

Ms Breda Burke  
Clerk,  
Sub-Committee on Dáil Reform,  
Dáil Éireann,  
Dublin 2.

16 March 2016

Dear Ms Burke,

I write to you to confirm my appointment as nominee to the sub-committee on Dail Reform and to confirm the appointment of our substitute nominee, Brendan Ryan T.D..

I also set out below my Party's opening submission to the sub-committee.

I should say at the outset that I and my party welcome the establishment this Committee, which reflects the proposal contained in the Labour Party manifesto from the recent General Election.

We are strongly of the view that, while the issue of Dáil reform is an important one, the first constitutional duty of the House is to elect a government.

I do not believe that the Dáil can properly perform its function of holding Government to account unless and until there is a new Government in place that can be held to account in a meaningful way. The interim administration has no mandate to seek Dáil sanction for revenue or expenditure or to place a legislative programme before the Dáil. It is operating on a care and maintenance basis. This state of affairs cannot continue for any extended period of time.

So, while the issue of Dáil reform is an important one, it should not be used as a tactic to delay the necessary process of inter-party negotiation and compromise that must lead Government formation, sooner rather than later.

Nonetheless, we do believe that the public now requires us to re-order the Dáil in a manner that more accurately reflects the real needs of a modern Ireland. While work towards formation of a stable Government must continue – and must be afforded priority – the establishment of this sub-committee follows from a clear consensus that we must make reform become a reality.

### *Standing Orders*

The work programme for this sub-committee is an extensive one. While there are clear priorities, I believe that Dáil procedures need root and branch examination under a comprehensive and sustained programme of reform. What I suggest is not more incremental reform to Dáil standing orders but a fundamental redrafting. The re-drafters would examine the various unwritten rules and practices, discard those that no longer serve a useful purpose and reduce the rest to writing.

They would pay particular attention to those core aspects of the parliamentary function – in particular the function of oversight of Government – for which at present there isn't any adequate provision in the rules and they would draw up statements of principle defining the nature of the relationship between Government and the Oireachtas, and the obligations flowing from that, to be set out in the new code.

Matters to be covered would include:

- The responsibility of the Ceann Comhairle to impartially ensure that the interests of members and the public interest are fully protected
- The obligation on ministers to ensure that questions are answered properly and fully (including an obligation to provide redress and correction if the House is misled), and rules covering the standard of replies
- Rules covering the passage of legislation to ensure that all matters covered by bills are adequately debated
- Changes to the rules of debate, to allow far more interchange between members, and to make it obligatory on members, including ministers, to yield to reasonable interventions and questions.

The Houses of the Oireachtas need to be able to scrutinise legislation, pass the Government programme and hold the Executive to account.

It is clear that further reform is needed to guarantee all three functions can be performed effectively.

Part of this work would be finding ways to strengthen the ability of the Ceann Comhairle to impartially protect the interests of members and the public interest; to put a stronger obligation on Ministers to answer questions properly and fully (including an obligation to provide redress and correction if the House is misled) plus rules covering the standard of replies, and to ensure more consistently adequate time for debate in the passage of legislation.

### *Dáil Business*

While the Dáil and its members need a daily opportunity, in the public interest, to raise matters of current interest or controversy with the Taoiseach and Ministers, it does not need to order its business on a daily basis in the present way.

Ministers should be in attendance at the Order of Business, and respond to any questions raised by members of the Dáil in relation to policy that falls within their remit.

Questions relating to the scheduling of legislation should be directed to the Chief Whip rather than the Taoiseach.

At present, Ministers answering questions spend much of their time physically facing away from those they are being questioned by. We believe there should be an examination of the feasibility of arranging the Dáil in a manner similar to the Seanad, allowing a more genuine engagement between Ministers and Deputies.

More Dáil time should be routinely available for debating procedural and business motions without eating into time allocated to debating the business of the nation rather than the internal running of the House.

Committee chairs in the next Dáil will be allocated between parties and groups according to the d'Hondt system. We believe these office holders should be required to make declarations of impartiality and independence. We also support membership of committees being determined using a transparent process supervised by the independent Ceann Comhairle.

This Dáil should also examine the merits of dedicating one week out of every four primarily to the work of the committees – during this week, Leaders' Questions, Question Time and Topical Issue Debates will take place, but other Dáil business will generally be suspended to allow for a focus on committee work. Committees could still meet as required in plenary weeks, but the aim would be to concentrate as much business as possible in the committee week.

We also propose for the introduction of a written parliamentary question system for statutory bodies – the HSE, CIE, the ESB, the VHI, and so on. Each body's CEO would be required to reply to a question within a specified time limit, to be published in official Dáil record. In addition, CEOs would be required to attend before Oireachtas committees, to answer oral questions. Ministers will remain responsible for answering questions on public policy.

### *The Whip*

While there must be some form of parliamentary discipline and cohesion on the part of those who support the Government, the time has come for a rebalanced approach, which gives greater recognition to the standing of individual members rather than the interests of the party. We cannot bring this change about simply by changing any rules set out in the Constitution or in legislation or standing orders. The issue is one of attitude, across the parties. If our proposals are accepted and implemented then, under a reformed Dáil, with greater independence and greater power to hold the Government to account, TDs themselves will have greater standing and independence. Inevitably the parties will react to changed circumstances by moving towards a more relaxed, less whipped regime.

### *Oireachtas TV*

A dedicated Oireachtas TV channel should not be confined to broadcasting sessions in the House or in committee. There should be room for much more explanation, interpretation and analysis of, and debate about, the work going on, as with C-SPAN in the United States.

### *Parliamentary inquiries*

We in Labour believe that it must be a function of the Oireachtas to engage in scrutiny and oversight of the Government and the public service.

To assist Oireachtas inquiries, and to make them more efficient and effective, we propose legislation allowing for the appointment of a parliamentary inspector in times when such a post is deemed necessary. The investigator would provide a mechanism for the timely and cost-effective investigation of issues giving rise to significant public concern. The investigator would have power to inquire privately into matters of public interest and, so far as possible, establish the factual position. Where the investigator was unable to establish clear facts, the report would if necessary be followed by a formal parliamentary inquiry. In those situations, the evidence collected by the investigator would be available to the committee or

tribunal, thereby reducing time and cost. This would enable the inquiry to hit the ground running, starting work almost immediately.

### *Public Inquiries*

Commissions of investigation were designed to ensure the co-operation of witnesses, without extensive legal representation, through a ‘carrot and stick’ approach. The carrot element of the investigation is that it is held in private. The stick element was meant to be that, if the commission of investigation could make no progress, a full blown public inquiry could be held.

Commissions of investigation have worked very well in practice – there have been 12 of them to date. But the stick aspect means that setting up a tribunal of inquiry must continue to be a realistic possibility where no cooperation is being given to a private commission of investigation.

Tribunals of inquiry are unlikely ever again to be routinely employed but they do remain an essential reserve power. We propose legislating as recommended by the Law Reform Commission for a reformed tribunal process with targeted terms of reference, limited legal representation – and the ability to end it all if unforeseen or protracted problems arise.

Overall, we believe the reforms contained in the paper will be good for politicians and politics – and good for the people, whose business is the business of politics.

Yours sincerely,

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Brendan Howlin TD