

To: Elin Jones MS
Llywydd and Chair of the Senedd Commission

19 October 2021

Annwyl Lywydd,

The Public Service Pensions and Judicial Offices Bill (the Bill) was introduced to the UK Parliament in July 2021 and makes provision about public service pension schemes. In August 2021, the Counsel General laid a legislative consent memorandum before the Senedd on the basis that a number of the Bill's provisions are within the legislative competence of the Senedd.

While legislation on occupational and personal pension schemes is reserved to the UK Parliament,¹ there is a specific exemption that enables the Senedd to legislate for the pension scheme for Members of the Senedd. However, the function of approving changes to this devolved pension scheme remains with HM Treasury.² While the Bill does not currently propose to change this function of HM Treasury, I understand that discussions have taken place between the Welsh and UK Governments in relation to this matter, and that the UK Government intends to bring forward amendments to the Bill to remove the approval function from HM Treasury.

Following correspondence between the Counsel General and the then Chief Secretary to the Treasury (extract annexed), HM Treasury officials have been in contact with the secretariat of the Independent Remuneration Board of the Senedd as a result of proposals to amend the pension scheme rules for Members of the Senedd. Given that the Board is responsible for determining the Members' pension scheme rules, the Board's secretariat has been approached to confirm who should be invited to engage in dialogue with HM Treasury officials.

¹ Paragraph 134 of Schedule 7A to the Government of Wales Act 2006.

² Section 30 of the Public Service Pensions Act 2013.


The Board is of the view that the question of how the function should be exercised in future relates to the constitutional framework within which the Board operates. The Board therefore does not believe it to be appropriate for it to take a view on any legislative policy decisions about whether or not this function should be transferred or removed altogether.

However, the Board is content to express its views to HM Treasury, via its secretariat, on the technical workability of a proposed amendment and any legal implications which would need to be considered in forming policy advice on the matter. It is content for these discussions between officials to proceed on the basis that these are without prejudice to the Senedd Commission or Senedd's view on the matter.

Any discussions would be solely related to the impact in relation to the Members of the Senedd pension scheme.

Please do let me know if you wish to discuss this matter further.

Yours sincerely,

A handwritten signature in black ink that reads "Dr Elizabeth Haywood". The signature is written in a cursive, flowing style.

Dr Elizabeth Haywood

Chair, Independent Remuneration Board of the Senedd

cc Mick Antoniw AS/MS, Counsel General and Minister for the Constitution

Jenny Rathbone MS, Chair, Equality and Social Justice Committee

Huw Irranca-Davies MS, Chair, Legislation, Justice and Constitution Committee

Peredur Owen Griffiths MS, Chair, Finance Committee

The Rt Hon Simon Clarke MP, Chief Secretary to the Treasury, UK Government

Jill Youds, Chair, Pension Board for the Members of the Senedd Pension Scheme

Croesewir gohebiaeth yn Gymraeg neu Saesneg | We welcome correspondence in Welsh or English.

Annex

Extract from correspondence from Mick Antoniw AS/MS, Counsel General and Minister for the Constitution, to Rt Hon Steve Barclay MP, then Chief Secretary to the Treasury, regarding the Public Service Pensions and Judicial Offices Bill, 11 August 2021

"I note that the Bill as introduced does not make provision in relation to the pension scheme for members of the Senedd. In the context of that scheme, I note the proposed amendments to the Bill to introduce measures removing the requirement for HM Treasury consent to matters within the Senedd's legislative competence. Legislation governing Senedd members' pensions is taken forward in Wales by the Senedd Commission, and so UK Government officials should liaise with officials from the Commission on the potential effect and drafting of any amendments. It would then also be for the Commission to advise Members on the impact of those amendments. However, it remains the responsibility of a member of the Welsh Government to lay any Legislative Consent Motions that are required, and so on that basis and subject to the relevant provisions being made available to my officials and those in the Commission, I will consider laying a supplementary Legislative Consent Memorandum before the Senedd. I therefore hope that all necessary officials can liaise as amendments are prepared and before they are taken forward."

