Northern Ireland
Assembly

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Hon. Matthew Swinbourn MLC,
c/o Maddison Evans, Committee Clerk
Standing Committee on Environment and Public Affairs
Legislative Council Committee Office
Parliament House
4 Harvest Terrace
West Perth, WA 6005

10 January 2020

Dear Chairman

Inquiry into the functions, process and procedures of the Standing Committee on Environment and Public Affairs

Thank you for your letter inviting the Northern Ireland Assembly to provide a submission to your Committee's inquiry.

Our attached response focuses on the history and operation of the petitions process. I trust you find the information useful to your inquiry and if you require anything further please do not hesitate to get in touch.

Yours sincerely

LESLEY HOGG
Clerk to the Assembly/Chief Executive

The Northern Ireland Assembly written submission to Inquiry into the functions, processes and procedures of the Standing Committee on Environment and Public Affairs

<u>Northern Ireland Assembly</u>

1. The Northern Ireland Assembly (the Assembly) is the devolved legislature of Northern Ireland. It was established by the Northern Ireland Act 1998, and is responsible for making laws on transferred matters and for scrutinising the work of Ministers and government departments.

2. The Assembly consists of 90 Members of the Legislative Assembly (MLAs). Its legislative powers include health and social services; education; employment and skills; agriculture and the environment; social security; housing; economic development; local government; transport; culture and sport; and from 2012 justice and policing. Some matters, however, remain the responsibility of Her Majesty's government and Westminster. These are known as 'excepted matters' defined in Schedule 2 and 'reserved matters' defined in Schedule 3 of the Northern Ireland Act 1998.

3. There are two types of committees in the Assembly: statutory and standing. For each of the nine government departments, statutory committees can initiate legislation, call for persons and papers, conduct inquiries and scrutinise and advise Ministers on policies, budgets and annual plans. Standing committees are permanent committees of the Assembly and consider, among other things, the business in plenary and the operation of the Assembly.

4. Standing Orders detail the procedures which regulate the way the Assembly carries out its business. They cover a range of issues, from detailing the times the Assembly sits to the rules concerning the establishment of the Assembly.

5. Standing Order 22 relates to public petitions.

<u>Standing Order 22: Public Petitions</u>

6. The only mechanism in the Assembly for public petitions provides for the presentation in the Assembly Chamber (during plenary proceedings) of written petitions. Common practice is that an MLA sponsors the petition and subsequently presents it in the Assembly Chamber, thereby raising the profile of a particular matter. Standing Order 22 governs the presentation of public petitions to the Assembly. It states that:

    (1) Every member offering to present a petition to the Assembly, shall confine himself or herself to a statement of the parties from whom it comes, the number of signatures attached to it and the material allegations contained in it, and to reading the prayer of such petition.

(2) Every petition presented under this order, not containing matter in breach of the privileges of the Assembly, shall be notified to the Clerk of the Business Committee, and that committee shall consider whether and when it shall be taken in the Assembly.

(3) A petition shall relate to matters that are within the legislative competence of the Assembly.

7. The admissibility criteria is that:

   - The petition must relate to matters within the legislative competence of the Assembly; and
   - The petition must not contain matters in breach of the privileges of the Assembly.

8. Public petitions can also be received directly by the Business Office via post or by hand, however this is not usual.

Processing a Public Petition

9. An MLA wishing to present a petition must notify the Clerk to the Business Committee. If the petition meets the admissibility criteria the Clerk will refer it to the Business Committee[1], which will decide on the petition's scheduling in plenary. The petition's title must be provided to the Clerk for the purposes of the Order Paper and the petition itself should state clearly the matter to which it relates and the action it is calling for.

10. Standing Order 22 limits the sponsoring MLA to: naming the source of the petition; the number of signatories; what the petition is about; and a rehearsal of the narrative of the petition. This should take no more than three minutes after which the MLA will walk to the Speaker's Table and hand the petition to the Speaker. The Speaker then announces that he/she will forward the petition to the relevant Minister and send a copy to the Chairperson of the relevant Statutory Committee. Ministers to whom petitions fall frequently choose to be present in the Chamber when they are presented but there is no opportunity for the sponsoring MLA or the receiving Minister to speak about the petition after its presentation.

11. Once the public petition has been presented in plenary, the Speaker's Office will forward it to the relevant Minister and Committee Chairperson.

Ministerial response to the petition

12. The Minister will determine the response to the petition, by either:
    i. A letter to the Speaker who will forward this to the MLA/Committee Chair and place a copy in the Assembly library;

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[1] The Business Committee makes arrangements for the business of the Assembly, determines dates for recess and performs such duties as the Speaker may request or the Assembly determines

ii. A Ministerial Statement, notice of which should be provided to the Speaker in accordance with Standing Orders 18, 18A and 18B[2];

iii. An announcement, for example through an answer to a supplementary question or in the course of a Ministerial response during another debate.

13. In any case, the Speaker must be notified how the Minister has opted to respond. In the case of (ii) and (iii) above, the Speaker will arrange that the MLA who presented the petition will be in their place in the Chamber when the Minister responds.

14. There is no requirement on a statutory or standing committee to undertake an inquiry into a public petition. However, as committees have the power to initiate inquiries and make reports, one could initiate an inquiry on a topic that is subject to a public petition. There are no Standing Orders to govern the process for conducting an inquiry. However, it is recommended that the Committee consider the following issues when agreeing to undertake an inquiry:

- Terms of reference;
- Duration of the inquiry;
- Programme of work;
    i. Who should be invited to submit written and oral evidence;
    ii. Appointment of a specialist adviser (if appropriate); and
    iii. Possible fact-finding visits and research.

As part of the inquiry process, the Committee may also identify key issues and consider a draft report and possible recommendations.

Measuring the Impact of Petitions

15. The following table outlines the number of public petitions tabled in the Assembly:

Table1: Number of Petitions tabled to the Northern Ireland Assembly

Mandate	Number of Petitions
1st Mandate (1998 – 2003)	3
2nd Mandate (2006-2007)	0[3]
3rd Mandate (2007-2011)	7
11 – 16 Mandate (2011-2016)	60
16-21 Mandate (2016 – 2017)	9
2017-22 (2017 – present)	0[4]

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[2] Standing Orders relating to Ministerial Statements (including written and oral statements)

[3] Known as the Transitional Assembly, its purpose was to take the necessary steps for devolution to happen following the St. Andrews Agreement on 13th October 2006. Devolution was restored on 8th May 2007.

[4] Northern Ireland has been without a Northern Ireland Executive (devolved Government) since the Assembly was dissolved in January 2017, following the resignation of the deputy First Minister after political disagreement. A snap election on 2nd March 2017 followed and 90 MLAs were returned who took their seats on 13th March 2017. A First Minister and deputy First Minister have still to be appointed and an Executive has still to be formed.

16. In the absence of any formal mechanism to measure the impact that public petitions has on public policy, the Committee on Procedures (as part of a review into public petitions) considered department responses to written questions tabled by an MLA (in 2014) to ascertain departmental actions following each public petition that had been presented to the Assembly. Responses showed that, despite the lack of a formal process, considerable work had been done by departments. This included meeting with groups, commissioning further research and reflecting the views of petitioners into the policy consultation process.

17. In September 2014, Research and Information Services published a paper summarising existing research into whether legislative petitions have any impact. It highlighted the following key points[5]:

- **Link between Parliament and Citizen**: with systems and structures of modern government becoming increasingly complex, petitions systems can help ordinary citizens navigate and engage with government and government agencies. Petitions systems provide a recognised process which link citizen and state;

- **Inform policy development and executive scrutiny**: petitions systems can provide those who are affected by a particular policy with the opportunity to make their views known on the operation and impact of that policy…. Petitions often form part of a broader attempt by individual groups within a community to draw public attention to a particular grievance… One of the recognised objectives of electronic petitioning is to bring together remote individuals and communities with common interests…. even in circumstances where the petition was unlikely to be acted upon, petitioners felt better knowing that a group of parliamentarians had taken the time to consider the issue; and

- **Effect policy change**: petitions can contribute to the creation of a climate of opinion that influence policy formulation and in some cases petitions can ultimately lead directly to a change in government policy… so long as the process itself is considered fair. It is not necessary for all petitions to be successful for a petitions system as a whole to be considered effective. However, for a petitions system to be considered truly effective, it must be able to demonstrate that some petitions actually achieve their intended objective. Few petitions systems demonstrably enable citizens to influence the outcome of parliamentary debate and / or affect policy development.

Review of the Public Petitions Process

18. The Committee on Procedures (the Committee) is a Standing Committee of the Assembly. It considers and reviews on an ongoing basis the Standing Orders and procedures of the Assembly.

19. In September 2014, the Committee agreed to conduct an inquiry to consider the Assembly procedures and processes relating to public petitions. This included:

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[5] RaISe E-petitions Sept 14 *http://www.niassembly.gov.uk/globalassets/documents/procedures-2011-2016/inquiries/public-petitions-procedures/research-paper-on-e-petitions-16sep14.pdf* summarising from Richard Hough, 'Do Legislative Petitions Systems Enhance the Relationship between parliament and Citizen?', Journal of Legislative Studies, September-December 2012, pp479-495

- Examining examples of petitions previously presented to the Assembly and determining any measurable outcomes;
- Consulting with stakeholders and obtaining views on a public petitions process including e-petitions;
- Carrying out research to examine learning and examples of best practice from other legislatures;
- Considering options for enhancement of public petitions procedures; and
- Making recommendations for Standing Orders to reflect the Committee's findings.

20. During the inquiry, the Committee received submissions from a number of stakeholders. Feedback on the existing public petitions mechanism included that: there was no formal feedback mechanism or clarity of how submissions are utilised within the legislative process, further widening the gap between Government and communities[6]; that it is a limited system for obtaining Assembly consideration and impacting on policy, that is not widely known and its only value may be raising awareness through the presentation[7]; that e-petitions would be a "valuable mechanism of enhancing the Assembly's public engagement, providing additional opportunities for people to influence the debate and express their views on issues that matter to them"[8]; that e-petitions should enhance the Assembly's public engagement by providing additional opportunities for people to engage in political debate, and not to remove or replace existing mechanisms which would be regressive and risk disenfranchising those who cannot engage in that way[9].

21. The Committee concluded that the existing public petitions process (Standing Order 22) remained fit for purpose and recommended that it should be retained, albeit it recognised that little formal feedback to the petitioner was built into the process.

22. The Committee also concluded that the existing public petitions process should be enhanced by the inclusion of an e-petitions facility to permit submission of petitions without requiring sponsorship from a political party. To date, the Assembly is the only devolved legislature in the UK and Ireland that does not currently have an e-petitions mechanism.

Proposals for E-petitions

23. After agreeing to recommend the introduction of an e-petitions system, the Committee then considered and agreed admissibility criteria against which each e-petition would be assessed. They are:

- The e-petition must include the name, address and email address of the petitioner;

[6] Fermanagh Trust http://www.niassembly.gov.uk/globalassets/documents/procedures-2011-2016/inquiries/public-petitions-procedures/4.-fermanagh-trust.pdf

[7] Professor Derek Birrell, University of Ulster http://www.niassembly.gov.uk/globalassets/documents/procedures-2011-2016/inquiries/public-petitions-procedures/6.-professor-derek-birrell---university-of-ulster.pdf

[8] Several responders http://www.niassembly.gov.uk/assembly-business/committees/2011-2016/standards-and-privileges-committee/inquiries/review-of-the-public-petition-procedures/written-submissions/

[9] Mairead McMahon, Make it Happen campaign http://www.niassembly.gov.uk/globalassets/documents/procedures-2011-2016/inquiries/public-petitions-procedures/5.-mairaid-mcmahon---make-it-happen-campaign.pdf

- The petitioner must be 18 years of age or older and must be on the Northern Ireland Electoral Register;
- The petitioner must not be an MLA;
- The e-petition must state clearly what the petitioner wants;
- It must contain a summary of the action taken by the petitioner to date;
- It must relate to a matter within the powers of the Assembly to act on;
- It must comply with Standing Orders and be in the proper form;
- It must not seek to overturn the decision of another public body;
- It must not relate to a matter which is under consideration by, or has been the subject of, a decision by another regulatory public body (e.g. a subject committee or ombudsman);
- It must not seek resolution of personal or commercial disputes;
- It must not contain confidential, libellous or defamatory statements;
- It must not be vexatious or malicious;
- It must use temperate and respectful language;
- It must be in English or, if not, it must be accompanied by a translation certified by an MLA;
- It must not contain the names of individuals;
- It must not be the same, or substantially the same, as another e-petition closed within the lifetime of that Assembly; and
- There should be no limit to the number of e-petitions any one person can have open at a time, but they must be on different topics and comply with the admissibility criteria.

24. The Committee recommended that a threshold of 100 signatures be required before any admissible e-petition is taken forward for action by the Assembly. The maximum time an admissible e-petition would remain on the website in order to try to gather the required threshold number of signatures is one year, or until the end of the current mandate, whichever was sooner.

25. The Committee also outlined an automated (as far as possible) process consisting of four distinct phases: initiation; detailed submission; publication/processing; and action (further detail at Annex A), and that Standing Orders should be amended to include an e-petitions mechanism with these four phases.

26. The Committee recommended an implementation date of no earlier than September 2016. The Northern Ireland Assembly debated and agreed the recommendations in the Committee inquiry report on 1st March 2016. That mandate ended on 29th March 2016 ahead of Assembly elections in May 2016.

Further review of the proposals for e-petitions

27. Following Assembly elections in May 2016, the new Committee on Procedures considered the inquiry report and agreed to ask officials to develop systems and processes for an e-petitions facility with the following exceptions, that:

- The threshold number of signatures increase to 1000; and
- An alternative mechanism for verifying the address of the petitioner, as the Northern Ireland Electoral Register could not be provided for these purposes.

28. A project group was then set up with officials from clerking, IT, communications and engagement in attendance. However, following political disagreement, the Assembly unexpectedly dissolved on 25 January 2017 and to date has not been fully reconstituted. Therefore, it will be for a future Committee on Procedures and Northern Ireland Assembly to consider the introduction of an e-petitions system and any admissibility criteria. It remains on the Northern Ireland Assembly's draft Corporate Plan for 2019-2023, as part of its work on developing new approaches to engagement, which enable the public to interact with the work of the Assembly. However, political direction is required before e-petitions can be taken forward.

Conclusion

29. A review by the Committee on Procedures in 2014 found that the current existing public petitions process, of a sponsoring MLA presenting a public petition received in hard copy and presenting it formally to the Speaker in the Assembly Chamber, was fit for purpose. However, it believed the process could be enhanced further with a mechanism for citizens to submit e-petitions. Before this could be introduced, the Northern Ireland Assembly dissolved. However, officials fully expect that a future Assembly will wish to introduce e-petitions, to provide an alternative mechanism for political participation among citizens to highlight issues that might otherwise be neglected, reflecting modern consumer behaviour towards digital communication methods.

PHASE ONE - INITIATION [Part Automated]

START of phase
- ○ Petitioner submits initial request for e-petition on appropriate web form;
- ○ Email generated automatically to request validation of email address;
- ○ Validation received from Petitioner
- ○ Email generated automatically to Petitioner and Business Office acknowledging receipt;
- ○ Business Office considers subject and if it is within competence of the Assembly;

If Yes:
- ○ Business Office contacts Petitioner asking for completion of full submission form;

If No:
- ○ Business Office advises Petitioner giving reason and offering options for successful submission.

END of phase

PHASE TWO - DETAILED SUBMISSION [Part Automated]

START of phase
- ○ Petitioner submits completed detailed submission form through website;
- ○ Email generated automatically to Petitioner and Business Office acknowledging receipt;
- ○ Business Office considers detailed form against full list of Admissibility Criteria;

If admissible:
- ○ Business Office notifies Petitioner and advises of next steps;
- ○ E-Petition is published on the website;
- ○ Email/Twitter feed notified that a new Public Petition has been published on the website

If NOT admissible:
- ○ Business Office notifies Petitioner giving reasons.   **END of phase**

PHASE THREE – PUBLICATION/PROCESSING [Automated]

START of phase
- ○ E-Petition is published on website for a maximum of one year or end of mandate whichever is sooner;
- ○ Automatic notification that new e-petition has been published is issued via social media;
- ○ All new signatories to the e-petition are automatically requested to validate their signature;
- ○ Once validated, signatures are automatically acknowledged;
- ○ A counter on the e-petition page reports in real time how many signatures exist for each live petition;
- ○ System automatically checks number of signatures against the threshold;
- ○ One month before the cut-off date for the e-petition, the system automatically notifies Petitioner and signatories of time remaining.

If threshold is reached:
- ○ Petitioner and signatories automatically notified;
- ○ Business Office is notified automatically and phase four actioned;

If threshold is NOT reached:
- ○ Petitioner is automatically notified with reasons;
- ○ E-Petition is removed from website.   **END of phase**

PHASE FOUR - ACTION [Not Automated]

- ○ Business Office identifies which subject committee remit it falls within;
- ○ If cross cutting – Business Office liaises with appropriate committees to decide which will take lead;

○ Business Office formally notifies Speaker, appropriate Minister and the appropriate committee of the e-petition and requests the committee to action as it deems appropriate;
○ Business Office notifies Petitioner of action taken.

NB Actions taken at committee remain at the discretion of the committee itself and can include:
No further action; immediate referral to a department; inclusion in evidence of an existing inquiry; undertaking a specific inquiry followed by a report and scheduling of plenary time for debate.