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Support for Assembly Members: Creation of an Access Fund

1.0 Purpose and summary

- 1.1 There is a risk that the current funding arrangements in place to support the equalities duties of the Assembly and Assembly Members could fall short of changing needs and the requirements of the Equality Act 2010.
- 1.2 This paper proposes the creation of a central Access Fund that will allow Members to access the necessary resources to:
 - provide for additional requirements of disabled Assembly Members;
 - enable all Members to engage without financial hindrance with constituents with diverse needs (where reasonably practicable); and
 - mitigate the risk of action or inaction that may breach the Equality Act 2010.
- 1.3 The Fund would be separate to the provisions of Chapter 9 of the Determination regarding Equality and Access.
- 1.4 The Access Fund is directly related to the Assembly Commission's strategic goals of providing outstanding parliamentary support and engaging with the people of Wales.

2.0 Recommendations

- 2.1 The Commission is asked to agree to:
 - the creation of a central Access Fund to assist Members to fulfil their obligations under the Equality Act 2010;

- an update of the Cross-Party Group Guidance to include a reference to the Access Fund; and
- refer this paper to the Remuneration Board, and the Commission's decisions on an Access Fund, for information when considering future changes to the Determination on Members' Pay and Allowances.

3.0 Consultation

3.1 Two consultations support the work and conclusions reached in this paper:

- the Equalities team undertook an Equality Impact Screening of the Determination in February 2011. Feedback was gathered from Members as part of this exercise; and
- Sandy Mewies AM, in her capacity as Assembly Commissioner with responsibility for equality, contacted all Assembly Members in August and September 2011 seeking evidence and feedback on how the Commission could better support Members in discharging their responsibilities under the Equality Act 2010. A summary of the feedback received from Members is at Annex A.

4.0 Discussion

4.1 In recent months some Members have made representations to the Equalities team regarding issues and costs associated with providing accessible services to constituents with diverse needs. Issues that have arisen relate to the funding of translation and interpretation services and the provision of specialist equipment.

4.2 In considering the need to establish a Fund, the Equalities team has reviewed the arrangements in Scotland, and assessed the potential financial impact on the Commission's budget and the risks related to these activities. A budget requirement of up to £10,000 per year is estimated based on the requirements identified.

5.0 Supporting Members in serving their constituents

5.1 The Commission, as an employer and service provider, is subject to the requirements of the public sector equality duty in the Equality Act 2010 and must have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation;
- advance equality of opportunity between different groups; and
- foster good relations between different groups.

5.2 The equality duty also explicitly recognises that disabled people's needs may be different from those of non-disabled people. Public bodies should therefore take account of disabled people's needs when making decisions about policies or services.

5.3 Under the Act the Commission and Members should make the necessary reasonable adjustments when providing a service to their constituents. Some Members might have regular contact with a higher proportion of disabled constituents in a densely populated area, may have a special interest in groups requiring communication support or may have constituents whose first language is neither English nor Welsh. These Members might therefore incur costs associated with providing additional support that are disproportionate to other Members' costs.

5.4 The current Determination requires that Members pay for such costs through their office cost allocation. Other costs of engagement, such as translation and interpretation, are also borne by the Members' office cost allocation. From the feedback received, Members are concerned about the differential financial impact of funding additional services from their office cost allocation. Consequently there is a risk that Members may not meet fully their legal obligations towards diverse groups with specific needs. These points were raised during oral questions to the Commission on 5 October 2011.

5.5 The Presiding Officer's Guidelines on Cross-Party Groups, produced in the Second Assembly, states that there is no Assembly budget to cover the running costs of Cross-Party Groups and that any such costs must be met by members of the groups. However, there is one Cross-Party Group which has, historically, been provided with specialist communication services to facilitate the participation of those with a hearing disability. This provides a further incentive for establishing a more open and formalised footing for funding such needs.

5.6 The Cross-Party Group on deaf issues is a good example of when Members might need communication support in order to provide a service to diverse constituents, including disabled people. The

recommendation in this paper is to make such funding available. It must be stressed that the Access Fund would be limited to supporting access and engagement in respect of Cross- Party Groups.

6.0 Remit - the Determination and access issues

6.1 Some access issues are already covered in section 9 of the Determination on Members' Pay and Allowances. These areas will not be affected by the creation of an Access Fund:

- adaptations and modifications to a Member's constituency or regional office are funded as per section 9.2 of the Determination. This requires that a Member must pay the first £1,000 for any such changes out of their Office Cost Allowance; and
- support for disabled support staff is covered by section 9.3, and would therefore not form part of the proposed Access Fund. The Determination states that such support is to be provided from the Office Cost Allowance or Support for Groups Allowance as appropriate.

6.2 The Equalities team will provide clear guidance around issues of reasonableness and proportionality to Members to ensure that they continue to provide accessible services and appropriate facilities for their staff. There are also other external sources of funding for specialist equipment, such as the UK Government's Access to Work scheme, which the Equalities team will also signpost to Members.

6.3 Section 9.4 of the Determination states that a Member "may" use their Office Cost Allowance to provide an accessible service to a constituent. This is the area where Members have identified issues of costs of access and provides the Commission with the flexibility to fund necessary equipment and communication services for Members to engage with their constituents and groups with diverse needs.

7.0 Risk assessment

7.1 The main risk of not creating an Access Fund would be the risk of non-compliance with the Equality Act 2010. For example:

- disabled Assembly Members may not be adequately supported to enable them to undertake their jobs;

- Members may not be able to make reasonable adjustments or effectively communicate with diverse constituents; or
- Members may be deterred from engaging fully with diverse constituents due to the adverse impact on their Office Cost Allocation.

7.2 The Assembly would be likely to face reputational risks if it was perceived that individuals or groups with diverse needs were not being offered equality of access to Members or Assembly business forums.

7.3 There is a risk that if a Fund is provided, it will be insufficient to meet the needs it is intended to meet, as demand is difficult to estimate precisely. The Commission holds a contingency which could be used if this issue arose.

8.0 Scope and operation of the Access Fund

8.1 The Scottish Parliament Corporate Body has a dedicated budget to support disabled MSPs and to make reasonable adjustments for disabled constituents. Communication support is available on application via the Additional Expenses provision. Applications to use the fund are submitted and approved in advance of need. As an illustration of the usage of this provision, eleven applications were received and approved in the financial year 2009-10, totalling £1,122. In the financial year 2010-11, three applications were received and approved, at a total cost of £158. The proposed Access Fund for the Assembly would bring both of these elements within a single budget line.

8.2 As a result of the Equality Impact Screening of the Determination and feedback received from Members in the two consultations, the Equalities team identified the type of costs which could be covered from a central Access Fund to support Members in discharging their responsibilities under the Equality Act 2010. The proposal is to include the following costs in the ambit of the Access Fund:

- communication support for Members' meetings with diverse constituents, including interpretation for Cross-Party Groups and Member-led events. 'Communication support' is taken to mean translation and interpretation into other languages, including British Sign Language (BSL), and the use of palantypists and lip-speakers;

- providing information in alternative formats (i.e. Braille, Easy Read); and
- purchase and maintenance of specialised equipment for disabled Members such as Textphone, IT or other specialist equipment.

8.3 It should be stressed that the Access Fund is to support additional needs of Members with particular access requirements and is not part of Members' allowances. The Fund would be operated by the Members' Business Support team, in consultation with the Equalities team. A set of principles would be established to assess requests to the Fund.

8.4 To access the Fund, Members would be required to apply in advance to the Members' Business Support team for approval. This is intended as a simple 'reasonableness' control and to maintain oversight of need and spending patterns. The Member would then book the service or order necessary equipment and pass the invoice to the Members' Business Support team for payment. Detailed guidance and procedures would be developed for Members.

9.0 Conclusion and recommendation

9.1 The duties placed upon the Assembly by the Equality Act 2010 and the assessment of these by the Equalities team, combined with practical and financial pressures highlighted by feedback from Member consultations has led to the conclusion that the Assembly should provide more support to disabled Members and Members who need to engage with constituents with diverse needs on an individual or group basis. The proposed solution is to establish an Access Fund, administered by the Members' Business Support team, supported by the Equalities team, to fund costs associated with providing these enhanced services.