

## **Citizens Assembly**

### **Final Weekend on the Eighth Amendment of the Constitution**

#### **Outline of approach to be taken**

#### **Version 2- including further updates**

##### Overview

This document attempts to capture how the final weekend on the Eighth Amendment, on 22-23<sup>rd</sup> April will be structured and approached.

This version updates an earlier draft circulated to members on 28<sup>th</sup> March.

##### Purpose of final weekend

The purpose of the weekend is to focus exclusively on the recommendations to be made by the Assembly. The weekend will take on a different structure to what members have been used to the past four meetings; members will not receive any further presentations or papers.

Broadly speaking the final weekend will comprise a series of important steps:

- agreeing on the issues to be included in a ballot,
- agreeing on the precise wording of the ballot; and finally
- voting.

Depending on the decisions made by the Assembly on the fifth weekend, the meeting may take a shorter or longer period of time. In planning for this weekend, we have ensured that there is time for all approaches, even if less time is ultimately required.

##### Preparation of a ballot paper in advance

At the end of the March meeting of the Assembly, members were invited to make comments and preliminary suggestions on the types of issues you thought should be voted upon or included on a ballot paper at the final weekend. Comments and suggestions could refer to legal avenues and/or particular aspects of the substantive issue. The Secretariat has collated all of these suggestions and this document has informed the preparation of a draft ballot paper. This work is being led by the Chair, with the assistance of the Expert Advisory Group and the Secretariat.

Given that the Assembly is first and foremost an exercise in deliberative democracy, it is important that the members take ownership of the ballot. Given the legal complexity of the Eighth Amendment it is necessary to prepare a draft ballot paper in advance for consideration by the members. Significant time and effort has been

invested in the preparation of this draft ballot paper to ensure that the version circulated to members is structured appropriately, is comprehensive and legally robust. A copy of this draft ballot paper is now being circulated alongside this explanatory note.

### Draft Ballot Paper and Agenda

The ballot paper has, by necessity, more than one question. The draft ballot paper is quite a complex document and is sequential in nature, meaning that ballots are dependent on the outcome of earlier ballots. Depending on the votes on earlier questions, not all later questions in the ballot paper may be reached.

It is hoped that the ballot paper should be capable of being understood as a standalone document. However, significant time is given in the agenda to explaining the proposed overall structure at the very start of the weekend, to ensure that the members understand the implications of each vote on subsequent ballots.

Time is also allocated in the agenda to explain the chosen wording for each ballot. In each case this explanation will be provided by the Chair. Time is also set aside for roundtable discussion and Q&A on each individual ballot to allow the members sufficient time to examine the draft and ask questions. Finally, time is provided in the agenda to allow the secretariat to revise the ballot in each case as required.

Given that it is not possible to know the outcome of each vote in advance, the agenda takes account of these possibilities and as such there are multiple possible running orders. While this is somewhat more complex, it is hoping that in preparing for each eventuality in this way, the time available for discussion will be used as efficiently as possible.

### Mechanism for agreement on ballot paper

Any suggested amendments may be incorporated by agreement following consideration by the Chair. The Chair will be mindful of potential inconsistencies which any change may have in other parts of the ballot paper.

The Chair considers that the most manageable and efficient mechanism to allow for amendments to be incorporated and to seek members' agreement is to broadly follow the approach taken by the Convention on the Constitution as follows:

#### Where there have been no suggested amendments to original wording as suggested

- To seek agreement the chair will ask the Assembly formally if they accept the wording of the ballot as proposed. She will move forward based on the sound of 'yes' or 'no' from the floor;
- In instances where there are audible 'nos', the chair will then move to a show of hands;
- The decision will then be taken to move forward on the basis of the views of the majority.

Where there have been suggested amendments to original wording as suggested which following consideration by the Chair are suitable for inclusion

- Any suggested changes from the members will be considered by the Chair;
- Where the Chair considers these suitable for inclusion, the text will be updated and put up on screen so that each member is clear about the revised wording being proposed;
- To seek agreement the chair will ask the Assembly formally if they accept the revised wording of the ballot as proposed. She will move forward based on the sound of 'yes' or 'no' from the floor;
- In instances where there are audible 'nos', the chair will then move to a show of hands;
- The decision will then be taken to move forward on the basis of the views of the majority;
- In the event that the Assembly does not agree with the proposed revision, the original wording will then stand and be voted on.

As it is not possible to predict the feedback from members on each ballot, there will need to be flexibility in the agenda to allow discussion to take place, while at the same time ensuring that the Assembly fulfils its requirements over the course of the weekend.

Expertise available to the Citizens over the weekend

During the discussion on each element on the ballot, it is envisaged that the members may have questions about legal or medical issues. Members may also have specific comments about wording which they may seek clarification on. In anticipation of this, the relevant members of the Expert Advisory Group will be available during the Q&A and feedback sessions. For this weekend, they will fill the role that was filled by external experts on previous weekends.

In addition, Justice Laffoy will have independent legal advice available to her over the weekend.

Voting

According to the resolution approving establishment of the Assembly:

*“all matters before the Assembly will be determined by a majority of votes of members present and voting, other than the Chairperson who will have a casting vote in the case of an equality of votes”.*

For your information, the Chair has decided to enlist independent oversight of the voting process. Mr. John Fitzpatrick, retired returning officer for County Dublin, together with a small team working with him, will be available at the weekend to provide his expertise on the following matters:

- The mechanism and infrastructure to be put in place for voting to be carried out in secret (e.g. the use of voting booths and ballot boxes);
- The counting of ballot papers and the accurate presentation of results.

Mr. Fitzpatrick has already provided the Secretariat with advice in relation to the structure of the ballot and the time allocated on the Agenda for voting and counting of the votes.

Voting will be done in secret. The process for each vote, irrespective of the number of ballots will be the same and is as follows:

- Members will register for and collect each ballot paper individually; ballots will not be individualised, but the Secretariat will keep a record of how many ballot papers have been issued which Assembly members collected their ballot paper;
- Each Ballot will be differentiated by different colour paper;
- Members will then move on to cast their ballot in a booth. Members will be familiar with the booths being used as they are the same as those used in general/local elections and referendums. To allow the voting to happen as quickly and efficiently as possible there will be three booths in total;
- Completed ballot papers will then be placed in locked ballot boxes;
- Full details of where each of these steps will be carried out in the Tara Suite will be provided in the private session on Saturday morning.

### Announcement of Results

It is intended that the headline results of each ballot will be announced as soon as the votes have been counted and verified. The announcement will be done by the Chair in public session. Depending on the outcome of Ballot 1, there may be more than one vote and announcement over the weekend.

The votes will be presented in absolute terms as well as in percentage terms. This means that the results of the ballot will be more transparent in providing exact details of the number of members present and voting on the day. This approach is consistent with voting norms.

Once the counting has been concluded and verified, the ballot papers will be retained by the Secretariat until the work of the Assembly has been completed, after which they will be destroyed.

### Miscellaneous Recommendations

Based on the feedback from members at the March meeting, where members were invited to make comments and preliminary suggestions on what types of issues you thought should be voted upon, it is clear that some members would like to see wider

policy issues, as distinct from just legal changes, reflected in the recommendations of the Assembly.

Given the complexity of the focal point of the voting over the weekend, the Chair has decided that it will not be possible to have voting on a broad range of wider policy issues. However, it is critical that these are sought from members and captured in the final report.

As such members were encouraged in the earlier version of this document to begin thinking about any additional recommendations which they may wish to make. At the April meeting, members will be provided with a response form to allow them to record any ancillary recommendations they may have in addition to, or as a result of, the main voting on the substantive issue. This will then be gathered and collated by the Secretariat and any consensus issues emerging will be included and reflected as recommendations in the final report.

#### Live-streaming and Presence of media/ observers in the room

As was the case with previous meetings, the agenda for the day will move between public and private sessions. As always, the roundtable discussions will allow deliberation by members in private. It is intended that the Q&A and feedback sessions will take place in public as normal.

Voting will be also done in public (i.e. with the media and observers present in the room and with live streaming happening). Having consulted with our expert John Fitzpatrick, the envisaged room set up will allow for this while at the same time preserving the secrecy of the ballot. This will be explained in detail in the Private Session on the Saturday morning. We will however position one of the booths in such a way to allow the wishes of any members who explicitly do not wish to be filmed to be accommodated. Please contact the Secretariat if this is an issue for you as soon as possible to allow us to plan accordingly.

#### Final Report

The resolution approving establishment of the Assembly states:

*That Dáil Éireann*

*Approves the calling of a Citizens' Assembly to consider the following matters and to make such recommendations as it sees fit and report to the Houses of the Oireachtas.*

Following the conclusion of the Final weekend on the Eighth Amendment the Chair will begin work on the Final Report. The result of the vote at the April meeting will be the most significant content of the report, together with the miscellaneous recommendations gathered from the members. The Chair will also use the opportunity to provide details of the full suite of materials presented to the Assembly, and to describe in detail the process and background to the Assembly.

Once the Report is finalised, it will be circulated for information to members by email/hardcopy before being presented to the Oireachtas.

It is the Chair's intention to finalise the report by the end of June 2017 at the latest.