



Northern Ireland
Assembly

Committee on Procedures

OFFICIAL REPORT (Hansard)

Review of Private Members' Bills:
Mr John O'Dowd MLA

15 December 2021

and then I will have to make decisions on what I do next, moving towards Consideration Stage. Those are my opening remarks, Deputy Chair.

The Deputy Chairperson (Mr T Buchanan): OK. Thank you for your remarks. I will open it up to members for questions. Do members have any questions for John?

Ms Bunting: Yes, Chairman, I will ask John a couple of questions.

John, thanks. Your experience is slightly different because you sit on the Economy Committee, and some Members who have had that experience have found it really worthwhile, but others feel that there is potential for conflict. The question that is in front of us is whether, if a Member is not a sitting member of the Committee, they should be a member of the Committee ex officio. Do you have views on that?

Mr O'Dowd: There is a balance to be struck. The fact that I sit on the Committee is useful, because I am involved with all the Committee discussions, I hear the witness statements at first hand and I have the ability to ask questions and engage with my fellow Committee members on the legislation. However, I also note Colin's remark, and it is worth considering. Does that also work against scrutiny of the Bill? Do witnesses feel that they are inhibited from making comments because the Bill sponsor is sitting there looking at them? None of my Committee colleagues are shrinking violets, I assure you, but does it inhibit them in their scrutiny of the Bill if I am there as a Committee member and have formed relationships with them in co-working etc? That is worth further consideration, but there are certainly benefits to being on a Committee as your Bill goes through that Committee.

Ms Bunting: OK. Thank you.

Ms Brogan: Thanks, John, for that. On your last point, I have said this before, but I think that just having that expertise in the Committee could be a help to other Committee members when you are going through legislation, just being able to bounce off questions easily. The Education Committee went through the Integrated Education Bill in great detail, and, on many occasions, it would have been really handy to have the Bill sponsor there to clarify points for us. I totally understand the point about how there could be a conflict of interest as well.

How did you find the consultation process? Did you find it lengthy? Helpful?

Mr O'Dowd: Large organisations and even Departments find it difficult and challenging to ensure that consultation is inclusive and reaches as many people as possible. Like Colin, I conducted my survey on SurveyMonkey. I do not have the exact number of responses in front of me, but it was in the low hundreds, if that. I sponsored mine through social media and local papers, and, as far as I am aware, I shared it with other MLAs, and I think that the Committee sent it out as well. No one has got the perfect recipe yet for how you conduct a consultation. It is difficult for one MLA with two and a half full-time staff to perfect the consultation. There is always an opportunity for organisations that are equipped and have staff to respond to you. There are some well-resourced organisations in the sector that is involved with my draft legislation — the energy sector — that can respond. However, in general, members of the public, community groups or interested smaller bodies have difficulty getting the resources to respond. I do not know the answer to it, but I do not think that what we do currently is perfect. That is one area where, perhaps, if there were additional resources or support from the Assembly, it would be useful.

Ms Brogan: You are right there, John. I do not think that this will alleviate those problems, but you may have heard the discussion in the last session with Colin about having more than one MLA's name attached to a PMB. Maybe that could go some way to, at least, promoting the fact that the consultation has gone out or whatever. It will not alleviate all the problems. Thanks very much for that. That is all from me.

Ms Ferguson: John, thank you for coming along. I agree with you on the consultation. It is probably an area where, in particular, constituents, households and the community and voluntary sector can engage effectively, and we can improve on that.

What are your views on the potential for deadlines for submission of private Members' Bills to the Speaker's Office, whether they are drafted through the Bill Office or have already been drafted? Do you think that there should be deadlines for submission and a more systematic approach for

Members, so that they are aware of when the deadline is set to submit one? It might ease the burden on Assembly business and reduce the risk of a private Member's Bill not completing its passage through the Assembly.

Mr O'Dowd: Ciara, to be honest with you, I do not have a firm position on it. I suspect that, in reality, deadlines exist, because, in practical terms, by the time that you make your initial proposal, work with the drafters etc, you are talking months, on most occasions, before you can get a Bill on the Floor of the Assembly. We have seen some instances where outside bodies or individuals will draft legislation or a proposal for a Member, and that will move it on more quickly. It means that a Bill can reach the Floor more quickly. There are pros and cons to it, but I suspect that the reality of the next few months is, as Colin has said, that a number of private Members' Bills will fall. I suspect that a number of Executive Bills will fall, because Ministers will now prioritise their legislation to go through. That is just the reality of the time frame within which we are working towards an election. I would certainly have to give that more careful consideration before I could give a definitive answer on whether there should be a deadline.

Ms Ferguson: OK. That is great. Thank you.

The Deputy Chairperson (Mr T Buchanan): Thank you. Joanne?

Ms Bunting: Thanks, Chairman, for letting me back in.

John, I have a couple of points. You also sit on the Business Committee, and you are a chief whip. Do you have any views on whether there should be plenary days that are dedicated to private Members' business?

Mr O'Dowd: There is merit to that. I suspect that two days of legislative debate in the Chamber does not do justice to the amount of work. Although some members of the public think that MLAs do not do very much, a significant amount of legislation and policy is going through the Assembly, and it deserves proper scrutiny. You know my views: I do not necessarily believe that quantity of debate is the same as quality of debate. If there were an additional, dedicated legislative day — going from two to three days, rather than cutting down from two days to one — that would allow for better scrutiny and more legislation to go through. There is a caveat to that point, however: not every proposal requires primary legislation. Even for private Members' Bills, there may have to be some form of control — obviously, it is a final decision for MLAs who vote on such matters — over whether a proposal that is merited and worthwhile requires primary legislation to enact it. Primary legislation is an important document; it is difficult to introduce and to revoke. Once you go down the primary legislation route, it is in place for a considerable time. An additional day would certainly be worth trialling.

Ms Bunting: Thank you. I appreciate that you are pushed for time, but I want to cover one last issue, which is resources. You are aware that a number of the Bills may not come to fruition, yet resources will have been spent on them in the knowledge that they will not get through the full process. Likewise, some responses to our inquiry have indicated that private Members' Bills should have the same resources afforded to them as Departments have. Do you have any views on that?

Mr O'Dowd: I do not think it is possible, given the resources available to the entire Assembly operation, including the Executive etc, to donate the same resources to private Members' Bills as to Departments. I suspect that, if you talked to some Departments, they would say that they needed more resources as well in order to deal with the amount of policy and legislation that they have. They do not have infinite resources either. We have to be mindful of the best use of public funds.

A number of Bills will fall in this mandate, although a lot of the groundwork and scrutiny has been done on them to allow them to be progressed at an advanced stage in the next mandate. There is a responsibility on every Member. I will have to come to a conclusion, after my Bill has been moved through Committee Stage, on whether to move it through Consideration Stage. I will have to look at the evidence and the views that have been presented to the Committee and at the Committee report, and I will have to answer the question that I asked earlier: is legislation required to achieve the policy objective that I set out to achieve? If the answer is no, the time will have been well spent in the work that the Committee has done and through the legislative framework that is set out. If the answer is yes, I will move it forward. All Members should have to ask themselves that question, however.

Ms Bunting: Thank you.

Mrs Barton: John, thank you very much for your thoughts and views. I was interested in your thoughts on a third plenary day. Do you not think that that might present a bit of a disadvantage to smaller parties, in the sense that they have fewer Members to take on the work on Monday and Tuesday and their Members would have to keep going on, shall we say, the Wednesday? With Committees on another day, that is four days.

Mr O'Dowd: Rosemary, I was only thinking out loud.

Mrs Barton: Of course.

Mr O'Dowd: I am not making a firm proposal. The issues you have raised would have to be carefully considered before you would move to a firm proposal on that. The only reason that I thought out loud about it is that there is an opportunity for more legislation to be passed, particularly as we come to the end of a mandate. Nobody wants to rush legislation; it has to be scrutinised properly. It could be an occasional extra sitting. It would not have to be every week. You make a fair comment, however. There are significant pressures on all the political parties, on the smaller parties and on the individual MLA who sponsors a private Member's Bill, because it is a significant additional workload. Although others may not believe it, we all know that MLAs are busy. I would take all that in the round before coming down definitively on one side or the other, Rosemary.

Mrs Barton: OK. Thank you, John.

The Deputy Chairperson (Mr T Buchanan): Thank you, John, for coming to the Committee today. I know that you are caught for time at the minute, so I thank you for giving us an insight into your thoughts on private Members' Bills. If we needed to correspond with you later through the Committee Clerk, would you be happy to do that?

Mr O'Dowd: Yes, Chair, I would be happy with that.

The Deputy Chairperson (Mr T Buchanan): Thank you, John.

Mr O'Dowd: Thank you, everyone.