



Northern Ireland
Assembly

Committee on Procedures

OFFICIAL REPORT (Hansard)

Review of Private Members' Bills: Clare
Bailey MLA

3 November 2021

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Ms Carál Ní Chuilín (Chairperson)
Mr Thomas Buchanan (Deputy Chairperson)
Mrs Rosemary Barton
Ms Sinéad Bradley
Ms Joanne Bunting
Ms Ciara Ferguson
Mr William Humphrey

Witnesses:

Ms Clare Bailey Northern Ireland Assembly

The Chairperson (Ms Ní Chuilín): I welcome Clare and, on behalf of the Committee, thank her for spending time with us this afternoon.

Clare, I will leave it to you. I will keep an eye out for members who want to ask questions.

Ms Clare Bailey (Northern Ireland Assembly): Thank you, Carál. That is no bother. Thank you for the invitation to speak to the Committee. I am not sure what you want to hear from me, so your questions will be more than welcome. I will be happy for you to steer me.

The Chairperson (Ms Ní Chuilín): Clare, tell us what your experience has been. For example, if you were to do the same thing again, what would you do differently? What advice would you give about not so much the content but the process? What would you advise other members to do if they were going to do something similar?

Ms Bailey: You are taking me into a counselling workshop now, Carál. *[Laughter.]* I started working on my first private Member's Bill (PMB), for safe access zones, back in 2016, when I was first elected. In all honesty, it has been a very slow process. I am not sure how many of the Assembly's processes we can look at. Obviously, we did not have a functioning Assembly or an Executive for three years. Work on the Abortion Services (Safe Access Zones) Bill has been done completely internally, through the Bill Office and the structures provided. Working through the process with the Bill team has been OK. This has nothing to do with any person, but I have found the process to be very slow and a bit clunky. I am now working with a fifth member of staff from the Bill Office on that Bill — all the staff have been great, by the way, but the continual rotation has made things really clunky.

I started working on the Bill back in 2016. In January 2017, I was able to go to public consultation on it, just before the Executive collapsed. Once the Executive were back up and running, the Speaker notified Members who had already submitted a Bill that they could continue working on it, so I was

able to pick up where I had left off. It was good that I did not have to start again from the beginning. There was a new Bill team by then, however, so it was a matter of getting team members up to speed, telling them the Bill's background, letting them know my intention and working through all of that again. Then COVID hit, and we were in a pandemic and working from home, so I suppose that that stalled the Bill as well. I feel that a year was missing from the process, however. I cannot explain that: it is just how it is.

The Bill has now been referred to the Committee, and the Committee is going to seek an extension to the Committee Stage. That is as far as the Bill has got in all these years. As with everything else, it is debatable whether there will be enough time left during the rest of this mandate to get anything passed or rejected — just brought to the final stages. We will have to wait and see. To be honest, I am a wee bit disappointed and have found it really frustrating in that context.

I found going to public consultation a big learning curve, discovering that there are no financial resources for private Members who are working on Bills. I had to cover that cost out of my own pocket. I think that that is still the case.

The process was grand because the staff in the Bill Office can talk Members through things step by step: you go to the Equality Commission or the Human Rights Commission; you engage with stakeholders; you go to consultation; you think about unintended consequences; and you delve deep. There is a whole mentoring process, which is fair enough because we are creating legislation, and legislation has to be as robust and direct as possible. That background process was good, but I have not really moved out of it; we are still doing it.

I will leave it there. I am happy to take questions because, I suppose, there is stuff that I have not thought about.

I have sponsored a second Bill, which was drafted outside the Assembly's Bill processes. It has been dealt with much more quickly. It was submitted to the Speaker's Office. Outside the content of the Bill, what it is for and all the rest of it, it took a bit of time to go through the Speaker's Office's procedures, just because of its sheer volume and scope. That is OK; it is not a bother. I was able to move that Bill through First Stage and Second Stage and into Committee, and the Committee is getting ready to report back on that one, but, at the same time, the Bill that I started working on in 2016 through the Assembly processes has just moved into Committee. That gives you a wee bit of an indication of the differences. I am not sure what else to let you know about.

The Chairperson (Ms Ní Chuilín): Listen, Clare, that is grand. Other members might have specific questions. The staff in the Bill team have been really good and supportive, but the fact is that there has not been consistency. There has been turnover in staff, and there are probably not enough staff in the Bill team. You have been out of pocket in bringing legislation forward through the private Member's Bill route, and we need to keep an eye on that.

I will throw it open to members for questions and observations.

Ms S Bradley: Thanks, Clare, for that. I hear you. I had a Bill that fell for a similar reason. I was trying to pin down staff who were under pressure with the timelines, and that is one thing that gives. What you say about the expense is interesting. I found that, too. You reach a point where you are out of pocket. In the context of your second Bill, you talked about outsourcing. I presume that you meant going outside the Assembly to have it drafted. For the financing of that or even a service to point you in that direction, were you given internal support to direct you to any sort of financial help?

Ms Bailey: No, not at all, Sinéad. I have never been offered or come across any financial help to prepare and draft private Member's Bills. Maybe uniquely, there was a big team of people behind the Bill anyway. We were all working on that in our own professional roles or in a voluntary capacity. That was a whole other channel.

I submitted the Bill to the Speaker's Office, but I was not involved with the procedure there, so you would need to get information on that from the Speaker's Office. Once the Bill is introduced in the Assembly, it becomes Assembly property. Everything changes, and then there is access to help. A member of staff from the Bill team has worked with me on that Bill since then, which has been really good.

I am on the Committee that is scrutinising the Bill, and that has been a game changer, to be honest, especially in comparison with the other Bill. This might be outside the scope of your inquiry, but I found that being a member of the Committee that is looking at the Bill has been helpful and beneficial, with a huge amount of learning to take away. Maybe the other Bill is a wee bit different. It is only starting its journey through Committee, so I do not know what engagement with or learning from it there will be. That is still to be seen, but I have found it helpful beyond measure to be part of the Committee.

Ms S Bradley: Thank you, Clare.

Ms Bunting: Thanks very much, Clare. You are in the unique position of taking through two Bills, one prepared internally and one externally, and I have a couple of things to put to you about the processes. You described the process for your internal Bill as "slow" and "clunky". You sit on the Business Committee, and you know what is going on with Bills as we approach the end of the mandate. To what extent is the delay and the pace of movement on that Bill down to the workload due to the number of Bills that the Health Committee is working on towards the end of the mandate? That is my first question.

The other issue is that two Bills on climate change are going through the Assembly. Do you have views on whether or not there should be two Bills on the same thing going through the Assembly? Is there a better way to do that? Given the pressures on the Assembly as a body to get through all the legislation that there is, do you consider that there should be a limit on the number of private Members' Bills that go through? Do you have any views about that?

Ms Bailey: I will try to remember those questions, Joanne. Push me if I forget to answer one. To me, the Health Committee's current workload is not the issue. I know what you are saying, but the Bill was started in 2016. That was long before the Health Committee was burdened with the sheer volume of work, which is really down to COVID. It was because of the functionality of the Executive and the Assembly. My internal Bill was started in 2016, and, from January 2017, we were all out for three years. We came back in January 2020 and have been dealing with the pandemic since March 2020. We went through a whole year from 2020, and that was the reason for the Bill stalling. Since I had the Bill actually drafted, which was recent enough, to be honest, other PMBs have come through from Members who have just recently, in the past few months, come up with an idea for a PMB. They have gone through the Bill Office, had their Bill drafted, introduced their Bill and are going for Second Stage, whereas the one that I started back in 2016 is nearly at the same stage. So, it is not the Committee workload that I am talking about.

Ms Bunting: I am trying to establish how much the current backlog is impacting on private Members' Bills. We need to take account of what the process is without that. It is great to hear that. Thank you.

Ms Bailey: As I said earlier, I feel that I missed the year of 2020. In 2020, I was not able to get a Bill drafted, and although we are still dealing with a pandemic and working under COVID regulations, I can see Members who have been able to get a Bill drafted and introduced and into Second Stage or Committee Stage despite having started work on it only a few months ago.

The Chairperson (Ms Ní Chuilín): Are you content, Joanne?

Ms Bailey: Joanne, you asked about having two Bills on the same issue. I think that that is beyond me. That is a question for the Speaker.

Ms Bunting: I suppose that my question was about your view on it. Do you think that it is helpful? Should it happen? Is it just duplication? What are your views on the general principle, given your experience, setting aside the subject matter? Given the delays that you have faced and so on, do you think that there should be a limit on private Members' Bills?

Ms Bailey: On the two Bills. I will give you my perspective as a Committee member rather than my perspective as a Bill sponsor. In Committee, we are working on two Bills that cover much of the same subject, and I feel that that creates a bit of double workload for the Committee, with two of them coming through at the same time. We have just taken seven months of evidence on one, and now we are continuing with evidence on the second one. We are calling in the same stakeholders to talk about the same issues. Rather than speak as a Bill sponsor about bringing through a Bill where there is a second one, I would say that that is a wee bit different on a personal level. We are elected as

legislators. That should be our primary function. Maybe Committee resource is something to be looked at.

I do not think that there should be any limits on private Members' Bills at all. I go back to the point that we are elected as Members of the legislative Assembly, and that should be our primary function. That is how I feel about that. I think that we should all be skilled up on legislation, what it looks like, how to do it and what to scrutinise. I would rather be working on legislation than attending events, to be honest with you. Events are lovely and all the rest of it, but legislation is our primary function. I do not think that there should be any limits.

Ms Bunting: Thank you very much.

Mrs Barton: Clare, you say that you find it useful to be a member of the AERA Committee and to be able to listen to comments on the Bill as it goes through that Committee. Do you not find yourself conflicted at times?

Ms Bailey: No. You are on that Committee as well, Rosemary. Feel free to let me know if you think there is a conflict. I try to listen more. Everybody, even the stakeholders who come to give evidence, is aware that I am the Bill's sponsor. I always try to act as a member of the Committee team. It is about being able to access the feedback: the good, the bad, the ugly, and everything in between. All of that is important, and it helps not only in shaping amendments but in being able to work on the detail of the Bill.

I do not think that there is a conflict. Jim Allister brought forward a Bill, and he was on the relevant Committee. That Committee praised the fact that he was there because members felt that it was beneficial to have him there. I hope that that is how our Committee feels. I am able to give feedback to Committee members and listen to stakeholder engagement. I can work on the amending, streamlining and reorganising of the Bill more effectively, because I am getting such detailed feedback. Give me some feedback, but I do not see how there can be a conflict of interest. We are working on legislation, and it is going to be debated. If you want the best possible legislation, you should be there. It should not be seen as a conflict, because it will be debated and passed or rejected on the Floor. The legislation that is presented for debate and scrutiny should be as good as it can be.

Mrs Barton: I am not suggesting that you are portrayed as having a conflict of interest. However, behind the scenes, you could try to get Committee members behind you to support you. Do not take that the wrong way, Clare: you did not do that. However, it could be seen as that.

Ms Bailey: That is politics, maybe.

Mrs Barton: It is probably going down that route.

Ms Bailey: You try to get as many people on side as you can.

Mrs Barton: I know. My second question relates to the public consultation process. There was a public consultation on one of the Bills but not the other. In your experience, how does that process affect the progression of a Bill?

Ms Bailey: I do not think that it affects the progress in any way. One went through public consultation, but the issue is how the public consultation is done. There is no set remit for that. Given that the Executive collapsed and the Assembly was not functioning, I could only carry out what I found to be more like a tick-box exercise. I had to pay for an annual subscription of a couple of hundred pounds to SurveyMonkey to put a survey out to as many people as possible. It was put out through all social media channels. The Assembly cannot do that for you, so it had to be done through my own networks. If you want to talk about a conflict of interest, it might be there.

The other Bill did not require the public consultation. I am confused. Is it merely good practice to go to consultation, or is it mandatory? If it is good practice, why are we encouraged to do it but given no financial support for it. You can hand either Bill in, and it will go through the same scrutiny mechanisms. It will have the same level of stakeholder engagement, evidence sessions, Committee scrutiny, and reporting. Once it is in the Assembly, it gets exactly the same treatment. That is definitely something to be looked at. I do not feel that the public consultation added anything to the Bill.

The Chairperson (Ms Ní Chuilín): Clare, there are no more questions. Thank you for attending. I wish you well in your endeavours. As a member of the Health Committee, I welcome your Bill and look forward to its passage through the Assembly.

Ms Bailey: That is great.

The Chairperson (Ms Ní Chuilín): If there are any other items that we need to chase up with you on the process and procedures, are you happy for us to make contact with you through Emer? We would appreciate that.

Ms Bailey: If Emer needs me, she can pick up the phone and chase me, because I am hard to track down.

The Chairperson (Ms Ní Chuilín): Thank you.