



Northern Ireland
Assembly

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

OFFICIAL REPORT (Hansard)

Victims and Survivors: OFMDFM Briefing

23 October 2013

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Mike Nesbitt (Chairperson)
Mr Chris Lyttle (Deputy Chairperson)
Mr Alex Attwood
Mr Leslie Cree
Ms Megan Fearon
Mr Alex Maskey
Mr Jimmy Spratt

Witnesses:

Mr Ricky Irwin	Office of the First Minister and deputy First Minister
Dr Denis McMahon	Office of the First Minister and deputy First Minister
Mr Peter Robinson	Office of the First Minister and deputy First Minister: Victims and Survivors Unit

The Chairperson: We are joined by Ricky Irwin, Peter Robinson and Denis McMahon. Denis, I ask you to make some opening remarks.

Dr Denis McMahon (Office of the First Minister and deputy First Minister): Thank you, Chair. We welcome the opportunity to brief Committee members on the Department's role in dealing with victims and survivors. I will provide you with an overview of the current situation. Following that, we are happy to take questions. I know that members will have questions.

First, I take this opportunity to emphasise that the Department remains committed to ensuring that the individual needs of victims and survivors are met, in line with the victims and survivors' strategy and the comprehensive needs assessment of the Commission for Victims and Survivors (CVS). To that end, I can confirm that £50 million has been committed to addressing the needs of victims and survivors over the current comprehensive spending review (CSR) period. In addition, you have today's news about the £1.6 million from October monitoring.

As you will be aware, services for victims and survivors have undergone a radical transformation since April 2013. The Victims and Survivors Service (VSS) is responsible for the operation and administration of £25 million of funding from 2013-15 on the victims and survivors' programme. That programme replaced the previous funding schemes for victims' groups, administered by the Community Relations Council (CRC), and the direct assistance to individuals, administered by the Northern Ireland Memorial Fund. Those changes have coincided with the appointment of a single Commissioner for Victims and Survivors, who replaces the previous arrangement of three. That

individual represents the views and interests of victims and provides advice to Ministers on how those needs should be addressed.

One of the key objectives in the new funding programme is the move to a commissioning-based approach to service delivery, informed by an individualised assessment of need. That new approach, which you have been hearing about, entails a strong emphasis on monitoring and evaluation of outputs and impacts. That has produced significant challenges. I think that you have been hearing about some of those challenges over recent weeks and have been helping to bring some of them to the fore.

There is a particular challenge around ensuring continuity of service provision and maintaining the confidence of victims and survivors while the new approach is bedding in. Obviously, there are issues.

As outlined in the brief, prior to the appearance in Committee of the commission and the Victims and Survivors Service, it had been agreed, on the back of correspondence from the commission, urgently to address progress to date, identify areas that will require further attention and implement appropriate and operationally feasible improvements. To that end, the Department had agreed with the Victims' Commissioner and the Victims and Survivors Service to establish a victims and survivors' programme board to examine and redress the matters raised by the commission in its letter to the chair of the Victims and Survivors Service.

The first meeting of the board took place on 15 October. At it, it was agreed that a subgroup would produce a plan to identify the key issues that need to be addressed and the time frame for implementation for appropriate responses. The programme board is currently scheduled to meet every two weeks until at least Christmas, while the subgroup will be meeting in between.

The programme board is chaired by me, as the director of equality and strategy in the Office of the First Minister and Deputy First Minister (OFMDFM). Kathryn Stone, Commissioner for Victims and Survivors, and Anne Dorbie, chief executive of the Victims and Survivors Service, as well as special advisers, sit on the board.

I welcome the opportunity to update the Committee. I very much take the point about the programme board's process and the fact that this is about victims' needs. Obviously, we use jargon around such things as programme boards, but this is about making sure that we collectively focus our attention on the needs of victims. It is about ensuring that we are not defensive. A huge amount of work has gone into setting up the service and taking it to this point, but we are very clear about the fact that all that work needs now to have an even greater emphasis on the individual needs of victims and on the fact that we are dealing with people's needs. That is something that is at the forefront of the programme board's brief, and that is something that we are working with. I am happy to answer any questions that members have.

The Chairperson: Denis, thank you very much. I acknowledge that you accept that there has been some frustration at, I suppose, processes as opposed to delivery. On the process, I have to ask you something. We were told previously that the Victims and Survivors Service has a board — I suppose that "interim board" is the best description — and that Fergus Devitt is its chair. You are chairing a programme board that is made up of the CVS and the Victims and Survivors Service, and your colleague Fergus Devitt is the chair of one of those bodies. As far as governance is concerned, that is just wrong.

Dr McMahon: I accept that that is not a situation that we would want to continue and —

The Chairperson: How could you let it arise?

Dr McMahon: Until we have a permanent board in place, it is necessary to put in place some arrangements to ensure that there is oversight and governance of the service. The idea was to put in place the interim arrangements until we had appointed a permanent board. Ministers have taken a decision on a permanent board, and we are in the process of going through pre-appointment checks in the normal way. We expect to have the board in place very soon. I acknowledge that, from a governance point of view, it is not an ideal position to be in to have an official chairing that board for an extended period.

The Chairperson: The service was envisaged some years ago, and it is in the 10-year strategy that was published three or four years ago. Everybody has seen it coming down the tracks. It was not a question of having months to put a board in place but years. It seems to play into what the Committee has been hearing over the past couple of weeks, which is that delay is the theme. Letters have been sent by the commission or the service, and they are not responded to in days or weeks but sometimes months. In members' packs, there is a letter from the Victim's Commissioner about delays in communication of information about the new individual financial support programme. That letter was dated 26 February 2013, and a response to it came through on 24 September.

Mr Lyttle: How long has the interim board been in place?

Dr McMahon: I do not have the exact date. Do you have it?

Mr Peter Robinson (Office of the First Minister and deputy First Minister: Victims and Survivors Unit): I do not have the exact date, but I would say about six months. It is not an ideal situation.

Mr Lyttle: OK. It is no long interim if it has been in place for six months.

Mr Peter Robinson: It is being replaced with a permanent board. However, yes, it was far too long as an interim board.

Dr McMahon: It is not an ideal situation.

Mr Lyttle: Like, I think, most people, I recognise that this is a fairly complex process that we are trying to deal with. However, the scale of the additional funds that have been requested in the October monitoring round and the fact that you have put a programme board in place to meet fortnightly to try to address some of the issues suggests that the Department basically failed to adequately resource, govern or structure the service. Is that a fair assessment?

Dr McMahon: I do not think that it would be appropriate for me to say whether that is a fair assessment. However, it would be fair to say that clearly there are problems. There is no doubt about that.

A significant increase in resource has gone into victims and survivors' services. I am not for one second defending the problems with processes that have been identified, and nobody is trying to do that. Nevertheless, there has been an increase in people coming forward. I think that that is a positive thing, provided that their needs are met and they feel that they have got an adequate response.

The establishment of the programme board reflects Ministers' desire to ensure that this works, and works well. Really, it is nothing more or less than people in the Department, including special advisers working with Ministers, focusing their attention on the issues that have been raised with the Victims' Commissioner and the service.

Mr Lyttle: I welcome the fact that there seems to be a concerted and focused response to those concerns at this stage. However, I ask you to respond to some of those concerns. The Victims' Commissioner gave lengthy evidence to the Committee recently. She obviously has a statutory responsibility to ensure the effectiveness of the services that are provided for victims. She assured us that she takes the role very seriously, and you have also said that you take it extremely seriously.

The first concern was to do with information. The Victims' Commissioner said that she has not been provided with "sufficient information" to fulfill her statutory duty. Another concern was around assessment. The Chair mentioned the correspondence, and the Victims' Commissioner submitted detailed concerns and advice that were informed by victims on 13 August. That included a call for a root-and-branch independent review of assessment procedures and a statement of the view that the assessment process was not fit for purpose. Has that letter been responded to?

Mr Ricky Irwin (Office of the First Minister and deputy First Minister): At this point, I think that it would be appropriate to explain the purpose of the programme board. Its key terms of reference are around interrogating the issues that have been identified, identifying options and solutions, and implementing those solutions.

There has been a meeting of the board. A subgroup of the board has also met, and it went away and focused on the two or three priority issues that you have just mentioned, Mr Lyttle. The first is around the assessment process, while the second is generally around communication, information flow, complaints and operational issues. Work is ongoing to get to the bottom of all those issues.

Mr Lyttle: When was the decision taken to form the programme board?

Mr R Irwin: It was taken around the week commencing 2 October, I think. The board just adds momentum to a number of discussions that were happening between the commission, the service and the Department. Indeed, the intention to convene the board was conveyed to the chief executive of the service and the commissioner prior to their appearance before the Committee on 9 October.

Mr Lyttle: OK. Therefore, the substantive response to the detailed concerns that were raised on 13 August was the formation of the board.

Mr R Irwin: Yes. It is the substantive response, and it will be where the solutions are identified. It would not be right for us to try to pre-empt the outcomes of the programme board.

Mr Lyttle: Do you think that that is a quick enough and a detailed enough response to the Victims' Commissioner?

Mr R Irwin: There is an absolute sense of urgency to address the issues quickly. The board has brought a focus and a concerted effort to the issues, which I think that you acknowledged. Meetings have been scheduled fortnightly, but work is happening in between.

Dr McMahon: I have to be open about it. Clearly, there has been a lot of communication and engagement with the service and the commissioner. There is no doubt about that. Again, being clear, when those issues have been raised, they have been discussed. However, there was a sense, particularly among Ministers, that this needs to be given a greater emphasis and focus. The governance arrangements that were in place were not getting the necessary response.

It is important to say that I am not for one second trying to defend what has happened. All that I am saying is that the service has been up and running — properly up and running as far as being funded is concerned — from 1 April. It has been in place for longer than that, but it has been up and running since that point. To some extent, we were working on the basis that issues will come out. When you look at the papers and the development of the issues, you can see that the issues were coming out initially in a very muted way. Some issues were coming out and some things were starting to happen. Gradually, that has built up over a period. I suppose that it just came to a certain point at which, as a Department, Ministers were saying, "Look, we think that this needs an additional emphasis and focus", and that is how the programme board approach came into place.

Mr Lyttle: In fairness, you knew that from 13 August, given that the Victims' Commissioner was saying that.

You heard today that the survey response to the financial assistance regular allowance scheme was 70%. That is evidence of how important victims and survivors regard that scheme. Who took the decision to cap the scheme at 30 June?

Dr McMahon: The decision was taken by the Department on the basis of the resources that were available at that stage. There was a sense that if we did not have the resources, we had to stop the scheme at that point. I understand that that, in one sense, is a negative thing. However, in another sense, it reflects the demand coming forward. That is what is behind a lot of this, and that is not to take away for one second from all the issues that have been raised. There is additional demand, and there is additional resource going to meet that demand.

Mr Lyttle: I think that you already answered that. What is the principle behind capping the scheme? Why cap the scheme?

Dr McMahon: Potentially, now that we have additional resources —

Mr Lyttle: But there are other services that are not capped.

Mr Peter Robinson: That scheme in particular is about £250 a quarter as a cash payment. It is not so much capped as that is the scheme itself. We just had to suspend the scheme because of concerns over not having the available resources to carry on. However, now that we have additional resource, we can look at that, and we hope to see progress made. It was not capped; rather, that was always how the scheme was.

Mr Lyttle: I will replace "cap" with "suspend", then. Is the plan to avoid any future suspensions of the scheme?

Mr Peter Robinson: That would be the plan.

Mr Lyttle: Do you accept that the communication around the suspension of that scheme was not adequate and that it caused distress to a lot of victims and survivors?

Dr McMahon: I accept that, and I would go further and accept that communication is a major issue that we have to address, full stop.

Mr Lyttle: There are some services in the community not provided by the Victims and Survivors Service that aim to assist people who find themselves placed under threat by paramilitary organisations, and it is my understanding that the Department has taken a decision that those services are not eligible for support from the Victims and Survivors Service. Is that correct, and if so, can you help us to understand why?

Mr Peter Robinson: The remit of the service falls under the Victims and Survivors (Northern Ireland) Order 2006, as Sara said in the previous session: those who have been bereaved, seriously injured or psychologically injured, or are carers. From the Department's point of view, the problem is that those people who would be under threat from paramilitaries, and so on, would not fall under that remit. That was the issue.

Mr Lyttle: Who took that decision?

Mr Peter Robinson: It is determined by the legislation.

Mr Lyttle: Who interprets the legislation to mean that? You mentioned psychological injury. Are people under threat from paramilitary organisations not suffering psychological injury?

Mr Peter Robinson: They could be, and if they were, they would be eligible and would fall under the remit. That would be the correct —

Mr Lyttle: You have decided that they are not.

Mr Peter Robinson: No, I have not decided that they are not. If they are, they would fall under the remit. However, people under threat may be a matter for the police.

The Chairperson: The interpretation of the definition of "victim" in the 2006 Order as not amended by the Commission for Victims and Survivors Act (Northern Ireland) 2008 is entirely a matter for the commissioner. The statutory duty under article 3(1) is:

"appearing to the Commissioner to be".

Therefore, if anybody else is making that call, surely that is ultra vires.

Mr Spratt: On the back of Chris's question, I ask why you were dealing with people under threat previously and then suddenly decided that that was not being done any more and that it was a matter for the PSNI to deal with. Surely the logic is that it would always have been a matter for the PSNI. Therefore, why change in midstream?

Mr Peter Robinson: I think that we are talking about one group. I am not fully apprised of the whole situation, but I know that that group carried out a range of activities and that it was funded previously under the strategic support fund (SSF) administered by the CRC. The extent to which that group was

funded to carry out that specific service for people under threat from paramilitaries, I am not sure. I do not think that it was for that specific activity, but —

Mr Lyttle: We are not talking about a specific group. We are making genuine attempts to try to understand the decision in principle, as far as I am aware, to exclude that category from eligibility for funding from the Victims and Survivors Service.

Dr McMahon: I think that we need to take that away and look at it specifically. If the Committee is prepared to agree, we will come back with a written response on that. I think that we need to look at that again, if that is OK.

Mr Lyttle: OK. You understand where we are coming from. I understand that there has been a departmental decision to exclude that particular service from eligibility for funding from the Victims and Survivors Service, and I am trying to understand whether that is the case, and if so, why?

Dr McMahon: If you do not mind, we will look at that.

Mr Lyttle: The Victims' Commissioner proposed a round-table meeting of herself, the Department, the Victims and Survivors Service and, hopefully, members of the Committee who would like to attend to try to repair some of the working relationships, to get to the bottom of some of the issues and to give the victims a voice in the process. Does the Department support that, and if so, when can that be facilitated?

Dr McMahon: One of the issues that was discussed at the first meeting was how to involve victims and survivors in the process. The programme board cannot be people sitting in isolation discussing the issues. The forum services group is one mechanism that the commissioner will want to look at, and we will be working with her on that. The group needs to work together, so I cannot give you a definitive view as to the format that that engagement will take. However, that will be part of the process and will need to happen.

The Chairperson: Denis, you will understand why I am asking this: can you get the written response to us for our meeting on this day fortnight, please?

Dr McMahon: We will do everything that we can.

The Chairperson: Or a note to explain why you need longer.

The establishment of the programme board resulted from attendance at meetings that involved you, the commission and the Victims and Survivors Service. How would you characterise those meetings?

Dr McMahon: That is difficult, because I did not attend the meetings. Perhaps Peter wants to —

The Chairperson: Whatever way you characterise them, they gave rise to the need for the programme board. How did you report the meetings back?

Mr Peter Robinson: Are we talking about the bilateral meetings between the commission and the service?

The Chairperson: Yes.

Mr Peter Robinson: I attended some of those meetings, because departmental officials attended on an observational basis. As they have progressed monthly, the information sharing and the businesslike process have definitely improved. A lot of information was being shared, and a lot of discussion took place about all the issues on the table. I am not saying that there were not issues, but certainly there has been an improvement in the way in which those meeting have progressed recently.

Mr Spratt: Is it not the truth of the matter that your Victims and Survivors Service is not fit for purpose? It must be somewhat of a disappointment to the Department, because the organisation, as you say, has been up and running since 1 April. Those 37 individuals have been employed in other victims' areas over the years and have been TUPEd in from the Northern Ireland Memorial Fund and the CRC, and so on. Therefore, they are not new people coming into the job.

You were here earlier, and I am sure that you heard that the commissioner, followed by the service, was at the previous meeting. Reputable cross-community organisations that have worked for many years on victims' issues, particularly WAVE, are all singing off the same hymn sheet, and the commissioner appears to be saying the same thing about getting the basics wrong, whether that be not answering telephone calls, which has been admitted, or not replying to e-mails. We were told today that such basic things in the office were not happening. Frankly, we did not get any answers, did we?

Dr McMahon: About what?

Mr Spratt: Except that we were told that the programme board — I assume that the board that you talk about is the same one that the Victims and Survivors Service talked about —

Dr McMahon: Yes.

Mr Spratt: It is one and the same thing.

Dr McMahon: Yes.

Mr Spratt: You have an organisation that is not fit for purpose and that is re-traumatising victims. As more than one victim described to me, "They just create mountains in front of you and hope that you go away." And that is to do with simple things such as pain relief. Individuals who are coming forward feel that the service really does not want to help them; rather, it just wants them to go away. In my book, that is scandalous, to say the least. Something really needs to be done.

I want you to tell me now what the programme board intends to do about the mismanagement of the organisation. Because it is mismanaged. Let us call it what it is. It is, quite frankly, mismanagement for somebody not to answer telephone calls and reply to e-mails. The people applying are traumatised, and that does not help their situation in any way.

In answer to my earlier questions, you heard that 56% of those people have mental health issues, while another percentage have brain injuries and all sorts of things. You heard me say what the Department of Justice (DOJ) has done on injury-on-duty pensions for police officers, and I referred to the advice that was given by the Deputy Chief Medical Officer for Northern Ireland. It is disgusting to re-traumatise people, many of whom must have serious medical reports. The bottom line was that those medical reports and records — I use what the Northern Ireland Policing Board (NIPB) did for injury-related pensions as an example — are examined. People are not brought back. It takes years working with many such people — you heard me say that psychiatrists work with them for five, six, seven or eight years, but I did not get an answer. I did not get an answer to probably 90% of my questions. However, all that work can be undone in one telephone call, one reassessment or whatever.

People who have been traumatised and who have already been paid out need to be treated much more sympathetically. They have even been asked for bank statements when they are already on various means-tested government payments. Then there are the delays. Organisations right across the Province talk about the delays. I asked that question and did not get an answer, because the witnesses could not tell me exactly how long it took from assessment to payment. I must say, Denis, that the handling of such issues is not good enough, and they need to be dealt with. Victims do not want to hear any more about project boards, meetings or anything else. They want action. They need action now and are not getting it. That is the message from right across the board. I do not separate any community from another in what I am saying. First and foremost, what is the Department going to do about your failed Victims and Survivors Service?

Dr McMahon: There are, obviously, a number of levels to the issues that you have raised. First, I could not possibly defend people not being phoned back or contacted. Such issues are indicative to people: you judge an organisation by the first contact that you have with them. Those are important issues.

We are going to look at each of the points that you have raised as a matter of urgency. They have been raised, as you quite rightly said, by the commissioner. Again, while not at all being defensive about any of this, because I could not be, it is probably worth acknowledging that, even in her opening

statements, the commissioner acknowledged the hard work that had been done and some of the progress that had been made.

We need to drill down into those issues, find out exactly what we can do in the short to medium term on processes that can be put in place straight away to resolve some of these issues. They are probably things that are not hugely complex and are a matter of getting in place processes. Some of them you heard about today, and you could say that it is too late. Those simple processes — ensuring simple decency, such as making sure that people are contacted back — are important. Then, we need to look in more detail at the assessment process. I would be worried that, if we were to say, "The assessment process is going to stop altogether, and we are going to do something totally different", not having some form of assessment process would mean that we may miss and not capture people's needs. We need to make sure that we design, with the commissioner and the service, a process that works.

Mr R Irwin: The service is an operational organisation that is working in a very complex and highly sensitive area. I come to this as a relative newcomer, but my background is in the Child Support Agency.

Mr Spratt: That is not a recommendation. *[Laughter.]*

Mr R Irwin: From that experience, I know that any operational service, particularly in a sensitive area, has to be responsive to feedback from its clients and customers, and must look at how it can continuously improve its services. It must get that right.

Mr Spratt: That is not delivering for victims. It sounds like more excuses. What do you have to say about the Ballymoney office of WAVE, which has been told that assessments of a group of individuals in the area cannot take place until February 2014? Is that good enough?

Mr Peter Robinson: I am not sure about the detail of that, but that is definitely not acceptable.

Mr Spratt: We have been told that by the Victims Service.

Mr Peter Robinson: I am not saying that it is not true.

Mr Spratt: Quite frankly, it is appalling that they are being told, "We are not able to assess you for the next four months. We will not even answer your telephone calls or return your emails."

Mr R Irwin: As Denis said, the issues need to be interrogated. We need to get to the bottom of them, and we need to have the responses now.

Mr Spratt: It really frustrates me when you say the issues need to be interrogated and that you need a programme board, a project board and all sorts of boards and that you need to have all sorts of meetings. Quite frankly, these people have been transferred under TUPE. You have acknowledged that fact, as has Anne Dorbie. This needs to be sorted out urgently, and, by that, I mean tomorrow or next week, not four or five months down the line, because that will not help any victim who has tried to come forward. There needs to be urgent help. I see meetings as another way of pushing it down the line. It is wrong to do that in this case. I am sorry to have to say that it is appalling.

The Chairperson: One of the frustrations, Denis, is that I do not think that anybody believes that anyone involved in this, from Ministers down to somebody working in the service, is out to damage or hurt victims. Finally, we have everything in place. The funding is there, as is the strategy from the Department. The commission, forum and service are there. All the cogs are in place and it should be flowing for the first time really well, and it is not. What is the problem? Who needs to say, "Just do it"? It is a question of empowering people to say, "Just get on and do it, for goodness' sake."

Mr Maskey: Denis will probably want to address that as his last contribution this afternoon. I have had direct dealings with a number of victims and other people involved in groups. As I said earlier to Anne and her colleagues, their experience has, for the most part, if not entirely, been negative. I heard explanations about the organisation a few months ago. As Jimmy said, there are 37 members of staff, and at least some, if not quite a lot of them, probably came from some form of work in that sector.

There are some experienced people there from senior levels in whatever organisation they came from, so I would have expected a greater degree of competence. More importantly, there is an ethos issue and maybe a cultural problem, which I keep detecting when I am putting questions and getting answers. It is almost a paternalistic attitude of, "we know best." I am trying to be diplomatic in some of my contributions because I am more interested in you taking this forward.

I am also very concerned that we have officials from the Department sitting on a board when all those complaints have been flying back and forth and all those meetings have been happening with no resolution to the issues. I have to call into question the contribution, if I may put it that way, that some of those people made. Thankfully, they are there in the interim; they will be going. I do not have confidence in their ability because people charged with responsibility on behalf of the Department to work on and oversee this have clearly and patently failed. That has to be stated, and I am stating it here this afternoon.

I would like attention paid to that in the work of the programme board because lessons need to be learned so that this sort of thing does not happen. OFMDFM is a big Department and has major responsibilities. If there is any problem with officials, some of whom are quite senior and experienced, and they are doing that in that role, what are they doing somewhere else? That is what I would be asking myself, so I would like some analysis done on that.

There may even be a failure of people recognising what their roles are. I agree with Ricky that the service is an operational service. I do not mean that as any slight because it is a critical service, but it seems to me that that may have got lost in translation somewhere along the line. The Commissioner is vital, as is the commission and the victims forum and their voices. The relationship has not been right.

I would be appalled if we reduced this to a problem of relationships. I would not accept that. Personally speaking, I do not want to even hear that. That would insult our intelligence. Are well-paid people with that level of professionalism going to tell me that there is a relationship problem? Well, I am sorry — out the door; I do not want to hear that whatsoever. It may be more the case that they fail to understand their roles and how they must relate to one another.

I am not saying that there is a pecking order but there has to be an authoritative role for looking forward at the role of the Department. I said earlier, and I meant it, that I am confident with the officials who are now in there to run that. However, it is the job of the officials and the Minister to run the programme board. It is not about just sharing information. I presume that you have been delegating what you are saying on interrogating issues.

A number of people here forwarded complaints to the Commissioner, and others raised issues of complaint. I could write out a list of those complaints and hand them to you after the meeting. I hope you can give me assurances that the complaints on the table will be systematically and robustly addressed, one by one, over the next few weeks, so that we get to the bottom of the list of complaints and have them resolved. Whatever has to change has to change. That is an operational matter. You know better than me, but I would expect people to sit down with a list of problems and go through them, one by one, get the answers and get them fixed. If people are not fit for the job or something is not fit for purpose, that has to be stated and people moved or drastic action taken. You made the point, Chair, that things are in place, this is a difficult area of work and it should not be made more difficult.

Chris spoke about a round-table meeting, with us sitting on a programme board. We should not be doing that; far from it. That is not our role on this Committee. Our role is to let the Department, and those who have the responsibility and are employed and appointed to do that, and go and sort those problems out. It would be a serious mistake if we, as members of this Committee, thought that we could help that process by sitting around that same table. I do not mind us as members of the Committee joining round-table meetings when it is sorted out, but not trying to sort it out. We would complicate that and make it more difficult to get solutions.

Quite clearly, people out there will have a view as to whether this is done right. Having politicians around that table may not be the most advantageous way to go forward.

Mr Lyttle: Just to clarify, I in no way suggested that MLAs should sit on the programme board, but the round-table meeting is a different proposition and may be useful. A logical, intelligent person could assess the events of the past couple of weeks and conclude that the flurry of activity that we saw

coincided rather nicely with us having a string of Committee meetings to hear from all these bodies. That shows a Committee playing a positive role. We could be involved with the round table.

The Chairperson: There are two different views around on that but we will cross that when we come to it.

Mr Attwood: I acknowledge, Mr McMahon, that you are more forthright than the people who gave evidence directly before you, and you heard their evidence. The way you shape things seems to be more substantial and more serious than what others have said this afternoon. However, I do not want you to feel comfortable in your seat because I said that. The Victims' Commissioner wrote, I think on 7 September, to formally alert the Department of her concerns.

Dr McMahon: On 9 September.

Mr Attwood: On 9 September; I stand corrected. The chief executive of VSS said that she drafted a letter and sent it to somebody because, as of that time, a response had not been issued.

Dr McMahon: Yes.

Mr Attwood: Have you responded to the formal alert letter?

Dr McMahon: We have responded. I say "we" and, to be open again, it comes back to the point of governance and governance structures. The letter that you are referring to is, I think, the one that the commissioner wrote to the interim chair. In fairness to the official in question, that official is working on behalf of Ministers and doing this on behalf of Ministers as an interim measure until the board is in place.

When that letter came in, it was being responded to by the chair but it was also a departmental response in the sense that the Department had to be content with it. The real response is the letter going back saying, "We have now set up this programme board and we want to work with you on that." Actually, the detail behind that is that other, additional conversations have been going on. I would not want to give the impression that it was just that, and we are going to wait to see what happens. I met the commissioner on Friday —

Mr Attwood: It was seven weeks before there was a formal response.

Dr McMahon: Yes. The response was delayed; I accept that.

Mr Attwood: It has been 19 months since the formation of the company limited by guarantee. You indicated that a civil servant had been the chair for too long and that one of the other directors was also a civil servant. If that is the case, why have three other civil servants been appointed to that limited company as directors in the past number of weeks?

Dr McMahon: We had an interim board in place. The intention was to replace that with civil servants from outside OFMDFM, partly as a response until decisions had been taken by the Department on the permanent board. The idea was to bring in officials from outside OFMDFM to try to improve governance —

Mr Attwood: You will appreciate that, 18 months after the company was set up, three more civil servants were appointed to it at a time when the only business you should have been doing was appointing independent people to the company. Those seem to be contradictory actions.

Dr McMahon: I accept that it would have been better to have a board in place.

Mr Attwood: Has the company limited by guarantee filed its accounts?

Mr Peter Robinson: Not yet; no. They are being worked on actively at the moment.

Mr Attwood: Has it breached the requirements for filing accounts?

Mr Peter Robinson: I do not know the full details. I know that it is actively finishing them off as we speak. I know that it has not lodged them yet.

Mr Attwood: Do you know whether it has breached companies legislation?

Mr Peter Robinson: My understanding is that that is not the case at the moment but things are getting tight, so it would need to be done very quickly.

Mr Attwood: You might come back officially and confirm whether there is a breach and, if not, when the breach arises.

You have this board, but, in your own sense of things, do you think that it is necessary, as part of the work of the VSS, that victims are asked to re-present and reproduce death certificates in order to confirm that a death occurred in a situation where the VSS has the files from the Memorial Fund?

Dr McMahon: Being honest, it is difficult for a civil servant. That is a very sensible question, but I do not want to go into the detailed operational arrangements. From a common sense point of view, what you are saying is absolutely sensible. Why would you ask for the same information and documentation again, especially on such a sensitive issue? You could not deny that. However, one of the things that we need to do —

Mr Attwood: What surprises me, Mr McMahon, is that, given that that has been one of the issues that has been raised repeatedly, you do not have an answer to it. Why are people being means-tested again when they have already been means-tested? Why are people who may have lost a limb and are looking for a wheelchair being told to get three tenders? For the victim, that means having to find a wheelchair provider and go there and be measured for a wheelchair, but do that three times. Are these not basic issues of dignity?

The VSS and the sponsor Department do not have a grip on how those issues should be sensitively and quickly rectified. Forget about your project board. These are just basic issues of good operation and practice and respect and dignity, yet it is still the case that people have to present death certificates and so on. As I indicated to the chief executive, having a structure is one thing, but these are things that should have been rectified before now and, if not before now, then now — whatever about a project board. Do you not agree?

Dr McMahon: It comes back to the description of the work that was given earlier. There is a need to sit and work through the list, go through those issues, one by one, and get them signed off. That is what we need to do. The only thing that I would say is that there is an expectation on us to ensure that we are using public money appropriately and openly. There are requirements that come in as a result of that. That is not an excuse, but it is a reality. There are things that we are required to comply with, but I think that we need to look at each of those issues very quickly, as you say, and ask what the public requirements are and how we can work within those flexibly to ensure that we do not cause that sort of stress.

Mr Attwood: There is no public requirement about reproducing a death certificate.

Dr McMahon: We need to look at that.

Mr Attwood: Let us move on. You will have heard me earlier referring to the issue of the award of contracts. Without naming any organisations that might have been awarded a contract, was it not the case that the contract for the psychological assessment was awarded to one organisation and then, following some concerns, it was awarded to another organisation a year later, and that both organisations were awarded contracts without public competition?

Dr McMahon: There were direct-award contracts; that is correct.

Mr Attwood: If, in one year, you decided that you had to award a contract without competition to one organisation and then, a year later, decided that you were going to award the exact same work to a different organisation without any public tender, that suggests that there were at least two organisations that could have done the work. Why, then, was there not a competitive tendering exercise in the first instance? In my view, there were a lot more than two organisations that could have done that work. Is that your own practice demonstrating that there should have been a public

competition? Why, in those circumstances, did you award contracts without any public competition not once but twice?

Mr Peter Robinson: One of those organisations was Futures NI, which could not continue providing that service, but you are right, the current —

Mr Attwood: Let us be careful. That is not the question. At the start, you did not know whether that organisation could or could not continue with the work. If you could award a contract to it in the first year, and award it to somebody different in the second year, why did you not run a competition at the beginning?

Mr Peter Robinson: The contract that is currently with Carecall was put in place because people were coming to the service who needed urgent acute psychological intervention, so there was that urgency. We could not say, "No, we do not have a contract in place", so we had to go somewhere. That was the reason why the direct award —

Mr Attwood: The primary question is this: when you awarded it to the first company, given that there were clearly other organisations that could do the work, why was a public tender not conducted and why did you not go and assess all the other organisations, which would say to me that they would like to compete for that, and have the specialists and history to do that job well?

Mr Peter Robinson: I acknowledge that that direct award has been in place for far too long. We are working actively with CPD and the service to put in place a proper tendering process.

Mr Attwood: I am not getting an answer to my question. Let me move on. Why, when it comes to training contracts, have you gone down the same road of single tender? The reason why I ask is that, in other Departments, there are processes that capture everybody when it comes to training contracts, even to the point where I think it is far too flexible. Why, in this case, when it came to training contracts, was there a single-tender exercise?

Mr Peter Robinson: I am not sure about the detail of that contract. My understanding was that that was not a direct-award contract. I can check that, but I understand —

Mr Attwood: They were.

Mr Peter Robinson: OK. Some contracts were awarded that were the responsibility of the accounting officer, and the Department would not necessarily have full details of those. However, we can certainly check that.

Dr McMahon: Whether it is an acceptable justification is a different issue, but the reason for doing that was that there was a need to ensure that the services were in place. The timescale involved in running a procurement exercise meant that it would not be possible to maintain and develop the service quickly enough.

Mr Attwood: Mr McMahon, in the run-up to the creation of the VSS, you knew that there was going to be a need for psychological assessments. You are now arguing that there was an urgent need to put something in place. You had plenty of time to put the right thing in place. It was not put in place, and you ended up awarding single-tender bids in two successive years. I would be interested to hear the answer to the question about training contracts. You might come back to us on that.

Mr McMahon, I note that the new processes are an attempt to rehabilitate the VSS. I have serious concerns about whether that job is too big even for you.

The Chairperson: OK. Members, we will move on —

Mr Maskey: Sorry, Chairman. I want to make one final point. Alex, that was a fair point, but I have not heard anybody suggest that this process is about rehabilitating anybody. It is about getting the system and the services right. I am not sure what you meant by that, but I am not interested in anybody or any organisation being rehabilitated. I am interested in getting this problem fixed. As I said earlier, if people need to be moved on or they are not fit for purpose, we need to address that in a very radical way. I do not want anything to be left in mid-air that this is about rehabilitating somebody.

Mr Attwood: No. There is no difference between us.

The Chairperson: That is just linguistics.

Mr Maskey: These things can be translated differently, Chairman, as you well know. I have had to raise that before on other matters.

My last question is one that I asked earlier. Can there be any role — I think that there must be — for the direct voices of victims, whether through the service or the forum?

Dr McMahon: Yes.

Mr Maskey: OK. Thank you.

The Chairperson: Members, we now move to the KPMG review of the Commission for Victims and Survivors for the period 2008 to 2011. I ask Chris, the Deputy Chair, to take the Chair. Denis, do you have any remarks that you would like to make on the report?

Dr McMahon: No, Chair. I am happy to answer any questions.

(The Deputy Chairperson [Mr Lyttle] in the Chair)

The Deputy Chairperson: As the Chairperson said, this part of the briefing is on the KPMG report on the previous Commission for Victims and Survivors. Are the officials sure that they do not want to make any initial remarks? Are you happy to move directly to questions?

Dr McMahon: I am happy to take questions.

The Deputy Chairperson: I will start. What is your overall view of the tone of the report? It seems to make a number of criticisms and points for reflection. I realise that, to a certain extent, some of that refers to ministerial decisions. Indeed, much of what you come to the Committee to account for is a result of those, and I can sympathise in that respect.

One of the key issues was the decision by the Office of the First Minister and deputy First Minister to appoint four commissioners rather than one, with each having equal status. The conclusion of the report was that that:

"presented considerable and practical challenges which ... impacted negatively on the overall performance of the Commission and therefore has not presented value for money."

Do you have any response to that conclusion?

Dr McMahon: Obviously, I cannot comment on ministerial decisions when they relate to political considerations or anything like that. The one thing that I would say about the report in general is that it shows a picture over a period. You can see in the report that there was a transition in performance targets, performance against targets, and so on. Obviously, there was a transition coming up to the service, which went beyond that.

It is important to see the report in the context of the wider transition, and it shows some of that. Further improvements continued after the report, right up to the present day.

The Deputy Chairperson: The commission was established in June 2008, but the full staffing complement was not achieved until January 2011. Do you agree with KPMG's conclusion that the commission may have been more effective if it had been established in shadow format initially to allow administrative systems to be set up and appropriate staff to be recruited?

Dr McMahon: What it shows is that there are huge challenges in setting up an organisation in such a complex and difficult area. There is no doubt that a lot of the challenges were administrative around staffing. There is no doubt that that was part of it. Again, to some extent, it reflects on the discussion

that we had around the service. When you set up new organisations such as that, it definitely creates challenges.

The Deputy Chairperson: If it had been set up in shadow format, do you feel that that would have helped to alleviate some of those challenges? You can see how it also perhaps applies to other bodies, and we have just reviewed the Victims and Survivors Service. I suppose what I am asking is whether that initial shadow format could have helped to alleviate some of those challenges. That seems to be what the KPMG report suggested.

Dr McMahon: It is hard to say to what extent that would have had an impact, but there is no doubt that, as a general principle, shadow periods can be helpful. The other side of that is that we are talking about people and a sector with huge personal challenges, and they would expect to see action urgently. I was not there at the time that the decisions were taken, but I think that those decisions would have been taken with that in mind.

The Deputy Chairperson: Are we, therefore, seeing a pattern emerging from the Office of the First Minister and deputy First Minister in which the challenges that are presented by setting up new organisations are not handled well?

Dr McMahon: There are clearly issues with the service and there were clearly issues with the commission. To some extent, there is always going to be some level of teething problems with new organisations. That is not to be defensive or take away from the real issues. I was involved with some of the work that the Department of Health, Social Services and Public Safety did under the review of public administration. That was acknowledged by many as a process that worked well, but it was not without its teething problems nor is it without its problems today. Any time that a new organisation is set up, it creates particular challenges and there are always lessons to be learned.

One of the things about this report is that it has given us something to work with, but we probably have more lessons to learn, as we talked about.

The Deputy Chairperson: I think you are right. The report also touches on the governance status of the previous commission and, I think, concludes that a non-departmental public body was the correct format for the commission. It warns that government intervention should take place only where there is clear evidence of failure and that that separation is extremely important. I suppose that that has resonance for the Victims and Survivors Service given how long its interim board has been in place. Do you have any comments on the conclusions of the report on the governance status?

Dr McMahon: It clearly recommends the need for the commission and the need for the commission to continue. Notwithstanding the challenges, pressures and so on that there have been in recent times around the service, I think that it very much demonstrates the value of the commission. Ministers are of the same view. I have had direct experience of the commission from 2011. In the period that I have been involved with the commission, it has had a very clear challenge function. That has not always been easy, but it has made a difference. I would say that it definitely made a difference with regard to moving timescales along and helping us to sort through some of the issues. I have no doubt that the commission will play a very valuable role in the coming weeks and months as we sort out the issues.

The Deputy Chairperson: I think the Committee would agree wholeheartedly with those comments.

Mr Maskey: Thanks, Denis. To be honest, Deputy Chair, I am not so sure how much time we should be spending on this, because I do not think that any amount of our discussion on this, following on from the previous discussion, will make one blind bit of difference to any victim or survivor out there. It is a very important report; it tells us some very important things. I bookend my views on this in so far as it was not easy at the time when the commission was appointed. In fact, it was impossible to get one commissioner who was agreed on by people out there. Arguably, that may always be the case; I do not know. Hopefully, the current commissioner will be able to get on with her job much more successfully.

On the other hand, you could say that the fact that we had four commissioners made it difficult to get maximum efficiency. There is probably a good argument for that, but the other side of that coin is that four heads should have been better than one.

It does not make great reading for me. Some 54% of the targets were achieved. That is just over a half. There were failures on a range of issues, but it is gone. The commission has gone; we have moved on. There is a new one in place, and we have just spent the afternoon pulling out the little hair that some of us have in trying to get the new system working for people. OK, we can note the report and take any serious lessons that we need out of it. I think that one of the big lessons is that we now have a single commissioner in place. Hopefully, that will lead to much greater clarity.

Generally, no one would criticise one individual commissioner at a personal level. I have no doubt whatsoever that everybody who was there tried to do their level best. I think that the Chair made that point earlier. I do not believe that there is one person involved in the sector who wants to harm anybody else or to maladminister any of these things. The fact of the matter is that I do not think that the KPMG report reads very well. Thankfully, however, we have moved on. As I said, I do not know how much more we can deal with this.

The Deputy Chairperson: If the lessons and suggestions that it made were no longer of any relevance, we might be able to spend even less time on it, but I take the points on board.

Mr Attwood: I have more of a comment. I think that the previous commission did good work. The Victims and Survivors Forum was a brave undertaking and worked in a more coherent way than, I think, most people anticipated. Whatever the criticisms might be, I acknowledge that there was some good and enduring work. I think it will only get better.

The commission started with a lot of disadvantages. There had been a lot of politics — I am using that in a neutral sense — around the commission, the appointment of commissioners and all that. Therefore, it was never an easy place to be, given that background and the fact that there were four people, and so on and so forth. It seems to me to have been an awkward model. In those circumstances, there were going to be awkward outcomes. That might be reflected in the report.

I think that there is learning from it. If there are issues around the sponsoring Department and how it enables a commission or the Victims and Survivors Service to do or not to do its work properly, and you can draw that out from this report, which, I think, we can, there are lessons for government and for this Committee. You can draw out lessons for a sponsor Department, in this case OFMDFM and the Victims' Commission, and other Departments and bodies elsewhere in government. I think there are things in this report that offer some insight into the problems that we were talking about earlier and how to remedy some of that.

People stepped into the breach around the hardest issues of all — and I am looking to Mike Nesbitt to my right. Whatever about the internal management issues and all of that, which are outlined in the report, each in their own way made a good contribution; some more than others. I acknowledge all of them, because I think each of them at least stepped into the breach, and it was a very hard place to be.

The Deputy Chairperson: I think we would agree. Regardless of the level of scrutiny that we are bound to apply to all these structures, everybody recognises that there are people trying to do their best for an extremely important section of our community.

Mr Spratt: I acknowledge that the report makes very difficult reading. I am not going to reiterate what others said, but it was a difficult area to step into. It was a difficult area in which to get engagement. It took some time to get that engagement and to get the confidence of areas and groups that were out there. It was always going to be difficult, whether there was one, four, six or seven. It should be acknowledged that, given the conversations that we had earlier, the new commissioner is off to a very good start with the work that has been done. I think she has identified very closely, and the feedback from the groups that have been set up is good. In my book, some of that foundation was laid.

You could be critical and political on this, but I do not think that that is the right thing to do at this time. We want to see progress now, because people want delivery of the money, the help and the pain clinics. Those are the areas that are needed. I think that the foundation work is done. It lays a foundation for that, and, in my view, the new commissioner appears to have very quickly sorted some of that out or got to grips with the situation. Let us move on, and let us not try to politicise the thing anymore. It was a difficult decision at the time. I think that the best that could be done was done at the time. I will leave it there, Deputy Chair.

Mr Nesbitt: Deputy Chair, I would like to say a couple of things. I acknowledge other MLAs; in fact, I will take Jimmy as an example. He was incredibly helpful. You took away a specific huge file. I do not know whether you remember it; it was a very complex case. It concerned a man with very bad mental health issues. That is one example of MLAs being very helpful to the commission.

It is easy to look at the personalities, and, in this case, at the four people who took up the challenge. Everybody who applied did so because they felt they had a vision to help victims and survivors. For whatever reason, the decision was made to go with four. As the report says, they were four strangers. We had never met, but we sat down one day and we took the challenge. I pay tribute to Brendan, Patricia and Bertha for taking up that challenge. Bertha had been a sole interim commissioner. It was a massive challenge to go back into the same building, the same office, with the same two seconded staff, but realise that, effectively, there were three other people. Beyond breathing and deciding when to go for lunch, she had to consult. It was a major challenge. Going to the single commissioner is the right decision, and I wish her huge good fortune.

Mr Spratt: The one thing I meant to say was that this is an area in which devolution of powers to this place helped something to get done. For years of direct rule, nothing was done for victims. That needs to be acknowledged and put on the record.

Mr Nesbitt: The final thing is the issue that it should have been in shadow format. That is something to learn from, because, from the announcement in January to the legislation going through in June, it turned out we did not exist. The seconded staff were told, "Because you don't exist, you are not protected by data processing. So, you cannot file or photocopy a sheet that has a name on it."

The commissioners were told, "Because you don't exist, if you engage with a victim who then says that they are suing you because you have traumatised them, you have no legal cover from the Executive." It is a tribute to Bertha, Patricia and Brendan that they took a decision and said, "We are going to go and engage, and we will take the risk because it is what we have committed to."

The Deputy Chairperson: There is learning there to take away. I endorse what members said and pay tribute to all four commissioners who took on this task. I hope that the Department, the Victims' Commissioner, the Victims and Survivors Service, the Victims and Survivors Forum and the Committee will channel the commitment that has been shown to the issues to try to urgently speed up the effectiveness of the system that is there to offer services and outcomes for victims and survivors.

Thank you for your presence today, gentlemen. I genuinely do not want to put you on the spot, because you are here to talk about specific issues, but, given the discussion in recent days on the social investment fund, would you like to make any comment on that? There is no obligation on you to do so.

Dr McMahon: My only comment is to reiterate that my clear understanding is that the £80 million is ring-fenced. So, my understanding reflects the understanding that was expressed earlier. If something has changed, I have not been told about it.

Mr Nesbitt: In the Finance Minister's speech on the October monitoring round, he identified £3.17 million that has gone to four Departments. It seems to me that it was indicated that that came out of the social investment fund.

Dr McMahon: I would need to have a look at that again. I reiterate that my clear understanding from Ministers is that the £80 million is ring-fenced. So, we will need to look at the wording of that and see how that has been expressed.

The Deputy Chairperson: The key concern regarding public interest is the disagreement over the basis on which to allocate spend, particularly on whether it should be on the basis of need. Is that something that officials are able to comment on?

Dr McMahon: There are a number of policy considerations going on in the Department. That is all I can say.

The Deputy Chairperson: OK. Gentlemen, thanks very much indeed.