



Northern Ireland
Assembly

Committee for the Office of the First Minister
and deputy First Minister

OFFICIAL REPORT (Hansard)

Inquiry into Historical Institutional Abuse Bill:
Informal Clause-by-Clause Scrutiny

3 October 2012

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Mike Nesbitt (Chairperson)
Mr Colum Eastwood
Ms Megan Fearon
Mr Paul Givan
Mr Danny Kinahan
Mr Alex Maskey
Ms Bronwyn McGahan
Mr Stephen Moutray
Mr George Robinson

Witnesses:

Mr Michael Harkin	Office of the First Minister and deputy First Minister
Mrs Cathy McMullan	Office of the First Minister and deputy First Minister
Ms Maggie Smith	Office of the First Minister and deputy First Minister

The Chairperson: We welcome Michael Harkin, Cathy McMullan and Maggie Smith from the Office of the First Minister and deputy First Minister (OFMDFM). Maggie, we have your updated responses to the Bill. Do you want to take a couple of minutes to talk us through what you consider to be the points that we should really focus on?

Ms Maggie Smith (Office of the First Minister and deputy First Minister): Yes. To make sure that we are keeping up with you and giving you everything that you need, I want to establish that you are starting your informal clause-by-clause scrutiny today and that you will be working through the Bill from beginning to end. Is that correct?

The Chairperson: Yes. We hope that you will stay with us so that we can call on you.

Ms Smith: Absolutely; yes. We are more than happy to give whatever support we can. I am glad that you received the updated annex that we sent to you.

One of the things that I commented on at our previous meeting was the commonality of the issues that were coming up. There is also quite a correlation between the issues that we identified from the stakeholders, those that the inquiry chair identified and those from our discussion last week.

You asked about the issues that seemed important to us. The parts that we updated relate to new information about new organisations having raised similar points to those of the bodies that were

covered previously. I am also conscious that you have some new members here. Would it be helpful if I said something about the background to the inquiry?

The Chairperson: Stephen and Paul?

Mr Givan: Yes.

Mr Moutray: Yes.

Ms Smith: I will mention some of the things that are in the inquiry's terms of reference. The terms of reference set out that this is an inquiry into historical institutional abuse. They define what an institution is and that the abuse was child abuse. As the terms of reference are written, they cover the period between 1945 and 1995. The definition of a child is a person who was under the age of 18 at the time that the abuse took place. We are talking about institutions such as children's homes, borstals, training schools, and so on, in Northern Ireland.

The terms of reference were very much driven and informed by the victims and survivors themselves. That is very much reflected in the comments that have come back from the various stakeholders. As a result, there are three elements to the inquiry. There is an acknowledgement forum, which is an opportunity for the victims and survivors of historical institutional abuse to give testimony about their experiences and to talk to people who have particular skills and experience that qualify them as listeners. The aim is to give people an opportunity to gain acknowledgement for their experiences. A certain amount of evidence will come through from there, and, with the permission of the people who have given the testimony, some of that evidence may be used at other stages in the process.

The other main stage in the process is a public inquiry that is headed by a judge. That will look at the evidence that is coming from the acknowledgement forum and from victims and survivors and other sources. It will test that evidence and bring forward conclusions about what happened in the institutions. It will also inform the Executive and Assembly about the nature of an apology and a memorial, whether there were systemic issues in the various institutions, and about the requirement and desirability for redress. The terms of reference also make it very clear that, at the end of the day, the Executive will make decisions that result from the report. That is particularly highlighted for redress.

The Bill provides the framework within which the inquiry can take place. It does two main things. It gives OFMDFM the power to establish the inquiry, to pay for the inquiry, to manage the inquiry as a sponsor and to make sure that it has what it needs in people, staff, accommodation, and so on. The Bill also gives certain powers to the inquiry's chairman. It establishes that the procedure and conduct of the inquiry are to be directed by the chairman. It makes it clear that, in making decisions about the procedure and conduct of the inquiry, he must have regard to the principle of fairness. He must also be mindful of the need to avoid unnecessary expense to the state, victims or others. In addition, it gives the chairman certain powers. It enables him to take oaths and evidence under oaths, and it allows him to make proceedings public. At the same time, it allows him to issue notices that restrict access to particular parts of the proceedings of the inquiry or to particular documents or other evidence. It gives him powers to compel witnesses to come to the inquiry to give information by speaking to the inquiry or by providing documents or other evidence. The Bill is crucial in the establishment of the inquiry, the Department's management of it and the chairman and his panel's ability to carry it out.

It is probably worth mentioning that, as of Monday this week, the inquiry is publicly up and running. The panel members and the chair have been working for quite some time, but the inquiry is now publicly up and running. People who are victims and survivors can now register with the inquiry and make it clear that they want to come forward and contribute to its work.

The Chairperson: Maggie, thank you very much. Paul and Stephen, are you content?

Mr Givan: Yes.

Mr Moutray: Yes.

The Chairperson: Today, we are informally walking through the Bill clause by clause with a view to coming back next week to formally agree our position. We have heard from stakeholders, the

Department and the chair of the inquiry. We now have to decide whether we are content with the clauses, whether we want amendments agreed by the Department, or whether we want to bring forward our own amendments or seek assurance in writing from the Department or clarification from Ministers during Consideration Stage. Those are the sort of options that I think that we need to examine today.

Mr Maskey: We obviously have new members today, but, until this point, everyone appeared to agree that we want to do something about the 1945 date. In other words, we want to delete it. I am happy enough, subject to advice, to have an open-ended inquiry up to 1995 or to set a date at 1922. I am open to suggestions on that, but we have all agreed, prior to this meeting, that we will do away with the start date of 1945.

The second point for me is that I want a little information, if I can get it. Obviously, OFMDFM has agreed that any changes to the terms of reference will be done by way of consultation with the chair of the inquiry and with the Executive. Further to that, it should come back to the Assembly by way of the affirmative resolution procedure. How do we amend the Bill accordingly? Do we need to?

The Chairperson: Alex, if you do not mind, we are going to go through the Bill literally clause by clause, so we will come to those points in order. Members, you have the Bill and the terms of reference. You also have the paper from the Department and our latest updated summary table with departmental responses and responses from Sir Anthony, the chair of the inquiry.

Clause 1 brings us straight to the inquiry's terms of reference. We had a number of issues that were raised in written submissions and oral evidence. As we work through the Bill, we will need to consider what changes, if any, we want to see.

Do members have any comments on the terms of reference? If not, we will go on to the first issue, which is that that Alex raised — the 1945 start date. You will see in the summary table —

Mr Maskey: I am sorry, Chairman. Are you asking about the substance of the terms of reference? I am happy enough with their substance. However, going back to my earlier point about the way that they may be changed, can we deal with that now?

The Chairperson: I think that we are going to come to that as we work our way through, Alex.

Mr Maskey: I thought that we were at that point. Where will we be dealing with it? We are on clause 1.

The Chairperson: We have some issues that we want to go through, and we will then start the clause-by-clause scrutiny.

The Committee Clerk: Clause 1 brings in the terms of reference, and I thought that we would look at them at that point.

The Chairperson: We have some preliminary stuff to go through, Alex, but we can do that.

Mr Maskey: I am sorry. I thought that we were at that point.

The Chairperson: If we are going to go through the Bill clause by clause, we should start with the Long Title, which states that the Bill will:

"Make provision relating to an inquiry into institutional abuse between 1945 and 1995."

So, do we want to change the start date to 1922?

Mr Moutray: Our party's position is that we would prefer the inquiry to go back to 1922.

Mr Eastwood: Yes. We agree with that. My party is open-minded about the end date. We might decide upon that today, however.

The Chairperson: Danny, we are of that mind as well. So, we are unanimous on that.

Maggie, that will come as no surprise. Does the Department have a position on that point?

Ms Smith: Yes, and, as I said at the previous meeting, the Ministers are very sympathetic to changing the start date. We will certainly take that back to the Ministers and take it from there.

The Chairperson: So, how do we effect this? Is it the Committee drafting an amendment, or is this issue something that is to be agreed with the Department?

Ms Smith: I would be happy to go back to the Ministers and suggest that we draft an amendment.

The Chairperson: OK. Thank you. Clause 1(2) states that the terms of reference of the inquiry are outside the Bill. A number of stakeholders raised that issue on the matter of Assembly scrutiny. It seems to me that it is perhaps awkward to have the terms of reference outside the Bill if it comes to making any changes that we might see as desirable. One option could be to put the terms of reference into a schedule. Members will note that the chair of the inquiry expressed concern that bringing the terms of reference into the Bill would mean that you would require more time to amend, if that proved necessary. However, OFMDFM has already agreed to amend clause 1(3), meaning that any change would require an affirmative order passed by the Assembly. Are there any comments either on clause 1(2) as it stands or on a proposed amendment to the terms of reference?

Mr Eastwood: I would like to see the terms of reference in the Bill in some form.

Mr Givan: I would not support that. Our view is that it is not necessary. Clause 1(3) already allows for changes to be brought forward, so the Bill is broad enough to allow us to make those changes if it becomes necessary.

The Chairperson: Clause 1(3), Maggie, would be subject to the draft affirmative procedure, so the Assembly would have its say.

Ms Smith: It certainly would. The issue that seems to be coming out from the points that stakeholders are making concerns the Assembly's having the opportunity to vote on or influence any change. The table that we sent you shows that our Ministers have conceded that, so we are content to amend clause 1(3).

The Chairperson: The terms of reference also refer to 1945, so that will require —

Ms Smith: Yes, I think that we can just take it onwards from the point at which 1945 is mentioned.

The Chairperson: As a schedule? There is no consensus.

Mr Eastwood: I want to consider it further and come back next week.

The Chairperson: Yes, but at the moment, it looks as though there is no consensus for putting the terms of reference as a schedule to the Bill or in the Bill.

Mr Maskey: I think that we heard from Anthony Hart that he was not enamoured with that one either.

The Chairperson: Clause 1(4) refers to 1945, but we are taking the revised date as read.

The Committee Clerk: This is the key point at which the terms of reference are brought in to the Bill, and there are a number of issues around that, not just the 1945 start date. It might be worth looking at those issues now, given that this is the point in the Bill at which the terms of reference are referenced.

Mr Maskey: We are not agreeing to put the terms of reference in the Bill.

The Committee Clerk: No, but a number of issues came up in the evidence submissions that we heard over the weeks that relate to the terms of reference themselves, as opposed to clauses. Such issues include the inquiry's power to make findings and recommendations, which is set out in the terms of reference.

The Clerk of Bills: It may be worth noting that, in addition to the changes to the terms of reference with regard to the 1945 date, this may be a relevant point in the Bill for the Committee to seek to amend the terms of reference via the Bill. So, this may be the point at which you would wish to consider any issues with the terms of reference that have arisen.

Mr Givan: If the Committee does not want to have the terms of reference explicitly in the Bill, it is not necessary for the Committee to look at the terms of reference. That is ultimately a matter for the Ministers. If the Bill is not going to spell out the terms of reference, you are asking us to do a piece of work that I suspect will not be necessary.

The Clerk of Bills: It is entirely a matter for the Committee, but it could seek to use the Bill to amend or make other changes. It could use its report to make other recommendations if it did not wish to amend. So, a number of options are open to the Committee, but this is a relevant point in the issues about the terms of reference that you discussed.

The Chairperson: It is a question of whether we want to go through the terms of reference and take on board the responses to the consultation process that we ran, or whether we are, effectively, going to ignore them.

Mr Kinahan: What will decide whether they are in the Bill?

The Chairperson: The terms of reference?

Mr Kinahan: Yes.

The Chairperson: We will have to form an opinion, but I do not see quite where it is sitting.

Mr Givan: I do not have an issue with discussing the terms of reference. To me, these are two separate pieces of work. If we decide that the terms of reference will not be explicit in the Bill, we will go through what will be in the Bill clause by clause. Perhaps we can compile the overall Committee report and consider all the issues that relate to that paper as a strand of work. However, that then means that that becomes separate from the Bill.

The Committee Clerk: It is the fundamental nature of the terms of reference, because the Bill, obviously, refers to them. The issues form a significant part of the evidence that the Committee heard. Whether the Department is minded to make any changes to the terms of reference is maybe something that the Committee would want to elicit from officials or ask officials to find out from the Ministers at this stage.

Mr Eastwood: Your point is valid. A lot of the issues that we have been talking about over the past number of weeks are in the terms of reference. One of my concerns at the very beginning was, for example, whether we will be able to talk about the terms of reference. Will we be able to amend them if they are outside the Bill? Some of these questions may be answered if the Department is willing to change the terms of reference. I suppose that we would need to know that at the outset. Sir Anthony Hart said last week that it would be very useful even if making recommendations for legislation were spelt out. There are a number of other issues.

The Chairperson: We have spent considerable time asking people to respond to our consultation process, and they have put in a degree of effort to respond. Would members be content if we very quickly ran through —

Mr Maskey: My real concern is that most people who made their submissions did not say, "I do not like that bit of the terms of reference." What they actually said — I do not agree with this — is that they thought that OFMDFM was taking too much power on itself and that, therefore, we needed some checks and balances. In my view, if we are going to discuss the terms of reference, we will be here for a month and we will probably not agree on them. Maybe we will, or maybe we will not; I do not know. The idea of putting the terms of reference in the Bill will hold this up. Anthony Hart made the point that if you want to change it, it is in legislation, it is prescriptive and it is a much more difficult job. So, on that basis, I am happy with them as they are. I am further happy that any changes to the terms of reference will have to be done through OFMDFM or inspired by the chair of the panel's seeking to

change them by putting them through the Executive and Assembly by affirmative procedure, which is quicker. I am not sure what we are now —

The Chairperson: There are two issues. It is clear that the Committee's mood is not to put the terms of reference in the Bill. The other issue is whether we are listening to what people whom we asked to respond are saying about the terms of reference.

Mr Eastwood: With respect, Alex, you are not happy with the terms of reference because you said that you do not think that 1945 is a suitable date. That is in the terms of reference. With all the comments that have been made in the past number of weeks, it may be useful if the Department could tell us what changes or proposals it is finally prepared to make, given what we have said about the terms of reference. That might inform this debate a bit more.

The Chairperson: Maggie, do you have anything to say about where the Department is with the terms of reference? The date of 1945 has been moved. What about the end date of 1995?

Ms Smith: Ministers have no plans to change the end date. The inquiry chairman talked about that in his previous meeting with you. Changing the end date would change the inquiry quite significantly. We talked previously about the change in regime that happened as a result of the Children Order and about the importance of the core meaning of the terms of reference, which are about dealing with historical issues.

The Chairperson: We had about a dozen responses about the inquiry's power to make findings and recommendations. Sir Anthony said that although it was implicit in the Bill, he would not have difficulty with its being made explicit.

Ms Smith: Yes, this is the inquiry's latitude to make recommendations that are about current legislation, policy or practice. Again, the Ministers' view is that that is implicit in the terms of reference, and there is an expectation that it would be reasonable for an inquiry, in making its report, to cover quite a lot of ground and to make recommendations. Inquiries make findings and recommendations about systemic failure, so that gives you a certain amount of latitude to comment on the system.

The Chairperson: We also discussed with him the idea of redress and delay, particularly the fact that some victims are now older.

Ms Smith: Yes, that included the discussion that you had about an interim report, which may be what you are referring to. The inquiry was set up to inform thinking. Ministers and the Executive set out in the terms of reference what they wanted to be informed about, and they set the inquiry a three-year timescale for bringing forward its report. Redress is one of the areas that the inquiry has been asked to make recommendations about. Sir Anthony made the point that, if there were an interim report, he would be being asked to make conclusions without actually completing his inquiries. The Ministers' view is that the inquiry has been put in place to fulfil the terms of reference, and that includes bringing forward reports that deal with all the areas on which recommendations are required and the idea that there would not be any expectation of an interim report. We are not expecting any conclusions in the middle of the inquiry.

The Chairperson: Are members content with that?

Mr Eastwood: I am not completely content. I have seen other inquiries run and run, and I am constantly mindful that a lot of the people involved in this are of a certain age. I know that Sir Anthony Hart's response last week was that he did not want to be obliged to do it, but we could allow him to do it without obligation if he felt that it were possible at a particular point. The quicker that we get to the redress issue, the better. There are people out there who are at the end of their life, and they want something to pass on to their children. I understand that it may be very difficult, but, if possible, there should be an opportunity for an interim report.

Mr Maskey: I understand the sentiment entirely, but who is to say that the inquiry will take as long as is set out in the Bill? With a bit of luck, it could conclude earlier; who knows? It could end up requiring more time, in which case the panel will make that request. Broadly speaking, I was satisfied with what I heard, including from Anthony Hart. I specifically asked him whether anything in the Bill or the terms of reference would preclude him doing a very thorough job. I think that I heard him say "No" very clearly, and that, in a way, gives me some confidence. This will be a public issue, and the Assembly

is, rightly, well across it. I do not think that anyone will be able to hide from this one, and I do not think that anyone intends to try, for that matter.

I am very confident about the way in which the Assembly has dealt with it so far. It is a very difficult and complex issue. You could feel the emotion in this room a couple of weeks ago, and that is even before the inquiry, or the acknowledgement forum, has sat.

I accept your understanding of an interim report. Who knows? There might be. It may well be that, at some point, Sir Anthony Hart and the panel feel the need to do or say something. I believe that they will do it, if that is the case. There is nothing to stop them from doing so. So, I am satisfied from that point of view.

The Chairperson: I think that I have been clear, Alex. My view is that although I accept that all the victims are individuals and that you cannot class them as an homogenous group, it could easily be the case that, early on, Sir Anthony may reach an opinion that something could be done that would help a majority of victims, possibly even a large majority of them. In that case, I would not want the process to hold him back. He should not have to wait until the very end of the process before any action is taken. Is that a reasonable point, Maggie? Has the Department taken it on board?

Ms Smith: Yes. The terms of reference set a very clear timescale within which the inquiry must report. This is a big issue, and lots and lots of work needs to be done. The inquiry must do a lot to produce its report within the timescale that is set out in the terms of reference.

Although we understand the sense of urgency, if there were a built-in requirement for an interim report with conclusions, that would make the inquiry's job very difficult. It would also build in an extra step, which would be an extra report that is not required at the moment and that would make it more difficult for the inquiry. It would build in the extra time that the inquiry would need to reach its final conclusion. So, it would actually lengthen the process.

The Chairperson: OK. Let us leave aside the submission of a formal report. What if Sir Anthony and his team concluded after three months that a specific action in the area of redress could be taken? Could he go to the Ministers? Would he get a sympathetic ear?

Ms Smith: I cannot comment on specifics or on what he may or may not think within three months of starting the inquiry. I can tell you that there is open communication, and it is clear that, if Sir Anthony had an issue or point that he wanted to bring to the Ministers, they would, I am sure, be very pleased to hear from him. However, that is a general point. I cannot say anything about specifics.

The Chairperson: There does not seem to any great appetite around the table for an interim report, although Colum, you —

Mr Eastwood: I just do not want the inquiry to be precluded from providing an interim report if it were possible. I accept the point that it might not be a good idea to oblige it to do so.

The Chairperson: On the previous point, are members content that the power to make findings or recommendations about how current systems operate is implied and does not need to be written in explicitly?

Mr Eastwood: Again, Chair, I would like to see it written in explicitly. I think that Sir Anthony Hart agreed with that.

The Chairperson: Yes. I think that he felt that it would do no harm. Does anyone else wish to comment? Shall we say that we would like it to be made explicit?

Members indicated assent.

The Chairperson: Maggie, can I take you on to the question of the nature of reparation or redress? You know that Survivors and Victims of Institutional Abuse (SAVIA) has challenged the use of the word "desirability" and pointed to international law. It says that this goes beyond desirability and is an obligation. What is the Department's position on that?

Ms Smith: Our position is that the terms of reference are asking the inquiry to look at the system that pertained at the time, listen to people's experiences, reach certain conclusions about whether there were systemic failings and think in that context about whether there is a need or desirability for redress. That is a different context from that of international law, to which SAVIA may have been referring. If I understand it correctly, the point that SAVIA is making refers to situations in which liability has been established, whereas, in our case, we are talking about an inquiry. It is very clear in clause 1 that it is a public inquiry, not a mechanism for establishing either civil liability or criminal liability. The point that SAVIA is making does not apply in quite the same way in the context of the report.

The junior Ministers are saying that it is an open question and are telling the inquiry to explore the issues and tell them what it sees as being required and what it sees as being desirable for redress. It will then be up to the Executive to decide the way forward.

The Chairperson: Are members content?

Members indicated assent.

The Chairperson: We have had some submissions on the definitions of "institution" and "abuse".

Ms Smith: The Ministers feel very strongly that it is important not to define "abuse". There are many different forms of abuse. I have read the reports coming out of some of the institutions, and it seems that there are all sorts of permutations and possibilities and dreadful things that people have experienced. To try to tie those down and fit them within particular definitions could prevent some people from being heard in the inquiry. The people who come to the inquiry will know that they have been abused; they will know what their experiences were. If the inquiry is to discover what happened in the institutions, it is important that it be open in its approach and that it have the opportunity to hear a wide range of experience.

I was particularly struck by what Sir Anthony said to you last week when, given his extensive experience as a judge, he talked about the things that people do to one other and the fact that even he could come up against new, dreadful things that people do to one another. That underlines the point that the definition should be as open as possible.

The Chairperson: Are members content?

Members indicated assent.

The Chairperson: What about the definition of "institution" and the scope of the Bill?

Ms Smith: We are talking about institutions in which children lived all the time. We are talking about children's homes, borstals, training schools, and so on. We are not talking about foster care or adoption settings, schools, holiday camps and those sorts of things. The inquiry will focus on the institutions of the type that are set out in the definition.

The Chairperson: We have received many submissions that state that the process will, hopefully, bring comfort to a block of people but that there will be another block who remain on the outside. Is it too early to ask whether a second process is under consideration?

Ms Smith: A second process is not under consideration at the moment.

The Chairperson: Are members happy with the definitions of "institution" and "abuse"?

Mr Maskey: We are, given what we are trying to do here. It is likely that the Committee will want to make some recommendations on how other elements might be dealt with. Maggie is saying that no other process is under consideration, and we have to get through the Bill, but, after that, we would all like to see something else to deal with the concerns of other people who will fall without the process.

The Chairperson: Clearly, there will be people observing our deliberations who want to hear us say that.

Mr Maskey: Absolutely.

Mr Kinahan: They want us to leave the door open.

The Chairperson: There was some debate about the publication of the report, Maggie. Can you offer us clarity? Sir Anthony was pretty clear that, as a general rule, the chair will have charge of the publication of the report.

Ms Smith: Yes; absolutely. That is the expectation.

The Chairperson: On the duration of the inquiry, can Sir Anthony not only say that he needs more time to write the report but that he needs a little bit more time because so many people are coming forward?

Ms Smith: He can. The terms of reference state that if the chair asks for a reasonable extension, it will be granted. That applies to any stage in the inquiry.

Mr Eastwood: Can it be written in that the chair, Sir Anthony, will be publishing the report?

The Chairperson: Members?

Mr Eastwood: I have seen cases in which months have been spent trying to get a Government to publish a report. We may see that again, so it is far healthier to ensure that responsibility for publication is explicit. I am not saying that it will happen this time, but we have to be aware of precedents.

The Chairperson: There are no objections to that.

Ms Smith: We are happy to take that suggestion back.

The Chairperson: Members, are we happy that the existing drafting allows the necessary scope when it comes to the duration of the inquiry?

Mr G Robinson: That was Sir Anthony's consideration.

The Committee Clerk: Therefore, members are happy with the assurance on the duration of the inquiry.

The Chairperson: The long title will be amended with regard to "1945".

We are content with clauses 1(1) to 1(4) and the amendment to the start date.

Clause 1(5) makes it clear that the inquiry panel must not rule on, and has no power to determine, any person's civil or criminal liability. I refer members to page 16 of the consultation responses. The Department's response and the inquiry chair's comments are there as well, both of which anticipate the inquiry working with the police and social services where appropriate. Where an investigation is to ruling and determination of civil or criminal liability, do members have any comments? Are members content with clause 1(5) as it stands?

Members indicated assent.

The Chairperson: Clause 2 deals with the appointment of members to the inquiry panel. No issues were raised during our consultation. Are members content with clause 2?

Members indicated assent.

The Chairperson: Clause 3 deals with the duration of inquiry members' appointments, including Ministers' powers to terminate appointments. Submissions on the clause are on page 18 of the summary table and highlight the impact on the inquiry's independence. The Department's response emphasised the reasonable grounds that the First Minister and the deputy First Minister would be

required to demonstrate in order to terminate the inquiry. Those grounds, in the Department's view, could not threaten independence. Moreover, the Department's response emphasised the requirement to consult the chair before taking that action. Are members happy with the clause?

Members indicated assent.

The Chairperson: Clause 4 deals with assessors. No issues were raised. Are members content with the clause?

Members indicated assent.

The Chairperson: Clause 5 gives Ministers a power to bring the inquiry to an end. Again, the consultation highlighted concerns about the powers of the First Minister and the deputy First Minister to end the inquiry and the effect of that on the inquiry's independence. I refer you to the bottom of page 18 of the summary table, where the Department has advised that the clause is seen as "a safeguard for unforeseen circumstances".

Mr Eastwood: I am still uncomfortable with that.

The Chairperson: Do you have an alternative proposal?

Mr Eastwood: I will come back to you on the wording.

The Chairperson: An option would be to suggest that any ending of the inquiry be subject to affirmative resolution by the Assembly. Therefore, the Ministers would have to come to the Assembly to make the case, after which the Assembly would decide.

Mr Eastwood: That would be much more preferable.

Mr Maskey: I am not entirely sure about that. The terms that I have read set out the circumstances in which the inquiry could be ended, which are OK. I am prepared to look at an alternative option, such as that suggested. We have to strike a balance between allowing the inquiry to proceed and allowing normal good governance arrangements to be in place without having to run to the Assembly every five minutes. If we were to get to a situation in which someone was talking about bringing the inquiry to an end, it would be a major issue, so it is not something that is going to happen with the stroke of a pen.

Mr Eastwood: That is the point. If it is such a major issue, the Assembly should have some sort of control over it.

The Chairperson: Another option would be to say that the inquiry could be brought to an end on the decision of the First Minister and the deputy First Minister, with the agreement of the chair.

Mr Eastwood: I prefer your first option.

Mr Maskey: Theoretically, the chair could be a problem.

The Chairperson: That is true.

Mr Maskey: We are talking about unforeseen circumstances. The clause is a safeguard.

The Chairperson: It is such a big issue, Alex. Would you not expect it to come to the House?

Mr Maskey: I would expect there to be massive uproar in the first instance. I do not have a problem with the clause. I am prepared to look a reasonable alternative.

The Chairperson: If the terms of reference could be changed only through affirmative resolution, it would be consistent to do the same with bringing the inquiry to an end.

Mr Eastwood: You have to think about the potential for future inquiries that OFMDFM or any other Department might have more of a stake in. I am not sure that setting a precedent whereby the relevant Ministers could close the inquiry down is a good idea.

The Chairperson: I would certainly support a requirement for any end to the inquiry being subject to affirmative resolution.

Mr Maskey: I would like to hear the Department's thoughts on this.

Ms Smith: As we have explained before, the clause is very much a safeguard. Our expectation is that the inquiry will run its course, complete its terms of reference, publish its report, and all the rest of it. We do not really see the need for affirmative resolution on this.

Mr Eastwood: Therefore, you do not expect it to happen?

Ms Smith: No.

Mr Eastwood: What is the harm in having it in, then? I do not expect it to happen either, but legislation is about ensuring that, if you get to that point, there is a measure that you can take. It should be done properly. If you do not consider it to be a possibility, what is the harm in ensuring that there is the extra safeguard of the Assembly?

The Chairperson: It would probably bolster public confidence if, instead of being the decision of the two MLAs in the highest positions, all 108 MLAs had input.

Ms Smith: You mentioned the agreement of the chair. As the Bill is drafted, clause 5(3) states:

"the First Minister and deputy First Minister acting jointly must consult the presiding member."

Clause 5(4)(b) states that they must:

"lay a copy of the notice, as soon as is reasonably practicable, before the Assembly."

Therefore, it is not that they would do it without informing the Assembly. They would inform it.

Mr Eastwood: I think that we would all know that they had done it, but the difficulty is that we would not have any say in it.

The Chairperson: Yes. Consulting is one thing, Maggie, but agreement is another. I well remember as a victims' commissioner being told, "Mr Nesbitt, you are free to give me advice, but Ministers do not have to accept it." Personally, I think that it would boost public confidence if it were subject to affirmative resolution in the House.

Mr Givan: At this point, I do not have a position on it. Outside of this particular inquiry, I would be interested to see how other inquiries are established and whether there is ever provision put into legislation that termination of them is subject to the approval of whatever Parliament is involved, not just the Northern Ireland Assembly. I would be keen to have a look at that, because if we do it for this inquiry, it may set a precedent for any future inquiry announced by a Department. That is a technical, or principled, look at whether we should do this.

The issue is whether the First Minister and the deputy First Minister should announce the end to an inquiry. They come at this having established it, in the spirit of establishing it, so I do not think that they are going to end it. To then insist on an affirmative resolution procedure in the Assembly, after the two largest parties had done that, makes no sense. You say that it is an issue of public confidence. However, if the First Minister and the deputy First Minister have done it, it is natural form that the Assembly will do it, by virtue of the way that this place works. I just think that we need to be careful not to make an issue out of something that may not really be an issue.

Before I take a firm position on this, I would be interested to see how legislation applies to other inquiries by other Parliaments with regard to using the affirmative resolution procedure.

The Chairperson: What happens with public inquiries? Could anyone have brought the Saville inquiry to a close?

Mr Eastwood: I do not know, off the top of my head.

The Chairperson: Was it not autonomous?

Mr Eastwood: It was, largely, but, then again, Saville was not allowed to publish his report. He had to spend months trying to get the Government to do it

The Chairperson: Are members content that we do a bit of research in the next week?

Members indicated assent.

The Committee Clerk: *[Inaudible.]*

The Chairperson: It is up to Maggie whether she wants to take that back to the Department.

Ms Smith: Yes, we can take that back.

The Chairperson: Clause 6 deals with evidence and procedure, particularly how the chair must act with fairness and with regard to the need to avoid any unnecessary cost, whether to public funds or to witnesses or others.

The concerns are at pages 19 and 20 in the summary table. It states:

"The Department advised that the Budget has been revised ... to £15m-£19m to reflect complexity of issues and estimated legal costs."

Have members any points to raise at this stage on that?

Mr Kinahan: Will it have to be revised again, Chair, given the fact that we may have just extended it?

The Chairperson: Are you asking why it has been revised?

Mr Kinahan: No. When it comes to this, the Department will have to be aware that it will cost more. We have extended the scope of the inquiry to 1922.

The Chairperson: What are the additional costs of starting in 1922? I would not anticipate huge additional costs. Maggie?

Ms Smith: No. If the start date is changed, that will make a difference to the judicial or statutory element of the inquiry, but it will not have any impact on the cost of the acknowledgement forum, because that already has the latitude to hear people who are in the pre-1945 situation.

When we looked at the costs, we built in a certain amount of latitude, as you can see from the range of £15 million to £19 million. The difference that would be made by changing the start date would fall well within those parameters. It would not make a difference to the cost.

Mr Eastwood: The chair will avoid unnecessary cost anyway, and I am highly concerned that that should be taken into account but should not necessarily be seen as an overriding factor. Getting to the truth and ensuring that everyone has an opportunity to have their say and to be represented properly should be the most important element of it. I am concerned that the potential is there for decisions to be made that may not allow everyone to come forward, if cost becomes an issue.

The Chairperson: Do we have a recommendation for change here?

Mr Eastwood: Potentially. I might come back to you.

The Chairperson: OK.

Mr Givan: I think that it is reasonable if the cost is necessary. The legislation allows for that to take place. There just needs to be a justification given by the presiding member that the expenditure is necessary.

Mr Maskey: I think *[Inaudible.]*

The Chairperson: OK. Clause 7 deals with public access —

Ms Smith: Excuse me. May I register a point here? The Department may bring forward an amendment to clause 6. We will be able to inform you about that next week. It would not be to change what is there but to add in something more, as a result of some discussions that we have been having with the chair. We will know for definite next week what we will be doing.

The Chairperson: Will it be possible to get advance copy, if that is the case?

Clause 7 deals with public access to inquiry proceedings. No issues were raised in the consultation. Does any member want to raise one now? No? We note that and move on to Clause 8.

Clause 8 deals with restrictions on public access. The Human Rights Commission was the only respondee in that regard. In its view:

"The Bill does not provide for representations to be made ... prior to an order being granted".

The Department's clarification is that, under normal legal principles:

"anyone adversely affected by the making of a restriction Order should be given an opportunity ... to make a case against the making of the order".

Do members have a view on the clause? Do I take it that we are content?

Members indicated assent.

Ms Smith: We may also be adding something to clause 8. Again, that is to facilitate the chair, and we will come back to you on that next week.

The Chairperson: Again, we would like advance notice of that if you can provide it, even by Monday to keep the Committee Clerk happy.

Ms Smith: I am not sure whether we will have it by Monday, but we will certainly have it back to you as soon as we can.

The Chairperson: Thank you very much.

Clause 9 deals with powers to require production of evidence and the attendance of persons. No comments were made to us on that clause. Are we content?

Members indicated assent.

The Chairperson: Clause 10 deals with privileged information. On page 20 of the summary table, the De La Salle Order and the Sisters of Nazareth raised issues about provision for disclosure. The chair advised us:

"the Inquiry will make available to individuals/institutions under investigation all material relating to"

them and also give them reasonable time in which to consider all such material and prepare what they wish to say to the inquiry, all in advance of moving to the public hearing.

The inquiry chair also advised that the inquiry would not compel anyone who refused to answer questions, on the basis that it might incriminate him or her.

Have members any views on this clause? Are members content?

Members indicated assent.

The Chairperson: Clause 11 deals with the payment of expenses of witnesses by OFMDFM. The Department may award amounts that it thinks reasonable to a person in respect of expenses incurred, including legal expenses. On page 21 of the summary table, some concerns were raised on this issue. The Department confirms:

"The Bill enables OFMDFM to make rules subject to negative resolution",

which will be subject to consultation. The power to make the rules is in clause 18(1)(c) of the Bill.

The Examiner of Statutory Rules has given advice to the Committee indicating that there is an argument that these rules, relating to awards of expenses:

"should be subject to draft affirmative procedure."

Clause 11 gives OFMDFM "a wide administrative discretion". The Examiner also highlights that clause 18(2) deals with the arrangements for the assessment of expenses and for having such assessments reviewed, and suggests that we "may wish to probe" that relationship between clause 18(1)(c) and clause 18(2), and whether there is any conflict between the "wide administrative discretion" in clause 11 and the arrangements envisaged in clause 18(2).

Maggie, can you give us a steer on those issues?

Ms Smith: Clause 11 gives OFMDFM the power to pay witnesses' expenses. That includes the reimbursement of legal fees in certain circumstances. The rules will set out the detail of that. When I say "detail", I mean that it is extremely detailed; it is down to the minutiae of how that process would work and the details of when applications would be made for fees, how the fees would be paid and the sort of information that lawyers or barristers would need to provide when making their claims.

Those rules, as you observe, are made under clause 18. We are drafting those at the moment, and that is something that we will be coming back to the Committee with. The Committee will have the opportunity to go through those rules in detail. They will be subject to public consultation in the usual way.

Although there is a certain latitude in making the rules, they need to reflect good practice in the management of public money. They are much more banal than perhaps they sound in the way in which they have been described.

The Chairperson: What about the opinion of the Examiner of Statutory Rules that it would be better to have affirmative resolution procedures than to have negative resolution?

Ms Smith: I think that they are very detailed for affirmative, because they are getting down to such things as when lawyers have to produce their claims, where the claims need to be sent to, where information from the inquiry is sent back to them, and so forth. They are extremely detailed.

Mr Givan: I have a few points. Maggie, it is good to renew acquaintance with you.

Ms Smith: Indeed.

Mr Givan: You have moved on to bigger and better things. I worked with Maggie in the Department of the Environment (DOE). OFMDFM is in safe hands with Maggie in charge, from my experience in DOE.

Ms Smith: Thank you very much.

Mr Givan: When the rules come forward, you will bring forward statutory rules to the Committee. Those statutory rules will then govern the practice of all these payments and expenses. Is that how you intend to do it?

Ms Smith: Yes.

Mr Givan: Ultimately, the Committee could strike those down, whether by negative resolution or the affirmative resolution procedure.

Ms Smith: It could.

Mr Givan: Who will assess the award that would be made to lawyers and solicitors in the process? Would it be the presiding officer of the panel? When people submit their fees, who is going to assess whether they are justifiable? Would it be the Department?

Ms Smith: It is a two-stage process. First, the Department will set out the parameters and the rules, and they will be subject to scrutiny and public consultation, as I said. If, under the rules, someone is eligible to have legal representation paid for from the public purse, the decision around how much time that person would get would be a decision for the presiding member of the inquiry to make, rather than the Department. The reason for that goes back to the whole idea of the principle of fairness and making sure that people have the opportunity to give their best case and protect themselves from self-criminalisation. It would be the inquiry, the legal team in the inquiry and the chair of the inquiry who would understand the points that have to be answered in any particular case. They will make an assessment of the points and the evidence that they have. On the basis of that, they will be able to judge how much advice, time or representation any individual witness would need.

Mr Givan: I accept that Sir Anthony Hart will know very well the type of work involved. That was my question: whether it would be him. I know that the taxing master usually adjudicates on criminal legal expense claims in respect of court proceedings. My question was about whether it was going to be Sir Anthony Hart or the Legal Services Commission and the taxing master that would do it.

Ms Smith: In the first instance, it would be the inquiry, because it will be the expert on the information and evidence. In the subsequent situations that we are talking about, there would need to be some sort of higher adjudicator, and that would be the taxing master.

Mr Eastwood: The Bill states that OFMDFM will be awarding amounts and deciding on all these issues. In answers to questions, you have stated that that will rest with the inquiry itself, but that is not really clear in the Bill, unless I have missed it.

Ms Smith: The way in which the Bill is drafted focuses on the higher level and the setting of the parameters. Within and underneath that, there are decisions to be made by the chair of the inquiry.

Mr Eastwood: I would need to think a wee bit further about that, Chair, before committing to a decision on it.

Mr Givan: For clarity, the legal costs are going to come from the Department; they will not be coming out of the Legal Services Commission's legal aid budget or anything like that. It will be a separate budget to deal with any expenses associated with the inquiry. Is that correct?

Ms Smith: That is correct. In fact, there is no legal aid entitlement for inquiries, so it is part of the budget of the inquiry.

The Chairperson: To finish this off, members, the Examiner suggested that we might want to move from negative to affirmative resolution. I do not sense any great appetite for that.

Clause 12 relates to the payment of the inquiry's expenses by the Department. Page 22 of the summary table lays out the concerns raised by stakeholders including Amnesty, the Human Rights Commission and others. Again, the underlying issue is one of the independence, or the perceived independence, of the inquiry, given the power to give notice to the inquiry that OFMDFM considers that it is acting outside its terms of reference and that the expenses will not, therefore, be met in relation to those activities. The Department has advised that the withdrawal of funds would happen only in the highly unlikely event of the inquiry persisting in activities that were outside its terms of reference. I suppose that it is not inconceivable that there could be a stand-off over the interpretation of the terms of reference. Have you anything to say on that, Maggie?

Ms Smith: In this context, it is perhaps worth reminding ourselves of the process that we went through to reach the terms of reference. The Ministers had quite a detailed discussion with the chair about those. The terms of reference were agreed with the chair before they went to the Executive. I am confident that there is a shared understanding of what the terms of reference are about. Clearly, there is also a shared understanding in the terms of reference that it is for the chairman to direct the conduct and procedure of the inquiry, so we believe that it is highly unlikely that the inquiry will operate beyond its remit. Built into that clause is the first step that the Department would take if it believed that the inquiry were operating outside its terms of reference. The first thing it would have to do would be to draw that to the attention of the inquiry, at which point there would have to be a discussion, and so on. It would be very extreme circumstances if the inquiry were to persist in operating outside its terms of reference.

The Chairperson: Are members content with that?

Members indicated assent.

The Chairperson: There were no comments in relation to clause 13 or clause 14, which concern offences and enforcement by the High Court. Unless members have comments, we will press on to clause 15, which concerns immunity from suit for the inquiry panel members and staff, as well as immunity in relation to defamation for those making statements to the inquiry and for reports of the inquiry's proceedings. The Department has clarified that the acknowledgement forum will feed into the judicial aspect of the inquiry, that the inquiry will test the robustness of the evidence that it considers, and that those processes are matters for the chairperson. The chair commented that any inquiry into a matter of public interest that sits in public involves the risk of unsubstantiated allegations. It is the duty of the inquiry to ensure that only allegations that appear to be of substance are made. Are members content with that?

Members indicated assent.

The Chairperson: Clause 16 concerns the time limit for judicial review of 14 days. We heard legal advice earlier. Some concerns were expressed about the shortening of the timescale. The Department and the chair stated that they felt that two weeks was sufficient, and the legal advice seemed to suggest that one week could probably be stood over legally. Are members content?

Members indicated assent.

The Chairperson: No stakeholder submissions were received on clause 17, which concerns the power to make supplementary provisions. The Examiner of Statutory Rules gave advice to the Committee and highlighted that the Department's delegated powers memorandum states that the power could amend, modify or repeal any statutory provision. The Examiner suggests that, given the intended width of the power, it would be appropriate to amend clause 17 so that, where an order amended, modified or repealed any provision of primary Northern Ireland legislation, it should be subject to the draft affirmative procedure. Maggie, would you like to address that?

Ms Smith: It is worth saying that that power is not nearly as wide as it may first appear. The purpose of the power is not to give us a broad ability to make any subordinate legislation that we feel like; it is a safeguard. It can be used only to fill in a gap. If, at some point during the process of the inquiry, it were discovered that something that should have been in the legislation is not, and that there is a small gap, that would be the situation in which clause 17 could be used. It could not be used to introduce any sort of sweeping powers that would fundamentally change things; that would require a full amendment to the legislation.

The Chairperson: It is subject, under clause 17(2), to negative resolution, whereas the Examiner says that it should be affirmative. Are members content?

Members indicated assent.

The Chairperson: Clause 18 sets out the Department's rule-making powers. We considered earlier the Examiner's suggestion that rules dealing with expenses to be paid to witnesses should be subject to affirmative resolution. We did not actually agree that. On the rules dealing with evidence,

procedure and documents created during the inquiry, the Examiner raised no issues about the negative resolution procedure. On that basis, are members content with clause 18?

Members indicated assent.

The Chairperson: We will consider a group of clauses next, members: clauses 19 to 23. There were no substantive concerns about those clauses. Two institutions commented on the reference in clause 20 to the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003. Do members have any issues that they wish to raise in relation to clauses 19, 20, 21, 22 or 23?

Ms Smith: We may add something to clause 19 to clarify it. Just as a safeguard — I use that word again — we may need to amend clause 18 as a consequence of the amendments that I mentioned earlier.

The Chairperson: Clause 19 states:

"This Act binds the Crown to the full extent authorised or permitted by the constitutional laws of Northern Ireland."

Ms Smith: We may add some text to that to clarify the point.

The Chairperson: That is intriguing.

Mr Maskey: It is just that the Crown is likely to abdicate.

The Chairperson: I cannot see a run to William Hill on that, Alex. Members, when we are talking, we generally refer to the inquiry "chair" or "chairperson". Would the Committee prefer to see that terminology used in the Bill? The technical term for Sir Anthony at the moment is "presiding member". From his first appearance at Committee, he was pretty clear that he was not entirely comfortable with being called a presiding member.

Mr Givan: Why not? I was not here for that discussion. I am just curious.

The Chairperson: We did not go into huge detail on it, Paul.

Ms Smith: Ministers are aware that Sir Anthony is not terribly comfortable with the term "presiding member". They are open to an amendment that sets out a term with which he is more comfortable.

Mr G Robinson: Such as "chairman"?

Ms Smith: Yes.

The Chairperson: "Chair" or "chairman".

Ms Fearon: "Chairperson".

Mr Givan: It is usually "chairman" or "madam chairman". The function does not change; it is just the title.

The Chairperson: Yes. The Department will look after that. "Chairperson" seems to be the preferred —

Mr G Robinson: The buzzword.

The Chairperson: There is one more issue, Maggie, on the budget. The estimated cost seems to have risen from between £7 million and £9 million to between £15 million and £19 million. Last week, when we received the briefing on the October monitoring round, we were made aware that there is no actual budget line for this work. Is that the case?

Ms Smith: Technically, that is the case at the moment, but it is really an issue of timing. The Department has the money already to see the inquiry through to the end of this financial year. The fact that it does not appear is more to do with the setting up of the systems, and so on, rather than anything else.

The Chairperson: So the money exists, but it does not appear in the budget?

Ms Smith: The money is in the Department at the moment. The business case kicked in on 1 October. The reason it does not appear in the budget is really more of a timing matter than anything else.

The Chairperson: OK. On 1 October, the inquiry opened for business to an extent in asking for expressions of interest. What is the budget for the rest of this financial year?

Ms Smith: I do not have those figures with me, but rest assured that the money is there for the rest of the year.

Mr Eastwood: In respect of the acknowledgement forum, is there any provision for victims' groups to be accommodated in some way in the building? Is there office space?

Ms Smith: No. The inquiry has premises in the centre of Belfast. The acknowledgement forum, the lawyers and various staff of the inquiry are all in one building.

Mr Eastwood: I am aware that the Department has been approached a number of times about some sort of facility for groups. Have you made any progress in that regard?

Ms Smith: We certainly have. Michael can elaborate.

Mr Michael Harkin (Office of the First Minister and deputy First Minister): WAVE Trauma Centre has been given a contract to provide a service on Friday mornings close to the centre of Belfast and also in the centre of Derry/Londonderry. It will have a manned room, with some refreshments available for any victims and survivors of historical institutional abuse. It will also have trained trauma counsellors on hand should anyone need to avail themselves of their services. That will begin this Friday.

The Chairperson: That is a Friday morning session?

Mr Harkin: Yes.

The Chairperson: I ask members whether they feel it desirable and appropriate to request that the Department to consider, at the inquiry premises, wherever they are, that a discrete facility be made available for victims and survivors that could be their space.

Ms Smith: Can I —

The Chairperson: Sorry, Maggie. I am not asking you. I am asking members.

Mr G Robinson: I agree with that.

Mr Maskey: Last week, we were made aware of the WAVE facility. That is very welcome. I am not so sure about accommodation in respect of the acknowledgement forum. I am not against it. Obviously, if there is anything that we can do to facilitate victims and survivors, we should do it. If it is feasible and makes sense, I would certainly support it on my party's behalf. I am just wondering what that will open up. Other people might want to make requests. Could we then have a logistical difficulty in the building?

Mr Eastwood: I would be very comfortable with it. In fact, I regard it as almost essential. As far as everyone around the table is concerned, this is all about the victims. I do not think that it should open up a can of worms. There are people doing a lot of voluntary work, and working very hard. They have basically brought about the inquiry. Thankfully, the Department has responded. If there is anything that we can do to facilitate them in their ongoing work, we should do it.

The Chairperson: Obviously, WAVE is a great organisation. However, its services will be available on a Friday morning. Something closer to a 24/7 facility may be desirable. The consensus, Maggie, is that we ask you to take that issue back to the Department and liaise with and ask the chairperson to look at providing some sort of permanent facility — just a room — that victims know is their space in the building. It could be difficult because they feel that they are going to an institution of the state, having previously been abused by an institution. Therefore, for them to know that they have their own discrete space may be really important in being properly victim centred in our approach.

Mr G Robinson: If victims want to get in touch with people, is there a confidential telephone number that they could use to make contact?

Ms Smith: Yes. There is a telephone number that people can ring to register that they would like to get in touch with the inquiry. When people ring that number, some simple information is taken. A little booklet is sent to them that tells them about the inquiry. It explains the acknowledgement forum. It also explains the statutory element of the inquiry. That gives them the opportunity to fill in a form and return it to the inquiry. That allows them to register with the inquiry that they would like to come and speak to it. The form sets out just a little bit about them: who they are, how old they are, and which institutions they were in. The other way that people can get the form is from the inquiry website. Its address is www.hiainquiry.org. If people log on to that website, they can download a copy of the form. Alternatively, they can go onto the NI Direct website, which has a link that will take them to the form. Therefore, people can register an interest with the inquiry through any of those means.

Mr G Robinson: Is it all strictly confidential?

Ms Smith: It is absolutely confidential; yes.

I would like to return to the point about the inquiry being victim centred in its approach. That is absolutely vital. It has certainly been at the heart of Ministers' thinking throughout the time that they have spent, first, working with the task force and, more recently, in setting up the inquiry. Ministers have been very conscious of the needs of victims in designing the inquiry and ensuring that the terms of reference reflect the ideas that victims and survivors have contributed all the way through. Part of what will happen when people contact the inquiry, and throughout their involvement with it, whether it is the acknowledgement forum or the statutory element, is that there will be dedicated inquiry support staff to help people through the process. The staff will look after them from the point when they establish appointments, make arrangements to meet the acknowledgement forum, and while they are in the building. They will ensure that they get a cup of tea and that they know their way home — all those sorts of things. There will be dedicated staff to ensure that people are looked after throughout the process.

The Chairperson: I have no doubt about that, Maggie. I also have no doubt that the personnel will be the right people for the job.

The facility is a slightly different issue. It would give them a space that they can say is theirs. Ultimately, the inquiry is an organ of the state. Think of the people whom we are trying to help: they were abused by institutions. Otherwise, we would not be here. The Committee has recommended unanimously that we ask the Department and the chair to look at trying to provide that space.

Ms Smith: We will certainly take that back to the Department.

The Chairperson: I appreciate that. Are we content, members?

Members indicated assent.

The Chairperson: Cathy, Michael and Maggie, thank you very much. We will see you next week.