

## **Procedures Committee Inquiry into Private Members' Bill (PMBs)**

### **Feedback by the Democratic Unionist Party**

- (a) To examine whether the system of support currently in place for PMBs is fair, appropriate and a good use of public resources.**

Democratic Unionist MLAs involved in the process have indicated that they have been impressed with the level of support, expertise and diligence provided by the Bill Office in respect of the development of their proposals. They have stressed that staff have been extremely helpful in explaining each stage of the process as well as being very accessible and responsive to requests for guidance. No concerns have been raised regarding fairness within the system, albeit some members have indicated that the high level of Private Member's Bills introduced in this term may have an impact on value for money when the total resources expended is considered alongside the number of Bills that are ultimately successful.

- (c) To review whether the current arrangements are equitable or whether they could be improved by requiring a consistent level of involvement of the Bill Office as well as public consultation prior to the PMB being submitted.**

It is our view that development of a Private Member's Bill is the ultimate responsibility of the member sponsoring the proposal. The practical involvement of the Bill Office should be commensurate to the effort and progress made in each case if it is to represent good use of public resources. Equally, it is important that universal guidance is made available to all members and we agree that there may be merit in producing revised advice and resources in respect of completing and analysing the public consultation element of the initial proposal.

- (d) To consider whether committees, if they so choose, should be able to include the sponsor of a PMB as an ex-officio member of that committee during the appropriate stages of the passage of the PMB in order to allow the sponsor to ask questions of witnesses and thus provide necessary clarity to the committee.**

While we endorse the need to promote effective and regular exchange of views between a Bill sponsor and members of the relevant Committee in the course of their deliberations, we hold some concern that affording a sponsor the distinct opportunity to ask questions of witnesses may lead to a level of confrontation and potentially stymie constructive dialogue. The Committee on Procedures will want to ensure any agreed agreements do not have a chilling effect among those stakeholders seeking to engage with a Committee. Therefore, should any privileges be extended to ex-officio members, those powers should be limited and well-defined.

- (e) To outline whether there are any issues arising from the nature of the special circumstances of the Assembly which need to be taken into account, and, based on the above to consider whether provision should be made in Standing Orders to clarify:**

- (i) Whether there should be scheduled/dedicated plenary days for PMB business;**

The DUP believes discretion regarding the scheduling of Private Members Business should remain with the Business Committee. Whilst appropriate time should be provided for the tabling and debate of non-Executive bills, these demands will likely vary between Assembly terms and thus a prescriptive approach to assigning dedicated days could in theory provide an impediment to tabling business in a flexible and responsive way.

**(ii) Whether there should be mechanisms by which a proposal must pass a simple majority or other measure of support before being provided with resources to be developed further;**

We acknowledge that in principle there may be merit in a mechanism that filters the number of Private Member's Bills receiving the full support of the Bill Office and ultimately lessens the burden on Assembly business. That said we feel the operation of a simple majority threshold may not be in keeping with the ethos of private business. This could pre-empt the outcome of the legislative process and prevent barriers to support for a particular proposal being resolved during the relevant stages of scrutiny. Moreover, it is unlikely that an approach which effectively allows a group of parties or MLAs to kill Private Members' Bills before their introduction would reflect the spirit of the commitment included in New Decade New Approach that a Petition of Concern will only apply after Second Stage in respect of both Executive and Private business. This needs careful consideration.

**(iii) Whether there could be arrangements to allow Members to legislate as a group and for all their names to be attached to it**

We would be broadly supportive of this proposal. The model adopted in the House of Commons whereby up to 11 members can attach their names to the Bill as 'supporters' is a reasonable example; affording the opportunity for grouped support while retaining the essence of Private Member's business in that one Member still has overall charge.

**(f) How Assembly plenary time might be maximised and prioritised towards the end of the mandate, when the level of PMBs and Executive legislation are likely to create significant pressures on Assembly business**

We believe this is ultimately a matter for the Business Committee to adjudicate. Standing Order 12 subsection 6 states that in determining the order of private members' business the Business Committee shall have regard to:

- (a) the wishes expressed by the members in charge of the various items
- (b) the relative public importance in its opinion of the various items
- (c) the desirability of giving precedence to those Bills which are furthest advanced in their passage through the Assembly.

These principles should continue to apply.

Equally, we acknowledge the need for better safeguards against the unsustainable build-up of business at the end of a given mandate. These mechanisms should ultimately focus on earlier intervention, perhaps at the deadline for initial proposals.

We caveat these conclusions with an acknowledgement that the current pressures are unprecedented in the context of the pandemic and the restoration of the institutions after three years of hiatus. Therefore, it is important that any potential changes to existing practice are considered in the round and are not just a knee-jerk reaction to recent events.

Finally, in general we wish to highlight that we consider that at times the scope of PMBs may be too great for the subject matter to be brought by an individual rather than a department. The ramifications and indeed unintended consequences of some bills are enormously significant and require the proper resources of a department, including legal advice and costings.

As any such bill proceeds through consideration stages, the marshalled list of amendments issues on a Wednesday afternoon, leaving a department only two days to explore the entirety of the implications, some of which could be grave and cause legal risk in their outworking. This is fine in some cases, as most PMBs have been somewhat short and addressing a niche point or a gap, however some are proposing radical and substantial policy change which could have significant consequences, including financial and legal, for the entire country. It is important that this is also considered in the course of the committee's inquiry and whether in these circumstances the existing processes are helpful.