COMMITTEE REPORT 5-18(2):
STANDING COMMITTEE ON RULES AND PROCEDURES INTERIM REPORT ON THE
REVIEW OF STANDING COMMITTEE PUBLIC ENGAGEMENT AND TRANSPARENCY

NOVEMBER 1, 2016

MR. O'REILLY: Merci, monsieur le President. It is my pleasure to present Committee Report 5-18(2), Standing Committee on Rules and Procedures Interim Report on the Review of Standing Committee Public Engagement and Transparency.

Introduction

By Motion 10-18(2), the Standing Committee on Rules and Procedures was tasked on February 25, 2016 with recommending a process for standing committee public engagement and transparency. This motion reads: whereas the Standing Committee on Priorities and Planning has expressed its support for greater public participation in the democratic process, thereby increasing opportunities for public engagement with respect to the work of the standing committees established under the Rules of the Legislative Assembly; and whereas this government has also recognized the importance of accessibility and transparency and has named a Minister Responsible for Public Engagement and Transparency; and whereas it would be beneficial for this Assembly to have a process established to guide its committees as they work to increase public engagement, becoming more accessible and transparent; and whereas the Standing Committee recognizes the process conventions currently established and adopted by this Assembly to assist all Members, within their respective roles, to work for the collective good of the people of the Northwest Territories;

Now therefore I move, seconded by the honourable Member for Thebacha, that this Assembly refers the issue of standing committee public engagement and transparency to the Standing Committee on Rules and Procedures to recommend a process that may be adopted by all standing committees of the 18th Assembly; and further, that the research and analysis include consultation with the public and a jurisdictional review; and furthermore, that the Standing Committee on Rules and Procedures report back to the House with its recommendations during the fall 2016 sitting.

This review supports the Assembly's desire for greater public participation in the democratic process, with increased transparency and opportunities for public engagement by standing committees. This is particularly important in the Northwest Territories where standing committees play a critical role in our unique consensus system of governance.

This interim report explores core principles for public engagement and identifies immediate actions to increase public knowledge of standing committees, their role, and the work they do. It also identifies areas which require further consideration and consultation. Mr. Speaker, I'd like to pass this on to the Member for Yellowknife Centre.

MR. SPEAKER: Masi. Member for Yellowknife Centre.

MS. GREEN: Mahsi, Mr. Speaker.

Background

Many legislatures across the globe face a common problem: Their citizens are neither knowledgeable about, nor very satisfied with them as institutions. This political disengagement, coupled with generational change, increased policy and legislative complexity, declining scrutiny

by traditional media, and the growing influence of social media have all contributed to the sense of a growing democratic deficit between the public and the lawmakers.

In an effort to bridge this democratic deficit, there has been a worldwide shift towards open government. Public engagement strategies have been developed by many legislatures. The broadly held view is that improved levels of knowledge about a legislature will contribute to greater public understanding of it, which, in turn, will increase accountability, satisfaction, and public participation.

Members of the 18th Assembly recognize the need for greater transparency and accountability in our consensus government. They are committed to providing the public with more information about the decision-making process and better opportunities to take part. To this end, Members of the Legislative Assembly recently revised the Guiding Principles and Process Conventions for Consensus Government to move toward open government [see Tabled Document 207-18(2)].

Designing Effective Public Engagement

The extent to which the public could participate in governmental processes and decision-making has been described as a spectrum by organizations such as the International Association for Public Participation (IAP2). At one end of the spectrum is the one-way flow of information intended to inform and educate the public. At the other end of the spectrum is the delegation of decision-making, empowering members of the public to make the decisions. Between these two extremes are "consultation" and "collaboration".

One of the greatest challenges is to create the right conditions for effective community and public engagement. Channels for involving interest groups and specialized experts in public decision-making are well established in most governments. Channels for broader input from citizens who wish to participate in setting public policy are less defined. Authentic public engagement enables regular citizens to deliberate and collaborate on complex public problems. As a result, leaders know where the public stands, while citizens themselves contribute to solutions through their input, ideas and actions.

The small and diverse population of the Northwest Territories is sometimes an advantage. There are many examples of high-quality, productive public input in the history of the Legislative Assembly, including committee hearings on legislation that have profoundly improved the bills that were ultimately enacted. In recent years, these include hearings on the Mental Health Act, the Northern Employee Benefits Services Pension Plan Act, the Child and Family Services Act, and others. These are useful examples on which to build on.

The ultimate goal is to promote a "culture of openness" in which citizens provide input, monitor progress, and see that their participation is valued by decision-makers. According to the Center for Advances in Public Engagement, a non-profit and nonpartisan organization based in the United States, authentic and skilled engagement with a broad cross-section of stakeholders improves results by:

- bringing together multiple points of view to inform decisions;

- creating legitimacy and a sense of shared responsibility by involving the public early and often before decisions are made;

- fostering new allies and collaborations;

- stimulating broad awareness and momentum for change

Public engagement initiatives should be well-planned and meaningful. As noted in an October, 2009 article by Cary Coglianese, in Governance: An International Journal of Policy, Administration and Institutions, more transparency and engagement does not necessarily lead to better decision-making. Care must be taken not to:

- stifle honest and frank discussion of issues among the decision-makers;

- increase information sharing and engagement with a narrow group of already engaged individuals, organizations, or special interest groups; or

- limit the type of information brought forward, for fear it will breach a privilege, impact on-going negotiations, or have a negative impact on other matters

Public engagement initiatives should not raise an unreasonable expectation that all information will be available to the public or that public input will be sought on all issues. Governments have often failed to manage expectations of public consultation. The U.S.-based National Coalition for Dialogue and Deliberation (NCDD) led a collaborative project which identified seven core principles for public engagement. These principles were outlined in 2009, in Core Principles for Public Engagement:

1. Careful planning and preparation: Through adequate and inclusive planning, ensure that the design, organization, and convening of the process serve both a clearly-defined purposed and the needs of the participants;

2. Inclusion and demographic diversity: Equitably incorporate diverse people, voices, ideas, and information to lay the groundwork for quality outcomes and democratic legitimacy;

3. Collaboration and shared purpose: Support and encourage participants, government and community institutions, and others to work together for the common good;

4. Openness and learning: Help all those involved listen to each other, explore new ideas unconstrained by predetermined outcomes, learn and apply information in ways that generate new options, and rigorously evaluate public engagement activities for effectiveness;

5. Transparency and trust: Be clear and open about the process, and provide a public record of the organizers, sponsors, outcomes, and range of views and ideas expressed;

6. Impact and action: Ensure each participatory effort had real potential to make a difference, and that participants are aware of that potential;

7. Sustained engagement and participatory culture: Promote a culture of participation with programs and institutions that support on-going, quality public engagement.

The committee believes these core principles are applicable to the task of increasing standing committee transparency and public engagement. We applied them to our consideration of the options for immediate action, and will be mindful of them in our on-going work.

In addition, plain language should be used to ensure that information and invitations to participate are appropriate to the intended audience. This may involve the use of plain language

experts where appropriate. Members of the public may reasonably expect to be capable of navigating information provided through engagement initiatives. Thank you, Mr. Speaker. I'd like to now call on Mr. Beaulieu to continue with the report.

MR. SPEAKER: Masi. Member for Tu Nedhe-Wiilideh.

MR. BEAULIEU: Marci Cho, Mr. Speaker.

Current Engagement Activities

Information about on-going business of the Legislative Assembly and its committees is available on the Legislative Assembly's website. It currently includes a brief description of the purpose and role of committees in our consensus system of government. A list of committees and their memberships is posted, as well as each committee's terms of reference. Links to committee reports are also provided.

The Legislative Assembly and its committees regularly use a variety of tools to engage the public and disseminate information including social media, our in-house television broadcasting system, and radio rebroadcasts of Session proceedings. Town halls, public meetings, and requests for comments from members of the public have been limited to specific reports and legislative initiatives, yet provide a foundation on which to build.

Observations from Other Jurisdictions

The committee compared our Assembly's public information and engagement practices with those of legislatures in Canada, the Commonwealth, and municipal governments. For the purposes of this cross-jurisdictional scan, public engagement is defined as a range of activities whose primary function is both to raise public awareness of the legislature and facilitate a two-way flow of information, ideas and views, requiring both listening and interaction on the part of both the institution and the citizen.

Other governments, public engagement programs, and expected results vary widely. Some jurisdictions focus on informing and educating the public while others go further, seeking consultation and collaboration. The committee seeks to develop procedures to best suit the Northwest Territories and have taken the following current and potential practices under consideration.

- Information provision: Educational and training materials, website presence;

- Public access: Visitor services, tours, exhibits;

- Education: On-site/off-site activities and resources for teachers, students, and the general public;

- Outreach: Informational workshops, (such as Ledge Talks, the Mace Tour, Caucus retreats, public hearings, town halls, and Legislative Assembly Television-LATV);

- Facilitation: Platforms to engage the public, including online forums;

- Media: Promotional and partnership initiatives with print, broadcasting and social media platforms;

- Institutional structure: Leadership, resourcing, and models for delivering public engagement strategies.

The internet has become a primary means of communicating with the public; committee websites and online content are well-established in most parliamentary jurisdictions. The committee also recognizes that connectivity remains an issue in some NWT communities, as is proficiency with the internet among elders.

As the committee continues to develop options for our standing committees, lessons on emerging best practices have been drawn from diverse jurisdictions, including Scotland, Wales, the Canadian House of Commons, and the City of Yellowknife. Mr. Speaker. I would now like to hand off the reading to the Member from Nahendeh. Marci cho.

MR. SPEAKER: Masi. Member for Nahendeh.

MR. THOMPSON: Thank you, Mr. Speaker

Public Transparency and Engagement in the Work of the 18th Assembly

Because a key role of standing committees' is to hold government accountable, much of the committees' work is driven by action (or lack of action) by the government. Members note that the Mandate of the Government of the Northwest Territories, 2016-2019 includes pledges to:

- maximize citizens' ability to access government by using consistent approaches to social media, visual identity, and overall communications;

- establish an Open Government Policy to enhance civic participation, increase the availability and accessibility of information about government activities, and explore new technologies for openness and accountability; and,

- improve opportunities for meaningful public input into government decision-making by improving access to government public engagement initiatives and reporting on how public views have shaped government decisions.

Improved transparency and engagement by standing committees is a necessary follow-up to effective work in these areas by the government.

The committee suggests that standing committees focus first on informing and educating the public, which should result in increased accountability and opportunity for consultation. The key objectives of this approach are to provide useful information to support public understanding and to obtain feedback on analysis, alternatives and/or decisions. A stepped approach should be taken based on results from previous measures and proven successes. Tools that can be utilized to educate and engage include the following:

- Open Houses

- Fact Sheets

- Bulletins

- Websites

- Meeting Schedules/Calendar

- Public Comment

- Focus Groups

- Surveys

- Public Meetings

The promise made in using such tools is that standing committees will keep the public informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public input influenced decisions. By doing so, our hope is to generate further engagement and discussion. Thank you, Mr. Speaker. I'd like to hand this off to the honourable Member for Thebacha. Thank you, Mr. Speaker.

MR. SPEAKER: Masi. Member for Thebacha.

MR. SEBERT: Thank you, Mr. Speaker.

Improving Standing Committee Transparency and Public Engagement

Members of this Committee feel that standing committees should strive to operate in a transparent manner consistent with the seven core principles for public engagement described above, and the Guiding Principles and Process Conventions for consensus government adopted by the Members of the 18th Assembly. The recent adoption of these Principles and Conventions has had an impact on some of the work that this Committee was tasked with in the original referral motion. A recent addition to these Principles states: "The business of consensus government should be carried out in public, unless there are compelling reasons to meet in private. Public meetings should be the rule and not the exception."

The following section has also been added to the protocol:

6) Public Briefings and Meetings with Standing Committees

   a) Where Ministers offer or agree to a request to brief a Standing Committee, the briefing will be held in public. If confidential matters are expected to be discussed in the course of the briefing, or if they arise after the briefing has commenced, the Minister or any member of the committee may request that the meeting or a portion of it be held in camera.

   b) The decision to hold all or a portion of a briefing in camera rests with the Standing Committee on the understanding that Ministers may be limited in terms of what information they can provide in public.

   c) For the purposes of this protocol, confidential matters include:

      i.   the draft business plan or budget of a department or public agency prior to their introduction in the Legislative Assembly;

      ii. a proposed policy initiative, legislative proposal or bill prior to its formal introduction in the Legislative Assembly;

      iii.   a personnel matter relating to an employee or statutory officer;

      iv.   concerns with the performance of a specific Minister; and

      v.   any other matter, where a member of the committee or the Minister identifies the matter as one which is, or would likely be, protected by privacy and data protection laws.

d) A motion to hold all or a portion of a committee meeting in camera shall include the nature of the item to be discussed as well as the rationale for discussing the matter in camera.

This section applies only to standing committee meetings where a Minister will be present to brief committee, either at the request of the Minister or committee.

The intent of these provisions is that such meetings are as open to the public as possible, and the committee suggests this principle applies to the work of standing committees in general. The degree will necessarily vary according to the nature of work to be done.

For example, the committee suggests that it is not appropriate to provide public access to committees' strategic planning, or sessional meetings of the Standing Committee on Priorities and Planning, which focus on preparing for business in the House later in the day.

The measures suggested below would considerably improve upon the information currently available, and provide greater public access to committee work and understanding of it.

As soon as possible, working with Legislative Assembly staff, each Standing Committee should:

1. Improve the ease-of-use and access to committee web pages and add the following information to what is currently provided:

    a. known schedule, and public matters being considered;

    b. meeting notices, agendas, witnesses' submissions and presentation materials.

Specific requests for public input and contact information for the committee should be prominently displayed and readily accessible.

2. Identify, in advance, whether a meeting or a portion of a meeting may be held in camera, and how this will be reflected in the agenda. A committee may decide to hold an in camera meeting or portions of a meeting in camera to:

- deal with administrative and personnel matters;

- consider correspondence or a draft report, including the Committee's own reports;

- receive a background briefing;

- deal with subject matters requiring confidentiality, such as budget items or bills that have not yet been introduced in the Assembly;

- do strategic planning, including sessional meetings of the Standing Committee on Priorities and Planning, which focus on preparing for business in the House; or

- any other matter that would or would likely entail private or privileged information.

3. Ensure that consideration is given to the use of plain language and summaries where appropriate in public communications and reports.

Consistent with the Guiding Principles and Process Conventions, each Committee has the discretion to hold a meeting or a portion of a meeting in camera if it determines that there is a compelling reason to do so.

The committee's proposals are consistent with the House of Commons Compendium, a guide to specialized procedural topics, which are instructive despite the many differences between committees of Canada's Parliament and those of our legislature.

Thank you, Mr. Speaker. I would like to hand this back to the Member for Frame Lake.

MR. SPEAKER: Masi. Member for Frame Lake.

MR. O'REILLY: Mahsi, Mr. Speaker.

Next Steps

The Standing Committee on Rules and Procedures will:

1. Consider the potential for existing or emerging technologies to enhance public access to information and public interaction.

2. Do further consultation with individual members of the Legislative Assembly, Chairs of standing committees, GNWT officials, and members of the public and organizations; to elicit input on how to enhance transparency and public engagement in the work done by the Standing Committees.

The committee recognizes that further work should be done to examine a number of issues including:

*   What does "public" really mean in the context of meetings and does it include broadcasting?

*   What supporting materials for standing committee meetings should be public?

*   Should standing committee deliberations and decisions be made in public, and how might that be documented?

*   What, if any, standing committee correspondence is public?

*   How to ensure consistency of processes and procedures across the standing committees?

*   How often and by whom should standing committee procedures be reviewed in light of commitments to more public engagement and transparency?

The committee looks forward to conducting additional research and hearing from the public and Members on these matters. The committee will focus on practical and effective ways our standing committees can improve their transparency and engagement, and provide useful information to the interested public. The Committee plans to report further to the Assembly in June 2017. Mahsi, Mr. Speaker.

MR. SPEAKER: Masi. Member for Frame Lake.

MOTION TO RECEIVE COMMITTEE REPORT 5-18(2) AND MOVE INTO COMMITTEE OF THE WHOLE, CARRIED

MR. O'REILLY: Mahsi, Mr. Speaker. I move, seconded by the honourable Member for Nahendeh that Committee Report 5-18(2) be received and adopted by this Assembly. Mahsi, Mr. Speaker.

MR. SPEAKER: Masi. There is a motion on the floor. The motion is in order. To the motion. Question has been called. All those in favour?

MR. O'REILLY: I'm sorry.

MR. SPEAKER: Oh, sorry. Member for Frame Lake.

MR. O'REILLY: Mahsi, Mr. Speaker. I'll keep this very short; I know we've had a long day here and probably go for a bit longer, but I did want to acknowledge and thank the committee members who worked on this report. We've done a lot of work together. I think we've had more meetings than any of the other standing committees. It's a huge relief to me personally to have this off my desk and a lot of personal satisfaction. So I want to recognize the work of the committee members: the honourable Member for Thebacha, the Member for Yellowknife Centre, the Member for Nahendeh and the Member for Tu Nedhe-Wiilideh.

We did seek input from Caucus as well, all of the Regular Members, back in August on our retreat, and I don't think we shifted direction in any substantive way. We did look at the concepts of public engagement. We reviewed our current activities, how it's done in other jurisdictions. We've made some interim recommendations in here and we hope to do some further work.

I think it's really important that the public and the media understand the fundamental changes that will take place now in how we conduct our business as result of the changes to the Guiding Principles and Process Conventions and the tabling of this report in this House. We are fundamentally changing the way that we do our business as a Legislative Assembly. I don't think it's actually sunk in for us all, but now the default is that we will do our business in public rather than in private meetings. We will continue to have private meetings where necessary but we will start off our meetings in public and they will go in camera but for specified reasons. That's a very fundamental shift in how we do our business, and I can't emphasize that enough.

I mentioned, though, at the conclusion of our report that we are seeking further input on matters, including what's really meant by public meetings; what sort of supporting materials are to be made public as part of standing committee meetings; deliberations and decisions by standing committees, whether those should be done in public and how they should be documented; committee correspondence, should that be made public; how we ensure consistency across our standing committees and how we should regularly review our public engagement and transparency as standing committees.

So we do welcome further input from the public, the media, and our Regular Members, of course, all Members of this House, and we do expect to have a final report in 2017. Mahsi, Mr. Speaker, and I look forward to further discussion about these important matters.

MR. SPEAKER: Mahsi. To the motion. Question has been called. The motion is carried.

---Carried

MR. SPEAKER: Committee Report 5-18(2) has been received and adopted by this Assembly. Masi, colleagues.