



Committee on Procedures

OFFICIAL REPORT (Hansard)

Review of Private Members' Bills: Mr Chris
Lyttle MLA

1 December 2021

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

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Ms Carál Ní Chuilín (Chairperson)

Mr Thomas Buchanan (Deputy Chairperson)

Mrs Rosemary Barton

Ms Sinéad Bradley

Ms Nicola Brogan

Ms Joanne Bunting

Mr Jeanne Bunt
Mr Gerry Carroll

Ms Ciara Ferguson

Witnesses:

The Chairperson (Ms Ní Chuilín): Chris, thanks for coming to the Committee and taking the time to talk to us about your experience of the private Member's Bill (PMB) process. Over to you.

Mr Chris Lyttle (Northern Ireland Assembly): Thanks very much, Chair. I hope that I am not the only MI A who is feeding back to you.

The Chairperson (Ms Ní Chuilín): No, you are not. We have had a few

Mr Lyttle: That is good. I start by thanking you for inviting me to contribute to the Committee's review of private Members' Bills. I intend to offer very brief and, hopefully, constructive feedback on my experience of the PMB process to date. At the outset, I should say that I found the Bill Office staff helpful, particularly at the consultation stage and the final proposal stage. I submitted a final proposal for a PMB to include teachers in fair employment legislation by the deadline for final proposals of June 2021. Mostly due to the pressures on the legislative process, I have, however, yet to receive drafting assistance with what ought to have been a fairly short Bill. However, as I said, I acknowledge that that is due to this unique mandate and the extreme pressure on the Bill Office.

Acknowledging that, my feedback on the PMB process is as follows. First, we could look for better deadlines. The PMB process could have better deadlines to ensure that Bills have more opportunity to be passed. Given forward work programmes, I know that those deadlines are best estimates at times, and I accept that MLAs are at liberty to submit proposals in advance of deadlines. However, if we are going to have a deadline in place, it would seem to make sense that, if that deadline is met, there is a realistic possibility of the Bill getting to the drafting assistance stage and the Assembly processes stage.

Secondly, there is a need for clearer communication. I may have missed it in considered correspondence, but if, for example, it is going to take five months between the final proposal stage and the drafting assistance stage, it should be made clear — really, really clear — to a proposing MLA, to give that MLA the opportunity to try to progress drafting themselves, if that is possible and if, indeed, it is a relatively straightforward Bill.

Thirdly, there is a need for adequate resourcing. It would be really useful if we benchmarked whether there are adequate human resources at the Assembly to effectively pass private Member's legislation. The staff who are there are undoubtedly committed and skilled at what they do, but are there enough of them? That is maybe something that we could benchmark and look at if we are serious about facilitating private Members' legislation, and I think we should be. Some really important private Member's Bills have been progressed into law during my time at the Assembly.

Fourthly, and finally, there is a need to consider whether it would be suitable and possible to provide MLAs with access to legal advice. At Committee Stage, Committees can access advice from the Assembly's Legal Services, which can be extremely helpful for the scrutiny of Bills. However, my understanding is that, as it stands, individual MLAs cannot access such legal advice at the various stages of Bill progression. That might also be useful.

Hopefully, that is of some use to you, Chair.

The Chairperson (Ms Ní Chuilín): It has been very useful. For your information, we have spoken to a couple of MLAs who are sponsoring Bills. Like you, many of them commended the staff in the Bill Office, but they all raised the issue of resources.

I will open it up to members. Do you have any observations or questions for Chris?

Mr Lyttle: I usually sit on the other side of this, so go easy on me.

The Chairperson (Ms Ní Chuilín): Oh, I know.

Mr Lyttle: This is payback time.

The Chairperson (Ms Ní Chuilín): If anybody wants to stick the boot into Chris, go for it. *[Laughter.]* The hands have gone straight up. Nicola, away you go.

Ms Brogan: I have waited a long time for this, Chris. *[Laughter.]* I am only joking. You made the point about drafting the legislation. Is the drafting not outsourced to some other company? Do you have any ideas about how that could be improved? That is one of the bigger stumbling blocks that you have —

Mr Lyttle: Yes. To break that stage down, Nicola, the final proposal is submitted, and then Bill Office staff work on drafting instructions. Those drafting instructions are then outsourced to drafters. Both stages can take quite some time. I hope that it does not sound like too much of a complaint — it is just an observation — but my experience was that I submitted a final proposal in June and, since then, because of the number of Bills and the pressures etc, the Bill Office has been working on drafting instructions.

I can only speak to that length of time. I am not sure how long it takes once those drafting instructions are outsourced to the drafters, but there are a couple of stages there that can take quite some time. In my experience, it would have been helpful if the Assembly drafting instruction stage had been quicker. However, that is just an observation; it is not a criticism. The drafters are obviously experienced individuals and are well sourced by the Assembly. Having more people working on the drafting instructions and the drafting of the Bills would allow us to do more private Members' legislation, but there would be a question of cost and budget there. That is why I suggested that it might be useful to benchmark how our resources in the Bill Office, and our access to drafting, compare with other jurisdictions.

Ms Brogan: I think that that is a fair enough point, Chris, and something that we should definitely take on. You and I know from the Committee for Education just how technical Bills can become and how you do need all that help and those different eyes on it, but also how there can be delays when a Bill is going through. Everyone wants to see it going through, but still getting the due scrutiny and that. I

think that that is a very valid point, and the Procedures Committee should take that forward. Thanks for that.

Mrs Barton: Thank you, Chris. What you said was really interesting. From your experience, you spoke about there needing to be more drafters for Bills and maybe more instruction in relation to drafting a Bill. That is very well and is acceptable and good. We are having difficulties in this mandate in relation to getting through our PMB process. If the Assembly were to have more people drafting more Bills, surely we would be over-clogging the system, so to speak.

Mr Lyttle: That is maybe a fair question, Rosemary. The Speaker's Office and the Bill Office, to be fair to them, with the short time available in the mandate, were really interested in fairness, and I cannot fault that. I think that the criteria on which they progressed Bills were that they were done in a linear order. Is there a way to assess the complexity of a Bill and the likelihood of a Bill passing? I have not given that as much consideration as maybe I should have, Rosemary, but I think that that maybe does merit further consideration and, again, examination of whether other jurisdictions have more criteria around the way in which you might allocate assistance.

I am keen to make sure that it is as open a process as possible, because I really do support private Members being able to progress legislation. I think that it is an important counterbalance to relying on an Executive to produce legislation, which has had varying levels of effectiveness over the years, to be diplomatic; a few might put that stronger. I think that there may be merit in exploring whether more criteria can be put in play. I do not want to personalise it too much to me, but, as I said, it felt like the proposal that I was trying to introduce had a relatively small number of clauses and was a short Bill, whereas, as Nicola said earlier, there are some really complex Bills that are going to take up more resources and allocation.

Mrs Barton: That leads me on, then. Do you think that there should be a cut-off point in the mandate for accepting PMBs?

Mr Lyttle: Yes, I guess that that would be consistent with what I said about deadlines, Rosemary. It can be tricky to identify where that cut-off or deadline should be, because you can have best-laid plans on how many years of a mandate we may have and, as we have seen in this one, profoundly regrettably, we have not had all of the five years to progress legislation. I think that having a cut-off point that is adequately in advance of the end of a mandate is clearly important. Everybody will work up to deadlines, and you are still going to have a lot towards the end, but I do think that that can maybe be further in advance of when it was.

Ms Bunting: Hi, Chris. How are you?

Mr Lyttle: Hi, Joanne

Ms Bunting: I am not going to get the boot in either. *[Laughter.]* I will ask you this not as somebody who has a proposal for a private Member's Bill but as somebody who has sat on Committees for many years and, indeed, who chairs a Committee now. So set your own Bill aside, because that will impinge on the question.

We are getting contradictory and mixed messages with regard to whether a Member who is introducing a private Member's Bill should be a member of the relevant Committee. Some folks are saying that it has been profoundly helpful, while others are saying that it might skew the Committee. There are some concerns that, if a Committee is discussing a Bill that is maybe a bit more difficult, the Bill's sponsor being there could make things a bit more awkward when the Committee asks questions and so forth when people come in to give evidence. Do you have a general view or any thoughts on that that we should note or take account of?

Mr Lyttle: That is a really good question, Joanne. In my time at the Assembly, I have not experienced that. I have experienced not just me but party colleagues proposing a private Member's Bill. We have to be, for want of a better word, professional. Whether it is a member of our Committee or our party, we have to place ourselves in the role of Committee members. I had to do it recently as the Committee Chair. You have to perform the statutory functions that you have as a Committee member, regardless of whether the Bill sponsor is a member of your Committee, a member of your party or just a really nice person. That can happen as well. We experienced that today. You have to focus on the role. It

would be unfortunate if someone was precluded from bringing forward a proposal if they were a member of the Committee or there was some other rule that would prevent them from doing it.

It is a really good question and probably something that you have to ready yourself for. If that is a situation that you encounter, you have to really focus. It is not that we would do anything other than be professional and perform our roles on Committees, but, in that situation, you would have to have real impartiality in that regard.

Ms Bunting: So you think it is important. If the Bill sponsor is already a member of the Committee, people to be very clear on the boundaries. In circumstances where a Bill sponsor is not a member of the Committee, should they be permitted to be a member ex officio, or should they just give evidence as and when required?

Mr Lyttle: OK, I get what you are saying there: in order to actually sit through the process and things like that. I guess that we could watch on. It is prudent for a Committee to engage as regularly as it can with sponsors of private Member's Bills. Committee Stage is obviously a formal stage of the Bill, but it can be a fairly informal process at times in trying to exchange possible amendments with each other. In my experience, Committees are keen to perform that impartial role most of the time, and they generally have a consensus of trying to improve and enhance Bills. Informal and regular engagement with Bill sponsors can be adequate. I do not know whether it is necessary for them to sit ex officio on the Committee per se.

Ms Bunting: OK. Thank you very much. Thanks, Chris.

Mr Lyttle: Thanks, Joanne.

The Chairperson (Ms Ní Chuilín): Chris, I have not received any indications from other members, so I thank you for coming to the Committee and sharing your experience with us. A lot of issues have been raised, some of them additional to those already raised, and we will need to consider them.

Sorry to keep you waiting at the beginning, Chris.

Mr Lyttle: No, you are grand. Thanks again for the work that you guys are doing on this, Chair.

The Chairperson (Ms Ní Chuilín): No bother.

Mr Lyttle: It is a really important aspect of the work of the Assembly. Thank you for reviewing it.

The Chairperson (Ms Ní Chuilín): No bother. Chris, thank you.