

Committee for the Environment

Report on Local Government (Disqualification)
(Amendment)
Bill (NIA 7/09)

Together with the Minutes of Proceedings of the Committee
Relating to the Report and the Minutes of Evidence

Ordered by The Committee for the Environment to be printed 24 June 2010
Report: NIA 57/09/10R Committee for the Environment

Session 2009/2010

Fourth Report

Membership and Powers

The Committee for the Environment is a Statutory Departmental Committee established in accordance with paragraphs 8 and 9 of the Belfast Agreement, section 29 of the Northern Ireland Act 1998 and under Standing Order 46.

The Committee has power to:

- Consider and advise on Departmental budgets and annual plans in the context of the overall budget allocation;
- Consider relevant secondary legislation and take the Committee stage of primary legislation;
- Call for persons and papers;
- Initiate inquiries and make reports; and
- Consider and advise on any matters brought to the Committee by the Minister of the Environment

The Committee has 11 members including a Chairperson and Deputy Chairperson and a quorum of 5.

The membership of the Committee since 9 May 2007 has been as follows:

Mr Cathal Boylan (Chairperson) ⁹

Mr Patsy McGlone (Deputy Chairperson) ^{6, 9, 10, 12}

Mr Jonathan Bell ^{7, 8}

Mr Ian McCrea

Mr Alastair Ross ¹

Mr Peter Weir

Mr Daithi McKay

Mr John Dallat ⁵

Mr Danny Kinahan ^{3, 4}

Mr Roy Beggs ²
Mr Brian Wilson ¹¹

¹ on January 21 2008, Alastair Ross was appointed as a Member and Mr Alex Maskey ceased to be a Member.

² with effect from 15 September 2008 Mr Roy Beggs replaced Mr Sam Gardiner.

³ with effect from 29 September 2008 Mr David McClarty replaced Mr Billy Armstrong.

⁴ with effect from 22 June 2009 Mr Danny Kinahan replaced Mr David McClarty.

⁵ with effect from 29 June 2009 Mr John Dallat replaced Mr Tommy Gallagher.

⁶ with effect from 3 July 2009 Mrs Dolores Kelly replaced Mr Patsy McGlone as Chairperson.

⁷ with effect from 15 January 2010 Mr Adrian McQuillan replaced Mr Trevor Clarke.

⁸ with effect from 1 February 2010 Jonathan Bell replaced Mr Adrian McQuillan.

⁹ on 12th April 2010 Mr Cathal Boylan was appointed as Chairperson and Mrs Dolores Kelly ceased to be a Member.

¹⁰ on 12th April 2010 Mr Dominic Bradley was appointed as Deputy Chairperson.

¹¹ on 13th April 2010 Mr Brian Wilson was appointed as a Member and Mr David Ford ceased to be a Member.

¹² with effect from 21 May 2010 Mr Patsy McGlone replaced Mr Dominic Bradley as Deputy Chairperson

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Executive Summary

Purpose

1. This report sets out the Committee for the Environment's consideration of the Local Government (Disqualification) (Amendment) Bill.
2. Members sought a balanced range of views as part of their deliberations on the Local Government (Disqualification) (Amendment) Bill and requested evidence from interested organisations and individuals.

Conflict of Interest

3. Some members agreed with the Sponsor of the Bill that the problem is created by concentrating power, decision making and public representation among a limited number of people. Other members felt that there is not the same degree of conflict of interest between a councillor who is an MLA and a councillor who is also a government Minister.

Eligibility for Election as a Councillor

4. Some members of the Committee expressed concern that the Bill would disqualify existing MLAs from standing for election as councillor unless they resigned from their position in advance. To address this issue the Sponsor proposed an amendment that would ensure the Bill disqualified an MLA from being a councillor but not from being elected as a councillor.

Timing of Implementation

5. The Committee expressed concerns about the legality and technicalities around the commencement of implementation of the Bill.

6. The Committee was told by the Sponsor of the Bill that the system for independent candidates would be the same as the system used in the Assembly with the independent candidate providing a list of substitutes.

Expanding Representation

7. Some members felt that ending dual mandates would present opportunities for some, particularly women, to enter into politics whereas others felt that there was no guarantee that this would happen.

Public Perception and Confidence

8. The Sponsor of the Bill stated that, in her view, the Bill will engender public confidence by ending the practice of dual mandates and making the political process more open and transparent. Some Committee members were of the opinion though that the consultation on the Bill did not produce evidence that public perception was a major concern.

Recommendations

Eligibility for Election as a Councillor

1. The Committee recommended an amendment should be made to the Bill to ensure it did not disqualify any person from actually standing for election even if they were currently an MLA. The Sponsor subsequently agreed to amend Clause 1 to clarify that disqualification would only prevent an MLA from being a councillor but not from standing for election. On 10 June 2010 the Committee agreed to the Sponsor's amendment to address this issue as follows:

Clause 1, page 1, line 2

Leave out clause 1 and insert-

'1. –(1) A person shall be disqualified from being a councillor if that person is a member of the Northern Ireland Assembly.'

Timing of Implementation

2. To address its concerns regarding the timing of implementation the Committee recommended a second amendment to Clause 1 of the Bill as follows:

Clause 1, page 1, line 5

At end insert-

'(2) The disqualification in sub-section (1) shall take effect at the end of 60 days after a person takes his or her seat as a member of the Assembly.'

Introduction

3. The Local Government (Disqualification) (Amendment) Bill was referred to the Committee for the Environment for consideration in accordance with Standing Order 33(1) on completion of the Second Stage of the Bill on 8 March 2010.

4. The member in charge of the bill, Ms Dawn Purvis MLA, made the following statement under section 9 of the Northern Ireland Act 1998:

"In my view the Local Government (Disqualification) (Amendment) Bill would be within the legislative competence of the Northern Ireland Assembly."

5. The sole purpose of the bill is to amend the Local Government Act (Northern Ireland) 1972, Section 4, to disqualify elected members of the Assembly from holding office as councillors. Penalties for violating this restriction would remain as stated in the current legislation.

6. During the period covered by this Report, the Committee considered the Bill and related issues at meetings on 18 March, 25 March, 15 April, 22 April, 20 May, 3 June and 10 June. The relevant extract from the Minutes of Proceedings for these meetings are included at Appendix 1.

7. The Committee had before it the Local Government (Disqualification) (Amendment) Bill (NIA 7/09) and the Explanatory and Financial Memorandum that accompanied the Bill.

8. On referral of the Bill to the Committee after Second Stage, the Committee inserted advertisements on 15 March 2010 in the Belfast Telegraph, Belfast Telegraph North West edition, Irish News and News Letter seeking written evidence on the Bill.

9. A total of six organisations/individuals responded to the request for written evidence, one of these responses being substantive, and a copy of the submissions received by the Committee are included at Appendix 3.

10. The Committee was briefed by Ms Dawn Purvis MLA about the consultation stages and policy development of the policy areas covered by the Local Government (Disqualification) (Amendment) Bill on 20 May 2010. The Committee was also briefed by the Women's Resource and Development Agency on 20 May 2010.

11. The Committee began its formal clause by clause scrutiny of the Bill on 3 June 2010 and concluded this on 10 June 2010.

Extension of Committee Stage of the Bill

12. On 26 April 2010, the Assembly agreed to extend the Committee Stage of the Bill to 28 June 2010.

Report on the Local Government (Disqualification) (Amendment) Bill

13. At its meeting on 24 June 2010 the Committee agreed its report on the Bill and agreed that it should be printed.

Consideration of the Bill by the Committee

14. The Bill consists of 3 clauses. Clause 1 relates to disqualification, Clause 2 relates to commencement and Clause 3 relates to the Short Title of the Bill

Briefing by Dawn Purvis MLA on 20 May 2010

15. Dawn Purvis MLA briefed members on 20 May 2010. Ms Purvis provided the Committee with an overview of the Local Government (Disqualification) (Amendment) Bill's main provisions and aims.

16. Ms Purvis stated that the rationale behind the Bill was to allay public perceptions that the Northern Ireland Assembly is dominated by a small group of individuals for personal gain. There was also a perception that these individuals had a conflict of interest and the Bill would go some way to diminishing this. The Bill would create a firm deadline to work to in ending dual mandates and would make the process irreversible. Ms Purvis stated that the Bill would also engender public confidence and introduce new people to politics in Northern Ireland.

17. Members questioned Ms Purvis on the commencement of the Bill, the perceived conflict of interest, the complementarity of the roles of MLA and Councillor, the consultation process and the nature of a Councillor's role.

Briefing by Women's Resource and Development Agency (WRDA) on 20 May 2010

18. Representatives from the Women's Resource and Development Agency (WRDA) briefed the Committee on 20 May 2010.

19. The WRDA stated that incumbency was a reason for the blockage in women entering politics in Northern Ireland and that ending the practice of dual mandates would create opportunities for women. The WRDA feel that the issue is not whether a person is capable of doing both roles but whether a person should do both roles as this concentrated power in the hands of the few. The group also felt that the selection of candidates was a key issue as women are perceived as being risky candidates and that this perception could be removed with proper mentoring and encouragement within parties. The group further stated that there was no magic bullet in solving the problem of under representation of women in politics in Northern Ireland but that the Bill presented a trigger opportunity and removed a hurdle. WRDA called for an amendment to the Bill that would encourage and assist political parties to enhance women's representation in parties.

Committee meeting on 3 June 2010

20. At the meeting on 3 June 2010 the Committee agreed to defer formal clause by clause consideration of the Bill until the meeting on 10 June 2010 when Mr Weir, in conjunction with the Bill Office, would provide formal wording of a proposed Committee amendment.

Key Issues

21. During its consideration of oral and written evidence from interested individuals and organisations the Committee identified a number of key issues on which further advice was sought from Ms Purvis MLA.

Conflict of Interest

22. One of the main thrusts of the Bill is to address the issue of conflict of interest prior to the Review of Public Administration becoming effective which will increase the powers of Councils and councillors. Some members agreed with the Sponsor of the Bill that the problem is created by concentrating power, decision making and public representation among a limited number of people. Other members felt that there is not the same degree of conflict of interest between a councillor who is an MLA and a councillor who is also a government Minister.

Eligibility for Election as a Councillor

23. The Committee expressed concern that the Bill would disqualify existing MLAs from standing for election as councillor unless they resigned from their position in advance.

24. The Sponsor advised the Committee that it was not her intention to exclude anyone from standing for election as a councillor, only to prevent a person being an MLA and councillor at the same time. To address this issue the Sponsor proposed an amendment that would ensure the Bill disqualified an MLA from being a councillor but not from being elected as a councillor.

Timing of Implementation

25. The Committee expressed concerns about the legality and technicalities around the commencement of implementation of the Bill. Members noted that if an election took place for both the Assembly and Council, the MLA results would be announced first. Members were concerned that if this meant that those succeeding as MLAs were disqualified from taking up a council post, the council post would not be filled. In effect this would mean it would be a vacant seat rather than an occupied seat which is what the co-option process allows for.

26. The Committee was told by the Sponsor of the Bill that the system for independent candidates would be the same as the system used in the Assembly with the independent candidate providing a list of substitutes. Some members wanted the Sponsor to confirm who would hold that list and whether it would be publicly available. Members also recognised that to enable councils to provide satisfactorily for co-options a mechanism which would not affect political balance at Annual General Meetings would be required.

27. In relation to independent candidates the Sponsor of the Bill stated that under Filling Casual Vacancies on District Councils, Guidance on the New Procedure (April 2010), independent candidates are required to submit a list of six potential substitutes to the Chief Electoral Officer (CEO), but only at the point of election. It is not submitted prior to election and therefore would not be publicly available during the campaign.

28. On the issue of casual vacancies the Sponsor stated that the process to fill a casual vacancy is now triggered when the clerk of the council notifies the Chief Electoral Officer (CEO) that a vacancy has occurred. The clerk of the council must inform the CEO of the vacancy "as soon as practicable". The clerk must also inform the CEO of any other matter concerning a casual vacancy within 7 days of the matter coming to the clerk's knowledge, introducing a de facto time limit.

Expanding Representation

29. There was debate around the idea that ending dual mandates will increase the opportunity for greater representation of groups such as women, younger people, disabled, members of minority ethnic communities and those from disadvantaged social and economic backgrounds. Some members felt that ending dual mandates would present opportunities for some,

particularly women, to enter into politics whereas others felt that there was no guarantee that this would happen.

30. The Committee considered an amendment suggested by the Northern Ireland Women's European Platform and DemocraShe that would make reference to the Sex Discrimination (Election Candidates) Act 2002 to draw attention to the allowance under this act to proactively encourage the election of women. The Committee noted its support for increasing the number of women in political life but following procedural advice, the amendment was deemed inadmissible for this Bill.

Public Perception and Confidence

31. The Sponsor of the Bill stated that the legislation is needed as the public perception of politicians in Northern Ireland is that many are out for personal gain. Ms Purvis stated that, in her view, the Bill will engender public confidence by ending the practice of dual mandates and make the political process more open and transparent. Some Committee members were of the opinion though that the consultation on the Bill did not produce evidence that public perception was a major concern.

Changed context with regard to local government reform

32. During the Committee Stage of the Bill it was announced that the devolution of more powers to a fewer number of local authorities in Northern Ireland would no longer be adhering to the proposed timetable. Some members noted that this altered the context of the Bill as the anticipated augmentation of the roles and responsibilities of councillors would no longer justify its implementation. The Committee agreed this issue is one that should be raised by those members concerned when the Bill returns to the Assembly for consideration.

Clause by Clause Consideration of the Bill

33. The Committee began its clause by clause scrutiny of the Bill on 10 June 2010 and concluded this on 15 June 2010—see Appendix 2. The Committee recommended one amendment which is outlined below.

Clause 1 - Disqualification

34. At the meeting on 20 May the Committee requested further information from the Sponsor of the Bill on the possibility of the legislation creating vacant seats, the system for independent candidates in the event of a vacant seat and the requirement for an AGM in the event of a co-option.

35. Members were provided with a reply on these issues from the Sponsor of the Bill along with an amendment to Clause 1 from the Sponsor. At the meeting on 3 June members decided to defer clause by clause consideration until formal wording of a proposed Committee amendment was provided by Mr Weir.

36. At the meeting on 15 June 2010 the Committee agreed to the amendments proposed by the Sponsor and the Committee — see Recommendations.

37. At the meeting on 15 June 2010 the Committee agreed to Clause 1 subject to the amendment proposed by the Sponsor and subject to the amendment proposed by the Committee.

Clause 2 - Commencement

38. At the meeting on 15 June 2010 the Committee agreed to Clause 2 as drafted.

Clause 3 - Short Title

39. At the meeting on 15 June 2010 the Committee agreed to Clause 3 subject to the amendment proposed by the Sponsor of the Bill.

Long Title

40. At the meeting on 15 June 2010 the Committee agreed to the long title subject to the amendment proposed by the Sponsor of the Bill.

Appendix 1

Minutes of Proceedings of the Committee Relating to the Report

**Thursday 18 March 2010,
Room 144, Parliament Buildings**

Present: Mr Jonathan Bell
Mr Roy Beggs
Mr Cathal Boylan (Deputy Chairperson)
Mr John Dallat
Mr David Ford
Mrs Dolores Kelly (Chairperson)
Mr Danny Kinahan
Mr Ian McCrea
Mr Daithi McKay
Mr Alastair Ross
Mr Peter Weir

In Attendance: Dr Alex McGarel (Assembly Clerk)
Mr Sean McCann (Assistant Clerk)
Mr Nathan McVeigh (Clerical Supervisor)
Ms Antoinette Bowen (Clerical Officer)

Apologies:

7. Local Government (Disqualification) (Amendment) Bill

The Chairperson informed members that they had been provided with a copy of the Bill, a timeline for Committee Stage and a stakeholder.

The following members declared an interest:

Mrs Kelly – member of Craigavon Borough Council and voluntary member of Craigavon Transition Committee

Mr Ford – member of Antrim Borough Council

Mr Kinahan – member of Antrim Borough Council

Mr Beggs – member of Carrickfergus Borough Council and member of Strategic Leadership Board

Mr Weir – member of North Down Borough Council and NILGA Vice President

Mr McKay – member of Ballymoney Borough Council

Agreed: That the National Association of Councils and all political parties are added to the stakeholder list and that the letters of invitation to the stakeholders to provide a written submission are now issued.

Agreed: That Assembly Research is asked to compile a table of the number of MLAs that are also councillors.

11.55a.m Mr Ross rejoined the meeting.

Cathal Boylan
Deputy Chairperson, Committee for the Environment
25 March 2010

[EXTRACT]

Thursday 25 March 2010, Room 144, Parliament Buildings

Present: Mr Jonathan Bell
Mr Roy Beggs
Mr Cathal Boylan (Deputy Chairperson)
Mr John Dallat
Mr David Ford
Mr Danny Kinahan
Mr Daithi McKay
Mr Peter Weir

In Attendance: Dr Alex McGarel (Assembly Clerk)
Mr Sean McCann (Assistant Clerk)
Mr Nathan McVeigh (Clerical Supervisor)
Ms Antoinette Bowen (Clerical Officer)

Apologies: Mrs Dolores Kelly (Chairperson)
Mr Ian McCrea
Mr Alastair Ross

5. Local Government (Disqualification) (Amendment) Bill

The Committee agreed that agenda item 6 would be considered next; Local Government (Disqualification) (Amendment) Bill.

The following members declared an interest:

Mr Beggs – member of Carrickfergus Borough Council

Mr Bell – members of Ards Borough Council

Mr Ford – member of Antrim Borough Council

Mr Kinahan – member of Antrim Borough Council and arc21 substitute

Mr Dallat – member of Coleraine Borough Council

Mr Weir – member of North Down Borough Council

The Chairperson informed members that they had been provided with a draft motion to extend.

Agreed: That the motion is sent to the Business Office.

The Chairperson informed members that they had been provided at with a Research paper on the Bill.

Agreed: That the Research paper is published on the Assembly website.

The Chairperson informed members that they had been provided at with a memo from the Assembly and Executive Review Committee Clerk and that papers in relation to dual mandates had also been forwarded and will be provided to members at the meeting on 15 April.

Cathal Boylan
Chairperson, Committee for the Environment
15 April 2010

[EXTRACT]

Thursday 15 April 2010, Room 144, Parliament Buildings

Present: Mr Roy Beggs
Mr Cathal Boylan (Chairperson)
Mr Alastair Ross
Mr Peter Weir
Mr Brian Wilson

In Attendance: Dr Alex McGarel (Assembly Clerk)
Mr Sean McCann (Assistant Clerk)
Mr Nathan McVeigh (Clerical Supervisor)
Ms Antoinette Bowen (Clerical Officer)

Apologies: Mr Jonathan Bell
Mr John Dallat
Mr Ian McCrea
Mr Daithi McKay
Mr Danny Kinahan
Mr Dominic Bradley

10.20a.m The meeting began in public session.

9. Local Government (Disqualification) (Amendment) Bill

The Committee agreed that agenda item 7 would be considered next.

The following members declared an interest:

Mr Beggs – member of Carrickfergus Borough Council

Mr Weir – member of North Down Borough Council

The Chairperson informed members that they had been provided with a copy of an Assembly Research paper on MLAs also serving as councilors.

Agreed: That the original Committee motion to extend Committee Stage of the Bill to 28 June is re-submitted to the Business Office.

Cathal Boylan
Chairperson, Committee for the Environment
22 April 2010

[EXTRACT]

Thursday 22 April 2010, Room 144, Parliament Buildings

Present: Mr Roy Beggs
Mr Cathal Boylan (Chairperson)
Mr Alastair Ross
Mr Peter Weir
Mr Jonathan Bell
Mr John Dallat
Mr Daithi McKay

In Attendance: Dr Alex McGarel (Assembly Clerk)
Mr Sean McCann (Assistant Clerk)
Mr Nathan McVeigh (Clerical Supervisor)
Ms Antoinette Bowen (Clerical Officer)

Apologies: Mr Ian McCrea
Mr Danny Kinahan
Mr Brian Wilson

6. Local Government (Disqualification) (Amendment) Bill

Members noted a response from NILGA indicating that the organisation did not feel it could contribute further to the debate on this Bill.

The Chairperson informed members that they have been provided with a response from Strabane District Council on the Bill.

Agreed: That the response is incorporated into the final Committee report on the Bill.

The Chairperson informed members that they have been provided with an e-mail of support for the Bill from Ards Borough Council.

Agreed: That the response is incorporated into the final Committee report on the Bill.

Members noted a copy of a clause by clause analysis table.

The Chairperson informed members that they have been provided with a tabled response from the Women's Resource and Development Agency on the Bill.

Agreed: That the Women's Resource and Development Agency is invited to a future meeting to brief on the Bill.

Cathal Boylan
Chairperson, Committee for the Environment
29 April 2010

[EXTRACT]

Thursday 20 May 2010, Room 144, Parliament Buildings

Present: Mr Roy Beggs
Mr Jonathan Bell
Mr Cathal Boylan (Chairperson)
Mr John Dallat
Mr Danny Kinahan
Mr Ian McCrea
Mr Alastair Ross
Mr Peter Weir
Mr Brian Wilson

In Attendance: Dr Alex McGarel (Assembly Clerk)
Mr Sean McCann (Assistant Clerk)
Mr Nathan McVeigh (Clerical Supervisor)
Ms Antoinette Bowen (Clerical Officer)

Apologies: Mr Dominic Bradley
Mr Daithi McKay

5. Briefing by Dawn Purvis MLA on the Local Government (Disqualification) (Amendment) Bill

The following members declared an interest:

Mr Beggs – Carrickfergus Borough Council

Mr Bell – Castlereagh Borough Council

Mr McCrea – Cookstown District Council

Mr Weir – North Down Borough Council and Vice President of NILGA

Mr Wilson – North Down Borough Council

Dawn Purvis MLA briefed the Committee and answered members' questions on the Local Government (Disqualification) (Amendment) Bill.

The main areas of discussion were implementation of the bill, co-option, disqualification and the possibility of the introduction of a waiting period and conflict of interest

Agreed: That Ms Purvis provides further information on the legal advice she receives in relation to commencement.

4. Briefing by Women's Resource and Development Agency on the Local Government Disqualification Amendment Bill

The following members declared an interest:

Mr Beggs – Carrickfergus Borough Council

Mr Bell – Castlereagh Borough Council

Mr McCrea – Cookstown District Council

Mr Weir – North Down Borough Council and Vice President of NILGA

Mr Wilson – North Down Borough Council

Representatives from the Women's Resource and Development Agency briefed the Committee and answered members' questions on the Local Government (Disqualification) (Amendment) Bill.

The main areas of discussion were the proportion of women in political life in Northern Ireland, the ability of MLAs to also be councillors and the selection of political candidates.

11.55a.m Mr Kinahan left the meeting.

Agreed: That the Committee will commence formal clause by clause scrutiny of the Bill at the meeting on 3 June 2010.

Cathal Boylan
Chairperson, Committee for the Environment
27 May 2010

[EXTRACT]

Thursday 03 June 2010, Room 144, Parliament Buildings

Present: Mr Roy Beggs
Mr Cathal Boylan (Chairperson)
Mr John Dallat
Mr Danny Kinahan
Mr Ian McCrea
Mr Daithi McKay
Mr Alastair Ross
Mr Peter Weir
Mr Brian Wilson

In Attendance: Dr Alex McGarel (Assembly Clerk)
Mr Sean McCann (Assistant Clerk)
Mr Nathan McVeigh (Clerical Supervisor)
Ms Antoinette Bowen (Clerical Officer)

Apologies: Mr Jonathan Bell
Mr Patsy McGlone

8. Local Government (Disqualification) (Amendment) Bill – Formal Clause by Clause Consideration

12.21p.m Mr Kinahan rejoined the meeting.

The following members declared an interest:

Mr Beggs – Carrickfergus Borough Council

Mr McCrea – Cookstown District Council

Mr Weir – North Down Borough Council

Mr Wilson - North Down Borough Council

Agreed: That the Committee defers formal clause by clause consideration of the Bill until the meeting on 10 June when a draft Committee amendment to address concerns about the timing of the disqualification process will be considered.

12.34p.m Mr Weir left the meeting

Cathal Boylan
Chairperson, Committee for the Environment
10June 2010

[EXTRACT]

Thursday 10 June 2010, Room 144, Parliament Buildings

Present: Mr Roy Beggs
Mr Cathal Boylan (Chairperson)
Mr John Dallat
Mr Danny Kinahan
Mr Ian McCrea
Mr Patsy McGlone
Mr Alastair Ross
Mr Peter Weir
Mr Brian Wilson

In Attendance: Dr Alex McGarel (Assembly Clerk)
Mr Sean McCann (Assistant Clerk)
Mr Nathan McVeigh (Clerical Supervisor)
Ms Antoinette Bowen (Clerical Officer)

Apologies: Mr Jonathan Bell

4. Local Government (Disqualification) (Amendment) Bill – Formal Clause by Clause Consideration

The Chairperson informed members they now needed to formally consider the clauses of the Bill and that they had been provided with a reply to Committee queries and draft amendments from the Sponsor of the Bill and a draft Committee amendment.

Clause 1 - Disqualification

Agreed: That the Committee is content with the Sponsor's amendment.

Agreed: That the Committee is content with the Committee's amendment.

Mr Beggs and Mr Kinahan abstained from offering views on the Committee amendment.

The Chairperson put the following question:

That the Committee is content with Clause 1 subject to the amendment proposed by the Sponsor and the amendment proposed by the Committee?

The following members abstained from offering views:

Mr Beggs, Mr Kinahan, Mr Dallat, Mr McCrea, Mr Ross, Mr Wilson, Mr Weir

The Committee was therefore unable to agree a position on Clause 1.

Clause 2 – Commencement

The following members abstained from offering views:

Mr Dallat, Mr McCrea, Mr Ross, Mr Wilson, Mr Weir

The Committee agreed the clause as drafted, put and agreed to.

Clause 3 – Short Title

The following members abstained from offering views:

Mr McCrea, Mr Ross, Mr Weir

The Committee agreed the clause subject to the amendment from the Sponsor, put and agreed to.

Long Title

The following members abstained from offering views:

Mr McCrea, Mr Ross, Mr Weir

The Committee agreed to the Long Title of the Bill subject to the amendment from the Sponsor, put and agreed to.

The Chairperson informed members that they had been provided with a letter from DemocraShe calling for an amendment to the Bill.

Agreed: That a letter is sent to DemocraShe indicating committee support for incentives to encourage women into political life but that, following procedural advice, the amendment was deemed inadmissible for this Bill.

Cathal Boylan
Chairperson, Committee for the Environment
17 June 2010

[EXTRACT]

Tuesday 15 June 2010, Room 144, Parliament Buildings

Present: Mr Roy Beggs
Mr Jonathan Bell
Mr Cathal Boylan (Chairperson)
Mr John Dallat
Mr Danny Kinahan
Mr Ian McCrea
Mr Patsy McGlone
Mr Alastair Ross
Mr Peter Weir
Mr Brian Wilson

In Attendance: Dr Alex McGarel (Assembly Clerk)
Mr Sean McCann (Assistant Clerk)

Mr Nathan McVeigh (Clerical Supervisor)
Ms Antoinette Bowen (Clerical Officer)

2. Local Government (Disqualification) (Amendment) Bill

The Chairperson informed members that they had been provided with a copy of a memo outlining the discussions on the Bill at the meeting on 10 June and informed members that they needed to indicate if they were content that their positions had been recorded correctly.

12.46p.m Mr Kinahan joined the meeting.

12.47p.m Mr Beggs joined the meeting.

12.48p.m Mr Weir joined the meeting.

12.49p.m Mr McCrea joined the meeting.

Clause 1 - Disqualification

Agreed: That the Committee is content with the Sponsor's amendment.

Agreed: That the Committee is content with the Committee's amendment.

Mr Beggs and Mr Kinahan abstained from offering views on the Committee amendment.

Agreed: That the Committee is content with Clause 1 subject to the amendment proposed by the Sponsor and the amendment proposed by the Committee?

The following members abstained from offering views:

Mr Beggs, Mr Kinahan, Mr Dallat, Mr McCrea, Mr Ross, Mr Wilson, Mr Weir

Clause 2 – Commencement

The following members abstained from offering views:

Mr Dallat, Mr McCrea, Mr Ross, Mr Wilson, Mr Weir

The Committee agreed the clause as drafted.

Clause 3 – Short Title

The following members abstained from offering views:

Mr McCrea, Mr Ross, Mr Weir

The Committee agreed the clause subject to the amendment proposed by the Sponsor.

Long Title

The following members abstained from offering views:

Mr McCrea, Mr Ross, Mr Weir

The Committee agreed to the Long Title of the Bill subject to the amendment proposed by the Sponsor.

Cathal Boylan
Chairperson, Committee for the Environment
17 June 2010

[EXTRACT]

Thursday 24 June 2010, Room 144, Parliament Buildings

Present: Mr Roy Beggs
Mr Cathal Boylan (Chairperson)
Mr John Dallat
Mr Ian McCrea
Mr Danny Kinahan
Mr Patsy McGlone
Mr Alastair Ross
Mr Peter Weir
Mr Brian Wilson

In Attendance: Dr Alex McGarel (Assembly Clerk)
Mr Sean McCann (Assistant Clerk)
Mr Nathan McVeigh (Clerical Supervisor)
Ms Antoinette Bowen (Clerical Officer)

7. Local Government (Disqualification) (Amendment) Bill – Agreement of Committee Report

12.31p.m. Mr McGlone left the meeting.

The Chairperson informed members that they had been provided with a copy of the draft Committee report on the Bill and that he would go through each section asking members for their agreement.

Agreed: That the Committee is content with the Executive summary.

Agreed: That the Committee is content with the Recommendations.

Agreed: That the Committee is content with the Introduction.

Agreed: That the Committee is content with the Consideration of the Bill by the Committee.

12.34p.m Mr Weir left the meeting.

Agreed: That the Committee is content with the Key Issues subject to amendments proposed by Mr Beggs.

Agreed: That the Committee is content with the clause by clause consideration of the Bill.

Mr McGlone rejoined the meeting at 12.25p.m.

Agreed: That the Committee is content with Appendix 1 - Minutes of Proceedings relating to the report.

Agreed: That the Committee is content with Appendix 2 - Minutes of Evidence relating to the report.

Agreed: That the Committee is content with Appendix 3 - Written Submissions

Agreed: That the Committee is content with Appendix 4 - List of Witnesses

Agreed: That the Committee is content with Appendix 5 - Other papers submitted to the Committee.

Agreed: That the Committee is content with Appendix 6 – Assembly Research papers.

Agreed: That the report is printed.

Agreed: That the minutes, and minutes of evidence, from the meeting on 24 June are incorporated into the final report.

The Chairperson informed members the report will now be ordered to be printed and submitted to the Business Office as the Committee's official report on the Local Government (Disqualification) (Amendment) Bill – the end of the Committee Stage.

12.26p.m Mr Weir rejoined the meeting.

Cathal Boylan

Chairperson, Committee for the Environment

1 July 2010

[EXTRACT]

Appendix 2

Minutes of Evidence

20 May 2010

Members present for all or part of the proceedings:

Mr Cathal Boylan (Chairperson)
Mr Roy Beggs
Mr Jonathan Bell
Mr John Dallat
Mr Danny Kinahan

Mr Ian McCrea
Mr Alastair Ross
Mr Peter Weir
Mr Brian Wilson

Witnesses:

Ms Dawn Purvis MLA

1. The Chairperson (Mr Boylan): I welcome Dawn Purvis MLA and invite her to make her presentation.

2. Mr Beggs: I declare an interest as member of Carrickfergus Borough Council.

3. The Chairperson: Please declare interests. I see that many members who are councillors have raised their hands.

4. Mr Weir: I am a member of North Down Borough Council and vice-president of the Northern Ireland Local Government Association.

5. Mr I McCrea: I declare an interest as a member of Cookstown District Council.

6. Ms Purvis: Thank you for the opportunity to discuss my private Member's Bill, the Local Government (Disqualification) (Amendment) Bill. I understand that the purpose of today's session is clause-by-clause analysis and discussion of the Bill, and I am certain, therefore, that members will be pleased with the brevity and conciseness of the legislation.

7. The purpose of the Bill is to end the practice of dual mandates between the Assembly and local district councils. Dual mandates occur when an individual holds more than one elected public office at the same time. The essence of the legislation is contained in clause 1, the language of which disqualifies any individual who is elected, appointed or otherwise selected as a local councillor while also holding the position of MLA. That disqualification would be automatic. If a sitting local councillor were to be elected to the Assembly, she or he would be automatically disqualified from holding a council seat. If the reverse were to happen, and a sitting MLA were to be elected to council without first resigning from the Assembly, that individual would have to make an immediate decision as to which seat to take. If a choice is not made or is delayed, the selection to local council would be nullified. In both circumstances, the political party to which the councillor belongs at the time of election would fill the seat by co-option, as is provided for by recent Westminster legislation.

8. It is important to note that there is no language in the Bill that creates new prohibitions on candidacy. The legislation does not prevent an individual from standing for local council and the Assembly at the same time if, for example, local and Assembly elections were to be held on the same day. Although that is not ideal, several respondents to the public consultation felt that creating a prohibition to stand would limit choice and the principles of political participation. It also ensures that the natural progression from local office to regional government is not inhibited in any way. Local government retains its important role as a training ground or stepping stone to higher office.

9. Clause 2 contains the commencement provisions. The Bill would come into effect at the next local district elections after it receives Royal Assent. Under current assumptions, that would be after the local elections that are anticipated for 2011. Clause 3 offers the short title: the Local Government (Disqualification) (Amendment) Act (Northern Ireland) 2010.

10. I recognise that Committee members will have a number of questions and comments about the legislation, and, therefore, I will leave ample time for that. However, I will briefly mention the rationale behind the Bill.

11. Like many Committee members, I hear frequently from constituents about the failings of the Assembly. Although a lot of work goes on here, that is not necessarily what the voting public sees. The public perception — and it is a very strong perception — is that this body is dominated by individuals and parties who are here for personal gain first and the betterment of Northern Ireland second or, perhaps, last. There may be an element of that in any democracy. However, in Northern Ireland the distrust has reached unsustainable levels. Times are difficult for our country and are about to get even more difficult as the realities of the economic situation begin to affect even more sectors of our society. It is not a good time for public confidence in the Assembly to be waning in any way.

12. After speaking with a number of constituents on the matter, I contacted the Minister of the Environment, the Environment Committee and the Assembly and Executive Review Committee to see what action they intended to take on multiple mandates. In December 2008, when it became clear that the issue was not a priority for any of those bodies, I began to look into bringing forward a private Member's Bill that would address the issue of dual mandates. Draft legislation was constructed in June 2009 and went out to public consultation during the summer of last year. Feedback from that consultation was used to modify and improve the legislation.

13. On a statutory level, the Bill formalises a basic standard of good governance. It ensures that power and decision-making are diversified as much as possible and that occasions for conflicts of interest are diminished. On a political and social level, the Bill demonstrates to the people of Northern Ireland that the Assembly cares about and is committed to inclusion, transparency and appropriate limits of power. It is a small but important gesture to make, and now is a critical time to make it.

14. During the debate on the Bill's Second Stage, there was a suggestion that it may be more appropriate to wait until we know the outcome of the 2011 local elections. I do not think that the public can wait that long, and I do not think that there is sufficient public confidence that the political parties will do a good enough job voluntarily. All parties have promised an end to multiple mandates for years, with very little progress. Recently, we saw a number of MPs trying to back out of commitments to end their dual mandates that they made prior to the general election. That adds fuel to the fire of public indignation about the Assembly.

15. Legislating for this change creates a firm deadline for the parties to work to and makes it irreversible, and that is an important and permanent standard and principle for our democracy. We know that when government more accurately reflects the make-up of the population, it delivers better policy and more accountable government, and it engenders higher levels of public confidence. I believe that the Local Government (Disqualification) (Amendment) Bill creates an opportunity for that to happen, for new people to be brought into government and for a culture of inclusion and transparency to take hold.

16. I have discussed the mechanisms for the implementation of the Bill with several Members, some of whom are members of this Committee. Some suggested the addition of a waiting period after an election to allow an individual who may have been elected to the Assembly and local government to decide which seat he or she will retain. I am willing to discuss that idea further, but I have some concerns about it. A short transition period was considered in the early stages of the Bill, but it was not incorporated, as it would add to the complexities of and delays to newly-elected bodies starting work. Surely, any individual who is standing for two levels of public office will have a sense of which seat he or she would prefer well in advance of election day?

17. Another Member expressed concern that parties will intentionally place high-profile individuals on the local election ballot paper for the sole purpose of increasing the party's vote and would then allow that person to be disqualified in order to co-opt a less well-known individual onto the seat. That is a possibility. Any system, if approached with cynicism, is open to abuse. If the legislation were in place, however, voters would also be aware that any individual in receipt of a dual mandate would have to surrender one of those seats, and they may have a sense of what is coming before casting their vote.

18. More than one Member argued that it is necessary to retain dual mandates as a form of employment insurance in case the Assembly collapses. That view is troubling on a number of levels. It is my hope that, rather than endorsing such a perspective, the Assembly can demonstrate confidence in its permanence by removing the safety net of dual mandates. Given the fact that many of our constituents have lost their one and only job, it is grossly unfair to have such an employment insurance when others do not have that luxury.

19. Thank you for the opportunity to speak to the Committee, and I look forward to members' comments and questions.

20. The Chairperson: Thank you for your presentation. I would like clarity on one issue. There is a suggestion that you would allow people to stand for the Assembly and local government elections in 2011 and to make their decisions following the results. That would be a one-off opportunity for them to do so, because, by the next election, in 2015, they would stand for only one office. It might be the right thing to do now with regard to giving people opportunities.

21. Ms Purvis: May I clarify something? I received an e-mail from the Bill Office. It is saying that there may be technical matters to consider in relation to the commencement provisions, and it is seeking legal advice. I will table amendments if there are technical matters. I am seeking clarification on that.

22. The Chairperson: Thank you.

23. Mr Weir: Thank you for your presentation. First, I want to pick up on the Chairperson's point. You mentioned the idea of having a short waiting period, which might be one or two months. I think that it will occur only when both elections occur at the same time. It looks as though that may happen in 2011, and that might not be a unique situation. The councils and the Assembly are in sync, as the lifespan for both is four years. There is a possibility that that could be repeated. From a practical point of view, if council and Assembly elections are due to be held at more or less the same time, there will almost certainly be pressure to hold them on the same day because of cost. There could be an argument for having a waiting period, particularly as some discussions have been held on councils looking at models using d'Hondt or proportionality for sharing out positions across the board, but that would depend on party strengths and on the number of councillors.

24. One concern, which a short period of waiting could at least cover, would be if Joe Bloggs were to be elected to the Assembly and to the council, he would be automatically disqualified from the council, and there would be a vacancy, albeit that it would be filled in a matter of weeks. However, the council would look at its allocation of positions at its annual general meeting immediately after the election. It could run into difficulty, which would mean that some of the figures could be skewed for that short period of time. Therefore, there is a technical issue there. You said that you could look at an amendment in relation to that. Do you want to comment on that specific issue?

25. Ms Purvis: To be fair, some political parties run their own internal selection processes for candidates when vacancies occur. Some parties have put the argument that, if somebody is

elevated from council to the Assembly, that leaves a vacancy and they have to run an internal selection process.

26. Mr Weir: To be fair, the internal selection process does not really concern me, it is more the fact that someone would then be formally co-opted on to a council, even with the automatic bit, and that would then have to be brought up at a subsequent council meeting. Therefore, there may be a gap. For instance, in the past few weeks, a number of councillors have stepped down, including some from my own party. However, their places can only be filled at a subsequent council meeting, so there is a gap for a short period.

27. Ms Purvis: If somebody is disqualified for any reason, the chief executive of the council has seven days in which to notify the Chief Electoral Officer. The Chief Electoral Officer then notifies the party, and it has 28 days in which to co-opt somebody onto that seat. I am concerned that a waiting period would effect exactly what you are talking about, which is the way that any new council would meet to dole out its committee places and chairpersonships through the d'Hondt system, for example. However, I think that parties and candidates have a responsibility to have systems in place for that prior to any election.

28. Mr Weir: Legally, would that person's seat take effect in terms of filling that vacancy until it is notified to the council?

29. Ms Purvis: Sorry, what do you mean?

30. Mr Weir: If Joe Bloggs is elected to the council and to the Assembly, he resigns on that day, and the process is then started.

31. Ms Purvis: They do not resign, they are automatically disqualified.

32. Mr Weir: OK. He is disqualified automatically that day. I presume that that position would remain vacant until it is filled. If, for the sake of argument, Mr Ross were to be elected as a councillor — I can see him going pale at the prospect — presumably he would not become a councillor until it formally goes through the next council meeting, in which case there would be a short period during which that seat would not be filled. It is a short-term issue for such things as the calculation of d'Hondt and the number of seats that parties hold.

33. Ms Purvis: The seat would still belong to the party, even though that person would be disqualified. Therefore, it would be up to the party to fill it. Therefore, for the purposes of d'Hondt, a vacancy would not affect party strength on the council.

34. Mr Weir: I will move on. You mentioned conflicts of interest. Do you agree that Assembly Members who hold Executive posts — for example, the Finance Minister, who might take decisions about local government finance while still being a local councillor, although that is no longer the case — have a greater degree of conflict of interest than a Back-Bench MLA who is also a local councillor?

35. Ms Purvis: I agree to some extent. Conflicts of interest are key in this whole debate. You highlighted Executive members who are also local councillors and who are making decisions about local government legislation and policy. If we look at the Assembly in particular, if RPA were introduced and extra responsibilities were placed on local government, there would be a clear conflict of interest for MLAs who were also local councillors.

36. If the standards for conflict of interest were to be implemented in the Assembly in their most strident form, as opposed to what is set currently, which is a declaration of interest, that would

mean recusal. The Assembly would grind to a halt. In fact, neither this Committee nor the Assembly and Executive Review Committee could function. The whole legislative process would grind to a halt. Although people say that there is more of a conflict of interest for Ministers who are also local councillors, we have to remember that there is a perception of a conflict of interest. It is not just the fact that there may be an actual conflict of interest; there is also the suggestion or perception of a conflict of interest. The fact is that the electorate and the public see a conflict of interest.

37. Mr Weir: If the case is made that voters perceive a conflict of interest, what is wrong with simply letting democracy take its course and the voters deciding who gets elected and who does not? Is that not the more democratic position?

38. Ms Purvis: The voters do.

39. Mr Weir: What is wrong with leaving it to voters' choice? In the last election, a range of people ran and, even in parties, there were different views on the issue of mandates. Some people had none, some defended all their mandates, others withdrew from councils, and some candidates who were elected gave indications that they intended to remain as councillors but step down as MLAs. People took a range of different views. What is wrong with simply letting the public decide?

40. Ms Purvis: The public do not decide on who becomes a candidate. It is inaccurate and disingenuous to say that we should let the public decide; political parties select candidates for election, not the voters. If we want to change to an American-style system of primaries in which the public have a say in selecting candidates, I am happy to look at that.

41. Mr Weir: Surely, if there is enough public annoyance on the subject, people will vote with their feet and choose parties and candidates who do not have dual mandates. It does not appear to —

42. Ms Purvis: That is inaccurate. Your party stood for Westminster election. The party manifesto stated that its MPs, if elected, would give up their MLA seats.

43. Mr Weir: And they will.

44. Ms Purvis: The public and I do not see any evidence of that. One of your MPs has said quite clearly that he will not give up his seat; he will give it up when he feels like it.

45. Mr I McCrea: One MP said that he will.

46. Mr Weir: Yes, and another declared a date for leaving the Assembly.

47. Ms Purvis: The voters do not select candidates. The parties select the candidates and encourage their voters to vote for that candidate out of party loyalty. If we want to look at a system in which voters can select candidates, which is more open democracy, I am happy to discuss that.

48. Mr Weir: For a number of years, I served purely as an MLA. For the past five years, I have served as an MLA and a councillor. I know that you have not served as a councillor. Many of us say that, rather than creating conflicts of interests, our roles as councillors and as MLAs are complementary. One role benefits the other in that, when we attend the council, we bring a perspective on what is happening at the Assembly. When we attend the Assembly, being a

councillor helps with our knowledge of what is happening on the ground. How do you answer that point?

49. Ms Purvis: The flow of information and communication between two levels of government should depend on systems, rather than on the goodwill of individuals who are represented at both levels. No one responded to the consultation to say that they viewed the roles as complementary. The respondents saw the roles as separate, and they took the view that when one person held two elected positions, they were gaining from the public purse. In fact, a councillor responded to say that they wished to see an end to dual mandates because, when that councillor and other councillors had been working on an issue of local benefit, MLAs who were working to a different agenda had scuppered that work.

50. Although you can argue that the roles can be seen as complementary, the consultation responses do not suggest that the roles are seen in that way. In the early stages of drafting the Bill, we looked at structures and systems around the information and communication between different levels of government and proposed a co-ordination forum. That was removed from the draft Bill when Minister Poots said that he would introduce something to deal with that. The Minister has identified the need for that.

51. Mr Weir: By the same token, Dawn, one can have all the communications forums in the world, but when a MLA stands up in the Assembly or a councillor stands up in the council, the information is not fed to them by a committee but they draw on their experience and the knowledge in their heads. It is their practical experience that is relevant. I will leave it at that, because I know that other members wish to speak.

52. Mr Bell: Thank you, Dawn, for your presentation. Under the current system, being a councillor is, effectively, a part-time job, and all councillors, apart from a few who are retired, take on the job as part of their normal day-to-day work. If the reorganisation of councils under RPA were not to go ahead and that situation were to remain, would you change your position?

53. Ms Purvis: Sorry, I do not understand the question.

54. Mr Bell: If a system of having full councils with increased responsibilities, salaries and range of duties for councillors is not adopted, will that change your mind?

55. Ms Purvis: No, not at all. I said in my introduction that part of the rationale behind the Bill is public perception on the issue. Voters see a real difficulty with elected representatives holding more than one elected position. The arguments that councillors work part time, that the current system saves money and that they will abate their salary miss the point. The issue is not about whether one person can hold two elected positions but whether one person should hold two elected positions.

56. Mr Bell: Therefore, you are saying that it is more an issue of perception. Without being party political, I will pick up on your point about voters. Recently, the voters in East Belfast had the choice and they chose as their Member of Parliament a person who was a councillor, an MLA and the Lord Mayor. She went into the election carrying three jobs, and she was elected. What does that say about the voters?

57. Ms Purvis: Peter Weir made the same point. Voters do not select the candidates; the parties do that. If parties are going to be more open in allowing the public a say in who they select, that would be fine.

58. Mr Bell: To follow the logic of your point that voters are rejecting people with multiple mandates —

59. Ms Purvis: I did not say that.

60. Mr Bell: So, the voters are not rejecting the people with multiple mandates?

61. Ms Purvis: I did not say that.

62. Mr Bell: Sorry, I have picked that up wrongly then. Some people say that being Lord Mayor is a full-time position. Arguably, being a councillor can be a full-time position, and being an MLA is definitely a full-time position. A candidate who holds all three positions was endorsed by the public to be a Member of Parliament.

Sometimes the elections give us the real picture, as opposed to what has gone on before.

63. I agree with you. I am 100% behind the contention that an MP, an MLA or an MEP cannot do all those jobs full time. However, what would happen if research were to show that — as is the case for a number of parties; not just mine — MLAs who are also councillors have a better attendance and voting record than other councillors? What do you say to that?

64. Ms Purvis: Again, you are talking about an individual's capacity. If a person has the capacity to do those jobs, that is fine, but you are getting away from the issue. It is not about an individual's capacity to hold two elected positions — the point is whether they should. The public make no distinction between what you call a part-time council post and a full-time MLA, MP or MEP post. The concentration of power in the hands of a few individuals is not the type of democracy that we want to establish here. In the midst of the recent recession, research has been published that suggests that decision-making boards that are diverse and are more representative of society make better decisions and better policy. The proposed legislation and opening up of our elected representation to a more diverse group of people will only help to establish the principles that we are trying to build.

65. Mr Bell: There is an argument for bringing in fresh blood and new ideas, and I support that. I do not want to make the discussion a party political one, but Jim Shannon is standing down as a councillor and as an MLA. He is a man of his word, and will do that quickly. Kieran McCarthy and Jim Shannon have the best attendance and voting records on Ards Borough Council. Those two men make the most contributions to council life and both have an outstanding record of constituency work. When they stood for election as councillors and as MLAs they were overwhelmingly endorsed by the electorate across the political and sectarian divide.

66. The job of a nurse, a doctor or a teacher is a full-time position. Are we saying that one can be a public servant in all those capacities and be a councillor at night, but an MLA cannot?

67. Ms Purvis: There are a number of different arguments there. Once again, voters do not select candidates; I cannot emphasise that enough. I have no doubt that Jim Shannon and Kieran McCarthy work very hard. I know about Jim's reputation in his constituency. Again, it is not about whether one person is capable of doing both jobs; it is about whether they should. The issue of fairness cannot be overlooked. The public do not separate what you described as a part-time role from the full-time role. The public sees one person taking two elected positions; that is what they see as inherently unfair.

68. There is a difference between that example and that of a doctor or a teacher who is also an elected councillor. The difference is that the public know what a doctor or a teacher does in his or her daytime job. They know the role that public servants fulfil. They know that there are fewer opportunities for personal gain for such people.

69. Mr Bell: May I stop you on that point? I am one of those people who took a pay cut to be co-opted to the Assembly. Doctors earn twice what an MLA is paid.

70. Ms Purvis: I am not talking about salaries.

71. Mr Bell: I am not personalising the discussion. A GP, a teacher, or a headmaster on £55,000 a year who earns £10,000 to £12,000 more than an Assembly Member can be a councillor, but an MLA cannot. We have got to the kernel of it. It is a question of capacity: whether a person has the capacity and can do the job.

72. Ms Purvis: It is not a question of capacity.

73. Mr Bell: That is what I am saying: that is the kernel of this. MLAs can do it, but, allegedly, the public do not want them to. Therefore, they will be prevented from doing it. Every other public servant can do it. There could be a human rights argument.

74. Ms Purvis: The consultation responses that came back to me did not demonstrate a distinction or a complementarity between councillor and MLA. People can also see clearly the job of a doctor or a teacher, but they do not always see what the job of a MLA or councillor entails. They think that it is unfair that somebody should hold two elected positions, particularly during a recession.

75. Mr Bell: Most of the doctors whom I know are taking private patients, and many of the teachers whom I know are giving private tuition.

76. Ms Purvis: That is a different issue.

77. The Chairperson: In my experience, people see the two as one; in most areas, they do not separate the roles of councillor and MLA.

78. Mr Beggs: Thank you for your presentation. I like the brevity of the Bill. I want to pursue the precise mechanism for commencement. You say that, at present, an individual will be excluded on the day on which the first district council election takes place, after Royal Assent has been granted. My understanding of that is that an individual could not become a councillor if they are an MLA. They will have gone through an electoral process, but they cannot take up that appointment. They may be declared elected, but they cannot take up the post. If the individual cannot take it up, how can nominations occur for someone else? Will we be into the realms of a by-election and its associated costs? Will you clarify how you have chosen that mechanism?

79. Ms Purvis: If an elected Assembly Member ran for a council seat and got elected to that council, he or she, if they were pursuing the council seat, would have to resign immediately from the Assembly to allow him or her to hold that council seat. Co-option legislation is in place for parties to co-opt someone into that Assembly seat. It would need to be an immediate decision. If they did not make an immediate decision, the council seat would be declared null and void.

80. The Chairperson: Further to what Mr Weir asked, council AGMs are usually held about one month after the elections. You said co-options would be party related. How does that work for an independent?

81. Ms Purvis: I do not know the detail of how the mechanism would work for independents.

82. The Chairperson: I only ask, but I know that we are awaiting —

83. Ms Purvis: I have not looked particularly closely at the co-option legislation.

84. Mr Beggs: If the legislation disqualifies an individual from being a councillor, how can he or she be elected in order to pass the seat on to someone else? Should the commencement occur before the election?

85. Ms Purvis: If the commencement occurs before the election, individuals would be prohibited from standing. That is restricting choice. A number of respondents to the consultation did not want to see any restriction in candidacy. They wanted to see people being allowed to stand for whatever level of government they wanted to be in, with no restriction on candidacy. If the commencement occurs before nominations, a restriction is being placed on people who want to move between different levels of government. The argument has been made that local government is used as a training ground for people to gain expertise in the political arena. If commencement were to happen before nomination, people's ability to move from one level of government to another would be restricted.

86. Mr Beggs: My reading of it is that it would stop someone standing for council while he or she was an Assembly Member.

87. Ms Purvis: No; it would not place any restrictions on that.

88. Mr Beggs: Someone could not hold both jobs. A councillor could stand in an Assembly election, and, if they were elected, they would stand down as a councillor. That is straightforward and entirely appropriate. I am confused about whether that would still allow "loss leaders" to run for council to gather up support on the basis of being Ministers in the Assembly and well known personalities. Those busy Ministers and well-known people might stand for election to council with three or four running mates, and, having brought their running mates in, they might stand down immediately. That would be a bit of an abuse of democracy.

89. Ms Purvis: I said that any system that is approached with cynicism is open to abuse, but the argument for restricting candidacy outweighs that in respect of a high-profile person standing for a seat and stepping down immediately so that someone can be co-opted. I imagine that that would create some difficulty, particularly if local council and Assembly elections were held on the same day, which we can assume will happen next time. Holding local and Assembly elections on the same day is not ideal, and, hopefully, if RPA is implemented in the next couple of years with new elections held for reduced local councils, there will be a two-year gap between local government elections and Assembly elections. That is the ideal situation.

90. Mr Beggs: If an Assembly Member were to stand for local government and were to gain the necessary quota at the count, would the returning officer be able to declare that candidate elected? Under your proposals, an Assembly Member would not qualify to be a councillor, so they could not be declared as elected. I am examining the mechanisms, which are fine, if they work. If the candidate could not be elected as a councillor, the co-option mechanism would not work and the PR system would have to continue to determine who would fill the void. Is that what would happen?

91. Ms Purvis: I received an e-mail from the Bill Office today to say that it is looking at the commencement provision in the Bill. The issue is whether a councillor needs to be elected before they are disqualified from holding a seat. The Bill Office is seeking legal opinion on that.

92. Mr Beggs: My concern is that we should not hold a by-election to fill a post because of a technical issue. It is important to have clarity on that. The other issue is that a very particular situation will arise at the next Assembly election in that the Assembly and local government elections will take place on the same day. At that point, the candidates will be neither councillors

nor Assembly Members. Is it correct, therefore, that candidates could stand in both elections? Is clarification needed on that? It would be only at the point of the declaration that the proposed legislation would have an effect. Is that your intention?

93. Ms Purvis: That is my understanding, and it is my intention not to restrict candidacy in any way. That will allow people the choice of moving between different levels of government. I do not wish the restrictions to commence prior to nominations, because that would restrict the ability of people to stand at whatever level they choose.

94. Mr Dallat: I congratulate Dawn on putting so much time and effort into the Bill. In principle, I agree with it, and I encourage her to work with the Bill Office to address whatever technicalities there are. Three weeks ago, I resigned my council seat, which I had held for 33 years, so I feel that I can speak with some authority on the issue.

95. I believe firmly that the democracy that we now have is critically important. Without wishing to go into the history of Northern Ireland, there was a time when people could have argued that democracy was extremely weak, if it existed at all. The Assembly has 108 Members because, at the time when that was agreed, the parties recognised that it was critical that as many people as possible should be involved in the democratic system.

96. Up until the time of my resignation from my council, four MLAs sat on the council. That is wrong. It may be a reason why 50% — in some cases, 70% or 80% — of people do not even bother to vote. That is being ignored. My membership of the council was not absolutely critical. I have no doubt that my successor, who is a woman and is much younger, has refreshing ideas and will generate oxygen into the council. I have no doubt that the same will happen in other places.

97. The Bill is absolutely solid. It is only when one drills down into the matter that one discovers that it is not just about dual mandates. I have looked at some of the councillors in the Assembly, and I am shocked at how many other organisations they are members of as a result of being a councillor: district policing partnerships, transition committees, members of boards, a whole plethora of things. No one is of such genius that there is nobody else who could do that work. The Bill has my support in principle and that of my party. I look forward to it becoming law because it is absolutely critical for the future of the North.

98. We can argue day and daily that we have democracy, but does anybody ever bother to look at the percentage of the population who are members of political parties? I do not know whether Dawn knows. It is probably 2% or 3%, so the point that Dawn Purvis made about the public not having choice is absolutely valid. It is a democracy of sorts, but let us face it: the candidates are chosen behind closed doors, away from the public. The public do not have choice.

99. Let us cling on to the relative political stability that we have currently, build on that and improve it. I have no questions, Dawn; I encourage you to keep at it. It must be a bit embarrassing for those members who made such strong cases for their dual mandates this morning. Quite frankly, that is a bit disappointing.

100. Mr Ross: In one sense, I can speak about the matter because I am not a councillor, but, in another sense, I cannot because I have never been elected to anything: I am one of the co-opted Members. That somewhat takes away my moral high ground.

101. Many Members of the Assembly who have shouted loudest about dual mandates are also councillors. There is nothing to stop those MLAs who have been councillors for so many years at the same time from standing down. It strikes me that those who shout loudest are often unwilling to stand down immediately.

102. I have three points, and Roy largely covered my first. If an Assembly election and a local council election were held on the same day, which seems very likely, and given that it is likely that the Assembly count will take place before the council count, this legislation will prohibit automatically a returned MLA from holding local government office. Therefore, they could not be returned, so the party would not hold the seat on the council and could not allocate positions. How would people be co-opted in those circumstances? I know that you are seeking clarification about that. That could be quite difficult.

103. I have two other issues. Will you give us a bit more information about the responses that you received from the public to your consultation? How many people responded, and what general views were expressed? As others have said, if Members of the Assembly put themselves forward for election to Westminster, they are not making any secret of the fact that they are MLAs. I take your point that the public, in many cases, do not choose the candidates. However, they vote for the candidates. If there was as much outrage as you suggest, the public would not vote for a candidate who holds another office; they would vote for a different candidate. We have seen no evidence of that happening. Likewise, if there were such public disgust, there is nothing to prohibit members of the public from putting themselves up for election. We have not seen evidence of members of the public being so outraged as to put themselves up for candidacy, and we have not seen anyone stand as an anti-dual-mandate independent candidate. I would like some comment on that.

104. You made a play of the fact that the public do not choose candidates and that, therefore, it is not democratic in that sense. However, is it not even weaker democracy if, as happened in my situation, the public vote for one person, that person no longer holds the seat, and the party can choose his or her replacement? If the public vote for someone who is holding a dual mandate, they, at least, have chosen that person to represent them. If, however, they vote for a person who, they know, will be automatically disqualified, they have no say in who is chosen as a replacement. That is fine if there is a party list system, but we do not have that. Therefore, the public do not know who the replacement will be. Is that not weaker than the argument that you made about the public not choosing the candidates?

105. Ms Purvis: There is a lot to address there. I agree that it should be done voluntarily by the parties. However, they have not done it, they have failed to do it, or they have done so slowly. In 2007, some parties promised an end to dual mandates. Now, three years later, they are still holding two and three mandates. The time has come for action and decisiveness. That is what the public want to see.

106. I think that we solicited responses from over 140 individuals and organisations on the consultation that went out last summer, but I do not have the exact figures to hand. We got around 20 responses from different individuals and organisations.

107. Mr Ross: Organisations tend to respond, so that is OK. You say that members of the public do not want this, but how many members of the public who are not part of organisations responded to the consultation?

108. Ms Purvis: There were eight responses through the website and —

109. Mr Ross: You say that there is disgust among the public, but only eight members of the public in the entire country of Northern Ireland responded to the consultation.

110. Ms Purvis: There were 16 responses — eight through our website, and eight written responses.

111. Mr Ross: There were 16, but I do not think that the point has been diluted. That is 16 from everyone in the country.

112. Ms Purvis: That is a bit disingenuous. We know that our public consultations are not well responded to.

113. Mr Ross: There is public disgust on some issues, and the expenses scandal is one example. It came up on the doorsteps, and the European election showed that the public were disgusted about it, and they were not shy about letting us know. If that level of disgust and anger about dual mandates exists among the public, I would have expected more than 16 responses.

114. Ms Purvis: The issue was mentioned on the doorsteps. I was out —

115. Mr Ross: I was out, and people raised concerns about expenses, but dual mandates did not come up as an issue.

116. Ms Purvis: I still hear about dual mandates and about people holding more than two elected offices. Perhaps you do not, but I do.

117. Mr Ross: Who were you canvassing for?

118. Ms Purvis: The PUP.

119. Mr Ross: Were you canvassing for the PUP in the general election?

120. Ms Purvis: I was not canvassing for the election. We canvass on Saturday mornings and evenings to get the views of people in our constituency. One can canvass for reasons other than for election candidates.

121. Mr Ross: I accept that. You made the point about the undemocratic nature of how the public do not pick their candidates. Is it not a weaker form of democracy if they select a candidate who will not be returned?

122. Ms Purvis: I think that all parties, including your own, lobbied for co-option legislation to go through. The Minister at the time, Paul Goggins, argued that co-option legislation is undemocratic. In a PR system, voters make their choice according to political party as well as candidates. Even with regard to the co-option legislation for the Assembly, it is a political party that holds the seat.

123. Mr Ross: The point of co-option legislation in that instance is to allow people to step down from local government. In that sense, it is a good thing for those individuals who may be concerned about other parties forcing a by-election, for instance. It allows the party to keep the seat, and it saves the taxpayer the cost of a by-election. Therefore, the co-option legislation is a good thing.

124. Ms Purvis: Sorry, it is not about letting people step down —

125. Mr Ross: Is it not different having had that from the start? People will vote for someone who they might not get. The co-option legislation that is being argued for allows individuals to step down from council maybe a year before the end of the mandate to allow others to come on and build a profile. If that were done from the beginning of a mandate, the public would have had no say. They vote for one person, but, immediately, they get someone else.

126. Ms Purvis: Co-option legislation was not introduced just to allow people to step down. It is there to prevent by-elections due to someone's death in office, retirement or resignation. It covers a number of situations, not just allowing people to step down.

127. I argued with Minister Paul Goggins for the co-option legislation, because it complements this private Member's Bill and the implementation of the review of public administration. One could, and Minister Goggins did, argue that it is undemocratic. I do not agree because, in a PR system, people vote for political parties as well as for individual candidates. Again, it comes back to voters' choice. Voters do not choose candidates; political parties choose them and then canvass the public to vote for them out of party loyalty, not individual or personal loyalty. Under a PR electoral system, if a seat is vacated, it belongs to the party of the person who vacated it. I take the point that the seat may have been held by an independent. I have not looked closely enough at the co-option legislation to see what happens in such a case. Is the count re-run to see who would be next in line, or does it go to a by-election? I do not know.

128. The Chairperson: I remind members that we are not on the Floor of the House, so we do not want speeches. Can we have questions please? Mr Wilson, I will allow you some latitude.

129. Mr B Wilson: Thank you, Dawn, for your presentation. A number of the points that I wanted to make have been covered. I recognise the public's concern about double-jobbing, which seems to relate largely to MPs and MLAs, both of which are full-time jobs. I do not see a significant problem with, for example, someone working for 20 years as a full-time lecturer and, at the same time, serving as a councillor. Do you accept that the job of councillor is part time?

130. Ms Purvis: I have never been a councillor, so I do not know.

131. Mr B Wilson: You must have some idea whether it is a full-time job. What is a councillor's workload? Is it a full-or part-time job?

132. Ms Purvis: You are a councillor, so maybe you could assess that for me. I cannot assess that because I have never been a councillor. One's commitment to one's job is entirely up to oneself.

133. According to the Register of Members' Interests, some MLAs who are also councillors work 40 hours a week as a councillor. How they do that while working as an MLA, I do not know. I work about 60 hours a week as an MLA. I could not fit any more time in as a councillor. As I said, the public see a difference between a university lecturer or a doctor being a councillor and an MLA being a councillor, because they recognise those as two elected positions. People see power being concentrated among a few individuals. We should be looking to diversify power and ensure that our democracy is as open, transparent and inclusive as possible. Given that we are trying to increase public confidence, voter turnout and people's participation in politics, making sure that any one person can hold only one mandate would help to achieve that.

134. Mr B Wilson: I accept what you said, and I am opposed to dual mandates. When I was elected, I seriously considered giving up my council seat. However, at that time, there was no co-option, so my seat would not have been retained by the Green Party. Therefore, I did not give it up. Nevertheless, I assure people that I will not stand for two elected positions again.

135. I am not convinced about the level of public concern. The vast majority of MLAs were councillors at the time of their election to the Assembly. On that basis, if people were concerned, they had other options; they could have voted for people who were not councillors. They did not take that option, so they must have been satisfied that a councillor could carry out that role at the same time as carrying out the role of an MLA.

136. Ms Purvis: I do not accept that at all. I have laboured the point that voters do not choose candidates. Political parties choose candidates. If, for example, the Green Party candidate on the ballot paper was a triple- or quadruple-jobber, but there was no other Green Party candidate on that paper, the Green Party would be lobbying its supporters to vote for that candidate. I do not accept that it is a matter of voter choice, because voters do not choose which candidates are included on the ballot paper.

137. Chairperson, I have just had clarification that independent candidates have to submit a list of substitutes to the Chief Electoral Officer before the election. That means that there would be a substitute and there would be no by-election.

138. Mr Weir: I know that this is new legislation, but are those names ever made public or is that information held by the Chief Electoral Officer? There may be an issue if a person votes for one candidate only to see an unknown individual coming in. I appreciate that it means that there would not be a by-election.

139. Ms Purvis: It mirrors the legislation for co-option to the Assembly.

140. Mr Weir: No, it cannot. A list used to be submitted; now the nominating officer of the party nominates the candidate. It is not a list system anymore.

141. Ms Purvis: I do not know whether the list is published, but, if the candidate belonged to a party, the information would be held by the nominating officer of the party. If an independent candidate stands for the Assembly election, they have to submit a list of substitutes, which is not published, to the Chief Electoral Officer. It is possibly the same for the council.

142. The Chairperson: Thank you, Dawn. We will seek clarification on some issues, and we will come back to you. It has been a very lively debate. Thank you for your presentation.

143. Mr Kinahan: Sorry, I will try to be as quick as I can. Dawn, I congratulate you; I fully agree with you, but I want to clarify one or two points. I do not think that the debate about the choice of candidates, and the electorate having their chance to decide whether someone should be double-jobbing, is fair. There are many other factors that affect the choice of candidate. My concern is that in many cases a dual mandate allows the bigger parties to control things. Will you elaborate on whether you feel that the dual mandate system tends to benefit the bigger parties rather than the smaller parties?

144. There are 500,000 people here who do not vote. When I am knocking on doors, one thing I learn from the few people who engage is that that is because the public has lost confidence in the politicians. I see what you are doing here as a way to regain that confidence. Points have also been made about attendance records. Our system of measuring attendance, even though I am a part-timer, having only been here for half of the meeting or —

145. Mr Beggs: Five minutes.

146. Mr Kinahan: That still allows my attendance to have been recorded. I congratulate the Jim Shannons of the world who seem to cover everything everywhere.

147. Mr Beggs: Partially cover.

148. Mr Kinahan: I wonder how we do anything —

149. Mr Weir: People can do that in all walks of life. I do not wish there to be any misinterpretation. To be fair to Mr Shannon, he is present as often as possible. I am sure that Mr Kinahan did not mean any slight. I say that in case his comments are misconstrued.

150. The Chairperson: Hold on, Gentlemen, it is down to each individual. I will let the member respond at the end.

151. Mr Kinahan: I have just stood down from Antrim Borough Council, which held meetings during the day. I could not attend half of the meetings because of that. Having said that, I find that we have meetings every other second of the day and in the evenings. I do not see how people, if they are attending meetings and attending them properly, and by that I mean being there all the time, could do both jobs. I congratulate Ms Purvis on raising that issue.

152. We have to bring more people into politics and get more women involved. The proposed legislation is only one of many mechanisms for involving the public and increasing their faith in us. Outside experience is an area on which we are judged by the electorate. It is good that many MLAs have outside interests, and the only way to deal with that issue is for the electorate to judge us.

153. The Ulster Unionist Party supported the Bill at First Stage, and it will do so again at the next stage. I congratulate you, and I urge you to keep going.

154. Ms Purvis: Public disgust always manifests itself through decreasing levels of voter turnout, rather than by protests on the street, at your door or at the Assembly. The ending of dual mandates would open up our political system, lead to increased participation, share out the power that is concentrated in a few hands, and lead to better policymaking, decision-making and legislation. The issue of capability comes down to the argument not of whether people can hold two elected positions but of whether they should. It is clear that, under the principles of inclusiveness and participation that we want in our democracy, they should not.

155. The Chairperson: Once again, thank you very much.

20 May 2010

Members present for all or part of the proceedings:

Mr Cathal Boylan (Chairperson)
Mr Roy Beggs
Mr Jonathan Bell
Mr John Dallat
Mr Danny Kinahan
Mr Ian McCrea
Mr Alastair Ross
Mr Peter Weir
Mr Brian Wilson

Witnesses:

Ms Lynn Carvill
Dr Margaret Ward
Professor Rick Wilford

Women's Resource and Development Agency
Queen's University, Belfast

156. The Chairperson (Mr Boylan): We will now hear a briefing from the Women's Resource and Development Agency (WRDA) on the Local Government (Disqualification) (Amendment) Bill. Members, I remind you to ask questions, rather than make speeches, because we are now behind schedule. I welcome Lynn Carvill, the women's sector lobbyist from WRDA, Dr Margaret Ward, the director of WRDA and Professor Rick Wilford, professor of politics at Queen's University, Belfast. You are all very welcome. You will have between five and 10 minutes to make your presentation. I ask members to ensure that they declare their interests first.

157. Mr Beggs: I declare an interest as a member of Carrickfergus Borough Council.

158. Mr Bell: I declare an interest as a member of Ards Borough Council.

159. Ms Lynn Carvill (Women's Resource and Development Agency): The lions' den syndrome springs to my mind, and I hope that we will be heard out and that questions will be put to us after our presentation. I thank the Committee for inviting WRDA to give evidence on the Bill to end dual mandates; we are pleased to be here.

160. I am the women's sector lobbyist with WRDA. We are pleased that Professor Rick Wilford is able to join us today. He will share with the Committee his views on enhancing diversity in political decision-making, and he will provide examples of the tools and strategies that could be employed to increase female participation in this area. Dr Margaret Ward is the director of WRDA, and she will speak about the international obligations that apply to Northern Ireland and which are relevant to the issue of enhanced participation of women in decision-making. Each of us will provide a brief input to the Committee.

161. In the Northern Ireland Assembly, 15% of the MLAs are female. That compares very poorly with other devolved regions of the UK. The corresponding percentage in Scotland is 33%, or a third, and in Wales it is 46.7%, which is almost half.

162. Twenty-two per cent of local councillors are female. At the beginning of March 2010, 67 MLAs in Northern Ireland held dual mandates as local councillors, 88% of whom were male. The proportion of female MLAs in the DUP is 5.5%; in Sinn Féin the figure is 29.6%. None of the Ulster Unionist Party's MLAs are female, while 18.7% of the SDLP's MLAs and 28.6% of Alliance Party MLAs are female.

163. Recently, a major concern of ours has been the gender composition of the voluntary transition committees, the membership of which is 16% female. Significant proposals were made to ensure inclusivity in that the committees needed to be balanced in their political representation in proportion to the representation that is already on councils. However, gender inclusivity, even proportionate to the current representation, was completely ignored.

164. Before I pass over to Professor Wilford, I will mention two recent developments in the enhancement of representative democracy. The first is the Speaker's Conference, which reported to the Westminster Parliament recently. Speaker's Conferences are rare; I think that the previous one occurred in 1979. The terms of reference for the 2008-2010 Speaker's Conference were to:

"Consider, and make recommendations for rectifying, the disparity between the representation of women, ethnic minorities and disabled people in the House of Commons and their representation in the UK population at large".

A raft of recommendations emerged from the conference, many of which I hope will be followed up by the newly elected Government.

165. Simultaneously, the Joint Committee on Justice, Equality, Defence and Women's Rights in the Republic of Ireland agreed to establish a subcommittee on women's participation in politics, and it recorded its recommendations in October 2009. It is significant that those two jurisdictions deem it important to address the issue, and, therefore, it is perhaps timely for our Assembly to do likewise. Political leadership and decision-making should mirror the society that it represents, but that is clearly not the case in Northern Ireland.

166. Professor Rick Wilford (Queen's University, Belfast): Good morning, everyone. Lynn touched on the current level of representation of women in the Assembly, and it is by far the lowest in the United Kingdom. Each year, the Inter-Parliamentary Union produces a league table of women in elected Parliaments across the world. If it were an independent political entity, Northern Ireland would rank eighty-first on that list. It would tie with Zimbabwe in respect of the elected representation of women in its Parliament.

167. Mr Bell: What is the total? Eighty-first out of —

168. Professor Wilford: The total is 138; Northern Ireland would be in the bottom quartile.

169. Mr Weir: Strictly speaking, it would be in the third quartile.

170. Professor Wilford: OK; it would be in the bottom half.

171. There are lots of reasons for the under-representation of women, including, as Dawn mentioned, those concerning the politics of the selectorate. Another reason is incumbency. The same people get returned year after year, election after election, which creates a blockage for under-represented groups from the wider population, particularly women. Dual mandates create a double hurdle in the form of double incumbency, which denies opportunities to a very talented group. Indeed, women are not just a group but the numeric majority in the population.

172. Incumbency denies women the opportunity to gain access to even the lowest rung of the ladder of a political career, namely local government. Female representation is low in our local government and correspondingly low in the Assembly. Indeed, it is appallingly low compared with Parliaments in Scotland, Wales and even the recently elected House of Commons. Ending double-jobbing and the dual mandate will create opportunity spaces for all kinds of groups in the population, including women, to enter the political sphere and use local government as a stepping stone to a further career at regional or national level.

173. Dr Margaret Ward (Women's Resource and Development Agency): I thank the Committee for giving us the opportunity to talk about increasing the representation of women. I will remind you of our Northern Irish and international obligations to increase the representation of women in political life. The Office of the First Minister and deputy First Minister's 2006-2016 'Gender Equality Strategy' was re-published recently, and it contains key action areas that are relevant now. At paragraphs 2.8 and 2.9, key action areas, which were confirmed in the formal consultation on the strategy, include representation in public life, decision-making and peace-building. Under those action areas, we have a strategic objective:

"to ensure the active and equal participation of women and men at all levels of civil society, economy, peace building and government".

174. A strong message from the consultation, which is contained in the strategy, concerned the strategy's links with global gender-equality commitments that have been ratified by the UK Government. I will mention the Beijing Platform for Action and the Convention on the Elimination of All forms of Discrimination against Women (CEDAW), both of which the UK Government has a commitment to further.

175. The Beijing Platform for Action's critical area 7 refers to the inequality between men and women in the sharing of power and decision-making at all levels, while critical area 8 refers to the insufficient mechanisms that exist to promote the advancement of women. CEDAW talks about state parties being obligated in all fields — in particular, the political, social, economic and cultural — to take appropriate measures, including legislation, to ensure the full development and advancement of women. It urges state parties to adopt temporary special measures, which are aimed at accelerating de facto equality between men and women. It states that those measures would be discontinued when the objectives of equality have been achieved.

176. The CEDAW committee examined the UK Government's progress in the summer of 2008. The concluding comments of CEDAW made some very critical points. It talked about the under-representation of women in political and public life and in key institutions that were established directly as a result of the peace process. One key institution is the Assembly. The committee called for measures with benchmarks and concrete timetables to increase the number of women in political and public life at all levels. It also called for the full implementation of UN Security Council resolution 1325 to Northern Ireland. It concerned women, peace and security, and it was adopted by the Security Council in 2000. It calls for all countries emerging from conflict to increase the representation of women at all levels of decision-making and participation, peace-building and conflict prevention.

177. All of those are highly relevant to the private Member's Bill that is being put forward by Dawn Purvis. I urge the political parties to look more widely at how the opportunity would enable them to have some positive action measures to increase women's participation.

178. The Chairperson: Thank you very much for your presentation. Sinn Féin does not have a problem with promoting 50:50 representation in the party. That is clear. We have the highest percentage of women representatives, but a lot more work can be done. This may come across in respect of the role of women, but I want to talk about workloads. Mr Brian Wilson talked about councils operating part time. I know a lot of councillors, especially young mothers, who have a full-time job and are councillors also. The rest of their time is spent doing council work. The role of a councillor has now changed. The transfer of powers that is proposed by the RPA will increase their workloads. Professor Wilford, have you done any research into the workloads of councillors and how that will tie into their role? Is it something that we need to look at in respect of legislation and how we can create more opportunities?

179. Professor Wilford: I have not done any work explicitly on the workload of councils. With respect, however, that is missing the point. There is a normative issue and a practical issue. The normative issue is the one that Dawn raised earlier, which is that it is not a matter of whether one can do two jobs. Being a mum of young children, a carer or a parent is an incredibly demanding undertaking. I have not done any particular work on that.

180. Mr Brian Wilson and a number of other members made the point that being an MLA is a full-time job. You do not just sit on this Committee; most of you sit on at least two Committees. The fact that two out of three MLAs here are also councillors is an appalling statistic because it suggests that one representative position or the other, or maybe both, are rather Corinthian activities that you can juggle and do equally well. I do not buy that. If you are conscientious and take the job of MLA and your role as Committee members wholly seriously — some of you are members of more than two Committees — it is very much a full-time job. It is not something that you can stop doing at six o'clock in the evening and attend a council meeting. It is not like that at all.

181. I wish to spike the argument that came up earlier about whether one can be, for example, a GP or a teacher and a councillor. One can, but the issue is whether one should do that. One should be making choices before an election, and that is where I depart from Dawn's viewpoint.

182. In May 2015, we will face the prospect of a general election, a local government election and an Assembly election all happening on the same day. Think of a situation in which a Member's name is on all three ballot papers. Such a scenario will fuel a perception about politicians. In 'The Devil's Dictionary', Ambrose Bierce put it rather well when, being the cynical man that he was, he described a politician as somebody who pursues public office for private gain. In the particular context in which the debate about the dual mandate is taking place, and given what has happened both here and across the water in the recent past, it is incumbent on all politicians to do everything that they possibly can to allay the perception, or misperception, that holding two or, in some cases, three mandates may convey. That may fuel the perception that people are undertaking political office for the wrong reasons. It is also greedy.

183. As all but 15% of Members are male, and because women are equally under-represented at local government level in Northern Ireland, you are, in effect, blocking opportunity for a seam of talent. As party members, you are responsible for that, because candidates are selected by parties. Parties need to address the way that they select candidates, whether it is for local government, the Assembly or Westminster. The politics of selectorates really matter.

184. There are different ways in which parties can pursue those strategies, and I can elaborate on them if you want me to. Parties need to examine themselves as organisations, inspect how they set about candidate selection and ask whether they are giving all potential candidates a fair crack of the whip. I do not think that they are.

185. The Chairperson: I was a councillor and an MLA, but, after two years, I co-opted my council seat. As you mentioned, it takes a lot of dedication and hard work to be able to leave here to go to council meetings in the evening and deliver at those meetings. People who think otherwise and say that they can do both jobs fully are fooling themselves. They may participate in certain aspects of both jobs, but if they were open and transparent, they would probably agree.

186. Professor Wilford: I am reminded of my sons, who each had a hamster when they were young. The hamsters were very busy running round the wheel, but they did not produce very much. [Laughter.]

187. Mr Weir: I may be running round the wheel for a little bit longer. Thank you for the presentation. There are a considerable number of wider issues, some of which I agree with you on and some of which I do not. Specifically, we need to focus on the council side of things.

188. As the Chairperson said, there is an issue about people going from here to council meetings. I understand that, but nearly all councillors, unless they are retired, have full-time jobs. The level of remuneration for a councillor is such that someone who is not retired could not afford to do it as a full-time job; it is about £9,500 a year. Therefore, on the issue of being able to give enough attention to the job, is someone who is an MLA and a councillor not in the same position as someone who is a doctor and a councillor? We flatter ourselves if we think that the intensity of an MLA's work is greater than that of a doctor or an accountant. Is there an analogy?

189. The participation of women in local councils is important to me, and I have been involved with that for some time. Any new council structures need to have flexibility; that is key. We have got to recognise that, for some councillors, it will be a full-time job, and they need remuneration for it. By the same token, the role of a councillor has to be flexible enough to allow individuals to combine their council roles with doing another job or carrying out his or her caring responsibilities, for instance. As soon as the role of councillor becomes purely a full-time job, some men and women are excluded.

190. Ms Carville: We are here to argue for better representation in politics and political institutions, not to go into the nitty-gritty that was discussed earlier with Dawn Purvis. Some

people understand how hard MLAs and councillors work. This is about opening up opportunities to people in Northern Ireland and having better, more diverse and more representative institutions for which people can vote. A lot of discussion has taken place. Candidate selection is key. Political parties have a strong role to play in selecting candidates. A raft of research has been done recently on the perception that it is risky to put women before the electorate. However, we have not put many women before the electorate because of the way in which our political parties operate. They can be cold and not very welcoming for women. We are here to give evidence on better representation rather than on the question of whether someone can hold two or three jobs. Women hold 40 jobs every day of the week, and they are more than able to do so. Do we want that, however? I would say that we do not.

191. Mr Weir: Perhaps I am being cynical on one level. Ridding councils of MLAs will create space, but I agree that the profile of the people who come forward is critical. Unless the profile of people who come forward as candidates changes, the same issues will arise for the spaces that are created. That is crucial. When we look at recent trends, we can see some positives. Some 22% of councillors are female. I think that I am right in saying that about 18% of outgoing councillors in the 2005 election were female, and 30% of the new first-time councillors were female. It is by no means equality, but the statistics show significant upward movement. If the councillors were to be replaced by people of the same profile, and if the council average rather than the Assembly average were mirrored, the percentage of female councillors would increase from 22% to about 23%. That is not a significant change.

192. I do not know what the experience of other parties is, but I think that this is where the problem needs to be tackled. At selection, the problem is less to do with the female candidates who put their names forward than the lack of women putting their names forward. I do not think that there is evidence in Northern Ireland to suggest that a disproportionate number of females fail to be selected. Do you agree that some of the initiatives that are starting or being looked at — for example, the mentoring at local council scheme that is due to take place across the parties in the near future — are the route to making the biggest difference and tackling the problem, because they encourage people, particularly women, to get to that stage in the first place. That is probably the biggest hurdle to overcome. Such schemes encourage women to take part in public life. Councillor Bell can back me up on the benefits of local schemes, and it will allow me to get a plug in. North Down Borough Council and Ards Borough Council run an award-winning scheme, Visible Women, which holds an annual conference. Councillor Brian Wilson will also be aware of it.

In addition, it encourages local initiatives. Getting enough women to the starting line is probably the biggest single hurdle to overcome. Getting women to put their name forward is a bigger problem than getting them selected and elected.

193. Dr Ward: That is what we are trying to say to political parties. It is about parties taking the long view by increasing the number of women so that they are there to become candidates. How much are parties doing to mentor and encourage women to come forward?

194. There are other issues. For instance, if more women were in political life, other issues would arise. Many women have said that, if one has small children, it is impossible to be in council because of the time requirements involved. Many women cannot leave the house at teatime, although they might be able to do so at other times. If more women were in political life, those issues could be addressed.

195. Mr Weir: I understand your point, but councils must strike a balance that gives people the flexibility to perform different roles. I am reminded of a colleague with a full-time occupation who was elected to council and was then able to progress further, which he could not have done if the council had met during the day. Mr Kinahan is a prime example of someone whose time in

council focused purely on daytime activities. However, such a narrow focus is liable to exclude many working women and men. Therefore, allocating responsibilities is not straightforward. Allowing a degree of flexibility in roles to fit in with people's lifestyles produces a greater variety of inputs, but it is not just a question of taking action to enable people with children to be councillors, because those actions may end up excluding other women. It is about getting the balance right.

196. Professor Wilford: There are various points to consider. If I may put a question back to you, why is it that just under half of the Welsh Assembly, more than a third of the Scottish Parliament, but only 15% of the Northern Ireland Assembly are women? One major reason is that political parties, particularly the Labour Party, in Scotland and Wales have adopted women-only shortlists and have selected women in winnable and marginal constituencies and in those in which the incumbent is standing down. They do that because of a piece of UK legislation, the Sex Discrimination (Election Candidates) Act 2002, which permits political parties to adopt various positive action measures that are designed explicitly to improve the representation of women in elected office. Not one political party in Northern Ireland has made use of that legislation. Why?

197. Mr Weir: Other parties may take a different attitude, but we do not believe in quotas —

198. Professor Wilford: The legislation does not provide for quotas. Quotas are illegal.

199. Mr Weir: If people are selected according to an all-whatever shortlist, that is a form of quota; it is not based on merit. Others say that they believe in quotas, but they do not implement them. We have taken the view that I outlined. Furthermore, although women-only shortlists may have produced certain figures in the Scottish Parliament and the Welsh Assembly, if you look at local government, on which we are focusing today, in Scotland, England and Wales, the figures for female councillors are no better than those in Northern Ireland.

200. Professor Wilford: They are better. They are marginally better, but they are better. We have a lower proportion of female councillors in local government than in any other region of the United Kingdom.

201. Mr Weir: I am not sure whether that is accurate.

202. Professor Wilford: It is.

203. Mr Weir: We can agree to disagree.

204. The Chairperson: I am conscious that we seem to be widening the debate. We are supposed to be talking about dual mandates. Obviously, we want to encourage women to enter politics, but I do not want to deflect from the line of inquiry.

205. Mr Dallat: Members may have heard that I gave up my dual mandate three weeks ago. The SDLP is about to send its first woman MP to Westminster, so we are trying. I used to read in the papers that a political party had held an important meeting at which tea was served by the ladies' committee. Thank God, those days are gone, but, you can see the fine representation of gender balance on this Committee. Thank God for Alex and Antoinette on the Committee staff for giving some semblance of normality.

206. The involvement of women in politics is nothing new; I can think of Baroness Blood, Pat Hume and various other women who were involved at the height of the Troubles. They were the ones who wigged the ears of the paramilitaries and told them to wise up, so women do not have to justify their right to be in politics.

207. The Welsh Assembly can pump its chest and say that it has achieved its level of female participation, and our Assembly has an awful lot to do. However, the wider community also has a role. The SDLP puts forward female candidates, and, for whatever reason, the public do not elect them. Sharon Haughey and various other candidates are bright, intelligent people who did not get elected.

208. The Chairperson: If she had been elected, I might not be sitting here.

209. Mr Dallat: It is a pity that people such as her did not get elected. I have a strong stomach, but I have listened to an awful lot this morning. What advice can you give on educating the wider community on the necessity for representation from women? How did the Welsh Assembly achieve its level of female representation? I have been there and seen the performance of the female AMs, who are absolutely brilliant. They are on the ball all the time.

210. Dr Ward: That is due to the political parties. Legislation is not necessary, and, as Rick said, it is down to how the parties select women to put them up for election. Women are not vote-losers; in fact, we have seen that, in Northern Ireland, they can often be vote-winners. There is no prejudice against having women candidates, but it is important that they be selected for winnable seats and that they are selected in sufficient numbers for them to be elected. The parties can use their systems for candidate selection and for deciding where those candidates will stand to transform the situation.

211. Mr Dallat: You are saying that the political parties are selecting women for seats that are not winnable or that they are carving up the constituencies in such a way that the men win.

212. Ms Carvill: There is evidence to show that political parties are more likely to select candidates that look like the incumbent. It is risky for them to move away from that. You mentioned the fact that Sharon Haughey did not get elected, but many men who stand for seats do not get elected. There seems to be a barrier to putting people from diverse groups up for election.

213. In my introduction, I spoke about the raft of recommendations from the Speaker's Conference in the UK. Those will apply to Northern Ireland, and Willie McCrea MP represented Northern Ireland on that Speaker's Conference. So many recommendations came from it, and, if they filter down to be used here, they will be useful. It is about support, mentoring, opening up and transparency. Before anything else can happen, seats need to be opened up, so the ending of dual mandates is one important element.

214. In response to a point that Peter Weir made earlier, if women were to continue to enter politics at the current rate, it would take 200 years to reach equality. Therefore, we cannot argue for voluntary equality measures, because we cannot wait for 200 years. Something firmer than that is needed.

215. Professor Wilford: There is no magic bullet to solve the problem. Just as there are a variety of causes of women's underrepresentation, a variety of strategies can be adopted to improve that representation. Candidate selection and the strategies that parties adopt for choosing their candidates are factors. Those are important factors, because parties are gatekeepers to the political realm. How parties set about the business of candidate selection is a key issue, and not just in a Northern Ireland context.

216. In 2001, the then Equal Opportunities Commission in Britain carried out a study of women parliamentary candidates in 2001 and 2005 entitled, 'Man Enough for the Job?'. That study found that some of the questions that political parties were asking women who were seeking candidacy

were absolutely outrageous, and would never have been put to a prospective male candidate for a Westminster election.

217. Therefore, there are still attitudes in parties across the piece that are inimical to opportunities for women. That is why we say that, although it is not the only answer, parties have a critical role to play. If parties simply reselect people to run for both local government and the Assembly time and again, they are, in effect, putting a double hurdle in front of new people and blocking their entry to elected tiers of politics. That is the issue, and dual mandates, double-jobbing and triple-jobbing are factors. If you get rid of those practices, at least you are clearing more opportunity space. That is our point.

218. Dr Ward: One issue that was raised earlier in the discussion with Dawn was the decline in the level of voting and the disengagement that people have with the political process. We do not feel that we are represented by our peers when we have so few women in the political process. So many women are disengaged and do not see people who represent their interests coming forward. That is a crucial issue linked to democracy and legitimacy.

219. The Chairperson: There are four more members who still have questions to ask. I ask that members stick to the provisions of the Bill. We want to promote the participation of women in politics, and there is an opportunity to do that through the Bill, but I want members to stick to the Bill in their questions.

220. Mr Beggs: Thank you for your presentation. In the discussion with Dawn, the relatively small number of people who are involved in politics was mentioned. From my being involved in politics for the past 20 years, my experience is that relatively few people are prepared to put their names forward as candidates, because there is a requirement to put quite a bit of your personal life into it. Training and support are essential to more capable women candidates being prepared to do that, because that will ensure that women are increasingly confident about and aware of what they are letting themselves in for.

221. The women in our party have said that they do not want quotas; they want to be in politics as of right. They do not want to be second-class citizens; they want to be elected on account of their ability.

222. Going back to the Bill, what will your organisation do to make sure that, if vacancies arise, we do not just get more of the same and that there will be an opportunity for a better gender balance? In our own party, we have seen positive results from our mentoring and training group. How does your organisation provide encouragement, training, support and advice to political parties so that, should vacancies arise, we will be able to benefit from more results such as those achieved by Carol Black in Dromore and Jo-Anne Dobson in Craigavon? Those women were very capable candidates and were successful.

223. Mr Bell: Sharon Skillen in Castlereagh.

224. Mr Beggs: How is your organisation encouraging more capable candidates to come forward, and what advice and training are you giving to political parties so that those opportunities are taken up?

225. Ms Carvill: In my role as a lobbyist, I have worked closely with quite a few male and female Members across the political parties. I have also worked with the women's officer in the Ulster Unionist Party. We have been able to assist with anything that parties have asked us about gender equality or women's equality. Heightening awareness, as we are doing in our evidence today, is important, because some people are shocked by what they hear.

226. Neither gender equality nor women's equality is at the front of people's minds. People are quite shocked when they hear statistics such as those that I mentioned earlier. We do not offer training, but there are organisations in the women's sector that do, such as DemocraShe, which works with local women politicians, although it has funding problems at present, and the Women in Local Councils initiative.

227. We were talking about quotas. The carrot and stick approach is important, but we need a little more stick. It has been proven that, unless something is mandatory, nothing moves forward. All the research shows that. With no change, we will have women's equality in 200 years' time. We offer advice and we work with parties, but we are here to ask the parties to take that on board.

228. Dr Ward: The main remit of our organisation is education and training of women in grass-roots communities, and raising their level of awareness. Through that, they have lobbied on particular issues. We are not working with women who want to be political candidates. When a lot of American money came here, DemocraShe, which is run by Bronagh Hinds, ran a lot of training sessions. Many women who are now in political life went through that training. Our problem is that funding for that type of initiative is very difficult to get now.

229. Mr Bell: Thank you for your presentation. I might not support the methods of what you may be advocating, but I support the need for more female representation. I have spoken to people and encouraged them to enter politics, but they felt that they had no chance. My experience has been the exact opposite: I know a young woman who told me that she would not run for a local council seat because she felt that she had no chance of being elected. However, she ran, was elected and then re-elected. I have a lot of anecdotal experience of young females who, although they felt they had no chance, allowed their names to go on a ballot paper and were elected. We must encourage that. There is an elephant in the room. What advice would you, as lobbyists for women, give to a female party leader, Margaret Ritchie, who is an MP and an MLA and says that she will definitely do both jobs?

230. Ms Carvill: That would not be for me to say. Our role —

231. Mr Bell: You are criticising men, in many ways.

232. Ms Carvill: I am not criticising men.

233. Mr Bell: What advice would you give to a female party leader who is an MP and a MLA, who is setting an example for the party, and who says that she is going to double-job?

234. Ms Carvill: My advice to Margaret Ritchie would be to implement an SDLP policy that would create some sort of mandatory positive action to get more women into the party. That would be my advice to any of the parties. I want to emphasise a point: are we happy, as a political institution, with the international lens on us, with 15% of women in our political institutions? That is what I want to emphasise.

235. The Chairperson: Certain people have been mentioned. Before we go on, Mr Bell, I want us to refrain from mentioning any Members.

236. Mr Dallat: That is a bit rich.

237. The Chairperson: Hold on a minute; you mentioned someone yourself. Mr Bell, please.

238. Mr Bell: I will abide by your ruling, Chairperson.

239. The difficulty that I foresee is that, if women are double-jobbing, should they set not the example as well as men? Men have taken a lot of hassle about what they should be doing. Should we ask women the same question? I will not mention any names, but there are other women MLAs. Should we say to them, "one woman, one job"? Is that your message?

240. Ms Carvill: Eighty-eight per cent of MLAs in the Assembly are male double-jobbers. That is like saying that lone parents are mostly female, because 90% of lone parents are female. My point is that, at the moment, the ball lies squarely with men as double-jobbers.

241. Mr Bell: It applies across the board for women as well as men.

242. Ms Carvill: It is about balance.

243. Mr Bell: My second question is on the full-time/part-time issue. I listened to Professor Wilford, and I respect what he had to say on the matter. My difficulty arises from the fact that, if one were a GP earning £80,000-plus a year, it is OK to be a councillor. However, an MLA on £43,000 a year who is also a councillor is branded greedy. Is there any logic to that?

244. Professor Wilford: That sounds to me like a rhetorical question.

245. Mr Bell: Yes, but I am asking you whether there is any logic there.

246. Professor Wilford: I said earlier that it is not a case of whether one can do both, whatever one's normal occupation. The issue for me is whether one should. Certainly, in relation to elected office, I can but repeat myself: I regard being an MLA as a full-time occupation. If one is a dedicated public servant and, thus, a servant to the people, 100% of one's time should be given to that role. That is my point.

247. Mr Bell: I was a full-time senior practitioner in an intensive-support social work team. Taking a child into care regularly required a child protection investigation, during which I often worked from 8.30 am to 6.45 pm, before dashing to attend a council meeting at 7.00 pm. Does the logic of your argument enable one to be a full-time public servant, social worker and a councillor?

248. Professor Wilford: You are comparing apples and pears. I am comparing apples and apples. I am talking about two elected offices.

249. Mr Bell: OK. So one can hold a full-time job and be a councillor.

250. Dr Ward: The question is worrying, because its logic is that either you must be unemployed or a politician — nobody else would be eligible. Whereas, we want a diversity of people's experiences to decide what people's lives are about.

251. Mr B Wilson: I believe that Dawn's Bill will have only an extremely marginal impact on the opportunities available for women. When double-jobbing is got rid of, the vast majority of people who will take up those posts will be virtually identical to the people who gave them up. Something much more fundamental and cultural is required. I do not find that a vast number of women are keen to enter the political arena. Many of them find it distasteful. Although the Green Party is no example, it has repeatedly tried to get women to stand as candidates, but they have totally refused. They do not want to get involved. Therefore, I suggest that this would have a marginal impact. There are much more fundamental cultural problems to be tackled, including women's reluctance to join political parties and to become political activists.

252. The witnesses have said that a reduction in the number of people who vote in Northern Ireland elections is evidence that people are disillusioned. Is there any evidence that more women than men are disillusioned? Is there any evidence to support the argument that comparatively more women do not vote because they are disillusioned?

253. Ms Carvill: On your first point, about using the Bill to try to end gender bias and to open up opportunities for women, my agency asks the Committee to consider proposing an amendment to the Bill that would strengthen our argument, support what we are asking for, and provide some kind of encouragement to women. I am not sure how that might work, but we want political parties to be encouraged and assisted to enhance diversity and create a better, more representative democracy. Is that possible?

254. I completely and absolutely agree that a cultural change in politics is crucial if women are to become less reluctant to get actively involved. Women are reluctant because of the quagmire that adversarial politics can sometimes be. However, given different circumstances, that could change. Professor Wilford will deal with the second point.

255. Professor Wilford: There are gender gaps in turnout levels and the degree of voting disaffection. In the context of current UK politics, there is no gender difference in attitudes towards the furore over expenses and allowances scandals, and so on. There have been gender differences in electoral turnout in the past. However, those are equalising.

256. As for Lynn's point, there do not need to be any particular measures, because the existing 2002 statute can be used to explore the methods that are designed to try to recruit more women through whatever means of positive action that a political party seeks to adopt. That parent Act, which is permissive, can be drawn upon and exploited by parties if they so choose, but they have not.

257. Dr Ward: If I had an opportunity to encourage women to stand in the next elections, I would focus on the political culture. Many women choose not to stand because political culture is very masculine and quite adversarial and is, therefore, not attractive to them. All the studies have shown that, if a critical mass of representation of at least a third of women is achieved, the atmosphere starts to change. If that happened, the political sphere would become more attractive to women, and it would be less difficult to encourage them to stand.

258. Professor Wilford: I wish to reinforce the point about the conservative and inimical nature of that political culture. A lot of comparative studies on women's representation have been carried out, and Germany was an interesting case. Historically and culturally, it has a very patriarchal and militaristic society, and during the Nazi period, Hitler was utterly scathing about the idea of women participating in politics. However, women's representation in Germany, be it pre-unification or post-unification, was and is significantly higher than in the United Kingdom. That is because parties, among other measures, take positive action and use positive discriminatory methods, such as quotas, to lever women into elected office. Therefore, certain instruments can be used to overcome even a conservative political culture.

259. Mr Ross: I do not who know is more worried, Brian Wilson or me, about the fact that I agree with what he said today.

260. First, I think that we all agree with the general basis of what you said about the need to have more women in politics. Every Parliament around the world wants to be reflective of the society that it aims to represent. Given that women, more or less, make up 50% of society, we should look to get that sort of percentage in legislatures. That is a given. Much of what we heard today has been about the measures that need to be taken to address that. John used the Welsh example and said that those women were "on the ball". However, I do not think that they were

on the ball just because they are women; rather, they were on the ball because as they are talented individuals who are capable of doing the job. There are some very talented women in my party, and they would be appalled to think that they are in that position only because they are female. They are where they are because they are talented.

261. I accept that work needs to be done by parties to try to encourage more women, first, to join political parties, and, secondly, to seek elected office. However, work can also be done within the political structures, which Professor Wilford mentioned, such as altering the working hours. I know that Westminster tried to change the hours when Parliament sat in order to try to encourage more women to participate. I am not sure whether that worked as well as had been anticipated. However, that is an aside from the Bill.

262. I am still slightly confused; you are here to give evidence about how the Bill will in any way, shape or form get more women into local councils. However, there is no guarantee that the individuals who replace those currently with dual mandates will be women, particularly given the fact that, as you mentioned, there is a block of incumbents. I do not necessarily think that that is negative. Incumbents always have a better chance of getting re-elected unless they do something terribly wrong. Therefore, although the general trend, in the longer term, is to get more women involved in politics, the incumbency issue will still exist even if the raft of new councillors are not MLAs. If the majority of new councillors in the first tranche happen to be men, that incumbency issue will still exist. What are your comments on that? Are you also proposing some sort of measures to tackle incumbency, such as term limits, in order to achieve more turnaround? I am interested to hear your views on that.

263. Professor Wilford: This relates to the Bill because by ending the dual mandate, an opportunity of space will be created in one, other or both of the elected institutions and an obstacle will be removed. The issue then is: what will the parties do to exploit the opportunities from that, and how will they do that? Everyone wills the end of having more women in elected office, so the issue becomes one of willing the means to achieve that. If the space is created for that opportunity, it is for parties to determine the measures that they should take to exploit that opportunity.

264. Your point about incumbency is well made, but, as Lynn said already, if women continue to enter politics at the current rate, we will be long gone and have been replaced by our great-grandchildren before women secure equality. That is a real issue that touches on the quality of our democracy and of our representation. Diversity and inclusivity are important democratic values.

265. During the Reagan years, Newt Gingrich introduced his 'Contract with America', one element of which was a term limits Bill. That was the one piece of the contract that Congress voted down, because the incumbents saw that it was not in their interests to be restricted to serving two or three terms of office. Term limits are certainly an issue, and why should there not be a turnover among politicians, as there is in any other occupation? Turnover can be occasioned by elections, but term limits are another way of doing that.

266. As I said earlier, there is no single magic bullet, but a variety of measures can be taken. If the dual mandate were abolished, it would create the space within which parties could decide which measures to adopt to increase the level of representation of women. We should be ashamed at ourselves for the level of female representation; our historical record is appalling and inexcusable. There are many bad reasons why there are so few women in politics here, and there are no good reasons.

267. Mr Ross: I take those points, and it is a general issue that needs to be addressed by political parties and institutions. However, I am not sure that the Bill is the mechanism to

achieve that. The vast majority of work that is required to get more women into politics needs to be done elsewhere.

268. Professor Wilford: The Bill is a trigger of opportunity to create the space for women in politics. It would get rid of dual incumbency, which is a block to entry. That is where the Bill is relevant; it would remove a hurdle. When the parties are given that space, it will be up to them to discuss and perhaps even agree measures to address the wider question.

269. Dr Ward: The parties could introduce imaginative ways of doing that. For example, if an incumbent councillor were re-elected and were to end up taking an Assembly seat, it could be made clear to the electorate that there is someone else who is a good representative and a woman. It is also important to start to put such women in the public eye by developing their constituency profile.

270. Professor Wilford: Women who do best of all in Northern Ireland in public office do so through the exercise of patronage: when they are appointed to quangos, non-departmental public bodies, and so on. Women make up between a third and 36% of those appointments. The fact that they do best through patronage is another indictment, as are the co-options to the Assembly. Mr Bell, you are the beneficiary of Iris Robinson's seat becoming vacant. Conall McDevitt was co-opted to Carmel Hanna's seat. The parties are not even using co-option to bring women into the Assembly.

271. Ms Carvill: I reiterate that the Committee should consider an amendment that would strengthen the representation of women.

272. The Chairperson: Thank you for your presentation.

3 June 2010

Members present for all or part of the proceedings:

Ms Cathal Boylan (Chairperson)
Mr Roy Beggs
Mr John Dallat
Mr Danny Kinahan
Mr Ian McCrea
Mr Alastair Ross
Mr Peter Weir
Mr Brian Wilson

273. The Chairperson (Mr Boylan): We shall now formally consider the clauses of the Local Government (Disqualification) (Amendment) Bill. We shall go through the Bill's three clauses and the long title in sequence to ascertain the Committee's position on each.

274. Mr Weir: I declare an interest as a member of North Down Borough Council.

275. Mr B Wilson: I also declare an interest as a member of North Down Borough Council.

276. Mr I McCrea: I am a member of Cookstown District Council.

277. Mr Beggs: I am a member of Carrickfergus Borough Council.

278. Mr Weir: The memorandum and the proposed amendments to the Bill that we received from Dawn were quite helpful. However, they perhaps did not cover all the issues, and they also highlighted ones that need to be covered. I was giving the matter a bit of consideration — it may be helpful if I come back to the Committee with a formally worded amendment next week — and two problems appear not to have been resolved entirely by Dawn's proposed amendment to clause 1. I think that it was Roy who said last week that if an individual were elected to be a councillor, only to be disqualified immediately, how could that individual be deemed to have been elected in the first place. That raises the issue of creating a vacant seat. Dawn's suggested that the wording of existing legislation meant that an individual essentially takes office on the fourth day after an election. That would suggest that if it were solely a local government election taking place, the next day and possibly the day after would be covered. Most councils do their counts in one day, but some councils stretch to two days, particularly Belfast City Council and some of the other bigger councils.

279. Dawn suggested was that that would create a gap between being elected and assuming office. The problem with that is that the timing does not work if the local government election is coupled with another election, as happened in 2005 and is likely to happen in 2011. In 2005, local government elections took place at the same time as elections to Westminster. The elections were on a Thursday, the count for Westminster took place on Friday, the local government count was on the Monday, and, in some cases, it ran into Tuesday. Monday was the fourth day and Tuesday was the fifth, so there was no gap. Therefore, the proposed amendment from "being elected a councillor" to "being a councillor" does not address the problem.

280. A second issue that Dawn's response did not entirely address is that the timetable to deal with immediate disqualification stretches to between a month and six weeks.

281. Mr Kinahan: In my case, it was three weeks.

282. Mr Weir: Yes, but that was because you were a serving councillor. However, disqualification can take a shorter time. According to existing legislation, the relevant council's chief executive must be notified first that the disqualification timetable will kick in. The chief executive has seven days to notify the Electoral Office, and the nominating officer then has 28 days to disqualify the individual.

283. Most councils hold their annual general meeting (AGM) one month after an election, so there is a real possibility that, if councillors were to be disqualified immediately on election, a gap would be created that would not be filled by the time that the AGM took place.

284. As I said, I will come back to the Committee with a formally worded amendment. I reiterate that I am sceptical about the Bill, but if it is to work properly, a way around the problems may be to introduce a commencement provision so that disqualification kicks in two months to the day after the election and runs to the end of the council term. The period of disqualification would then be repeated for each council term. First, that would remove the issue that Roy raised about the technicality that is the fourth or fifth day. Secondly, it would mean that no party would have a vacancy at the time of the AGM. Those changes would still achieve the spirit of the Bill, which is to prevent an MLA from holding two positions. I may need to tidy the wording up, but that appears to be a practical solution to the problem.

285. Mr Beggs: If I have understood Dawn's proposed amendment correctly, she is trying to distinguish between the concept of being declared elected and that of becoming a council member, which happens after the fourth day. The Electoral Law Act (Northern Ireland) 1962 (Amendment) Order 2010, which allows for the filling of casual vacancies, does not refer to someone's being declared elected but to "members". That proposed method might not work

because one would have to be a council member — that is, after the fourth day — to qualify to fill a casual vacancy.

286. The Committee Clerk: New procedure has come into place on filling casual vacancies. Details of that are in the members' files.

287. Mr Beggs: I am referring to the legislation, rather than the guidance notes. New section 11E(1)(a) of the Electoral Law Act (Northern Ireland) 1962, as amended by article 3 of the 2010 Order, states that the legislation applies if:

"a casual vacancy arises in the seat of a member of a district council".

288. My understanding of Dawn's suggestion was that she was trying to distinguish between being elected and becoming a member. My understanding is that the casual vacancy would apply only to those who took up the post. Her proposed amendment may not deal with that. The choice would then be between dealing with the issue in the manner in which Peter suggested and having another mechanism kick in before the election so that people do not get elected who cannot be replaced.

289. Mr Weir: To be fair to Dawn, one of the few points on which I agree with her is that she said the purpose of the legislation was not to prevent councillors from running for the Assembly. As you said, there are two ways of dealing with the situation. The mechanism could either kick in after the election or a councillor could be prevented from being a candidate. Technically, the second method could be adopted, but the problem with it is that it would make it difficult for a councillor to switch and move up to become an MLA.

290. For example, under such a system, especially if an Assembly election and council elections were held at the same time, someone who is running for a reasonably marginal seat would have to not run for the council, plumping instead for the Assembly. A councillor would do that if he or she were 100% confident of winning the Assembly seat, which would mean putting all his or her eggs in the same basket. That is grand for candidates who are pretty confident of being elected to the Assembly, but it creates a difficulty for those who are standing in marginal seats. The general principle is that councillors and Assembly Members should have one mandate but that there should be flexibility for people to be able to move between the two positions. However, the weakness is that that option would create a barrier to councillors being candidates and moving up to the Assembly.

291. The Chairperson: In the light of Mr Weir's comments, I propose that we go away and think about the amendment. We will have to talk to the Bill Office about a formulation of words based on what has been suggested. We will revisit the Bill during our clause-by-clause scrutiny at next week's meeting, if that is agreeable to the Committee.

10 June 2010

Members present for all or part of the proceedings:

Mr Cathal Boylan (Chairperson)
Mr Patsy McGlone (Deputy Chairperson)
Mr Roy Beggs
Mr Danny Kinahan
Mr Ian McCrea
Mr Patsy McGlone
Mr Alastair Ross

Mr Peter Weir
Mr Brian Wilson

292. The Chairperson (Mr Boylan): The Committee will now go through the clause-by-clause scrutiny of the Local Government (Disqualification) (Amendment) Bill. Members have been provided with a reply to Committee queries, as well as the draft amendment from Dawn Purvis. Members have also been provided with a draft Committee amendment, an updated clause-by-clause scrutiny table with comments from the meeting on 20 May 2010, and a copy of the Bill.

293. We will now go through clauses 1, 2 and 3 and the long title, one by one, in order to seek the Committee's position on each. Once a clause has been agreed, members will no longer be able to discuss it.

Clause 1 (Disqualification)

294. The Chairperson: Two amendments have been tabled to clause 1, one by Dawn Purvis and the other by Mr Weir. Do Committee members wish to make any comment before I put the Question on those two amendments? The tabled Committee amendment has been amended.

295. The Committee Clerk: The original proposed Committee amendment has been amended.

296. The Chairperson: The original Committee amendment is in members' packs, as is the amended form of that amendment, which reads: In page 1, line 5, at end of clause 1 insert —

"(2) The disqualification in subsection (1) shall take effect at the end of 60 days after a person takes his seat as a member of the Assembly".

297. I am going to put the Question. Do any members have questions at this point?

298. Mr Weir: I am not sure why the original draft Committee amendment was changed. Sorry; just give me a few seconds to read the two against each other.

299. The Chairperson: No problem.

300. Mr Weir: I do not have any particular problem with the Committee amendment. However, will the reference to someone taking an Assembly seat kick in the moment he or she signs in as a Member with the Speaker? Having dealt recently with the first of the changes to the dual mandate, I know that there is a gap between a member resigning from the Assembly and a replacement coming in. Can we get clarification on that?

301. The Clerk of Bills: That form of words is chosen specifically because it is pinpointed in time by the reference in the Northern Ireland Act 1998 to taking one's seat, which is reflected in Standing Orders. The Northern Ireland Act is reflected in Standing Order 3(3), which states that the Member takes his or her seat when once they have signed the Assembly's Roll of Membership.

302. Mr Weir: OK. I understand.

303. Mr Beggs: If that provision were adopted, someone who achieves a dual mandate in council and the Assembly could go much sooner voluntarily. The only area on which I have concerns is the issue that significant, well known Assembly Members could run cynically to gather votes, knowing that they would stand down within two months and hand the seat on to someone else. That is a more difficult situation to address.

304. Mr Weir: There is a flip side to that, however. Someone could cynically do the opposite. Let me give an example. Let us say, for the sake of argument, that Joe Bloggs, who is a sitting Member of the Assembly, comes into a very marginal seat. The party wants to keep its options open. There is the option that someone might run and then vacate his seat, in that cynical way. The other possibility is that it gets an arrangement with an association on the basis that someone effectively replaces him on the ticket for the council, on the understanding that there is an agreement that, if the party wins the Assembly seat, then that person retains the council seat, but on the basis that that person runs as a proxy. Consequently, upon election to the council, if they failed to get into the Assembly, that person would then immediately resign from the council and vacate that seat.

305. Unfortunately, if people want to take a purely cynical view, there is a route either side of it, because a party can put forward for election someone who then resigns the seat and effectively defeat an Assembly candidate immediately after the election on that basis. The system could be manipulated, although I think that that would prompt a public backlash. It could be manipulated either way.

306. Mr Beggs: I see that this draft amendment will deal with the situation, particularly as Assembly and council elections are scheduled for next year to be held on the same day. At nomination, you are neither a councillor nor a Member of the Assembly, as I understand it. It is very difficult to legislate for such a situation, but it appears to be a reasonable method of doing it.

307. The Chairperson: There are two amendments, and I want to refer members to Dawn Purvis's amendment. It reads: Leave out clause 1 and insert —

"1. (1) A person shall be disqualified from being a councillor if that person is a member of the Northern Ireland Assembly."

308. We have no issues with that; is everyone content with it? Please have a quick read before I put the Question.

309. Mr Weir: I have no problem with either amendment. However, the DUP has some concerns with the overall legislation. We want to give it further consideration. When it comes to the main clauses, we will abstain, but we will support the amendments. The two amendments make the Bill more competent and, on that basis, we are happy to support them.

310. Mr Kinahan: I might be being thick, but, in respect of the word "being", does that mean that a person has gone into council and accepted the role? At what point does one become a councillor?

311. The Clerk of Bills: A person is a councillor from the moment that he or she comes into office. Under the Electoral Law Act (Northern Ireland) 1962, that is four days after the election. Under the sponsor's amendment, the disqualification takes effect once one becomes a councillor. It will take effect on the fourth day after the election. Under the original drafting, it was possible for candidates to be disqualified prior to their being declared elected.

312. Mr Weir: I will explain it to Mr Kinahan, because the issue arose last week. The time frame may be slightly artificial, particularly if, as is likely to happen next year, there are two elections on one day. It may be the fourth, or possibly even the fifth day, before some people are elected. So, if we have a double election, both acts of being elected will happen at exactly the same time. It would be slightly different if it is purely a council election. In that case, I think that candidates are elected before they become councillors. The other is simultaneous.

313. The Chairperson: Thank you very much, Mr Weir. Is that understood, Mr Kinahan?

314. Mr Kinahan: Yes.

315. Question proposed:

That the Committee is content with clause 1 subject to the amendment proposed by the sponsor and the amendment proposed by the Committee.

316. Mr Beggs: It is complicated. I am trying to understand whether we are amending an amendment.

317. The Chairperson: No.

318. The Clerk of Bills: There are two amendments to clause 1. The sponsor is proposing to leave out the definition of the disqualification. The Committee's proposed amendment is to add a new subsection to the clause to delay the impact of that disqualification. The amendments are compatible. The Committee is being asked to agree the two amendments to clause 1 and to agree clause 1 subject to the amendment proposed by the sponsor and the amendment tabled by the Committee.

319. Mr Weir: Procedurally, should the Question on the amendments not be put before the Question on the clause as amended?

320. The Clerk of Bills: The Chairperson has already asked for members' approval for the two amendments, and he will now ask for approval for the clause as amended.

321. The Chairperson: We will take the vote. All those in favour of the amendments ?

322. Mr Weir: We are voting on the clause as amended.

323. The Chairperson: Sorry; who is in favour of the clause as amended?

324. Mr Beggs: There are two amendments.

325. Mr Weir: Apparently they have already been taken.

326. The Chairperson: Both amendments have been accepted.

327. Mr Beggs: Are we not meant to take each amendment separately?

328. The Clerk of Bills: We did.

329. Mr Beggs: I missed that.

330. Mr Weir: Apparently we have already agreed both amendments.

331. Mr Beggs: I did not realise.

Question, That the Committee is content with the amendment proposed by the sponsor, put and agreed to.

Question, That the Committee is content with the amendment proposed by the Committee, put and agreed to.

332. Mr Beggs: I reserve my position on that. I will not express a view at this stage.

333. The Chairperson: OK, gentlemen, we will move on.

334. Mr Weir: Can I clarify the result of that vote?

335. The Committee Clerk: We have not come to a conclusion; that will go into the report.

336. Mr Weir: OK, has everyone abstained?

337. The Committee Clerk: The Committee has agreed the sponsor's amendment. There is a majority agreement on the Committee's amendment and no agreement on the clause as amended.

Clause 2 (Commencement)

338. The Chairperson: This is the clause of the Bill that dictates when the Act will commence, which, as drafted, is the day of the first district council general elections to take place after Royal Assent of the Bill. It is not about the timing of the disqualification process.

Clause 2 agreed to.

339. Mr Weir: The DUP will abstain.

340. Mr Dallat: I abstain. It is the fashionable thing to do.

Clause 3 (Short Title)

341. The Chairperson: Clause 3 refers to the short title of the Bill, which is the Local Government (Disqualification) (Amendment) Bill. I advise members that Ms Purvis has indicated that, if her proposed amendment to clause 1 is accepted, she will table a consequential amendment to the short title, to ensure that it is consistent with the purpose of the Bill.

Clause 3 agreed to.

342. Mr Weir: We will abstain for consistency.

Long Title

343. The Chairperson: This refers to the long title of the Bill, which will describe in more detail exactly what the Bill will do, which is to amend the Local Government Act (NI) 1972 to disqualify members of the NI Assembly from being elected, or being a councillor. I also advise members that Ms Purvis has indicated to the Committee that if her amendment to clause 1 to stop the Bill impacting on those who wish to stand for election goes ahead, she will be required to amend the long title to reflect that change. Is the Committee content with the Long Title, subject to the amendment proposed by the sponsor?

Long title agreed to.

344. The Chairperson: All agreed, with one abstention.

345. I remind members that a late amendment was submitted from DemocraShe. The Clerk of Bills will discuss the problems with the amendment, which has been tabled to members.

346. The Clerk of Bills: The paper was tabled very late, so I would have to take it away should the Committee decide to propose the amendment. At first glance, I am not clear that it has any legal effect whatsoever. It seems to refer to another piece of legislation that is already in force. There could be questions over its admissibility. Its intent is to promote gender balance in the representation in public life.

347. Mr Beggs: Can you confirm that one would not normally need to add references to other legislation that is in effect? That is an unnecessary amendment.

348. The Clerk of Bills: That is my first impression.

349. Mr Weir: There is a small, separate issue with the reference to:

"if selected by a registered political party".

In theory, one could construe that to exclude all independent Members. I can see some merit in that; however, I take the point. As I said, when I read this, I was a little confused because, in the 2002 legislation, it is permissible to say that something "shall be used", which sends a mixed message. One might take the interpretation that it flags up that particular piece of legislation; however, normally, that is not how legislation works. Consequently, it does not achieve anything.

350. The Clerk of Bills: From that point of view, there would be questions about its admissibility. However, at this point, I would not give a formal view beyond that.

351. The Chairperson: I suggest that we write to DemocraShe to indicate our support for encouraging more women into political life. Nevertheless, do members agree that the amendment is not appropriate to the Bill?

Members indicated assent.

352. Mr Weir: Furthermore, according to our legal advice, it may not be admissible.

353. The Clerk of Bills: Procedural advice.

354. Mr Weir: Sorry, yes; procedural advice.

355. The Chairperson: That concludes the formal clause-by-clause analysis. A draft report of the Committee's deliberations on the Bill will be available to members at the Committee meeting on 17 June, with a view to the final version being approved on 24 June 2010.

15 June 2010

Members present for all or part of the proceedings:

Mr Cathal Boylan (Chairperson)
Mr Patsy McGlone (Deputy Chairperson)
Mr Roy Beggs
Mr Jonathan Bell
Mr John Dallat

Mr Danny Kinahan
Mr Daithí McKay
Mr Brian Wilson

356. The Chairperson (Mr Boylan): I refer members to the Local Government (Disqualification) (Amendment) Bill, a paper on which is tabled. Members need to clarify the Committee's position on its formal clause-by-clause analysis of the Bill.

357. I seek agreement from members on clarification on clause 1. I agreed the clause, as amended, and other members abstained from voting. I ask members who are present whether they are content to clarify that point for the benefit of the record? Mr Dallat, Mr Wilson and Mr Kinahan were present at that meeting.

358. Mr Bell: What is it that we are clarifying? That the members abstained?

359. The Chairperson: Yes. For the record, I agreed to clause 1, but other members who were present at the meeting abstained. Today, we are simply seeking the Committee's clarification of that.

360. Mr B Wilson: Yes, I abstained.

361. The Chairperson: Thank you very much.

362. Mr Kinahan: I abstained.

363. Mr Beggs: Yes, that is accurate.

364. Mr Dallat: I abstained.

365. The Chairperson: Once more, for clarification, are all members of the Committee agreed that that reflects the outcome of last week's meeting?

Members indicated assent.

366. The Chairperson: Thank you very much.

17 June 2010

Members present for all or part of the proceedings:

Mr Cathal Boylan (Chairperson)
Mr Roy Beggs
Mr Jonathan Bell
Mr John Dallat
Mr Ian McCrea
Mr Alastair Ross

367. The Chairperson (Mr Boylan): I refer members to the draft Committee report on the Local Government (Disqualification) (Amendment) Bill. Do members have any other comments on the draft report?

368. Mr Beggs: Page 5 of the draft report addresses eligibility for election as a councillor. It states that the Committee expressed concerns that the Bill would disqualify existing MLAs from

standing for election as councillors. I never expressed any such sentiment. Therefore, perhaps the report should state that "some" members of the Committee, or "the majority" of Committee members, expressed concern.

369. Page 10, paragraph 1, concerns the timing of implementation, and states:

"In effect this would mean it would be a vacant seat rather than a party seat".

The word "party" is unnecessary, because there is a process for appointing independent candidates through the co-option system.

370. Page 10, paragraph 2 states that:

"Members also were concerned that for councils to provide for co-options there must be an annual general meeting".

371. That is factually incorrect. We discussed that, for councils to provide for co-option, there should be a mechanism that would not affect the political balance at AGMs. Therefore, I suggest that that wording be amended.

372. The Committee Clerk: If amended, it would read that members were also concerned that, for councils to provide for co-options, a mechanism, which would not affect the political balance at AGMs, would be required.

373. Mr Bell: I have a couple of points to make. Since the RPA announcement, the perspective has changed, certainly for the next council term. I am very strongly of the view that, if a job is full time, it should be the only job done. Largely, I practise what I preach, and have taken career breaks as necessary. However, in light of the announcement that a councillor will no longer be a full-time position, the perspective has changed. We are now going back towards the part-time councillor role.

374. Many of our councillors spend quite a lot of their own money and, given that they pay for all their postage, stationery, telephone calls, mobile phone bills, and so on, they resent the fact that their £9,500 allowance is referred to as a "salary". The allowance is supposed to cover those costs, but that has not been adequately picked up by the media. For whatever reason, that is not included in the draft report. It should be. There are a number of councillors for whom those facts are not being picked up.

375. I want to talk about public demand, public perception and public confidence. When Dawn Purvis gave evidence, I raised the issue that a disparity exists. That is the case even in her own party, the current leader of which is a GP. Looking at the British Medical Association's guidelines, I see that GPs are supposed to work 70 to 80 hours a week and are, apparently, unable to cope with the work that they already have. On average, GPs earn £100,000 a year. It is OK for a GP, who allegedly works 70 to 80 hours a week and earns a £100,000 a year, to be a councillor. However, it is not OK for an MLA who earns £43,000 a year to be a councillor. That disparity has to be looked at, and I wish to place that on record. The argument is that public opinion is in favour of MLAs not being councillors. However, public opinion is, apparently, also in favour of hanging. There is a concern being driven forward, and we should reflect that in the report.

376. If we reach the stage at which we have to look at full-time councils, some members of which would take on full-time executive roles, that would have to be reflected. However, that is now not going to happen, certainly not in the near time frame. Therefore, that makes much of what Dawn Purvis said obsolete.

377. The Chairperson: I refer you to page 11 of the draft report.

378. Mr Beggs: Could we have clarification of what amendment is being proposed?

379. Mr Bell: I have read page 11. However, we are compiling a report on the basis of what the Committee thought, at that stage, was going to be 11 councils, and we were informed that some of those council posts were going to be full time. That was the perception under which we were working. However, has the situation not changed dramatically now?

380. The Committee Clerk: There is, in some ways, a distinction to be made. We are talking about the policy principles behind the Bill. When a Bill is referred to Committee, the Committee goes through the details of the clauses. Although comments such as yours can be captured, to some extent, in the report, the Committee's main purpose is to look at the clauses and decide whether it is happy with the way in which they have been crafted to deliver what was agreed by the Assembly at Second Stage as being the policy. Therefore, the principles of the Bill were agreed at Second Stage. The Committee was then tasked with looking at the detail of the clauses. The Committee went through that process last week and agreed the clauses. The argument that you are now putting forward would be appropriate for Consideration Stage, when the Bill goes back to plenary. You could, at that stage, argue that the situation has changed.

381. Mr Bell: I follow that logic. That makes sense.

382. The Chairperson: We have to agree a report on what the Committee said at that point in time.

383. The Committee Clerk: If the Committee agrees, we could capture those comments in another paragraph to reflect the fact that the situation has changed.

384. The Chairperson: Yes.

385. Mr Dallat: The Committee Clerk is right. However, I want to make it clear that I am not in favour of hanging, although there are times when I am sorely tested. [Laughter.]

386. Seriously though, certain councils provide mobile phones, postage, Apple computers, and other such perks. We need to be careful. I am not rapping Jonathan in any way. We need to be careful when stating facts.

387. Mr Bell: The Local Government Auditor does not cover telephone costs.

388. The Chairperson: We will not get bogged down in the detail. Mr Bell, my experience of council was that, if I had to post a letter, for example, I could have got the council to pay for it. However, I did not; I paid for it myself. The very fact that councillors use ratepayers' money means that they would never dare to go back and ask for the cost of a stamp.

389. Mr Bell: That has not been my experience.

390. The Chairperson: We will not get involved in that debate. There is to be no hanging today; that is for sure.

391. Mr Ross: The report basically summarises the discussion that has taken place in the Committee. I agree with Jonathan's sentiments. However, at the end of the day, as far as the report is concerned, we abstained during votes on a number of issues. I am not sure whether there will be any reference to abstentions in the report.

392. The Committee Clerk: Abstentions will be referred to in the body of the report, in the clause-by-clause scrutiny.

393. Mr Ross: Apart from that, I have no issue with it.

394. Mr Beggs: On the point that matters may have changed following the decision not to go ahead with the 11-council model, we need to be careful about what we say because there is uncertainty as to what will be devolved to the 26 councils. Certain functions could be devolved. There is a degree of uncertainty as to what additional responsibilities councillors will have. That is as much as we can say.

395. The Chairperson: From my point of view, we were not involved. However, I know that already. Your party can make that decision.

396. Mr Beggs: In line with procedure, I should have declared an interest as a member of Carrickfergus Borough Council.

397. The Chairperson: Does anyone else have to declare an interest? John, you do not have to declare any more. I am out of there too, thank God.

398. OK, gentlemen. Are you happy for what you have said to be reflected in the report?

Members indicated assent.

24 June 2010

Members present for all or part of the proceedings:

Mr Cathal Boylan (Chairperson)
Mr Patsy McGlone (Deputy Chairperson)
Mr Roy Beggs
Mr John Dallat
Mr Danny Kinahan
Mr Ian McCrea
Mr Alastair Ross
Mr Peter Weir
Mr Brian Wilson

399. The Chairperson (Mr Boylan): We will now discuss the Committee's draft report on the Local Government Disqualification (Amendment) Bill. Members have been provided with a copy, and we will go through each section and agree it. We will go through the draft report page by page. Are members content with the executive summary?

Members indicated assent.

400. Mr Ross: On the section titled "Membership and Powers", my name is spelt correctly in the membership list but wrongly in the footnotes.

401. Mr Weir: You have a dual mandate.

402. The Chairperson: We will rectify that, Mr Ross. Mr Wilson used to call me Mr Bowlan.

403. Are members content with the draft report's recommendations?

Members indicated assent.

404. The Chairperson: Are members content with the introduction?

Members indicated assent.

405. The Chairperson: Are members content with the section on consideration of the Bill by the Committee?

Members indicated assent.

406. The Chairperson: Are members content with the key issues outlined in the draft report?

407. Mr Beggs: I have an issue with the paragraph titled "Timing of Implementation". It contains a very complex sentence, which states:

"Members also recognised that to enable councils to provide satisfactorily for co-options a mechanism which would not affect political balance at Annual General Meetings would be required."

That sentence has a complex structure. It would read easier if it stated that members also recognised that a mechanism to enable councils to provide satisfactorily for the —

408. I suppose that the councils would not provide for the — I have got it wrong. The councils are not doing the co-opting, yet the draft report states:

"Members also recognised that to enable councils to provide satisfactorily for co-options" .

Therefore, councils are not providing for the co-opting.

409. The Chairperson: Let us take a minute to get this right.

410. Mr Kinahan: Councils must provide a satisfactory mechanism for co-option.

411. Mr Beggs: Let us take the councils out of it. It is not the councils that will be doing the co-opting.

412. The Chairperson: OK, gentlemen, let us get one recording only for Hansard. Mr Beggs, you actually raised this matter.

413. Mr Beggs: Yes, because it does not make sense at present.

414. The Chairperson: Let us clarify it now, because we want to get the draft report agreed.

415. Mr Beggs: The sense of what we agreed was:

"Members also recognised that a mechanism to provide co-options was required that would not affect political balance at Annual General Meetings."

416. The Chairperson: The Committee Clerk will read out the amended wording.

417. The Committee Clerk: The draft report will be amended to state: "Members also recognised that a mechanism to provide co-options was required that would not affect political balance at Annual General Meetings."

418. The Chairperson: Are members content with the key issues?

Members indicated assent.

419. The Chairperson: Are members content with the section on clause-by-clause consideration of the Bill?

Members indicated assent.

420. The Chairperson: Are members content with appendix 1, which contains the minutes of proceedings?

Members indicated assent.

421. The Chairperson: Are members content with appendix 2, which contains the minutes of evidence?

Members indicated assent.

422. The Chairperson: Are members content with appendix 3, which contains the written submissions?

Members indicated assent.

423. The Chairperson: Are members content with appendix 4, which contains the list of witnesses?

Members indicated assent.

424. The Chairperson: Are members content with appendix 5, which contains the research papers that the Committee requested? We thank the Assembly Research and Library Service for its research.

Members indicated assent.

425. The Chairperson: Are members content with appendix 6, which contains the other papers submitted to the Committee?

Members indicated assent.

426. The Chairperson: Are members content for the report to contain the relevant extracts from the minutes of proceedings of today's meeting, as well as the minutes of evidence? Members will be agreeing to their inclusion in the report without having prior sight of them.

Members indicated assent.

427. The Chairperson: I inform members that the report will be now ordered to be printed and submitted to the Business Office as the Committee's official report on the Local Government (Disqualification) (Amendment) Bill. That is the end of the Bill's Committee Stage.

Appendix 3

Written Submissions

NILGA response to Local Government Disqualification Bill

Dear Sean

Further to my previous communications with you on this issue, I have spoken to the NILGA Director of Policy and Strategy and also to Ald Arnold Hatch, the NILGA Vice President who chairs our RPA Working Group.

Over the years NILGA and the local government sector have had numerous discussions regarding the 'dual mandate' issue that the Local Government (Disqualification) (Amendment) Bill is designed to cover, and our current policy position is that this is a matter for the political parties to decide. It is our understanding that all the main parties have made decisions in this regard and we would advise the committee to examine these in detail.

In light of the above, it is doubtful that the attendance of local government officers or members at the Environment Committee meeting on 20th May would add any value to the debate, and so I would be obliged if you could thank the Committee on behalf of NILGA for their kind invitation, and inform them of our reasons for not attending.

Should the Committee decide that it requires a NILGA view on a specific related issue, please do not hesitate to contact me, and I will endeavour to obtain a view for you as quickly as possible.

Regards
Karen Smyth

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Strabane District Council Submission to Local Government Disqualification Bill



Strabane
District Council
Comhairle Ceantair
an tSrátha Báin
Strabane District Council

15 April 2010

Mr Sean Mc Cann
Assistant Clerk
Committee of the Environment
Room 247
Parliament Buildings
Stormont Estate
Belfast
BT4 3XX

Dear Mr Mc Cann

Local Government (Disqualification) (Amendment) Bill

I can confirm that at a Meeting of Council held on 13 April 2010, members offered their support for the introduction of the above bill.

Specifically, in reference to clause 1(f); it is the view of members that there is a requirement to reduce the practice of multiple mandates and members welcome the steps taken through this bill, to prevent this practice in relation to members of the Northern Ireland Assembly being elected or being a councillor.

I trust you will give due consideration to Council's submission.

Yours sincerely

Sharon Maxwell
Business Manager

Philip Faithfull, BA (Hons) 2004, LL.M., Clerk of Council and Chief Executive
Strabane District Council, 47 Derry Road, Strabane, Co. Tyrone, N. Ireland, BT82 8DP,
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INVESTOR IN PEOPLE

Women's Resource and Development Agency Submission to the Committee for the Environment on the Local Government (Disqualification) (Amendment) Bill

6, Mount Charles
Belfast

The Women's Resource and Development Agency (WRDA) is a regional development agency for women's groups prioritising work with women in disadvantaged areas. We strive to advance women's equality and participation in society by working to bring about social, political and economic change.

We are pleased to respond to the public consultation on the above Bill. We have a particular interest in this legislation as we believe it could provide a significant opportunity to address the issue of an enhanced representative democracy, particularly in the area of gender. Prior to second reading of this Bill in the plenary session on 8th March 2010, we dedicated an edition of the e-bulletin 'Gender Focus'^[1] to this Bill. This e-bulletin was disseminated to all MLAs prior to the second reading of the Bill. The content of this submission mirrors that which was carried in this edition of 'Gender Focus'. Due to the importance of this issue we are reiterating our message and urging members of the Committee of the Environment take note of and act on the concerns we are raising.

This Bill will amend the Local Government Act (Northern Ireland) 1972 to disqualify Northern Ireland MLAs from also holding the position of local Councillor. We believe that ending dual mandates could be used to address the perennial concern of the lack of women representatives in political life in Northern Ireland.

Northern Ireland has the highest proportion of 'double-jobbers' in the United Kingdom. According to Professor Rick Wilford of Queen's University Belfast, 'Dual Mandates are anti-democratic....they have a disparate and particular impact on women.'^[2]

In demographic terms Northern Ireland is highly unrepresentative. There are 67 MLAs in Northern Ireland who hold Dual Mandates as local councillors. In percentage terms this equates to 62%. Of these 67 MLAs/Councillors 59 (88%) are male.^[3]

We believe that this Bill has the potential to address the seemingly intractable problem of gender imbalance in political life; a problem that is particularly notable in the Northern Ireland context. Currently in the Northern Ireland Assembly women comprise 14.8% of MLAs. This compares very poorly with other devolved legislatures in the United Kingdom. Women comprise 33.3% of members in the Scottish Parliament and 46.7% in the Welsh Assembly.^[4]

Notwithstanding that the Review of Public Administration may result in a decrease in the numbers of councillors across the region; ending dual mandates will free up a substantial number of seats providing opportunities for those who are chronically underrepresented eg. women, to participate in political decision-making processes. Maintaining dual mandates and the status quo will block off such opportunities.

Ending dual mandates is just one of the factors that have the potential to enhance representative democracy and broaden the demographic of decision-makers in this region. It can be viewed as a tool to address the current representative deficit in terms of the lack of women in political decision-making roles. There are of course other factors that are very important, such as political parties encouraging more women members to join, selecting female candidates to go forward for election and providing the necessary supports for their female politician. There is little doubt that 'political will' and attitudinal change would be of significant step forward.

Recently, the Northern Ireland Office, undertook a consultation on 'Filling Casual Vacancies on District Councils'. In their response to the consultation the NIO noted that "there are concerns in relation to the diversity of public representatives in Northern Ireland, including district

councillors" and "We appreciate that there is a wider debate on whether government should bring forward legislation to compel political parties to select candidates on the basis of gender or ethnic background..."^[5] In conclusion the Northern Ireland Office has agreed that political parties can nominate from within their party and co-opt councillors onto vacant seats. This is another significant opportunity where political parties can redress the representation of women within the political decision-making process.

The lack of women in political decision making is recognised as a considerable problem at an international level. The United Kingdom Government has signed up to the United Nations Beijing Declaration and Platform for Action and to the Convention of the Elimination of Discrimination Against Women (CEDAW).

Both the Declaration and the Convention urge signatory governments to improve the numbers of women in political participation and decision-making roles. In 2008 the UK government was examined by the CEDAW committee in relation to its commitments under the Convention. In the concluding observations to the United Kingdom of GB and NI the CEDAW committee noted its concern "that women continue to be underrepresented in public and political life, especially in leadership and decision-making positions". The Committee called upon the UK government to "take measures, with benchmarks and concrete timetables, to increase the number of women in political and public life, at all levels and in all areas..."^[6]

There have been recent developments on the need for an enhanced representative democracy closer to home. In November 2008 a Speaker's Conference was established to look into the reasons why women, disabled people and people from ethnic minorities are under-represented in the House of Commons and to recommend ways in which the situation can be improved. The significance of this is illustrated by how rare a Speaker's Conference occurs. This Conference was the sixth one with the last one taking place in 1978. The Final Conference report outlining recommendations for an enhanced representative democracy was submitted to government in January 2010.

Simultaneously in the Republic of Ireland, the Joint Committee on Justice, Equality, Defence and Women's Rights agreed to establish a sub-committee on Women's Participation in Politics. The committee reported with their recommendations in October 2009.

We would suggest that the establishment of these committees in both these jurisdictions to examine and report on the issue of gender equality in political decision-making illustrates how significant the issue of 'enhanced democratic representation' has become for our society. Whilst our devolved administration is relatively nascent, we would contend that it is timely that the issue of 'parity' democracy be addressed.

We acknowledge that the Committee of the Environment does not have the authority to legislate for gender balance in decision-making. They can however, through their role in scrutinising the Local Government (Disqualification) (Amendment) Bill, use this opportunity to add their voice to and support the need to redress the chronic gender imbalance in political decision making in Northern Ireland. We would therefore ask that our comments be taken into consideration.

For further information please contact:

Lynn Carvill
Women's Sector Lobbyist
on 02890 230212
or at lynn.carvill@wrda.net

[1] Gender Focus is an e-bulletin used to brief MLAs and Ministers on issues affecting women and the women's sector in Northern Ireland. This e-bulletin aims to show how decisions made in Stormont can have a differential impact on men and women.

[2] Professor Rick Wilford, Queen's University Belfast, speaking at a seminar on 'Dual Mandates' in The Northern Ireland Council for Voluntary Action, 7th September 2009

[3] Figures taken from Agendani Northern Ireland Yearbook 2010

[4] Women wanted for politics? Comparing gender and generation from partisan and nationalist perspectives in Ireland north and south.', Kathleen Knight and Yvonne Galligan, November 2009, pg 17

[5] 'Government response to the Consultation on Filling Casual Vacancies on District Councils', Northern Ireland Office, February 2009, pg8

[6] 'Concluding Observations of the Committee on the Elimination of Discrimination Against Women 41st Session – United Kingdom of Great Britain and Northern Ireland', July 2008, pg 10

Ards Borough Council response to Local Government (Disqualification) (Amendment) Bill

From: Amanda.Martin@ards-council.gov.uk

Sent: 19 April 2010 09:23

To: +Comm. Environment Public Email

Subject: Consultation on Proposed Local Government (Disqualification) (Amendment) Bill

Dear Sir/Madam,

Thank you for consulting with Ards Borough Council on the proposed Local Government (Disqualification) (Amendment) Bill.

The proposed Bill was discussed at a recent meeting and the Council agreed to respond supporting the amended Bill.

I hope that this is of assistance to you.

Yours faithfully

Amanda Martin
Principal Administrative Officer
Ards Borough Council
2 Church Street
Newtownards
BT23 4AP
Tel: 02891 824190

Newry and Mourne District Council response to Local Government Disqualification Bill

I refer to your letter dated 19 March 2010 which was considered by Newry and Mourne District Council at their Monthly Meeting held on Monday 12 April 2010.

The Council agreed to support this Amendment to the Bill but asked for clarification if a Member can run for both Council elections and NI Assembly elections and then decide which position they wish to fill, if they were successful in getting elected.

I would be grateful for your comments in relation to this matter.

Colette McAteer
Committee Administrator
Newry and Mourne District Council

Tel: (028) 3031 3043

SAVE PAPER!
THINK BEFORE YOU PRINT THIS MESSAGE

~~JOHN McCARTHY~~
Clerk of the Council and Chief Executive



Our Ref:	Your Ref:	Date:
	MS/4497	11 th May 2010

Mr. Sean McCann,
Assistant Clerk,
Room 247,
Parliament Buildings,
Stormont Estate,
BELFAST. BT4 3XX.

Dear Mr. McCann,

LOCAL GOVERNMENT [DISQUALIFICATION] [AMENDMENT] BILL

At a meeting of the Council's External Affairs held on 12th April 2010, members were invited to offer their comments on the above Bill.

Following consideration it was agreed to support the contents of the Bill.

Yours sincerely,

John Dumigan
Clerk and Chief Executive

ID/CK

24 Strangfield Road, Downpatrick, Co. Down, BT30 6SR, N. Ireland
Tel: (028) 4461 0900. Fax: (028) 4461 0901. Website: www.downdc.gov.uk

Down District Council response to Local Government Disqualification Bill

Belfast City Council Letter to Local Government Disqualifications Bill

If the legislation does not take effect until the date of the next Local Government Elections, there will be nothing to prevent existing Members of the Assembly from submitting nomination

papers for election to Local Councils nor existing Members of Local Councils from submitting nomination papers for election to the Assembly. One way to avoid this would be to introduce the legislation from 1st April, 2011.

However, this would not prevent a person who is not a member of either a Council or the Assembly submitting nomination papers for election to both. While the main political Parties are unlikely to approve candidates submitting papers in respect of both Councils and the Assembly, it is possible that independent persons could do so. If such a person were to be elected to the Assembly before the Council votes were counted, he or she would then be ineligible for election to the Council despite appearing on the ballot paper and receiving votes from the electorate. If he or she were to receive sufficient votes to be 'elected', what status would he or she have and how would the matter be dealt with?

Appendix 4

List of witnesses who gave evidence to the Committee

- Ms Dawn Purvis MLA
- Ms Lynn Carvill - Women's Resource and Development Agency
- Dr Margaret Ward - Women's Resource and Development Agency
- Professor Rick Wilford - Queen's University, Belfast

Appendix 5

Research Papers



Research Paper

Local Government (Disqualification) (Amendment) BILL

Suzie Cave

This paper considers the provisions introduced by the Local Government (Disqualification) (Amendment) Bill. It gives a brief background account on the current legislation covering the disqualification of a person as a councillor; some of the views expressed regarding the holding of two or more positions; and finally, a summary of the proposals of the new legislation.

Library Research Papers are compiled for the benefit of Members of The Assembly and their personal staff. Authors are available to discuss the contents of these papers with Members and their staff but cannot advise members of the general public.

Summary of key points

The Private Members Bill, 'The Local Government (Disqualification) (Amendment) Bill' was introduced to the Northern Ireland Assembly in February 2010.

The new Act amends current legislation for the disqualification of a person as a councillor, found under the Local Government Act (Northern Ireland) 1972.

The introduction of the prohibition of a person as a councillor and a member of the Northern Ireland Assembly (dual mandates) was debated in March 2010.

Members of the Assembly displayed mixed views on the topic.

The National Association of Councillors (Northern Ireland Region) expects an increase in the responsibilities and workload of councillors due to the RPA, and expresses that this needs to be addressed effectively.

Lord Rooker stated that there is a recognised change in the roles of executive councillors and non - executive councillors, brought about by the RPA in England and Wales.

The main provision of the new Bill disqualifies any member of the Northern Ireland Assembly from being elected, or from being a councillor.

Background

1. Current Provisions

Qualification

Under section 3 of the Local Government Act (Northern Ireland) 1972^[1] (the 1972 Act), to become a councillor a person must be:

- At least 21 years and a British citizen, or a citizen of the Irish Republic, the Commonwealth or another Member State of the European Union on both the day of nomination and election Day.

On the day they are nominated and on election day, they must meet at least one of the following qualifications:

- They are a registered local government elector;
- They have occupied, as owner or tenant, any land or premises in the local authority area during the whole of the previous 12 months;
- They have had their principal or only place of work in the local authority area; and/or
- They have lived in the local authority area during the whole of the previous 12 months.

Disqualification

According to section 4 of the 1972 Act, a person is disqualified from election to the Council if he or she:

- Is employed by or holds a paid office under that local authority;
- Is bankrupt;
- Has been sentenced to a term of imprisonment of three months or more without the option of a fine, during the five years before the day of election; and/or
- Has been disqualified under any legislation relating to corrupt or illegal practices.

2. The need for prohibition on Dual Mandates

The topic of dual mandates was debated by the Northern Ireland Assembly in March 2009, where members expressed their opinions on the advantages and disadvantages of holding two or more positions:

- Some members expressed the view that the roles of councillors and MLAs could be combined successfully^[2]; in fact one Member went further to say that his role as an MLA was enhanced by his role as a councillor,

Doing both jobs helps one to get a more rounded perspective of what is happening in one's area.^[3]

- Other members expressed their opinions on the difficulties with time management, and the workload with 'juggling' two roles. Some felt that for the deliverance of effective public representation, a single mandate was best.^[4]

In connection with some of the above issues, expressed by members, in relation to the difficulties with time management and workload associated with holding two positions, the National Association of Councillors (Northern Ireland Region) has expressed its concern. They feel that as a result of the RPA, there may be an expected increase in the responsibilities and workload of councillors. This will in turn heighten the difficulties experienced by those who hold two positions. In their response to the RPA consultation, NAC NI stated:

"The role of the Councillor confers certain vulnerabilities and no more so than in times of change. Increased responsibilities and increased workloads, which a rationalisation of the number of Councils will bring, compound these vulnerabilities. Developments in local government should recognise the changing role of the councillors as well as the time required to carry out the role effectively and include increased protection for councillors in the fulfilment of their role." ^[5]

Since the local government review in England and Wales, Lord Rooker recognises the changes brought to the role of councillors. In his announcement in 2005 on the outcomes of the RPA, he stated:

"The Local Government Act of 2000 in England and Wales has a significant impact on councillors' roles. It created executive councillors with large workloads and increased responsibility. Non-executive councillors are required to be more closely engaged in scrutinising the work of the executive and spending more time with and representing their local communities"^[6].

Overview of the Bill

This Private Members Bill was introduced to the Northern Ireland Assembly in February 2010, and began Second Stage in March. The main aim of the Bill is to introduce a prohibition on dual mandates.

The Bill consists of 3 clauses:

Clause 1: Disqualification

This clause amends the Local Government Act (Northern Ireland) 1972 section 4 by introducing the provision which disqualifies any member of the Northern Ireland Assembly from being elected, or from being a councillor.

Clause 2: Commencement

The provisions will come into force on the day of the first district council general elections, which take place after the Bill receives Royal Assent.

Clause 3: Short Title

This clause states that the title of the Bill is 'The Local Government (Disqualification) (Amendment) Act (Northern Ireland) 2009'

[1][The Local Government \(Northern Ireland\) Act 1972](#)

[2][See speech by Michelle McIlveen. Assembly debate Tuesday 10 March 2009](#)

[3][See speech by Stephen Farry. Assembly debate Tuesday 10 March 2009](#)

[4][See speeches by Carmel Hannah and David McNarry](#)

[5][Response to the Review of Public Administration Consultation Document. National Association of Councillors Northern Ireland Region.](#)

[6][Lord Rooker Outcome of the Review of Public Administration 22 November 2005](#)

Appendix 6

Other Papers Submitted

Tabled Paper - Democrashe proposed Amendment to Local Government (Disqualification) (Amendment) Bill

Ms Alex McGarel
Environment Committee Clerk
Room 245
Parliament Buildings
Ballymiscaw
Stormont

Belfast BT4 3XX
Email: doecommittee@niassembly.gov.uk

8 June 2010

Dear Ms McGarel

Re: Amendment to Local Government Act (NI) 1972

On behalf of the Northern Ireland Women's European Platform, the Women's Resource and Development Agency and DemocraShe, we would like to submit the attached amendment to the Local Government Act (NI) 1972. The amendment would recognize in local government legislation the Sex Discrimination (Election Candidates) Act 2002, which excludes from the operation of the Sex Discrimination (NI) Order 1976 certain matters relating to the selection of candidates by political parties.

For further information on the Sex Discrimination (Election Candidates) Act 2002 please see the Background Note outlining the Act on page 3 and the research paper by the House of Commons at:

<http://www.parliament.uk/documents/commons/lib/research/rp2001/rp01-075.pdf>

Yours sincerely,

Irene Miskimmon, Northern Ireland Women's European
Margaret Ward, Women's Resource and Development Agency
Bronagh Hinds, DemocraShe

Amendment

Local Government (Disqualification) (Amendment) Bill

Amend the Local Government Act (NI) 1972 to include under Qualifications that registered political parties can adopt actions to address inequality in the number of men and women

BE IT ENACTED by being passed by the Northern Ireland Assembly and the assented to by Her Majesty as follows:

Qualification

1. In section 3 (Qualifications) following (3) add –

(4) A person shall be qualified to be elected and to be a councilor if selected by a registered political party under the provisions of the Sex Discrimination (Election Candidates) Act 2002.

[Disqualification – as in the Bill]

[Commencement – as in the Bill]

Short Title

4. This act may be cited as the Local Government (Qualification and Disqualification) (Amendment) Act (Northern Ireland) 2010.

Background Note

The Sex Discrimination (Election Candidates) Act 2002 amends Article 43A of the Sex Discrimination (Northern Ireland) Order 1976 to exclude candidate selection from the Order and permit arrangements to address inequality in the numbers of women and men elected.

Section Discrimination (Election Candidates) Act 2002

An Act to exclude from the operation of the Sex Discrimination Act 1975 and the Sex Discrimination (NI) Order 1976 certain matters relating to the selection of candidates by political parties,

2. Exclusion of candidate selection from 1976 Order

At the beginning of Part 6 of the Sex discrimination (Northern Ireland) Order 1976 (S.I. 1976/1042 (N.I.15)) insert –

"43A Selection of election candidates

(1) Nothing in Parts 3 to 5 shall –

(a) be construed as affecting arrangements to which this Article applies, or

(b) render unlawful anything done in accordance with such arrangements.

(2) This Article applies to arrangements made by a registered political party which –

(a) regulate the selection of the party's candidates in a relevant election, and

(b) are adopted for the purpose of reducing inequality in the numbers of men and women elected as candidates of the party, to be members of the body concerned.

(3) The following elections are relevant elections for the purposes of this Article -

(a) parliamentary elections;

(b) elections to the European Parliament;

(c) elections to the Northern Ireland Assembly;

(d) elections to a district council.

(4) In this Article "registered political party" means a party registered in the Northern Ireland register under Part 2 of the Political Parties, Elections and Referendums Act 2000 (c.41)."

Dawn Purvis Amendments

Amendments proposed by Dawn Purvis

Clause 1, page 1, line 2

Leave out clause 1 and insert-

'1.-(1) A person shall be disqualified from being a councillor if that person is a member of the Northern Ireland Assembly.'

Note: this approach means a person would be disqualified from "being" a councillor but not from "being elected" a councillor, so that person can be elected first and then disqualified and thus allow the replacement of that person by the nominating officer of the relevant party.

As drafted it is anticipated that the disqualification would occur from the moment the person "comes into office" as a councillor, which, under electoral law, is on the fourth day after the election day as set out below.

Section 11 of the Electoral Law Act (Northern Ireland) 1962:

(1A) The election day referred to in subsection (1) is the first Thursday in May.

(2) The members of a district council—

(a) shall be elected in every local election year;

(b) shall come into office on the fourth day after the election day;

(c) shall retire together on the fourth day after the election day in the next succeeding local election year.

A number of consequential amendments would be necessary should the above amendment be made:

Clause 3, page 1, line 11

Leave out-

'(Amendment)'

Long Title, page 1

Leave out-

'Amend the Local Government Act (Northern Ireland) 1972 to'

Long Title, page 1

Leave out-

'being elected, or being,' and insert 'being'

Dawn Purvis reply on Local Government (Disqualification) (Amendment) Bill

Memorandum

27 May 2010

To: Dr Alex McGarel, Assembly Clerk, Environment Committee
Fr: Dawn Purvis MLA
Re: Clarifications to Local Government (Disqualification) (Amendments) Act

Further to the 20 May 2010 meeting with the Environment Committee on my Private Member's Bill, the Local Government (Disqualification) (Amendments) Act, this memo offers clarification on several issues outstanding from that session.

The sections in bold are taken from your email outlining these issues.

1. Members noted that if an election took place for both the Assembly and Council, the MLA results would be announced first. Members were concerned that if this meant that those succeeding as MLAs were disqualified from taking up a Council post, the Council post would not be filled. So, in effect, it would be a vacant seat rather than a party seat, which is what the co-option process allows for.

To address this issue, I would propose to modify the bill to remove language in Clause One which prohibits members of the Assembly from being elected to district local councils. The language instead would only prohibit an Assembly member from being a local councillor. A proposed draft is included with this memo.

This would provide for an individual to be duly elected to both bodies, and then resign from one or be automatically disqualified from the council.

Under The Electoral Law Act (Northern Ireland) 1962, elected members of local district councils come into office on the fourth day after the election day, which is the same day previous councilors retire (s. 11(1A)). Previous council members are deemed to be unelected on the same day. (See excerpts below for exact language.)

It would be at this point that any newly elected councillor who is also a sitting member of the Assembly is disqualified as a councillor. This ensures the co-option legislation is triggered and also provides for a transition period of four days, which was also a concern for some Committee members.

2. The Committee wanted confirmation that in case of a casual vacancy, the system for independent candidates would be the same as the system used in the Assembly, with the candidate providing a list of substitutes. The Committee also seeks to confirm who would hold the list and would it be publicly available? The point being that the system would only work if the public knew who would be substituting their chosen candidate if that candidate were disqualified.

Full details of the new arrangements for local councils can be found in Filling Casual Vacancies on District Councils, Guidance on the New Procedure (April 2010), which is available on the Northern Ireland Office website (http://www.nio.gov.uk/filling_casual_vacancies_on_district_councils.pdf).

Under this new legislation, independent candidates are required to submit a list of six (6) potential substitutes to the Chief Electoral Officer (CEO), but only at the point of election. It is not submitted prior to election and therefore would not be publicly available during the campaign.

In the case of political parties, there is no requirement for a list to be submitted in advance at all. Under the new system, replacements for Council members elected as political party representatives are selected by the party's nominating officer whenever a vacancy occurs, and may be chosen on an ad hoc basis as there is no requirement that they are selected from a pre-determined list.

Therefore, the new legislation does not appear to require parties to have a list of potential substitutes registered with the CEO and publicly available, but only to produce a substitute at the point of vacancy. Only independents are required to submit a list to the CEO when they are elected.

Those members of the Committee who suggested that a publicly available list of potential substitutes offers voters a higher degree of transparency make a valuable point. But their concerns relate to the new co-option legislation, and not to the Local Government (Amendment) (Disqualification) Bill.

Additionally, political parties may consider whether they want to commit well in advance of a potential vacancy who will fill that seat. Certainly in most situations they would prefer to allow their internal selection processes to run, and take into consideration location, local politics and issues, outreach to under-represented groups, etc., on a case-by-case basis.

As regards larger numbers of co-options from local and Assembly elections being held on the same day, parties will have to prepare in advance for such a possibility. Outreach and recruitment of new candidates should be part of a political party's regular functions.

3. Members were also worried that for Councils to provide for co-options requires an AGM and it would be a matter of weeks before this would take place.

It appears that under the new legislation an AGM is not necessary, because there is no longer a requirement for the Council to attempt to fill the seat by agreement.

The process to fill a casual vacancy is now triggered when the clerk of the council notifies the Chief Electoral Officer (CEO) that a vacancy has occurred. The clerk of the council must inform the CEO of the vacancy "as soon as practicable". The clerk must also inform the CEO of any other matter concerning a casual vacancy within 7 days of the matter coming to the clerk's knowledge, so there appears to be a de facto time limit.

At this point, the CEO must determine the status of the departed member at the time of his/her election (i.e., with a political party, with more than one party, or as an independent). If the individual was elected in the name of a registered party, the CEO asks the nominating officer of the party to nominate a person to fill the vacancy; he/she must respond in writing within 28 days from the CEO's request.

If no nomination is made or if the requirements for the co-option process are not met, a by-election is held.

If the individual was elected as an independent, the CEO will contact the first choice on the list of six substitutes provided by the member at the point of his/her election. The substitute has 14 days to respond. If he/she declines, does not respond or is deemed disqualified by other means, the CEO moves down the list until an appropriate individual is found. If these efforts are unsuccessful, a by-election is held.

Relevant excerpts from the Electoral Law Act (Northern Ireland) 1962

Section 11:

(1A) The election day referred to in subsection (1) is the first Thursday in May.

(2) The members of a district council—

(a) shall be elected in every local election year;

(b) shall come into office on the fourth day after the election day;

(c) shall retire together on the fourth day after the election day in the next succeeding local election year.

(4) A vacancy (in this Act referred to as a casual vacancy) caused in a district council—

(a) by the death or resignation or disqualification (whether by virtue of this Act or otherwise) of a member; or

(b) by the non-acceptance of office by a person elected or declared to have been elected a member or by his office becoming vacant under section 7(2) of the Local Government Act (Northern Ireland) 1972 or being declared vacant under section 10 of that Act by reason of his failure to attend meetings of the council; or

(c) by the determination by an election court that a person's election as a member was void, where no other person is declared elected in his stead;

NIO Paper



Northern
Ireland
Office

FILLING CASUAL
VACANCIES ON
DISTRICT COUNCILS

*Guidance on the New
Procedure*

April 2010

**Filling Casual Vacancies on District Councils – Guidance on the New
Procedure**

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A. INTRODUCTION

The way in which casual vacancies on district councils in Northern Ireland are filled has changed¹. From 1 April 2010, any vacancy arising during the council term will be filled by party nomination or substitution.

It is important that everyone involved in this process understands the new procedure. This guidance has been produced by the NIO, in conjunction with the Chief Electoral Officer, to assist clerks of the councils, councillors and anyone else who may be involved or interested. **This guidance is of immediate relevance: some actions are required to be taken prior to a casual vacancy arising.**

This document provides guidance on the new procedures. It is not intended to be a statement of the law and should be read in conjunction with the appropriate legislation².

This guidance is available on the NIO's website: <http://www.nio.gov.uk>

The legislation is available from TSO and may be downloaded from: <http://www.opsi.gov.uk>

You may make additional copies of this document without seeking permission. It can be made available on request in different formats for individuals with particular needs. For further information or additional copies, please contact:

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Northern Ireland Office
1st Floor
11 Millbank
London, SW1P 4PN

Email: ElectionsUnit@nio.x.gsi.gov.uk
Telephone: 0207 210 6569
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¹ The Electoral Law Act (Northern Ireland) 1962 (Amendment) Order 2010 (2010 No. 1178).

² 1962 c. 14 and 2010 No. 1178.

C. THE NEW PROCEDURE

Stage 1: Casual vacancy arises on a council

As soon as practicable after a casual vacancy arises⁷, the **clerk of the council** must notify the Chief Electoral Officer:

- ✓ That the vacancy has arisen; and of
- ✓ The previous member's name (s.11(4AB))⁸.
- ✓ If applicable, the clerk must also inform the Chief Electoral Officer that the previous member was a co-opted member (s.11H(7)).

In addition, the **clerk of the council** must tell the Chief Electoral Officer of any other matter concerning a casual vacancy within 7 days of the matter coming to the clerk's knowledge (s.11(4AC)).

On receipt of the notice of the casual vacancy from the clerk of the council, the **Chief Electoral Officer** must determine the status⁹ of the previous member at the time of that member's election. The Chief Electoral Officer does this by **reference to the statement of persons nominated published at the last election to that seat**¹⁰.

⁷ For a definition of "casual vacancy", see s.11(4) of the 1962 Act.

⁸ Legislative references are to the 1962 Act, as amended by the 2010 Order, unless otherwise specified.

⁹ That is, whether the member had stood in the name of a political party or parties when elected or as an Independent.

¹⁰ If the previous member was a nominee or substitute, the Chief Electoral Officer still refers to the statement published at the last election to that seat (s.11B).

**Stage 1.1: Previous member elected in the name of a registered party
(section 11E)**

If the **Chief Electoral Officer** receives notice of a casual vacancy and determines that the previous member stood in the name of a registered party when elected, the Chief Electoral Officer will ask the **nominating officer** of that party to nominate a person¹¹ to fill the vacancy.

The **nominating officer** must respond in writing within 28 days from the date of the Chief Electoral Officer's request¹². The nomination must contain the information specified in section 11E(3) and the person nominated must be qualified to fill the vacant seat¹³. The **nominating officer** must also ensure that the person nominated has made and served the declaration against terrorism¹⁴ on the clerk of the council before sending the nomination to the Chief Electoral Officer.

The nomination must be accompanied by a declaration that is signed and dated by the **person nominated** and contains the information set out in section 11E(4).

Where the **nominating officer** responds in accordance with the requirements of section 11E(2)-(4), and the **clerk of the council** has confirmed receipt of the declaration against terrorism, the **Chief Electoral Officer** will declare the person nominated returned to fill the vacant seat. The **Chief Electoral Officer** will also notify the clerk of the council of the name of the person nominated (and declared returned).

If no nomination is made by the **nominating officer**, or if the information does not meet the specified requirements, the **Chief Electoral Officer** will be unable to declare the vacant seat to be filled. A by-election will normally then be held.

¹¹ Referred to throughout this guidance as "the person nominated".

¹² This means that the Chief Electoral Officer must have received the response on or before the 28th day after the date of the request (for the purposes of the 2010 Order, time is interpreted in accordance with s.39 of the *Interpretation Act (Northern Ireland) 1954* (c.33)).

¹³ The criteria for qualification to be a councillor in Northern Ireland are set out in s.3 and 4 of *The Local Government Act (Northern Ireland) 1972* (c.9).

¹⁴ As set out in Part 2 of Schedule 2 to the *Elected Authorities (Northern Ireland) Act 1989* (c.3) ("1989 Act"). Please note that the form used for the declaration against terrorism (as set out in the 1989 Act) has been amended slightly by the 2010 Order (see article 5(9) of the 2010 Order). An amended version of the form is included at Annex B.

Stage 1.2: Previous member elected as an independent (section 11D)

Members elected as **independents** may submit a list of up to six substitutes, in rank order, to the Chief Electoral Officer after election which will then be used to fill their seat in the event that it becomes vacant during term.

If a casual vacancy arises and the previous member provided a list of substitutes, the **Chief Electoral Officer** must take reasonable steps to contact the first choice on the list requesting confirmation that they are prepared to fill the vacancy.

The **substitute** must respond within 14 days from the date of the Chief Electoral Officer's request (s.11D(3))¹⁵. The response must be in writing and include the information required by section 11D(4). If the **substitute** is prepared to fill the vacancy, they must make and serve on the clerk of the council a declaration against terrorism¹⁶. The **substitute** must do this before or at the same time that they respond to the Chief Electoral Officer.

Where the **substitute** responds in accordance with the requirements in section 11D(3) and (4), and the **clerk of the council** has confirmed that the declaration against terrorism has been served, the **Chief Electoral Officer** will declare the substitute returned to fill the vacant seat and notify the clerk of the council of the substitute's name.

The **Chief Electoral Officer** will repeat the above procedure for the second choice in the list if:

- The Chief Electoral Officer, despite taking reasonable steps, is unable to contact the substitute; or
- The substitute does not respond within 14 days with the required information; or
- The substitute states that they are not prepared to fill the vacancy.

¹⁵ This means the Chief Electoral Officer must receive the substitute's response on or before the 14th day after the date of the Chief Electoral Officer's request.

¹⁶ As set out in Part 2 of Schedule 2 to the *Elected Authorities (Northern Ireland) Act 1989* (c.3) and amended by the 2010 Order (see Annex B).

The **Chief Electoral Officer** will continue to repeat the process until a substitute has been returned to fill the vacant seat or the previous member's list of substitutes has been exhausted.

If the list is exhausted and no substitute has been declared returned to fill the vacant seat a by-election will normally be held. **A by-election will also normally be held if the Chief Electoral Officer determines that the previous member stood as an independent when elected and that member did not provide the Chief Electoral Officer with a list of substitutes.**