

Oireachtas: Joint Committee on Public Petitions.

Submission to the review of the Terms of Reference of the JPCC.

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Preliminary remarks:

The introduction of the public petitions process into the Irish constitutional and institutional environment marked a substantial advance in the domain of the rights of the citizen. It created a framework which was designed to encourage citizens to step forward and take a more active role within the body politic in a way which established, not only a link, but a two-way process between the parliament and those it was elected to represent, in all their diversity.

The Standing Joint Committee on Public Petitions was appointed in order to provide a focal point for the petitions process, for the better administration and management of this process, and to provide a democratic and representative forum within which citizens have the opportunity to present their concerns. In so doing, it established an open and transparent mechanism for greater participatory democracy in Ireland, which in itself can contribute to the reinforcement of representative democracy.

In recognition of the fact that Ireland was not alone in this endeavour, and that Irish citizens are also citizens of the European Union, a specific provision was made which foresees engagement with the Petitions Committee of the European Parliament if it so wishes. Indeed, as a result of this provision, certain petitions have, over the years, been the subject of discussion in both institutions, where the subject matter was deemed to merit this course of action, and this has been to the benefit of petitioners.

Many, though not all, parliaments within the European Union, in addition to the European Parliament and the Oireachtas have established petitions committees – most notably the Scottish Parliament, the UK Parliament in Westminster, the Portuguese, Austrian, German, Luxembourg and Belgian parliaments. Each operates within its own historical and political parameters and have established their own rules of procedure and standing orders.

Since its establishment in 2012, the Petitions Committee of the Oireachtas has slightly modified its rules of procedure subsequent to internal reports and observations, notably in January 2016, when the then Chairman, Pádraig MacLochlainn TD, introduced the committee's proposals in order to make it more efficient and effective.

His report, and the most recent annual report during the last legislature, referenced the variety, complexity and diversity of topics which have been addressed by citizens and they implicitly demonstrate the usefulness to Irish citizens that the petitions process provides. However, even though the committee has quite clearly provided a voice for citizens which adds credibility to their successful claims, this observer considers that better use could be made of the potential of the committee to raise its legitimate profile a step further.

Background requirements:

This depends, in the first instance, on the members of the committee itself, who are responsible for the decisions which are taken and who provide the institution's public face of the petitions process. In order to do this to the best of their ability, as is the case for other standing committees, they require an efficient secretariat of committee clerks and assistants, preferably with some legal background and parliamentary experience, who should be able to conduct the preliminary investigations and assessments which are required for each petition and who ensure the efficient registration and administration of each petition, as well as organising the meetings of the committee and the liaison with petitioners and government departments, public offices and outside bodies and associations.¹

It also depends upon the existence of an electronic petitions platform which should be directly accessible to the public on the homepage of the Oireachtas web site, which is simple to use, visibly attractive and which contains important 'back office' functions ensuring a more efficient administration, verification and reporting function from the metadata. It should allow members of the committee direct access to the petition and all related documents and information, while providing public information on petitions received and the possibility of adding support to existing admissible petitions.²

Social media platforms, which function from the parliamentary communications department, are also of considerable importance for raising awareness of the activities of the petitions committee and its members, providing they are properly mediated, as they can multiply the dissemination of information effectively from committee meetings, often relayed by civil society platforms and petitioners' organising committees.

Because of the range of issues which the Petitions Committee is likely to confront during the period of its mandate, it is important that it has a clear and regular contact with other standing committees with their own expertise and legislative competence, both as a means to inform other committees of the concerns of Irish citizens and as a means of ensuring input from other committees into its own work and meetings when this may be useful to the petitioners.³ This could be particularly advantageous when reports are compiled and discussed in plenary session.

As regards its relations with the different Ombudsman Offices, the distinction in roles and responsibility must be made particularly clear to the public, bearing in mind that the Petitions Committee provides the various Ombudsmen/women with an important platform for the delivery of their reports, but it does not interfere nor have competence for the offices themselves. On the basis of the reports however, it may pick up on issues it feels are of a general political importance for the parliament.

¹ The Bundestag Petitions Committee has a secretariat of 80 staff; the House of Commons, under the authority of senior clerks some 15 researchers and assistants sustain the work of the committee.

² The petitions website of the House of Commons was developed by *unboxed.co* and it is very easy to use and access; the European Parliament also has a good web-portal for petitions which is being upgraded.

³ The European Parliament and some national parliaments may organise joint meetings with other committees on topics of major significance.

Important Observations:

The public should be informed and made aware of what powers the Petitions Committee has and what the limits are on its activity in terms that they can easily comprehend. This is important in order that unreasonable expectations are not raised in the eyes of the public, and they have a clear idea of the outcome of the process for them.

The credibility of the Committee and its work depends upon what the public sees as being simple, fair and transparent procedures, and clearly defined options, concerning the way in which individual petitions may be researched, investigated and concluded. This becomes particularly important when petitions which have been declared admissible do not obtain the considered support of the committee following their investigation; none the less so when they are supported, and key recommendations made to competent public and governmental authorities.

It is understood that the Petitions Committee has the broad authority to take any appropriate actions it deems suitable in response to a petition received. But the remedies it may propose are non-judicial remedies for the petitioner which, more often than not, will depend on the cooperation of all interested parties in finding an agreed solution. The petition will, in effect, be a catalyser which brings different parties together⁴. The Petitions Committee will be able to invite the petitioner, hear their case, - in the presence and with the response of public authorities if necessary, raise questions resulting from such deliberations and make constructive recommendations. It cannot and should not allocate blame.

Such work also fulfils the accountability function, and the scrutiny function of the parliament, and the petitions process can be in many cases a reality check on the application of the law.

Significantly, the petitions process is not an “adjudicating process”⁵ and investigations by the committee, on behalf of the petitioners, do not lead to prosecutions; they lead to clarifications and eventually to recommendations being made. This can be in the form of a letter from the committee to a responsible minister, or, on more significant cases, by a report and resolution on the floor of the House.

The courts exist, and due process is warranted, for any matters which require legal redress and compensation and petitions which stray into this area are to be considered inadmissible and petitioners informed accordingly.

All members should be aware of the sensitivity of many petitions and the need to treat all petitioners with equal respect in their public pronouncements as a result.

⁴ The rules of procedure indicate that before submitting a petition, the petitioner should have already tried to resolve the issue through other (unspecified) channels or complaints procedures. This observer believes that this should be subject to the discretion of the committee on issues which the committee deems to be of particular public significance, or the committee may be seen only as an citizens’ appeals body.

⁵ See: Judgement of the Supreme Court in Maguire v Ardagh (April 2002) and [Houses of the Oireachtas \(Compellability, Privileges and immunity of Witnesses\) Act 1997](#)

Final remarks & Recommendations:

The Chairman of the Public Petitions Committee has requested suggestions that may improve public engagement with the committee. For the public to make best use of the committee they have to be made aware of its importance to the Oireachtas itself, and of the fact that a petition can actually deliver tangible results. The more the Oireachtas – and indeed the Government, pay attention to petitions and their recommendations, the more citizens will take notice of them.

Members of the Oireachtas and past and new members of the Committee will have their own ideas built on their own experience. This paper is intended to complement those ideas by making a few suggestions based upon international comparison and perceived ‘best practice’. There appears to be a feeling that the committee has not fully lived up to the expectations placed upon it when it was launched in 2012. Indeed, creating such a committee from scratch was a difficult task but already lessons have been learned and some implemented. This is in the nature of things as the practice of petitioning evolves and procedures and presentational aspects must also evolve with it while remaining visibly fair and just and well-tuned in to the ambitions of the citizens and their parliament.

When reading the ‘Orders of Reference’ and the information contained in the online ‘Introduction to Petitions’ and ‘Frequently asked questions’, it is apparent that the main information is described in the negative, rather than as an encouragement to petition the parliament and why it is important to do so.

- Regarding the admissibility of petitions for example – paragraph 127, section 1) the title is “Admissibility of Petitions”, it then says a petition is admissible unless it-
- Under section 2, regarding a local or regional matter, or regulatory public bodies, the petitioner has to be exhausted before confiding his concerns to the parliament.....
- Refers already to issues which are under dispute.....
- Again, in the introduction to online petitions, under the admissibility criteria six of the eight bullet points are negative....in addition it says petitions must not contain the name or names of individuals, which is in itself confusing,⁶
- Regarding the addition of signatures of support, (in the FAQ) this is not possible after a petition has been tabled, which may destroy the dynamic of the process and prevent the parliament being aware of the feeling behind the subject which has been registered. There is no reference to this in the rules of procedure however, and so it is presumed that this is because the electronic platform is not programmed properly to allow the addition of signatures.
- The FAQ does not actually respond at all to what the Joint Committee may be petitioned about in spite of the ‘question’: it limits itself to a purely formal response in the negative, whereas it could suggest such matters as “environmental issues such as waste management, water supply and distribution, strategic planning decisions regarding a lack of environmental impact assessments, issues related to climate change and the COP agenda, potentially illegal infrastructure or road-building projects, agriculture, justice and home affairs, transport policy, social affairs and education etc....”

⁶ If there is an issue about potentially defamatory remarks this point is redundant but adds to the negativity in the description.

- One understands that the process is not complicated as long as the standard form is used, yet some petitions may be more complex and require the submission of detailed reports and statistics and these should be accommodated; therefore, what is important is not the form but the key aspects regarding the petitioner him/herself, name contact numbers and address etc and the pertinence of documents which they may wish to make available to the committee.
- Regarding 'What happens next' this should be addressed earlier so a petitioner knows what will happen to the petition – what he/she should expect from the process. It is not so inspiring to be told that, having gone to all the trouble, the petition may be referred to another committee for consideration and report back.
- Paragraph 128 regarding 'action in relation to petitions' remains very vague and does not give a clear idea of the options available, either to members or to potential petitioners, as well as being very limited in scope. It could for example indicate the following without radically changing the process:
 1. Once the petition is declared admissible it shall be analysed and investigated by the committee and the petitioner informed regarding what follow-up action is to be taken, this may include the following, depending on the subject raised by the petition and its complexity:
 - A The petitioner may be invited to present the petition during the course of a committee meeting, where other interested parties may also be present, and respond to members questions, the objective being to further inform members of the implications of the petition and to seek to identify solutions or non-judicial remedies.
 - B The petition may be forwarded to a standing committee with responsibilities for the subject of the petition, or a government department, for an opinion before further deliberation.
 - C The Committee may decide to seek authorisation to conduct a mission to the area concerned by the petition to meet with local people and civil society, local authorities, or other interested persons and report back to the committee with recommendations.
 - D The Committee, following its investigations, may decide to prepare a report accompanied by recommendations for debate in a plenary session of the Dail if this is considered appropriate.
 - E The Committee, following its investigations and inquiries may decide to make its own recommendations in Committee before deciding to close the petition.
 - F Where it appears that an Ombudsman or other regulatory public body is more competent or better suited to dealing with the issue the Committee may forward the petition to the body concerned, while informing the petitioner of its action, before closing the case.
 - G In the event that the subject of the petition has recently been debated or reported upon within the parliament, or when information which provides a reply may be readily available within the parliament, the petition may be closed under a written procedure, with the consent of the Committee, and the petitioner informed accordingly.

As regards inadmissible petitions, such as those which fall outside of the competence of the parliament or are clearly under the jurisdiction of the courts or administrative tribunals, the petitioner should be informed and appropriate justification given, because in any event, it will be a political decision, not a legal decision. It should not therefore be subject to appeal.

It is clear, as a result of some of the above remarks, that care will need to be taken in order to upgrade the electronic platform of the committee, at least so as to ensure the addition of signatures of support for admissible petitions, for a particular time period, such as six weeks or three months for example. It should contain a suitable and user-friendly search function in order to browse existing petitions or closed petitions. Also, it would be beneficial if all registered petitions and their status, whether admissible/inadmissible, closed or open for signatures, open for deliberation etc could also appear on the platform. This will require more extensive analysis by the developers once decisions have been made by the committee and the Oireachtas concerning the rules of procedure and other aspects of the revised petitions process.

Moreover, it should not be forgotten that the electronic platform is, in a manner of speaking, in competition with other on-line petition platforms which are very popular, and which use their user metadata for commercial purposes. This is clearly not the case for the Oireachtas web portal. The added value for the citizen lies in the fact that the Oireachtas petitions process guarantees them the consideration of their concerns by their own elected parliament and a reply for each case.

The work of the Petitions Committee clearly reinforces the already prominent role of TDs when they represent their constituency, by institutionalising in a positive sense the significance which the Irish parliament attaches to the concerns of all citizens and residents of the country. The Oireachtas and the political parties and members which are elected to it now have the opportunity to ensure that from a good start the petitions process is authorised to develop its capacity and its outreach to the people of Ireland from an even more effective, efficient and user-friendly method which ensures to the citizen due process and guarantees a basic fairness of procedures for all concerned.⁷ From this process of participatory democracy better representative democracy can flourish.

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⁷ Article 40 of the Irish Constitution.