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Mr Stephen Moutray MLA
Chairperson
Assembly and Executive Review Committee
Room 276
Parliament Buildings
BELFAST
BT4 3XX

16 November 2015

Dear Mr Moutray

ASSEMBLY AND EXECUTIVE REFORM (ASSEMBLY OPPOSITION) BILL

Thank you for inviting me to submit a written response to the Committee in relation to the Committee Stage of the Assembly and Executive Reform (Assembly Opposition) Bill.

I am aware that the Speaker and the Business Committee have responded separately to the Committee's call for evidence, and I do not intend to cover many of the procedural and other matters that they have already brought to the Committee's attention.

Rather I am submitting this response in my capacity as Clerk to the Assembly and Chief Executive in relation to a number of matters arising from this draft legislation:

- Drafting of Standing Orders;
- Timing and Formation of Opposition;
- Resourcing of an Opposition;
- Opposition Days;
- Role of Speaker; and
- Capacity of Members, political parties and technical groups.

1. Drafting of Standing Orders

There are 14 clauses in the Bill which set out the requirements to draft Standing Orders. It is of course right that the Bill does not include a level of detail which should be set out in Standing Orders; otherwise any relatively minor change to the procedures of the Assembly would require primary legislation.

As it will be towards the end of the mandate before the Bill has an opportunity to proceed through the full legislative process and gain Royal Assent, the time between the Bill becoming an Act and the commencement of the next mandate will be relatively short. The Committee will be aware that the Committee on Procedures has responsibility for considering and reviewing on an ongoing basis the Standing Orders and procedures of the Assembly. Consequently, if the drafting of Standing Orders is progressed in the 'normal' way it could be towards the end of 2016 before the required Standing Orders are agreed by the Committee. Therefore it will be important that the drafting of Standing Orders commences at a very early stage after the Bill completes its final stage in order the effect of the Bill can be implemented from the beginning of the next mandate. This will place considerable demands on the Committee on Procedures and Secretariat staff.

2. Timing and Formation of Opposition

As the Speaker and Clerk to the Assembly will be responsible for the timing of the first sitting after an election and then the appointment of Ministers, it is essential that the expected timeframe is clear. Therefore there is a need for clear communication from any talks around the Programme for Government if they were to be linked to business to be conducted in Plenary.

3. Resourcing of an Opposition

If passed by the Assembly, the Bill makes provision for a formal opposition, which has the potential to impact on the resources provided to the Assembly by the Assembly Commission, at a time of very significant decreases to, and additional pressures on, the Commission's budget.

In 2015-16 the Commission implemented a £2.04m cut to its total budget, on top of a £3.59m cut made over the SR2010 period. Should a similar level of cut be applied to the Commission's controllable expenditure for the 2016-17 financial year, the Commission will have reduced its non ring-fenced expenditure by £6.25m per annum or 14.2% in cash terms during the period of austerity measures. These budget reductions have included staffing cuts of 71 FTE or 17% over this five year period.

The Financial Assistance to Political Parties (FAPP) scheme currently provides funding to all political parties, subject to the provisions of the Scheme. As part of its budget planning for 2016-17, the Commission is planning a 5% cut in FAPP funding to assist in meeting expected budget reductions. This would reduce the available funding for FAPP by £41k from £824k to £783k in the first year of the new mandate. Additional support to opposition parties would inevitably reduce the funding to parties in the Executive, unless additional funds are made available.

Consequently the Committee, and the Assembly, will need to be mindful of the resource implications of the Bill in this regard.

4. Opposition Days

The setting aside of Opposition Days would have a significant impact on the scheduling of Plenary sessions and the business of the House. It would be important to clarify a precise definition of what would constitute an Opposition Day. There is a need to be clear about whether 15 Opposition Days are in addition to or within the existing pattern of sitting days. If it is in the existing pattern, it would be reasonable to assume that Opposition Day business would come after questions and statements are taken but there is a need to specify how much business or time it entails. For instance, does it mean one or two motions etc? There will be many ways to manage it but greater clarity would be helpful.

5. Role of Speaker

I know that the Speaker has covered the aspects of the schedule which relate to the position of Speaker in greater detail. I would endorse how both the current and previous Speaker have conducted the office and that any new provisions should not undermine the independence and impartiality they have displayed. I have noted some of the comments that have been made thus far around the proposals relating to the Speaker and particularly the potential they have to restrict the holder of the office after they leave the Chair. I would make only two observations based on the traditions of the Office elsewhere. Firstly, it is fair to say that not every politician is suited to the position of Speaker as they often have to alternate between the roles of enforcer and conciliator. However, the position tends to go to a more experienced Member of the House as they have more experience of procedures, they will have more personal authority, they will better understand the relationships and dynamics in the House, and they will therefore be better able to guide officials on the politics of the management of the House. Additionally, if the position of Speaker was seen as a platform to achieving office as a Minister for example, there would be a danger of misperceptions of being motivated by seeking future progression in their party and that would only serve to undermine the independence and impartiality of the Office. Arguably, these and other dynamics which are unique to the position of Speaker are compensated for by the fact that it is remunerated more highly than a Minister.

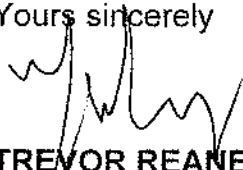
6. Capacity of Members, political parties and technical groups

This Bill, should it become law, will introduce some of the most significant changes to the operation of the Assembly since its establishment. In addition, these changes will have to be implemented within a very short time-frame.

Therefore the Committee and the Assembly will need to be mindful of the need for Members, political parties and proposed technical groups to prepare for and adapt to the scale of the proposed changes, many of which will become operational right at the outset of the next mandate.

I hope this submission will assist the Committee during its deliberations and I am happy to discuss any of the points set out above as required by the Committee.

Yours sincerely

A handwritten signature in black ink, appearing to read 'TREVOR REANEY', written over the printed name below.

TREVOR REANEY
Clerk to the Assembly/Chief Executive