



**Northern Ireland
Assembly**

Committee on Procedures

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REVIEW OF PRIVATE MEMBERS' BILLS

NORTHERN IRELAND ASSEMBLY

1. Background to review

Following a request from the Speaker, the Northern Ireland Assembly Committee on Procedures is undertaking a review of the current procedures and support for Private Members' Bills (PMBs).

Interest in the PMB support service, offered by the Assembly Bill Office, has increased mandate on mandate. Twenty-five proposals were supported in the 2011-16 mandate. An unprecedented 19 proposals are being supported only five months into the 2016-21 Assembly term. The below table demonstrates the marked rise in interest in PMBs since the early days of devolution:

Mandate	Initial proposals
1999-2002	7
2007-2011	21
2011-16	25
May-October 2016	19

2. Operation for PMBs in the Northern Ireland Assembly

The current PMB support service managed through the Assembly Bill Office offers a relatively high level of service and support to members wishing to develop PMBs,

coupled with a low threshold for gaining access to the support for PMB development, including drafting support.

The current service is managed by a small team of Bill Clerks who also support the Speaker, Committees and Members in processing, scrutinising and amending Executive Bills.

In terms of PMB development, the Bill Office offers guidance and advice, arranges research and development and provides drafting support to Members on a first come first served basis in accordance with guidance first issued by the Speaker in 2011 (enclosed). Subject to Speaker's approval (based only on compliance with guidance) and budgetary availability, Members have access to a professional drafting service. The current service offers support to the Member until the introduction of their Bill, after which they are supported by the Bill Office in a more general manner, alongside those seeking to scrutinise or amend the Bill.

3. Procedural and Support Challenges

The Committee is aware that there are procedural and practical challenges as a result of the increase in demand for PMB support, including:

a) Meeting demand and maintaining quality

Any member may seek support from the Bill Office for the development of their proposal. Currently, however, support is limited to one PMB per member at a time within the Assembly's PMB support service. PMBs supported within the Assembly Service are also limited to a single policy objective. In order to maintain the quality of support in the face of very high demand, the Speaker, both recently and in the previous mandate, has had to agree to a temporary limit on the number of proposals being supported.

b) Programming across the mandate

Guidance, including deadlines for the submission of proposals for PMBs, has been developed under the Speaker's authority to encourage Members to progress the development of PMBs in the early sessions of the mandate, thereby avoiding the procedural and practical challenges of legislating during the peak period for Executive legislation. The guidance has been strengthened again this mandate, as unfortunately a significant number of PMB proposals were not developed until

relatively late in the previous mandate. The ability to support improved programming may also be impacted by the fact that the Assembly Bill Office is responsible for offering support to Members, the Speaker and Committees for both Executive and Non-Executive legislation. As resource shifts between the two, particularly when Executive bills arrive in number for introduction, it can prove challenging to provide the necessary continuity of support to ensure that PMBs progress in a timely manner.

c) Scope of the Service

Currently the PMB support service provides support to the sponsor of the Bill until it is introduced. The Bill Office provides guidance and support on the development of the Bill, coordinates and commissions, as necessary, research and legal advice and manages drafting support. Thereafter the Bill Office provides advice to the sponsor on achieving their objectives and to those seeking to amend or oppose the Bill. In some legislatures, the support service for PMBs provides more direct policy support to the PMB sponsor, including after its introduction, but this is likely to require a level of dedicated resource for PMB support.

d) Managing Submission and Duplicate Proposals

The PMB guidance does not make provision for prioritisation of submissions in circumstances where submissions are received from more than one member at the same time (for example as soon as the Assembly Bill Office opened for tabling at the start of the mandate) with the same or similar legislative objectives. However, a pilot exercise in which members with a common objective are encouraged to collaborate to develop their shared legislative objective is currently under way.

e) Regulation under Speaker's Authority and Convention

Currently, the PMB support system is described in guidance and regulated under the Speaker's authority. Standing Orders are limited to ensuring that provision is made for a Member to introduce a Bill. As Standing Orders are limited, some conventions relating to the passage of PMBs have also been established. For example, in the Assembly it is convention that there should be a month (rather than five days) between introduction and second stage for a PMB.

4. Conclusion

The Committee has agreed to undertake this review to: consider the current procedures and systems governing PMBs in the Northern Ireland Assembly and the available support; research the procedures governing PMBs and the support and resource available in other jurisdictions; and to develop and evaluate options to ensure the procedural and support framework is fit for purpose and appropriate in the longer term.

MEMBERS' BILLS - BILL OFFICE GUIDELINES FOR MEMBERS

Information and guidance about the procedures for developing a Member's Bill for Introduction in the Assembly and where to obtain it.

General advice

1. Strand 1, Paragraph 29, of the Agreement of 1998 provides that:
"Legislation may be initiated by an individual, a Committee or a Minister."
This is reflected in Standing Order 30 which refers to the possibility of introduction of private members' bills.
2. Subject to Speaker's approval and budgetary availability, the Assembly will provide access to the drafting service.
3. Legislative proposals should address a single, focused, policy objective and should not utilise an unreasonable proportion of the drafting budget.
4. Drafting assistance will only be provided for proposals appearing to be broadly within the legislative competence of the Assembly.
5. Members are restricted to the development of one bill at a time.
6. The development of a bill usually requires at least 18 months from the point at which assistance is first requested until introduction in the Assembly.
7. Initial proposals must be lodged with the Bill Office by **31 March 2019**. Final proposals must be lodged by **30 December 2019**. These dates have been chosen to reflect the bare minimum time within which a PMB could be prepared but the Bill Office strongly advises members to initiate work during the first two years of the mandate to have a reasonable prospect of the bill completing its passage before dissolution.
8. A Bill Clerk will be assigned to offer procedural advice throughout the process. Please contact the Bill Office to arrange an initial meeting: Room 155, Ext. 21810. Bill.Office@niassembly.gov.uk
9. A copy of this guidance note will be provided to all members who approach the Bill Office for assistance and will form the basis of advice offered by Clerks.
10. Any Member is, of course, entitled to prepare a bill for introduction outside this drafting service. In such cases, the Member should take note of Standing Orders in relation to bills (Standing Orders 30 and 41 in particular) and submit the bill and supporting documents directly to the Speaker.

Initial Proposal

11. The first formal step in the process is to lodge an 'Initial Proposal' with the Bill Office. This should consist of the proposed short title of the Bill and a brief explanation of its proposed purpose or policy objective.
12. The Bill Office will supply a pro-forma to assist members in drafting their Initial Proposal and assist members in identifying options from research but the responsibility for drafting the document remains with the member.
13. Until the Initial Proposal is lodged, the topic remains open to all other members seeking the support of the Bill Office.

Preparation

14. Given the resources required to develop a bill, members should explore alternative means by which their objectives can be met before proposing a member's bill, e.g. by writing to the Minister, by bringing the issue to the attention of the Assembly and the relevant Minister via an Assembly debate and questions, or by proposing a Committee bill.
15. You will wish to explore the existing policy and legislative framework and identify any existing law that could be amended to achieve your purpose. Alternatively, there may be an existing or forthcoming Executive Bill that would be a suitable vehicle for achieving the objective (for example, you may wish to seek to amend a relevant Executive Bill).
16. It is advisable to engage the Assembly Research and Information Service (RaISe) or, alternatively, party support staff, to assist in researching and informing your proposal. The Bill Office will make contact with RaISe as a source of advice for its staff and will arrange and attend a meeting with you.

Developing the proposal

17. In order to ensure efficient use of scarce resources, the Member should, within 4 weeks of lodging the Initial Proposal, copy the proposal to the relevant Minister(s) and enquire whether or not the Minister is prepared to take action on the issue, by means of legislation or otherwise, and whether or not the Minister has been advised of relevant forthcoming UK or EU legislation.
18. The Bill Office will normally support the development of a Member's bill only where the Member has attempted to establish the Department's position on the subject.
19. Should the Minister fail to respond within 4 weeks, the Bill Office will rely on published details relating to the legislative programme and the European Commission's work programme.

20. Support will not be provided where there is a written indication that the Executive, UK government or the EU will initiate legislation within a reasonable period (12-18 months) to give effect to the Initial Proposal.
21. The Initial Proposal will be copied to the Assembly's Legal Services for a preliminary view on whether the proposal falls within the legislative competence of the Assembly.
22. In the interest of professional courtesy and building support, members may wish, at this point, to notify the relevant Committee(s) of their initial proposal.
23. Depending on the responses from the Minister and Legal Services, further research may be required and/or adjustments may need to be made to the proposal.
24. The Bill Office will work collaboratively with RaISe and Legal Services to assist you in developing and refining your proposal for legislation.

Consultation

25. In order to inform and enhance the quality of the proposal, members seeking access to drafting resources are required to undertake a consultation exercise. The Bill Office will supply guidance on consulting effectively.
26. The consultation paper should be lodged with the Bill Office within 6 months of the date on which the Initial Proposal was lodged; failure to contact the Bill Office within this period may result in the issue being re-opened to all members.
27. The minimum consultation period is 8 weeks.
28. Research and Information Service (RaISe) will provide a list of key stakeholders. It is strongly recommended that you consult the Department on the detail of your proposals, notwithstanding any earlier contact. Members should also consult the relevant Assembly Committee as a body (in addition to individual members if desired) and the key stakeholders identified by RaISe. You may decide to seek views from other public bodies, and, where appropriate, the general public.
29. Good practice requires that the legislative proposal should be copied to the Human Rights and Equality Commissions (for initial views on whether the proposal would be compatible with Human Rights and Equality Legislation).
30. The proposal is regarded as 'public' from the point that the consultation is lodged in the Bill Office and will be listed on the Assembly website on the Bill Office pages alongside a list of consultees.

31. Exceptionally, members may lodge a written a statement of reasons in the Bill Office, making the case for proceeding to drafting without engaging in consultation (e.g. where a full public consultation has already been held). Subject to the Speaker's acceptance of the reasons, this would exempt the member from the obligation to consult. In such cases, the member is still expected to notify the relevant Minister(s), Committee(s) and key stakeholders.

Final Proposal

32. When the consultation closes, members are expected to produce a summary of responses and lodge that with the Bill Office.
33. The next step is to refine the legislative proposal, taking into account the responses received. The Bill Clerk will assist you in identifying options for revisions to your proposal. Further research may be required at this point. Members are reminded that the success or otherwise of the Bill is influenced significantly by the degree to which concerns raised, particularly by key stakeholders, are addressed or allayed.
34. The Final Proposal should be lodged with the Bill Office as soon as possible after the end of the consultation and in any case within 6 months of the consultation document being lodged. Any extension of this period would be a matter for Speaker's discretion.
35. Failure to submit a Final Proposal will result in the proposal being removed from the website and the topic being re-opened to other members.
36. The Final Proposal should set out in detail the member's policy and legislative objectives and these should be broadly similar in aim to the initial proposal.
37. Once completed, the final legislative proposal will be submitted to the Speaker. Subject to the Speaker's approval, the Assembly will provide access to the drafting service. No access to drafting resources can be guaranteed until this point. The Speaker will take account of the remaining budget and the degree to which the proposal has been prepared in keeping with guidance.
38. When approval is granted, the Bill Clerk will prepare drafting instructions for the law firm contracted to provide drafting services. The drafting instructions must be approved, in writing, by the member.

Advice available during the drafting process

39. The Bill Office staff will act as a conduit between you and the legislative drafts person and at each stage seek your agreement (in writing) to all drafting work, including any queries, changes etc. At each stage, it may be appropriate to seek further advice from the Legal Services.

Preparing the Bill for Introduction

40. The drafter will advise whether the Bill requires the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998. Failure to secure consent can block the passage of a bill and for this reason it is advisable to consider whether your objectives can be met without the inclusion of provisions requiring consent.
41. Bill Office staff will format the Bill in the Assembly style using the draft provided by the drafts person.
42. The Bill Clerk will also assist you in preparing an Explanatory and Financial Memorandum.
43. The completed Bill will be given to you to present to the Speaker (with a covering letter) at least two full weeks before the proposed date for its formal Introduction in the Assembly.
44. Under section 10 of the Northern Ireland Act 1998, a Bill shall not be introduced in the Assembly if the Speaker decides that any provision of it would not be within the legislative competence of the Assembly (including, for example, if any provision is deemed to be incompatible with Equality or Human Rights Legislation).

Passage of Legislation

45. The Bill Office remains available throughout the passage of the Bill to advise you regarding the legislative stages, timescales and procedures etc.
46. Once the Bill has had its second reading, members should note that the Bill Office will be required to support the Committee in its consideration of the Bill. The Bill Office acts to facilitate the development and passage of legislation, does not take a view of the policy and provides impartial support to all members including the Sponsor of the Bill.
47. Standing Orders numbers 30-43 govern the procedures for public bills. These are the same as for private members' bills with one exception which is that by convention, one month is allowed between first and second stage of a Member's Bill, as opposed to one week for a public bill.

Adherence to guidelines / management of resource

48. The development of a PMB is a resource-intensive exercise both on the part of the member and secretariat staff and the Bill Office is conscious of the need to manage its limited resource effectively.
49. It is therefore important to underline the significance of the timelines within this document and the possibility of support being withdrawn where a PMB is failing to progress.
50. For a wide range of reasons, the development of a PMB may take longer than anticipated but regular contact with the bill clerk is strongly advised, even if you have encountered a difficulty or are unable to make progress as hoped.
 - a. For PMBs failing to progress within the timelines, the following process has been agreed with the Speaker: The Bill Office will email a reminder of the timescales in the guidance, identifying the next step in the process and offering to meet you to discuss progress. As a follow-up measure, the Bill Clerk will seek to make personal contact within two weeks, if necessary, to ensure that the email was received.
 - b. If there has been no reply within 6 weeks, a second email will be sent referring to the previous correspondence and explaining that unless the next required step in the process can be taken within a set time period, usually one month, that the Bill Office may not be able to continue to support the proposal.
 - c. If there is no progress within the set time period, the Clerk Assistant will make contact and offer a final opportunity to make progress. The Speaker will be advised of the position at this point.
 - d. If progress cannot be made in accordance with any commitment made to the Clerk Assistant, the Member will receive written notification from the Clerk Assistant advising that resource needs to be re-allocated and that the file is considered closed.

Designating a colleague to act on the Sponsor's behalf

51. Standing Orders refer to 'the member in charge of the bill'. If you wish to have another member act in this capacity on your behalf, whether from time to time or assuming lead responsibility for the bill on a permanent basis, you should inform the Speaker of this in writing and ask the member in question also to write to the Speaker indicating acceptance of such a role. The Speaker will then inform the House.

52. Having such arrangements in place can prove useful in case of ill-health or other commitments. Note that you will not, as the original sponsor of the bill, lose any rights in respect of the bill by virtue of designating a colleague to act on your behalf from time to time.

Further Information

53. Further information and advice is available from the Bill Office, Rm. 155, tel. 028 905 21810, Bill.Office@niassembly.gov.uk

Bill Office
[September 2016]