



Northern Ireland
Assembly

Ad Hoc Committee on a Bill of Rights

OFFICIAL REPORT (Hansard)

Briefing by Ms Alexa Moore, TransgenderNI

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Something that, I feel, has been lost in all the politicking around the process is the context of a bill of rights. As Tony said in your previous evidence session, it was guaranteed in the Good Friday Agreement or Belfast Agreement to protect and uphold the rights of all communities in Northern Ireland. Those protections are 23 years overdue, and, in those 23 years, human rights have gone unfulfilled for so many, as you have already heard. Looking specifically at trans communities, the only adult gender identity service in Northern Ireland has been at a point of crisis for about three years, and the effect on our communities has been monumental. Mental health has plummeted for so many in our communities, many of whom have been waiting for four or more years for access to basic healthcare. The treatment of trans people in those gender services has also been incredibly poor, with many of our service users reporting that the invasive processes used by those services worsened their mental health and, in some cases, traumatised them.

Some human rights abuses are specific to overlapping sections of the community. For instance, today, non-consensual surgeries are still carried out to "normalise" the appearance of intersex babies' genitals. The rights to non-discrimination and access to healthcare are very clearly not being met for some communities in Northern Ireland.

In the area of education, where trans young people have very little legal protection, the Education Authority published research into the LGBT community's experience in post-primary institutions, which showed a complete lack of support for trans communities in schools. Only 7% of trans respondents said that they face no challenges due to their trans identity at school, and over 60% said that their teachers handled trans identity issues badly in classes, with some reporting transphobic bullying, not just by pupils but by teachers and other school staff. We see such high rates of truancy and underachievement among trans communities in schools. Is it any wonder? Our rights to access education are not being met.

I could go on and tell you in depth about the fact that trans people also have been unable to access legal gender recognition in about three years. I could talk about the human rights violations that have been perpetrated by the PSNI in its treatment of the Black Lives Matter protesters and racialised people in general. I could tell you about the continued exporting of pregnant people in the event that they need basic reproductive rights. However, I feel that I may be belabouring the point. Human rights have not been a concern in the governance of this region over the past 23 years. It is time for that to change.

The second area that I would like to address has, I know, been an area of contention for the Committee, and it was discussed briefly with Tony previously. It is the inclusion of so-called social, economic and cultural rights.

The fact that that is a contentious issue is, quite frankly, baffling to me. It is imperative that the rights covered by that label, in particular those contained in the International Covenant on Economic, Social and Cultural Rights, are enshrined in domestic law, especially in the wake of Brexit and the UK Government's agenda of cutting workers' rights, slashing big holes in the safety net that is our welfare state, as you heard, and regressing, rather than making progress, on human rights.

On a more philosophical level, I object to the notion that we can discuss civil and political rights on one hand and social, economic and cultural rights on the other and not talk about how those rights are intertwined and interlinked and are often inseparable. The right to freedom from cruel and degrading treatment is intricately tied to the ability of someone to have a home, to the support delivered by a social security net and to the ability to access timely and fit-for-purpose healthcare. The right to freedom from torture, cruel and inhumane treatment is a civil and political right, and the rest are economic, but they are so interlinked that you cannot separate them.

In Northern Ireland, where we most starkly see the right to freedom from discrimination — again, a civil and political right — being violated is in the impoverishment of minority communities, high homelessness rates, underemployment, very little access to healthcare, and discrimination against disabled people within our welfare state. We cannot have civil and political rights without the economic rights. Anything else is nothing more than lip service.

On that note, there was a suggestion in the public consultation that the entire Bill could be lip service, which was quite worrying, or as it was put in the consultation:

"To what extent, if at all, do you agree that a bill of rights for Northern Ireland should set out an aspirational vision based on guiding or foundational values?"

The wording of that question and the accessibility of the consultation more broadly I will come to in a minute. First, I would like to home in on that suggestion. When it was raised, we held a workshop with a bunch of our service users, just putting it out to trans folks who were interested in the bill of rights or wanted to learn more about it and wanted to respond to the consultation and feed into our response and advocacy. We asked that question of them, and it was met with almost equal amounts of confusion and anger. Trans people, and so many other communities across Northern Ireland, are having their rights abused right now today and every day. From the issues that I mentioned around legal recognition and access to healthcare to the indefinite detention of migrants and refugees in Larne detention centre and the cruel treatment of disabled people on personal independence payment (PIP) that you have already heard about, an aspirational vision of rights is nothing without actionable rights to back them up.

Have your aspirational vision as the preamble to a bill of rights, but a bill of rights with no actionable rights is meaningless. Human rights are not for the future. They are not something that we should aim for. They are not something that the Government should, maybe, think about, potentially, upholding somewhere down the line. Human rights are for here and for now. Human rights are for 23 years ago when this bill was agreed in the Good Friday Agreement. They are something that we should already be focusing on, already be upholding and already be pushing for. To pay mere lip service to rights in a bill purporting to protect them does nothing for those who are currently suffering.

Coming back to an earlier point, it is incredibly important that the public consultation and engagement on this issue is done in line with best practice and in a way that is meaningfully accessible to as wide a range of people as possible. It is also an opportunity to educate people on where this comes from and on the history of the bill. Reading the public consultation, you would never guess that the bill of rights was agreed in the Good Friday Agreement. Context is incredibly important, especially when we have a generation of post-Good Friday Agreement young people growing up and getting interested in politics and in affecting their society. We need to make sure that they are educated in where all this stuff came from.

Accessibility is just as important. The wording of those questions, combined with the lack of framing context, led to a situation where without the wonderful workshops and public awareness campaign run by the Human Rights Consortium, I do not think that this would have reached as many people. Working proactively with the community and voluntary sector and, in particular, with young people and those with learning disabilities to make sure that consultations and engagement are accessible to as many people as possible is absolutely essential for good governance and good legislation.

In the workshop that we held on the bill of rights, while a significant proportion of time was spent unpacking those questions, a good amount of time was spent on some particular issues that trans people face in their day-to-day lives. Something that came out very strongly from the workshop is the fact that disabled or neurodiverse trans people feel like their disabilities are being used within statutory services to deny them autonomy, to deny them their identity and to deny them access to gender-affirming healthcare. The treatment of disabled people generally in Northern Ireland and across the UK is an absolute disgrace, as you have already heard, but when that intersects with other demographics such as trans identity, for instance, people can run into significant barriers to accessing support and care — additional barriers to the ones that they already face.

Something else that became clear from the workshop is that many of our service users have absolutely no faith that this process will result in anything. Frankly, can you blame them? After 23 years, multiple public consultations and a sickening amount of politicking, it seems as though we are right back where we started. That is incredibly unfortunate, but it is symptomatic of how government here has run over the past 23 years. The rights of minority communities have consistently been violated, and government and these processes are in and out of a state of political deadlock. Show our communities that you actually work for them and make sure that the process goes somewhere so that we can see that human rights are central to Northern Ireland and are central to our future in this region.

On a personal level, I am a 20-year-old trans woman from the border regions who, up until a month or two before I left school, was absolutely desperate to leave Northern Ireland. I sat and watched as so many of my friends, in particular queer young people, got on a plane or a ferry and went off to Britain or further afield to get out of this place. Maybe that was a conscious choice, but the reality is that we are being pushed out. We are being pushed out of homophobic and transphobic schools; we are being pushed out of healthcare; we are being pushed out of employment through discrimination and abuse; and we are being pushed out of the public sphere through harassment and abuse levelled at us in the media and even by some politicians. Is it any wonder so many of our young people choose to leave?

Their rights are not being upheld, so they would rather go somewhere else. I stayed because I wanted to work to make Northern Ireland a better place for trans communities. Others stay because they are broke or because they cannot get out or because they have built up a network here or because they want to be close to family or because they, too, see an opportunity to make this place better.

The bill of rights is not a cure-all, but it could signal a sea change in how Northern Ireland functions and is governed. It could convince some of our young people that this is truly a new approach for a new decade. I urge you all to not repeat the mistakes of the past and to do everything in your power to ensure a bill of rights that offers substantial and meaningful protections for all communities in Northern Ireland.

Thank you very much for having me and for your time. I am happy to answer any questions.

The Chairperson (Ms Sheerin): Thank you, Alexa. That was a useful briefing, and, taken in the round with the consultation response that you provided to us prior to today's meeting, it has covered quite a range of topics and a lot of the issues that you feel. We can clearly feel your frustration, and, as a big representative for the community that you work in and the people you advocate for, that was really useful. I appreciate that. Thank you.

There are a couple of things that I want to touch on to see whether you will expand on them. You referred to rights as a framework and to a rights-based approach. I have asked loads of the people who we have heard from how they would view a bill of rights as an accountability measure. You expressed discontent at the thought that socio-economic rights are, almost, pitted against other rights. When I was asking Tony questions around the rights-versus-resources argument, I said that I do not give any weight to that argument and that it is a cop-out that I do not accept. We have had comments from people who say that, by putting these rights in a bill of rights, we are building people's hopes up and that, although these things might be in a bill of rights, they are never going to be achieved. I would take the attitude that that is not good enough. There is resource there to deliver the things that people want to deliver, and Ministers should prioritise rights for everyone because rights are universal. Increasing the rights of a trans individual, a non-binary person or somebody from an ethnic minority is not going to lessen the rights that anybody else has. Could you delve into that a bit more?

Ms Moore: Of course. The rights-versus-resource argument is an incredibly important one, and it is one that I think about a lot. When we are looking at trans healthcare, in particular, that is one of the areas where every time that somebody is talking about it, it becomes, "The gender identity clinics need more money" or "The gender identity clinics need more staff". Sure, that might be part of the problem, but it is really the entire structure and how trans people are treated and how trans identity is viewed as a mental disorder. It is framed within that mental health framework. If you take it out of that and put into a human rights framework or a sexual healthcare provision framework, or you bring it down to a GP level and make it a primary care thing, it is actually going to be cheaper. A lot of the things that we are advocating for in making trans healthcare more accessible and reducing the invasive and interrogatory process that people are forced to go through would be cheaper than the way that they are currently doing it. The way that they are currently doing it inserts artificial waiting times because trans people are just not treated as though we have the rights and competence to make decisions for ourselves and our bodies.

You are right, Emma, that the resource-versus-rights argument is a bit of a misnomer. I do not like the fact that economic, social and cultural rights are pitted against civil and political rights, because, as I said — we made this point in the consultation response — they are so intertwined. You cannot have one without the other. It is important that we do not view this as a cure-all, because we are not going to introduce a bill of rights and click our fingers and everything will be fixed. That is impossible. There are a million and one things that need to be fixed. Look, for instance, at how the Northern Ireland Executive dealt with lockdown late last year and how votes on the coronavirus lockdown were vetoed or blocked by a particular Member or party in the Executive and how the right to life and health could just be blocked and ignored like that. Having a bill of rights would put a framework in place to prevent things like that happening and very blatant abuses of human rights from taking hold and going throughout our Government.

To come back to a point that was made with Tony on the equality impact assessment (EQIA) and section 75 equality screenings, any time that we see any of those, the vast majority of times it is absolute nonsense. It has not been done right, and they have not properly looked at the actual impact that a policy is going to have on minority communities, or they have not considered minority communities at all in the policy because, "Oh well, it is just a general policy and it will benefit

everyone". This laissez-faire attitude to rights and protecting marginalised communities in the governance of this region needs to change, and a bill of rights would be a good start.

The Chairperson (Ms Sheerin): Thank you, Alexa. I cannot disagree with anything that you have said. You referred to the problems at Brackenburn Clinic, and that is one of the things that I have brought up. Not to rehash it, but sometimes that resource argument is used when it is actually a political decision. You referenced women's healthcare and how the legislation has not been properly enacted in the North. It is the same with the gender identity services.

You touched on the percentage of young people who will experience transphobic or homophobic bullying in schools, even from teachers and those who are supposed to be caregivers. When you criminalise or decriminalise something or you change legislation, in that instance, it makes the thing illegal or legal or sets a law around a particular thing. However, it takes some years, usually generations, before you see that mindset embedded into society. The example that I always look to is the Deep South in America and the end of Jim Crow and segregation. We still have racist incidents in America because those attitudes have not all been properly eradicated. You talked about the fact that we do not have a rights-based approach to the law here, and it is the same thing. It is set down as a standard that people who identify as trans are equal and entitled to the healthcare that they need or want, but they are treated as if they have a mental health problem as opposed to being treated how they want to be treated. It facilitates that bullying and discrimination at a local level or tells people that it is normal or fine to hold those views and to voice them when they want to. Do you have any comments on that? Thank you again.

Ms Moore: Absolutely. The school experience is another area where a bill of rights will be incredibly useful. Trans people are protected under our sex discrimination regulations, namely the Sex Discrimination (Gender Reassignment) Regulations (Northern Ireland) 1999, but that does not apply in schools. You have a bit of equality legislation that protects trans people's rights to access goods, services and facilities in most areas of life, but it does not apply in schools, and that is what I mean when I talk about a patchwork equality legislative framework. It is literally patchwork. There are people falling through the gaps and entire swathes of communities that do not have rights, especially when you look at areas like education.

That is quite stark when we think about poor mental health rates in the community. We deliver a lot of training to many service providers and healthcare workers and so forth, and some of the stats that we give are quite stark and quite upsetting in some cases. Across the island of Ireland, trans people of all ages — the figure is around 42% — will attempt suicide at some point in their life, and, if you look specifically at the under-25s, you see that that rises to 48%. We have a specific issue with young trans people in schools being abused, discriminated against and bullied. It happens outside school as well, with many having negative experiences with their family or being stuck in a hostile living environment. That has a real impact on people's mental health. It is not the trans identity that causes the mental health issues; it is the fact that our society simply is not built to support those communities at all.

The Chairperson (Ms Sheerin): Thank you. That point is well made and heard.

Mr Nesbitt: Hi, Alexa. Suicide and poor mental health rates in the trans community are utterly shocking and so out of kilter with the rest of society, even though the rest of society has shocking rates of suicide and poor mental health too. I just want to acknowledge that.

Alexa, you said that you see a bill of rights as a starting point, so I will ask the same question that I asked Tony. Do you think that a bill of rights is not only important in itself but important as a sort of engine to drive cultural change in the Assembly and in the Executive in how we do business, how we bring forward legislation and, indeed, as you say, even in how we conduct equality impact assessments?

Ms Moore: Absolutely. If we look at the history of the governance of Northern Ireland over the past 23 years, we see that it is — this is not an original point — very orange and green and very divided along that axis rather than being divided along the axis of human rights, protecting communities and providing services or whatever the case may be. I say that it is a starting point because, beyond a bill of rights, I can think of 20 different pieces of legislation that I would pass if I ran the country. A bill of rights provides the framework and lens through which to view legislation and policy change for human rights and the impact that it will have on the rights of individual communities and people in Northern Ireland as a whole. While we will still have a very long way to go even if we do pass a bill of rights, it

will create a cultural change and send a signal to people in Northern Ireland that there has been actual change and that there will be a meaningful difference in how we do governance in Northern Ireland.

If the bill passes and the public awareness and public education on it is good enough, I hope that we will see a change even in how people engage with politics, how they engage with legislative change and how willing they are to get involved in that side of things. I know so many young LGBT people who would love to get involved in politics but are so intimidated by the orange and green, the back-and-forth hostility of it all and the fact that the legislation that is being passed and the policies that are being pursued are not in line with human rights in a lot of cases.

Mr Nesbitt: You cleared up my concern about aspirational content. You are not against it per se, but you say that it belongs in the preamble and has to be accompanied by granularity — I think that that is the current term — in the body of the text.

Ms Moore: Yes, 100%. There is a place, absolutely, for an aspirational vision of where we are going, but that is nothing without the concrete rights to back it up. For the public, especially minority communities, having the preamble without the concrete rights would be a bit of a slap in the face, to be honest.

Mr Nesbitt: I agree, but a preamble sets out a vision and a rationale that explains, "This is why we are doing what you are about to read in the main body".

Finally, Alexa, is there any bill of rights internationally that you can point to that could be a template for us for rights for transgender people and the wider LGBTQ+ community?

Ms Moore: I included a little bit in our consultation response on the different UN treaties, conventions and committees that have passed motions and stuff like that to include sexual orientation, gender identity and expression, and sexual characteristics (SOGIESC). It is in the Convention on the Rights of Persons with Disabilities (CRPD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and a few others. We recommend the wholesale importation of those conventions and the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR).

We do not have a specific template in mind, and that is one of the areas where we need to push the ball on. In gender recognition and trans healthcare, Northern Ireland has an opportunity to not just follow Ireland, the rest of the UK or other parts of the world but to lead other parts of the world in this area. Co-designing this with the minority communities that will be meaningfully affected will create legislation that is fit for purpose and inclusive of all communities.

Mr Nesbitt: Excellent. Thank you.

I know that you are big into the Youth Forum. It is launching a mental health kit in half an hour. I am looking forward to that.

Ms Moore: Absolutely. I was a member for two years in my younger years. It does excellent work.

Mr Nesbitt: Yes, it does. Alexa, thanks very much. Take care.

Ms Bradshaw: Thank you, Alexa. That was really great today. I have never heard the issue of trying to separate civil and political rights from socio-economic rights put so well. You just cannot; they are so intertwined. The way that you put that was excellent.

Yesterday, I was on the Rainbow Project's website looking up something. As you know, when you go on to a website, you spot other things that you look at. One of the pages that I came across was a trans swim event. When you read the testimonies of the people who go to it, you see that they are so powerful. People were saying, "I haven't put on a swimsuit since 1998". You do not realise how marginalised trans people can be. I reflected that, in many ways, it is probably like pregnant women 40 years ago walking down the street without a wedding ring on or gay men walking down the street holding hands and stuff. How much would the specific mention of the transgender community in a bill of rights for Northern Ireland move us on as a society so that there is acceptance of and even inner peace for people in the transgender community?

Ms Moore: One hundred per cent. The trans swimming event that is run by the Rainbow Project is one of the best initiatives to come out of the LGBT community in a long time. It is excellent. I miss the sea and swimming. I know so many people who have not been swimming since they came out as trans because of that feeling of the lack of safety or comfort in those spaces.

Generally speaking, across the UK and these islands, the way that our legislation talks about trans communities and the language that is used — there is a focus on really outdated and specific terms such as "gender reassignment", "gender identity disorder" and "transgenderism" — does a lot of harm to trans communities and people who are just trying to understand what their rights are under those Acts. In section 75, trans people are included under men and women generally. Having us specifically named would not be a cure-all or fix the community's distrust, or, often, disinterest, in the political climate in Northern Ireland, but it would go some way to making us feel, "Oh, actually, we do have rights in Northern Ireland. We do have something that we can fall back on. We do have a means by which to challenge abuses of rights". That would be a really important symbolic and material gain. It would be a boon to the community.

Ms Bradshaw: My second question is about access to healthcare. Alexa, you used the phrase "invasive processes". Will you elaborate on that in the context of how a bill of rights could influence healthcare and the connectivity between the two premises?

Ms Moore: Absolutely. Tony talked a lot about human dignity, respect and integrity when going through the statutory processes when applying for PIP or anything such as that. It goes wider than healthcare. Trans and disability rights have such an interconnected and intertwined history. We often talk about them in the same frameworks. In gender identity services in Northern Ireland and across the UK, trans young people under the age of 16 are asked about their sex life, their sexuality, their masturbatory habits and other horrible and invasive questions that, in many cases, have absolutely nothing to do with someone's trans identity. That continues into adult services. We often hear of people having a gender identity clinic suit or dress that they wear to tick the box for the clinician to show that they are living in role as a trans person. The right to dignity, integrity and respect that could be in a bill of rights would give us a tool with which to advocate and make the case that, "Actually, this is not on. It is not right. It is not just immoral but potentially in breach of human rights". We can make that case now, and they can say, "Oh well, too bad". There is no legal obligation on gender services or any other statutory services to protect and uphold trans people's human rights. If we put that obligation on statutory services and on the Executive, we will see a bit of change in how trans identities and lives are viewed and how trans people are consulted on our own healthcare and issues. Tony mentioned a similar issue in that we see a lot of other people advocating for us; cis people and non-trans people advocate on our behalf and say what they think trans communities need. We know what we need. We are experts in our own care and in our own human rights. Ensuring that that kind of co-design and co-development process is enshrined in how the Government work is essential.

Ms Bradshaw: Thank you very much.

Ms Ní Chuilín: Hi, Alexa. Your presentation was very interesting and thought-provoking. It was also very welcome because, while people are converted now to the idea of rights and economic and social justice, which I welcome, that was not always the case. Our Assembly was down for three years due to the lack of human rights. I know that you know that because you were very active in the campaign to have rights addressed. The issue is that, until there are clear rights that are written into law, there will be equality for some but not for all. Equality legislation needs to be based on rights and a bill of rights. Until then, we will repeat the problems of the past. I have no questions. I just wanted to comment that your presentation, along with Tony's, was powerful. It just sang. Thank you, Alexa.

Ms Moore: Thank you very much. I appreciate the comments.

Mr Durkan: I will just come in there, Alexa. I hope that you are well. Thank you again, for that presentation. Members have been very impressed by it. I am no different.

Paula sort of touched on this: do you advocate for a bill of rights to include rights that are specific to trans people, or is it your position that trans people, as a minority group, would benefit from the swathe of rights that is being discussed?

Ms Moore: Both, I think. Trans people will absolutely benefit from just having a bill of rights. Certain minority and marginalised communities need to be named in a bill of rights just to ensure that it applies to all people without exception. The rights are all the same. It must be clear that we all have the same

rights and that they must apply unequivocally to all those different groups. In the past number of years, there has been an attempt in Britain to exclude trans people from equality legislation and to roll back on the rights that have been achieved by trans rights activists in the past. Specifically naming communities in the bill of rights would be a good thing.

Mr Durkan: Now that you mention legislation in Britain, I think that you said that equality legislation relating to trans pupils in schools in Britain does not apply here. What is that specific legislation? Has there been any case here in the North of a trans pupil challenging a school's treatment through the judicial review grounds that were mentioned?

Ms Moore: As far as I am aware, there have been no judicial reviews on that. I was referring to the fact that, in Northern Ireland, trans people's right to access goods, facilities and services is in the sex discrimination regulations. We do not have an equality Act. We have that legislation and a few other bits of patchwork equality legislation. Many of those bits of legislation do not apply in schools. Section 75 does not really come into action in schools. That means that there is essentially a gap in rights for trans people and for LGBT communities more broadly. There is no legal obligation on schools to provide support or equality of access for those pupils. Again, I do not envisage a bill of rights being a cure-all for that stuff. I do, however, think that it will push us towards a place where rights are for everyone and everywhere and there are not exceptions.

Mr Durkan: You mentioned in your submission underemployment in minority communities here, including, of course, the trans community. We have legislation here to protect against employment discrimination, although whether it is enforced robustly enough is a different question. I do not know whether it is fair to address this question to you, Alexa, but we, as a Committee, will certainly need to consider it: how might a bill of rights address underemployment? How might someone bring a case on that in the future?

Ms Moore: From my perspective, some of the most important rights that should be in a bill of rights are workers' rights. For example, the right to safety in work, the right to form a trade union, the right to organise and the right to an inclusive workplace where you feel safe and supported and feel able to, for instance, challenge discrimination against you or challenge discriminatory or abusive behaviour by members of the public. A lot of the time, it is a public issue. It is about interactions with the public, the discrimination that may come from that and trans people not feeling as though they would be able to challenge it in case they were fired. The lack of unions and organised workplaces is a massive concern for trans people in a lot of places. There is, technically, employment discrimination legislation, but if, for instance, a trans person is being misgendered or experiencing transphobia from members of the public every day and has poor mental health, they may not be able to come in as a result, and that could lead to disciplinary action, being fired or whatever the case may be. Every case cannot necessarily be challenged on the grounds of discrimination. However, it is about, as has been said multiple times, creating that culture and making sure that those rights are enshrined in law and are very clear so that people know when and where they can challenge instances where they feel as though their rights have been abused. Again, that is not a cure-all, but it will build towards a Northern Ireland that is better for everyone.

Mr Durkan: That is what we all want. Thanks a million for that, Alexa.

Ms Moore: Thanks for having me.

The Chairperson (Ms Sheerin): I do not think that anybody else is indicating that they want to speak. Alexa, thank you. You have been put through your paces and have answered quite a few questions. Thanks again for joining us this afternoon and for your contribution to the meeting and to your work. You have given us a meaningful and good presentation. Thanks again. Enjoy the rest of your day, and we will let you go.

Ms Ní Chuilín: Thank you, Alexa.

Ms Moore: See you later. Bye, folks.

Ms Ní Chuilín: Take care.

The Chairperson (Ms Sheerin): Slán.