

Address to Oireachtas Committee on Housing

Opening Statement on pre-legislative scrutiny of DEM legislation

June 29, 2021

May I first thank the Committee for the opportunity to share views about the proposed legislation.

It is a great honour for me to represent the committee and supporters of Liveable Limerick who fought so hard during the plebiscite to explain the concept and potential of a directly elected mayor to the people of Limerick and campaign for the successful yes vote. I hope in so doing, I can try to reflect the views of all of the people who are tired of how Limerick has been treated for decades and voted for change in 2019.

I have had the pleasure of being before Oireachtas committees before so I know the importance of bring brief and allowing us to get to questions quickly. But there are very serious issues at stake here. I have distributed a more detailed statement to capture the points which I am happy to have read into the record and I'll just summarise here.

This legislation is not going to work

I gauge this legislation by the following question - are the people of Limerick finally be trusted and given the powers and budget to guide their own destiny or will the deadhand of centralised power in Dublin continue to hold back Limerick and all of the other cities and counties in Ireland by making sure that this new reform cannot work to change the comfortable status quo in a meaningful way?

Are the proposed provisions true to the first three principles of the Government's own objectives of March 2019, (1) that the mayor must "add value", (2) the "subsidiarity principle" whereby national government should not take action where action could as effectively be taken at regional or local level, and (3) the need for "Empowerment" which means the directly elected mayor should be as empowered as possible to perform their functions while remaining appropriately accountable?

In short, I hate saying it but I believe the people of Limerick and indeed all regional cities and other counties are being betrayed by this legislation if it is enacted as drafted. They voted for real change and for local power and local budget. Now, despite nearly 400 pages of text, no real power is being transferred. No extra budget decision making is being transferred. Dublin is making vague promises of a better future but here continues to micro-manage affairs in Limerick but is about to tie the local administration up in extra hoops. The message is clear. We in Dublin do not trust the people of Limerick to manage their own affairs. Keep lobbying for more goodies through your new mayor but you do not deserve them yet.

In 2019, Limerick said yes at a plebiscite so full of the promise for reform local government in Ireland with promises of a truly new structure to deliver to Limerick if Limerick wanted it. Well as you know Limerick voted for that change.

Today, it feels like a teenager coming of age expecting a special present for their birthday which recognises that they have grown up and can be trusted and instead opening the birthday package to find a voucher for clothes or school books from your parents.

Now is not the time to kick the can down the road even more. To me, this reads seems like legislation to plan for more legislation dealing with the real issues in another 5 or 7 years rather than fixing the problem now.

Limerick and other suffering regional cities cannot wait any longer. Limerick for example badly needs a new holistic democratically local management structure which can deliver for Limerick, solve its housing problems, its unemployment blackspots social deprivation and a failure to invest in infrastructure to combat climate change and have a truly green city region which can reach its potential to be an economic engine in Ireland.

Instead, of establishing the empowered effective mayor Limerick needs to deliver change based on models from other successful cities this legislation has created a new role – the most important taxpayer paid lobbyist in Ireland.

The mayor who will be the politician with the second most important electoral mandate in Ireland will be not much more than a glorified lobbyist with his own periodic statutory zoom meetings to which Ministers will not even be obliged to turn up to listen to the mayor lobby for Limerick. Unlike most lobbyists of government to Mayor will even have his or her own forum to ask for the powers and budget which should have been given today. But to what end if it is just to keep delaying what needs to be done.

We already have enough members of the Oireachtas to lobby for Limerick and for the transfer of these powers without needing years with another well paid one. Now is the time for those Limerick members and their democratically elected colleagues to stand up for reform, for Limerick and all the other counties who want to follow a successful model in Limerick. Give the powers and decision making to the new mayor and hold them account to deliver and deliver well.

This proposal unless changed is a damp squid. The mayor is not been given the promised powers to make Limerick work. The democratically chosen mayor and Limerick's councillors will not even be trusted to spend more wisely the money the state knows it has to spend on the Mid-West than unelected officials in Dublin who might not even have visited Limerick let alone understand its needs.

Limerick and by extension or other regional cities will continue to be treated like some unruly teenager who cannot be trusted using one of Europe's most centralised form of government copied from the British system of administration who did not trust the Irish either for the same type of decisions before independence.

Three years should have been long enough to establish that Limerick has grown up, that it can be trusted with its own decisions (of course within national policy frameworks) and not to delay decisions anymore. It is time for this Committee and the government who promised better for Limerick to stand up to those holding them up.

I know you are taking a lot of time to read the details of proposals and I urge you to do so carefully. You have a heavy responsibility to make this legislation work to honour the democratic decision by the people of Limerick in 2019.

I have read much legislation since my legal studies in UCD in the 1980's and during my time as Secretary General of the Department of Finance. I have concluded that this text is a mastery of drafting giving the impression of being very radical but in truth any reforms not really offered at all or come with important brakes which risk failure of the entire project if they are not corrected.

The bill before you is in my view designed to retain centralised and often unelected control over powers and budget and not give them to Limerick even if should be an imperative in a democratic republic like ours to trust an electorate of 150,000 people only 200km from Dublin.

Count the pages.

Gauge it this way. Tim O'Connor's report from the Consultation Group identifies many necessary powers and sources of funding to be allocated to that office for the mayor's role to work.

In the legislation there is no references to new sources of funding. There are 12 pages in Chapter 3 setting out the "Functions" of the mayor and how they will be exercised but by contrast a whopping 222 pages talking about the procedural issues of the process for running the election. That gives some indication of where the emphasis was when drafting. Hard decisions have been long-fingered to hold power in Dublin.

Delays mean even more limitations to frustrate the electorates choices

Unnecessary delays in the production of the legislation are also making it hard for a new mayor to work change. Limerick is now waiting at least 3 years for the promised election and in the meantime core statutory documents will be finalised and will make it impossible for the mayor to do different things during their term even if that is what the people vote for in 2022.

This is not doing things differently as Limerick was offered and wanted in 2019

This legislation should be about a new promise not just for Limerick but for all local authorities across the country. It should be about genuine reform of an overly centralised government system in Ireland. About a new way of doing things finally.

I am happy to get into it in more detail during this morning's questions, but I can but conclude that this legislation is not what the people of Limerick were promised.

Limerick said the transfer and concentration of power was a risk worth taking

At the time of the plebiscite the people of Limerick were warned by the Government materials about the risk of "increased power in a single elected individual and their office" but they still voted to take that risk because importantly that individual was "elected" and most importantly would be "elected" by themselves – the people of Limerick.

Limerick knows that the prior Dublin centric undemocratic system had not worked for them.

That is why they voted to show they trusted themselves to pick a First Citizen and entrust in that individual more powers to change Limerick for the better?

By asking Limerick what it wanted, in the plebiscite in 2019, Dublin suggested it too was finally saying it trusted the people of a county like Limerick to do more local democratic self-governance.

But this legislation is still central government control first and foremost

But the legislative ideas before you combines the weaker and the weaker proposals floating around and comes up with worse rather than the stronger and stronger ideas to come up with better!

This is not the model of local government reform Ireland needs to finally grow up as a nation and have the right level of decentralisation of control.

The legislation adopts the extra controls without the extra powers

On one hand, it does not even adopt the plebiscite proposal of a centralisation of stronger political power through a multi-year Mayor as leader of the Council Chamber exercising executive powers of the CEO which would have given very strong political powers as well as executive authority to deliver.

Nor does not adopt the more finely balanced proposals from the Consultation Group led by the thorough and thoughtful Tim O'Connor which recommended immediate devolution of significant extra powers and budget to make the new office work but with increased accountability by establishing a stronger political counterbalance – the Cathoirleach of the Council Chamber – by removing the Mayor as chair of the council.

Instead, it limits the powers the Mayor will have by giving less in reality than in fact the existing CEO has today, but still adds in the brake of a second strong political leaders to dissipate the political strength of the Mayor.

In short, let the begging bowl continue for the future

A Mayor with only vague promises of extra money and no powers on other matters like transport culture, health will be on their bike weekly going with a begging bowl each time they need to plead for focus and money to spend on Limerick's problems to a Dublin which has proven deaf to Limerick and much of Ireland outside the pale on more than one occasion.

Carefully laid traps to prevent a transfer of power

Read the text carefully as the traps are carefully laid unless significant changes are made before enacted. For example, there are very promising provisions about a new forum for the implementation of the reform but read carefully it soon becomes clear that the new first citizen of Limerick wanting to have a meeting with the Taoiseach and Minister for Finance to discuss failures of implementation or extra powers or budget they need cannot even convene the Forum if the Minister for Housing does not want to call it and has no guarantee the Minister for Finance or DPER will even be there and certainly their boss the Taoiseach will not be to ensure valid arguments are implemented.

It is a recipe for confusion and bureaucracy

Worryingly, if the wrong people hold the three main offices, instead of much needed reform to solve very urgent problems, Limerick could have an even more cumbersome bureaucratic local government than at the moment. The risk of this was fair in return for more devolved powers and budget. But as drafted none of the necessary new devolved powers are happening. Instead, not even two but three people fighting could be left fighting to decide who has the best strategy and who is best to go to Dublin to ask for help to solve this week's problem.

The potential of 2019 was large and exciting

I can still remember the excitement we felt of that day in May, 2019, knowing that Limerick was going to take the lead in the promised "biggest reform of local government" the country had ever seen. Minister Burke has repeated the same ambition only recently before your very committee.

I can still remember the shared excitement knowing that finally Limerick had voted for a new governance to finally move forward as "One Limerick" in confronting the problems of poor historical development and lack of investment which have held Limerick back and given rise to serious unemployment blackspots, worse than average deprivation and public health and a region operating far below its potential.

I can still remember the new sense of responsibility that we the people of Limerick now knew we had to work to define what that new future could hold for all Irish cities and counties. We realised it could be the end of our overly centric system of government and budgetary control inherited from the British over 100 years ago. This empire like central control was to be reversed to become a more modern system of government where local populations, their elected politicians, and their elected first citizen would get the budget and autonomy to do something themselves to improve their lives.

It is a question of trust of the regions

The people of Limerick were asked a question and they responded by saying yes. We want you Dublin to finally trust us? More than that, you can trust us as we know we can trust ourselves too.

Now Limerick wants to trust that Dublin will finally deliver on the promise they made to allow Limerick to take control of its own destiny.

The democratic republic of Ireland which every five years elected a national government to run the affairs of state seemed to have finally moved at the highest level after 100 years to agree that a local electorate could be trusted to and should elect a local council and a first citizen to run the affairs of that county. This legislation as drafted suggests that is no longer the case.

Reform legislation is hard to do well with blockers

It is hard to legislate for real reform.

Vested interests fear losing control.

Conservatives fear the unknown.

Even well intentioned proposals, if badly drafted could in fact be dangerous or divisive to progress.

But most of all, the fault lines in the legislation seem to be most evident where there is a suggestion of transfer of control and efforts made to restrict that or even make it inoperable.

Rural Limerick Board – an example of Dublin micro management and a lack of trust

Let's take the Rural Limerick Board. I am not suggesting rural Limerick like rural Ireland does not have problems to be solved. Indeed, it might seem like a good idea to have a special focus.

But do we really think that a Limerick mayor has to be instructed by our Dublin parliament to have a special forum to understand one half of their electorate. To be elected the mayor will have to have solutions in a manifesto for those rural electors as well as the other half living in the city. Those solutions should be implemented together. Neither is more or less important. More worryingly, why mandate divisiveness from outside the county. We do not have a city forum, nor indeed should we. There is only one Limerick and the two parts co-exist and are co-dependent. The solutions to their issues are inter-twined.

And rural-urban is not the only criteria for differences. The legislation is not mandating a forum for non-nationals, for unemployed people, for travellers or other minorities, for people struggling to keep up with the digital transformation.

Even one might argue the biggest impending crisis in Limerick is one of housing – but there is no suggestion of mandating a Limerick Housing Board to identify the necessary actions.

The 2019 promised an important future - "One Limerick". A First Citizen representing all of the people of Limerick. This legislation should not impose structures or priorities from Dublin on a

mayoral candidate competent enough to win the trust of the people of Limerick. National policies will set the scene within which that mayor will operate but most importantly, let's trust the people of Limerick once more to decide what are the priorities.

There is a welcome general provision for the mayor to convene stakeholder groups. That is how it should be. But the priorities should be decided locally as part of the democratic mandate and decisions how best to heal division not reinforce them because of mandated requirements from central government on local issues.

The Mayor has not enough powers.

This is where we get to the core of the issue.

Head 28 sets out the powers of the mayor.

There are 3 categories – (a) those of the CEO today less ones kept by the CEO as Director General going forward, (b) those maybe coming under Part 3 which does not give any and (c) those coming in the future but not given now.

So let's call a spade a spade. With the refusal to transfer powers now and only a vague promise of a review in 2024 to allow for a transfer for the next election in 2029, the first mayor and perhaps many more are lame duck mayors with even less powers than the CEO at present but a public expectation of someone finally who will deliver for Limerick.

Because enactment, this has to change and should with respect be a clear recommendation from the cross party committee.

The Mayor cannot get stuff delivered in the face of opposition from officialdom

Importantly, in the plebiscite proposal the mayor at least had a strong political position as Chair of the Council and so the CEO retained all HR powers.

Now that the Mayor is not chair of the Council but answerable to a new different Chair of the Council the executive role of delivering is more important.

But while the mayor is supposed to deliver the Council's priorities and his or her programme they cannot even chose which directors of service are best served to deliver, have no say in the removal of a director ill-suited or underperforming in the role, are only consulted on the choice of the deputy DG and do not seem to have either the power to appoint or remove the DG if they are not delivering.

This is a recipe for unelected official ambushing of a democratically elected "executive head".

In the March 2019 Government proposals available to the people of Limerick as they made their choice it was stated "The directly elected mayor will replace the chief executive as the person responsible for ensuring that all lawful directions of the elected council in relation to the exercise and performance of the elected council's reserved functions are carried into effect. The chief executive will implement these directions of the elected council on the mayor's behalf, under the oversight of the mayor."

This can only work with effective with effective oversight. This requires a change from where the politically elected members in Limerick have not role in the appointment or removal of a CEO. The legislation is clear about the removal of an underperforming Mayor. It needs to be clearer on how issues with an underperforming Director General are to be resolved and what the Mayor's role in the

choice of a replacement Director General is to be especially to ensure alignment of priorities to ensure effective implementation of the programme for local government. Just like the politically elected Government appoints the Secretary General to the Taoiseach, should the Mayor not appoint the Director General?

Risk of stalemate in the Council Chamber from the get go.

Another illusory power as written is that related to the "Programme of Local Government".

It is to be prepared by the mayor presumably reflecting the priorities of the election but is to be sent "for approval" by the Council. What if the mayor was elected with a political mandate different from that of the majority of the council? Surely the important mandate is that of the mayor. It is of course only right to have to present and listen but stalemate cannot result so early in a term. It must be recognised that the political allegiances of the mayor might not be the same as those of the majority of the Chamber. Limerick voted in 2019 to concentrate that power in one individual, subject to checks and balances but not to have other arms of state frustrate the mandate of the mayor, subject only to the need to get the budget approved annually to move forward. The mayor might make changes having listened but should still have the power to drive on with his or her programme and seek compromises on budget approval day. Even mayors following national policies could be hi-jacked by a local council wanting impossible to achieve Limerick exceptions.

Mayor a political fall guy with no power to deliver

In short, the mayor becomes the political fall guy to the public for non-delivery. With too many checks and balances and no effective control such as the HR function or over the role of the Director General, the mayor has none of the levers an executive head should have of an organisation to make things work and the unelected officials stay in place even if the programme fails.

This is a massive shift from the plebiscite proposal and has the effect of retaining power with unelected local government rather than give the change of the status quo Limerick voted for.

The mayor must have real executive power not just be called the head of the organisation

With the Cathoirleach introduced as a strong political check, the mayor to deliver for the people, should get back the HR powers. If operationally had those powers the mayor could still decide to delegate to the CEO. That is possible under Head 45 but, importantly, if things are not working he or she can take them back.

Without that power, the Mayor is not driving the bus. They have no effective power to be able to apply a brake if things are being done recklessly or put the foot to the accelerator if things are happening too slowly.

This legislation is legislation with a plan for a plan

Three years will have passed between the plebiscite and the election. Yet after all this time, Limerick is just promised a forum to come up with a plan for a plan to do what might be required to make this work. An acknowledgment it is not likely to work but an inability to force the hard decisions now. This is unacceptable delivery for the people of Limerick who when asked voted for greater self-governance in 2019.

Small consolation, the mayor of 150,000 people at least can attend the forum to plead for more help or financial autonomy but the Minister for Housing (not even the Taoiseach as leader of the

government who might be asking another Minister to give up powers) decides if there is to be a meeting to be convened, what the agenda will be, who will attend if at all.

It does not take a former Secretary General of the Department of Finance to recognise that a forum run by a subordinate department is unlikely to be more than a talking shop in the face of opposition from the Department of Finance.

It is clear now that since 2019 there is opposition to ceding control and finances to Limerick. In three years this has still not been resolved by the Department of Housing. More annual plans from a talking shop forum will not solve the battle to not lose control. **The time to stop the talking is now. Don't allow it to be deferred again. The Committee must now make clear recommendations to transfer immediately the powers and budget identified in the consultation committee and the Government must act to prefer the democratic will of the people of Limerick over unelected control merchants.**

PI 2040 Delivery Board - "Show me the Money"

Once more this looks promising, like the mayor is getting some powers.

In practice, without real powers for the Mayor and budget authority it could be another talking shop.

Remember this is a programme of investment of several hundred of millions even billions for the Limerick city region.

The mayor can at least convene the meeting but not one government Minister attends. These Ministers attend cabinet sub-committees all of the time.

So the Mayor has no powers or budget in any of these areas and has not the power to ask the decision makers to turn up to understand why Dublin is not delivering for Limerick.

I am not arguing for extra money for Limerick than that planned. Merely, that the global envelope be established at national level but the decisions about how to spend it and the priorities be delegated to the people who know best – those in Limerick. It is no different than the way the Department of Finance delegates to DPER for the allocation decisions about the large envelope of spending agreed by the Department of Finance.

Once more, another idea is taken from the Consultation Group but without the powers and budget to make it a reality.

Only by giving the Mayor broader relevant powers and access to real budget including funds from the Strategic Investment Fund or at least decision makers across the table who have those powers and access can this forum too become anything but a talking shop with no teeth.

As a former Secretary General, I know only too well the limits of an official's powers at such a meeting and so this is a cover to keep a mayor pushing and demanding better for Limerick away from a ministerial forum which might solve things.

Southern Regional Assembly – another climb down

Here we have yet another climb down from the earlier proposals.

The explanatory material proposed the Mayor have a seat on the Southern Regional Assembly. This has been watered down to being consulted on the RSES. Without a more formal presence this has no meaning. The public always has to be consulted on the RSES and as a resident of Limerick the

mayor is one of the public! He or she should be present in the Chamber to make sure that the priorities of the one Limerick he or she represents are present not just views from the type of political vote block appointments rejected in 2019..

No safeguards against the pretend give away of the century Election

So here we are – less than a year from the election. The people will be expecting a programme of local government from the mayor – it has been compared to a programme of government for Limerick. It will not just be about roads and water but key reform and measures to tackle Limerick's problems and grow the economy and livelihoods in a sustainable way..

The problems in Limerick are well documented – unemployment blackspots in the city, rural villages and towns dying, housing getting too expensive for many or in sub-human conditions for others, non-existent public transport, Shannon Airport in crisis, not even a cinema, performance space of scale or swimming pool in regen areas or the city centre where many of the Georgian buildings are in poor condition.

Do we really believe that we can have a rational debate about election promises with this proposed legislation?

All of the candidates for mayor will read it and know they have no guarantee of extra budget. So with no envelope, why not promise based on an unrealistic level of spending.

How are the electorate to compare the likely ridiculous promises that will be made? Either no budget means nothing can be done, or it means you can ask Dublin for the sun, star and the moon. How fair is it for the electorate to gauge that only the moon will be given?

There is only one safe way. What needs to happen is that the additional powers to solve the problems of Limerick need to be given to the office before the election so we know the candidates will have the powers to deliver their promises or are just telling porkies.

What needs to happen is that a fair budget in terms of other national priorities must be allocated for the full term of the mayor so that the candidates promises can be gauged against that.

What needs to happen is that the decision makers in Dublin finally trust the people of Limerick.

With a sense of the true powers (not the pretend powers in the legislation) and knowledge of the exact spending power available to the candidates for their term of office, the voters can now fairly assess which candidates are being realistic and responsible, which candidate is being the most astute with the priorities to make the most use of the budget and who is going to be able to deliver on the promises that they make to win them the election. The commentators can assess the plans and guide.

That way we can have a fair and balanced election.

Without powers and budgets known, we are going into a dangerous Alice in Wonderland fantasy land that will make Brexit elections look like the troika years.

It is to my mind irresponsible and dangerous of the Oireachtas to leave budgets and powers dangling out there for all the candidates to make false promises.

Or is it always intended to give no powers and budget ever and just have an illusion of change so that Limerick is about to embark on the selection of the most expensive taxpayer funded lobbyist in the state.

It cannot be the latter.

If so, we will fail Limerick. We will fail all the regions hoping to follow. We will fail Ireland.

Let's leave behind British models of government based on not trusting the Irish

It is time to put behind us our overly centralised approach based on the British centralised form of government which never trusted the local colonies to make the right decisions. Even the UK has changed their system and now mayors in UK cities have proper budgets. We need to journey bravely into the 21st century and, as a first step, our country over 100 years old, must finally trust the people of Limerick (and other regions) to make good decisions on their own.

It is for you, cross party committee members yourself carrying out democratic mandates, to reinforce that in Ireland of 2021, we trust the people's wisdom, we trust the people's choice and we no longer need to have unelected officials trump that trust. In 2019, the people of Limerick were asked if they wanted to bring democratic accountability into their daily lives. They said yes.

What therefore gives central government the continuing need to say that a mayor of Limerick elected by a majority of 150,000 people, held democratically accountable by 40 or so elected Limerick councillors and ultimately accountable to the Oireachtas itself cannot be trusted with a budget of several hundreds of million.

It is not too late to fix things

There is time to repair the existing legislation and create a workable model for the future.

I place my trust in your Committee to see how that can be done.

John A Moran, June 29, 2021

Chair, LiveableLimerick