and £67,000 plus for any members. I hear that there are to be four members plus the chair. So, if we were to look at having an odd number, we could reduce that by approximately £67,000. Do you think that those rates are suitable to attract the right candidates to these jobs?

[127] **Mr Penn:** The kind of people who will be appointed will not put themselves forward on the basis of the remuneration. They will be people who want to participate in what is a very interesting and worthwhile piece of work. If I can make the point, the same applies to the independent remuneration panel. Certainly, the people who sit at that table could earn a lot more doing something else, but they come because they are interested, they are committed, and they see it as a useful piece of work. Personally, I think that the rates paid for work such as this are low compared to those paid by other public bodies, but that is where we are. They are pegged, as I understand it, at a particular rate, and that is where we are with it.

[128] **Rosemary Butler:** So, we do not have to have a remuneration panel for the remuneration panel. *[Laughter.]*

[129] **Mr Penn:** We could do. We could create a panel for a panel. What a good idea.

[130] **Eleanor Burnham:** This is an interesting point, considering that we are discussing Assembly Members, whose rates are far lower.

[131] **Rosemary Butler:** Sorry, they do not have to play the violin this afternoon.

[132] **Eleanor Burnham:** I am not playing any violin, Chair. I am just stating that this is an interesting point in the discussion.

[133] **Rosemary Butler:** Thank you, Eleanor. Ann, have you finished?

[134] **Ann Jones:** I have. Thank you, Chair.

[135] **Rosemary Butler:** I would like to come to one point, which may have been covered and I may have missed it. If it has been covered, just tell me so. The committee has received evidence to suggest that members of either of the panels appointed by the Assembly



Commission to review Assembly Members' pay and allowances should not be disqualified from membership of the board. Given the importance that you have placed on ensuring that members of the board have relevant experience, do you share that view?

[136] **Mr Penn:** No. I am not sure that it is a worthwhile exclusion, to be honest. If a member of the panel that did the 'Getting it Right for Wales' report saw themselves making a further contribution, I do not think that he or she should be disqualified. That is a personal view.

[137] **Rosemary Butler:** We have asked you a lot of questions. Is there anything that you feel we have not covered that you would like to point out?

[138] **Mr Penn:** No. Thank you, Chair.

[139] **Rosemary Butler:** If there is anything to add, you could always put it in writing and let us have it. Thank you very much for coming this afternoon; it has been very informative. You will be sent a draft copy of the transcript of the meeting for your comments before it is published. Thank you.

[140] **Mr Penn:** Thank you, Chair. Thank you, Members, for an interesting afternoon.

[141] **Rosemary Butler:** I remind Members that the next meeting will be on 21 January. We will have Sir Roger Jones and Mr Winetrobe with us. Thank you very much. That brings today's business to a close.

*Daeth y cyfarfod i ben am 1.54 p.m.  
The meeting ended at 1.54 p.m.*