

# Official Report (Hansard)

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Wells, Jim (South Down)  
Wilson, Sammy (East Antrim)

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# Northern Ireland Assembly

Monday 19 September 2011

*The Assembly met at 12.00 noon (Mr Speaker in the Chair).*

*Members observed two minutes' silence.*

## Assembly Business

### Acting deputy First Minister

**Mr Speaker:** I wish to advise the House that I received written notice this morning from the deputy First Minister, Mr Martin McGuinness, that, under section 16A(11) of the Northern Ireland Act 1998, he has designated Mr John O'Dowd, the Minister of Education, to exercise the functions of the office of deputy First Minister. The designation takes effect from midnight tonight. A copy of the letter will be available in the Business Office for Members to inspect.

On another issue, I ask Members for their help. We are experiencing some technical problems with the amplifying system in the Chamber, and Alban Maginness and Jim Wells raised the issue last Tuesday. Assembly Broadcasting is monitoring the situation to see whether it can identify the problem and rectify it. However, if Members feel that there are problems with the amplifying system, they can alert the Table or raise it as a point of order, and, hopefully, it will help the broadcasting team to identify the problem and resolve it. Therefore, I ask for Members' patience. We will move on.

**Mr Allister:** On a point of order, Mr Speaker. Further to your announcement under section 16A, can you advise the House whether the deputy First Minister will be paid as such while he pursues his project of foreign adventurism?

**Mr Speaker:** Order. That is not a matter for the Speaker. I have fulfilled my role this afternoon. I simply received a letter from the deputy First Minister, which was very clear and procedurally correct, and I am informing the House of that this afternoon. That is where my role ends. I am sure that the educated Member will know that as well. We shall now move on.

## Ministerial Statement

### North/South Ministerial Council: Environment

**Mr Speaker:** The Minister of the Environment wishes to make a statement to the House this afternoon.

#### **Mr Attwood (The Minister of the Environment):**

In compliance with section 52 of the Northern Ireland Act 1998, as amended by the Northern Ireland (St Andrews Agreement) Act 2006, I wish to make the following statement on the twelfth meeting of the North/South Ministerial Council in environment sectoral format, which was held in Armagh on Friday 1 July 2011. This statement has been agreed with the Minister for Regional Development, Mr Danny Kennedy, who also attended. The Irish Government were represented by Mr Phil Hogan TD, Minister for the Environment, Community and Local Government, who chaired the meeting. I, as Minister of the Environment, along with Danny Kennedy MLA, Minister for Regional Development, represented the Northern Ireland Executive.

In respect of waste management, Ministers noted developments in waste policy and that the revised European waste framework directive has been transposed in both jurisdictions. The Council welcomed the work of the North/South market development steering group on three particular issues: the planned tender for a feasibility study on bulky waste reuse management best practice; the all-island end of waste/quality protocol gypsum baseline survey; and the work to be taken forward by a subgroup on the detail of mutually recognised quality protocols.

*(Mr Principal Deputy Speaker  
[Mr Molloy] in the Chair)*

Ministers noted the intended publication, at that time, of an all-island recycled plastic waste

arisings study, which looks at the generation and fate of recycled plastic waste across the island of Ireland. Since agreeing this statement, the arising study was published by Mr Hogan and me at an all-Ireland environment conference at Croke Park last Thursday.

In respect of cross-border movements of waste, Ministers noted that the removal of waste from sites at Slattinagh, County Fermanagh, and near Trillick, County Tyrone, is now complete; that, when this statement was drafted, work was expected to commence — it has done so — in August on a further site in Ballymartin near Kilkeel, County Down, which I visited last Thursday; that work on a site north of Newry will commence in, I hope, early September; and that the Northern Ireland Environment Agency (NIEA) will draw up plans to repatriate waste from the remaining 13 sites thereafter. The Council noted that joint enforcement actions continue to be conducted by the competent authorities.

In respect of the implementation of the EU water framework directive, Ministers noted that the joint document 'Working Together: Managing Our Shared Waters' for the north-western and Neagh/Bann international river basin districts has been completed and published on the Departments' websites. Those documents will complement the river basin management plans for each jurisdiction. The North/South working group on water quality will continue to oversee co-ordinated implementation of those plans.

The meeting also touched on environmental reporting and research. Minister Hogan and I welcomed progress by the NIEA and the Republic's Environmental Protection Agency (EPA) in taking forward actions including joint participation in EU-funded programmes and the sharing of research projects to support the implementation of the water framework directive obligations.

The Council welcomed co-operation in accessing funding for priority environmental research under EU FP7 — the key R&D innovation research fund of the European Union, which is currently measured in the scale of €50 billion over the lifetime of the fund — INTERREG and LIFE+ programmes, including the delivery of two events focusing on information and networking for European funding leverage and the establishment of an external funding support team in NIEA to assist development of a joint headline project with EPA. That work is ongoing.

Finally, Ministers welcomed ongoing collaborative work to develop a common set of environmental indicators, which includes a web-based approach to presentation and the publication of a short statistical bulletin. The Council agreed to meet again in environment sectoral format in October 2011.

**Mr Principal Deputy Speaker:** I remind Members that they must confine themselves to asking questions on the Minister's statement.

**Mr Hamilton (The Deputy Chairperson of the Committee for the Environment):** I thank the Minister for his statement. Illegal dumping of waste from the Irish Republic north of the border has exercised the Committee for the Environment for some time. I welcome the progress that has been made, which the Minister mentioned in his statement. I look forward to further progress on the other 13 sites that he mentioned.

On behalf of the Committee, I ask the Minister to say a wee bit more about the joint enforcement proceedings that he touched on. Can he assure the House that the issue is now under much greater control than it was? If possible, can he quantify the financial scale of the problem and, indeed, the contribution that his Department has made to clearing it up?

**Mr Attwood:** I thank the Deputy Chairperson for his questions. He is quite right that the Committee has been attentive and vigilant to that particular matter. As Members know, there are 17 sites in the North of Ireland where waste has been dumped illegally. Those sites have been identified for repatriation of waste. Work has been completed on two of those sites. Work is ongoing at Ballymartin, near Kilkeel. We hope, subject to the weather and technical and legal considerations, to pursue work at the site north of Newry in the near future. Thereafter, work at the rest of the sites will be rolled out. It is a very expensive process.

I think that Anna Lo, the Chairperson of the Committee, went down to Ballymartin. The scale of the Ballymartin dump, which is not by any means the largest of the illegal dumps, would take your breath away. Indeed, as I discovered, the smell and taste of what was dumped, left rotting and is now being removed from there lingers with you for a very long time. Total costs could be upwards of £30 million — for criminals and their gangs to get short-term benefit from dumping waste from the South. I

must acknowledge that, under the framework agreement that was agreed by previous Ministers and the two Governments, the Irish Government are responsible for 80% of the removal costs and 100% of the disposal costs. That will remain the situation as long as the waste that comes out of the ground is sourced from the Republic of Ireland to the same extent. Under the framework agreement, if it happens that the amount of waste that comes out of illegal dumps passes a threshold of 20% from the North, that matter may be revisited.

I am somewhat restricted in commenting on where we might be with enforcement or potential prosecutions arising from illegal dumping, save to say that any evidence or information that emerges from sites — it may be that there are papers in the sites that betray or potentially betray information on where the illegal waste came from — is, quite properly, bagged, collected and assessed. Any information that arises is then forwarded to the Irish Government. I assure the House that, even in the past number of days, information has been forwarded to Dublin City Council to determine whether there is an opportunity to pursue prosecutions.

Finally, only in recent times — 2008 — has the Department established an environmental crime section. I have met the environmental crime section team, which is passionate and determined about the work that it undertakes. It is risky work. Its staff have to watch themselves, because they deal with criminal gangs and individuals who would want to identify people who are involved in that sort of business, for obvious reasons. Since 2008, there have been 15 confiscation orders, amounting to £1.7 million, relating to environmental crime in the North. Where evidence arises to pursue those who engage in illegal waste dumping or other environmental crime, I assure the House that the Department is determined to act and see that over the line.

### 12.15 pm

**Mr W Clarke:** Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister for the work that has been carried out in Ballymartin, south Down. Will he outline the time frame for the completion of the removal of the waste from the Ballymartin site?

**Mr Attwood:** I thank the Member for his question. The intention is that that site will be cleared of

the illegal rubbish by the end of October. I am involved in ongoing conversations between the Department and club representatives to try to ensure that the topsoil on the adjoining pitch, which has been removed so that other soil can be moved to fill in the holes that will be left when the illegal waste is removed, is replaced by the end of October so that the pitch can be reseeded and be available for football next season.

I compliment the members of Ballymartin GAC, for whom there has been great inconvenience and disturbance to their sporting activities, and the local community, which has suffered greater inconvenience and disturbance from the illegal dump. There has been a very close working relationship between the NIEA, club members and the club generally to ensure that the matter is handled. Inevitably, given the level of disturbance and inconvenience, there are still some matters that give rise to comment or to my involvement, but I am determined to ensure that the football pitch is available for reseeded by the end of the month and that the inconvenience, the loss of opportunity and the financial cost to the club is mitigated under the agreement as far as is reasonably possible.

**Mr Beggs:** I thank the Minister for his statement. He indicated that the clearances at Slattinagh and Trillick had been completed. Will he publish the total cost of cleaning those sites? I ask because 20% of the cost is met by the Northern Ireland Executive and cannot be spent on education, health or, indeed, other environmental matters.

**Mr Attwood:** I will publish and forward an interim report to the Environment Committee on all the costs to date, detailing the money that has come from the public purse in the North and the public purse in the South. I will ensure that that is published.

The Member's question is very well timed. The scale of the damage and the scale of the cost to the public purse resulted in a loss of opportunities for other priorities for public expenditure this year. The same applied last year, and it will apply next year and every year until the 17 sites are cleared. In the fullness of time, the sites may cost a little bit less because costs have come down. Alternatively, they might cost a little bit more. Until you dig into the ground, you are never quite sure what you will find and you are never quite sure about the risk.



I will publish and circulate the cost of all this so that the people on this island, North and South, realise what criminal gangs and criminal individuals have done to damage the environment and to damage the public purse.

**Mr Dallat:** This statement clearly illustrates the absolute need for close co-operation between North and South on environmental policy. From the short time that he has been in post, does the Minister think that we are achieving the maximum potential in cross-border co-operation on environmental policy?

**Mr Attwood:** I thank the Member for his question. It is self-evident that issues of the environment lend themselves fully to co-operation on an all-Ireland and all-island basis.

In June, I was at a conference of the British-Irish Council in London, where John Swinney, a senior member of the Scottish Government, remarked that renewables, green energy and green technology are the single biggest economic opportunity for Scotland. I have sympathy with that remark where Ireland is concerned, because I believe that they are arguably the single biggest economic opportunity for the island of Ireland. That is why, going forward, it is so important that environmental issues are dealt with on a North/South basis. Not only does the environment not recognise borders but environmental issues create huge economic opportunities for the people of this island in a wide range of areas.

Although various Ministers and the Executive have done great work on all-Ireland energy and environmental initiatives and although this and previous reports display and demonstrate the scale of that work, I have to say that I find it increasingly frustrating that the St Andrews review of North/South co-operation, which was commenced in 2007, is still not published in the year 2011 and that phase 2 of the review to identify new opportunities going forward has not even started. Given the integration of our economies and the fact that 5% of NAMA assets are in the North and given that 40% of our exports go to the Republic of Ireland and we have common banking, it seems to me that, now that we are on the far side of the Assembly election and may have a period of settlement over the next three or four years, we need to take that work forward urgently. We need to do that not for party reasons but for the common good of the people of the island of Ireland. The

sooner we accelerate and grasp that, the better for the Irish Government, our own Government and the people of the island.

**Mr McCarthy:** I thank the Minister for his statement. Given that an all-island recycled plastic waste arisings study, which looks at the generation and fate of recycling plastic waste across the island of Ireland, is expected to be published, will the Minister tell us what work is ongoing and whether he hopes that there will be a vast improvement in the cross-border recycling of plastic when that study is eventually published?

**Mr Attwood:** I thank the Member for his questions. As I indicated, the report was actually published last Thursday, and I presume that it is on the NIEA's and the Environmental Protection Agency's websites. However, I will lodge a copy in the Library, because it is a compelling document. It reveals that 70% of plastics on the island of Ireland go into landfill. Only 30% is recycled, and, of that 30%, only 30% is recycled on the island of Ireland. The remainder, which is the greater part, is exported for recycling. Those are startling figures: 30% of the 30% that is recycled is recycled on the island of Ireland. The purpose, intention and ambition behind the arisings study was to interrogate the information and evidence in an effort to identify how we could create a greater internal market on the island of Ireland for the disposal of plastics, to reduce the amount that is exported and to maximise the volume of plastics that are currently not recycled but could be.

It is a difficult business. The next time you are drinking from a bottle of water, if you look at it, you will see that there are three different plastics in it: the plastic strip that names the bottle, the bottle itself and the cap. They create various technical, scientific and other difficulties. The purpose of this report is to identify how we are taking work on that forward, and Phil Hogan and I agreed on 1 July so to do. We will try, first, to build up information and communication about what the opportunities may be; secondly, we will identify new opportunities for the gathering and disposal of plastics on the island of Ireland; and, thirdly, we will look at how we will deal more effectively with bulky items such as fridges, furniture and mattresses. It is a startling fact that there is only one machine on the island of Ireland, down in Wicklow, that will cut up a mattress to recycle all its contents, save the



fire-retardant cover. Very few councils in the North are taking forward that opportunity for recycling.

The opportunities are enormous. Ten years ago, only 8% of domestic waste was recycled; in the North, the figure is now 34%. I believe that it can be more than 60% by 2020. Not only is that good for the environment but it is a key economic driver. As Phil Hogan and I said at the all-Ireland environment conference at Croke Park last Friday, our Governments need to recognise the scale of the opportunity, grasp it and take it forward in a much more accelerated way.

**Mr Weir:** I thank the Minister for his statement. He rightly identified the key issue of repatriation of waste from illegal sites, and we are aware just how large those sites are. He referred to the early sites and, in response to an earlier question, to specific time frames for the first four sites. He also indicated that the other 13 sites would effectively be looked after by the group setting up in Newry from January, if I picked him up correctly. I appreciate that it is a very big problem. Will the Minister give an indication of any projected time frame for the completion of the repatriation from those 13 remaining sites?

**Mr Attwood:** I apologise for overlooking that question earlier. The answer is five years, subject to what people find when they go on site to remove the illegal waste and given the scale of what we think is on the remaining 13 sites. The time frame is also subject to legal, technical and other issues, including NIEA operators and contractors receiving full co-operation and not being subject to any adverse reaction when they go on site. I want to put down that marker. I do not want our staff to require PSNI protection when they go onto one or other site to do important work on behalf of people in the North of Ireland. I want to put down that marker very clearly. We have had the intolerable situation of the illegal dumping of waste from the South, and it would be intolerable if people who are trying to rectify and correct that problem on behalf of the people of Ireland end up requiring the protection of the PSNI. Subject to all those caveats — I need to put down some caveats — the intended time frame is five years.

**Mr Boylan:** Go raibh maith agat, a LeasCheann Comhairle. I welcome the Minister's statement. The Minister is obviously aware that new protocols are in place outlining the roles and responsibilities of the NIEA and local

authorities. Does he foresee a role for local authorities in the removal or disposal of waste from any of the other 13 sites?

**Mr Attwood:** I thank the Member for his question. The Member is right that new arrangements for councillors' powers and responsibilities on illegal dumping are being implemented. However, in respect of those matters, the answer is no. There is a framework agreement between the Irish Government, the authorities in Dublin, the Northern Ireland Executive, the DOE and the NIEA that scopes out how the past sites, the current Ballymartin site and future sites will be managed, the costings involved, the discharge of the necessary moneys and the awarding of contracts. Obviously, everything has to be done in a proper and open manner, unlike some other things that are going on this week.

All of that is governed by current arrangements, and, subject to further advice from officials, I do not expect that a requirement for involvement will fall to councils. The matter will be dealt with at government level.

#### 12.30 pm

**Lord Morrow:** Some of my questions have been answered, particularly in relation to the timescale for the clearing of the 13 sites. It will greatly dismay the community at large to hear that it is going to take five years to clear up that mess. Surely somebody has failed in their duties, Minister? How can it be that we have 15 identified sites? I do not know whether that means that there are some that are not identified. In the Minister's opinion, who should stand tall and say that they have failed? Will the Minister assure the House that this will never be repeated? Furthermore, the fact that 15 sites could be contaminated with waste from another jurisdiction without anyone being held responsible shows that cross-border co-operation is not working.

**Mr Attwood:** I thank Lord Morrow for his question. Given that the matter has been under government management for a number of years, I am tempted not to say that none of the previous DOE Ministers failed in their duties. In one way, I have sympathy for the Member, which is why I think that Anna Lo was right, as Chair of the Committee, to go to Ballymartin. It would be right for people to go to Ballymartin or to any of the other sites to see the appalling state of ground conditions and their potentially adverse

impact on the lives of local individuals and communities.

There has been, if you like, a failure in that the situation arose; it was not brought to the attention of the authorities at the relevant time, and, despite illegal dumping happening over years, no one got a grip of what was happening to mitigate the risk and reduce future occurrences. I am sympathetic in that respect, because there has been a failure, and the existence of 17 illegal dumps of that nature and scale suggests that something was not working in the way in which it was intended.

At the moment, I cannot give a guarantee that it will not happen again. In the past two years, only one report of illegal dumping in the North of material from the South has been made to the NIEA. That report was of the dumping of a trailer full of waste. As I outlined to one of Lord Morrow's colleagues during last week's Question Time, officials and others have told me that one reason for that is that variations in the cost of landfill mean that it is not as worthwhile for people to take waste from the South and dump it in the North. There could, however, be a situation in future when the state of the economies and variations in the cost of waste might make it worthwhile for individuals who are criminally minded to restart that sort of work.

Given the scale of what we experienced; the vigilance of Governments and other authorities against the threat; the need to bear down on criminal activity on the island of Ireland; the fact that we now have an environmental crime unit that does difficult work well; and the even tighter working relationships than heretofore between the police, the gardaí, the Department and the EPA in the Republic, including potential live operations, one would like to think that the community, the authorities and the political leadership will be more vigilant than in the past to reduce the risk in the future.

**Mrs McKevitt:** I thank the Minister for his statement. Most of my questions have been answered. I particularly thank him for the update on the situation in the Ballymartin and Newry and Mourne areas. Will any of the cost of removing the illicit waste be imposed on local councils? If that is not the case, who will pick up the bill?

**Mr Attwood:** I thank the Member for her question. As I indicated, 100% of the disposal costs and 80% of the removal costs are being

covered by the authorities in the Republic, with 20% of the removal costs falling to the Northern Ireland Government. That is all being covered by the Northern Ireland Government. It will not pass to the councils, although, in my view, our councils need to step up to the mark in respect of the failure, or otherwise, of Northern Ireland to live up to environmental standards.

That is why, in the context of local government reorganisation, if, for example, there are infraction proceedings against the Government of Britain and Northern Ireland for their failure to live up to recycling, emissions or other targets, there will be a power to transfer the costs of that infraction from central government to local councils. In the future, if we do not live up to environmental standards, whatever they might be, local councils will have to pay the cost of any infraction.

**Ms P Bradley:** Minister, I thank you for your statement. Will you give us some indication of the timescale for the planned tender for the feasibility study on waste management that you mentioned in your statement?

**Mr Attwood:** I thank the Member for her question. There is an ongoing review of the Northern Ireland waste management strategy. There will be further details in respect of that in the near future. My counterpart in Dublin, Phil Hogan, confirmed on Friday that he is undertaking the exact same strategy and that there is a review of the Republic's waste management strategy going forward.

In the context of this report of the North/South environment sector, it seems to me that, if the Republic's Government and the Northern Ireland Government are on parallel paths in reviewing waste management strategy, we should, consistent with the mandate given to both of us in the North/South Ministerial Council and the sectors therein, be looking to see whether we can align policies in order to identify and maximise opportunity — for example, for municipal waste disposal — and join up, not just how we make assessments, not just statistical evidence and not just having common standards to measure all of that, which is ongoing work. I hope that that work will get over the line by 2012 with the publication of essentially agreed standards to measure waste on the island of Ireland in order to help us to go forward in a more joined-up way.

I hope — Phil Hogan and I are certainly inclined towards this outcome — that there will be an understanding that, as we join up the intelligence and evidence base around waste management and as we create common standards to measure waste and waste management, that should then bounce us in a positive way into having a much more joined-up waste management strategy. Mr Hogan and I are determined, given that we are on the same parallel path, to create some level of convergence in the future by integrating and aligning waste management strategy, policies and priorities.

**Mr McGlone:** Go raibh maith agat, a LeasCheann Comhairle. Gabhaim buíochas leis an Aire as a fhreagra. I thank the Minister for his previous answers. What anticipated ideas or strategy development does the Minister have for the North/South market development steering group?

**Mr Attwood:** As I said in a previous answer, I encourage Members to read the arisings study report, which captures the opportunities for the steering group and the potential for recycling initiatives and developments on the island of Ireland. To answer the question, some things can be done on a voluntary basis, others more strategically. For example, work is being done to move forward sectoral voluntary agreements on food waste disposal by the hospitality industry. I do not know whether anyone listened to 'Good Morning Ireland' this morning; it reported that the estimated loss of revenue in the hospitality sector in the Republic of Ireland due to the disposal of food waste into landfill, rather than being avoided in the first place, amounts to €120 million a year. That, apparently, is the cost of not managing food waste in the hospitality and hotels sector in the South in a way that avoids landfill, or of not being able to avoid the disposal of food waste in that way in the first place.

We are looking at opportunities, through the Republic of Ireland's green hospitality scheme and the Northern Ireland hospitality and food industry, to prevent food waste and identify better mechanisms for the disposal of food waste in order to reduce the amount of it and improve the efficiency of the process. I am minded to escalate that further. That is why, as I said in my answer to a previous question, there are huge business and green opportunities on the island of Ireland in recycles — plastics and other materials that can be recycled — both to develop the internal market and, as I

said earlier, to reduce the amount of exports going to sustain jobs in other parts of the world where the recycling industry is more advanced. I commend the arisings study report to Members who have an interest in those matters.

**Mr Byrne:** I thank the Minister for his statement. Will he outline the current state of North/South co-operation on research and development, particularly in waste management technology? Does he agree that there have been great advances in that technology, particularly those which have been developed by Northern Ireland heavy engineering industries? What benefits might those advances accrue to the waste management strategy, given that local authorities' waste management groups are considering the way forward?

**Mr Attwood:** As I said earlier, it is arguably the case that renewables, green technology and green innovation are Ireland's single biggest economic opportunity. The reason is self-evident; the quality of our wind and wave, given that we are Atlantic-facing, is the best for those purposes in Europe. The consequences of that for making the island of Ireland self-sufficient in energy, with the potential to export significant volumes of energy into the national grid elsewhere, will create enormous economic opportunities.

The central EU fund for research and development and innovation, known as FP7, is, as I said earlier, a £50 billion fund. It is, however, deeply frustrating that the island of Ireland and the Northern Ireland Executive have not had much more success in drawing down moneys from that fund. The Irish Government have a notional drawdown figure of €600 million over the six-year lifetime of FP7. If I remember correctly, 18 months ago the total drawdown by the Northern Ireland Executive under FP7 was, according to the Minister of Finance and Personnel, £25 million.

Given that we have a €50 billion fund over six years and given that our sister Government in Dublin have a notional drawdown of €600 million, it seems to me that, in the latter period of FP7 funding, which runs until 2013, we should still be identifying opportunities and developing proposals for projects involving companies, universities and other jurisdictions that might be funded from FP7.

**12.45 pm**

There are two points to be made about that. First, there will be a successor to the FP7 fund, known as FP8. Two weeks ago, at a conference in Dundalk, an EU official said that FP8 is likely to comprise an €80 billion fund for R&D and innovation across the EU between 2014 and 2020. If our Executive and our economic agencies are to step up to the plate and address the economic threats and challenges that we face, we must dedicate ourselves to preparing for FP8 going live in 2014, not least because the relevant EU commissioner, Máire Geoghegan-Quinn, is a former Member of Dáil Éireann. Although she will, of course, perform her duties in a balanced and fair manner, I am sure that she will be inclined to assist appropriately the island of Ireland.

The second intervention is that, in the latter days and years of FP7, officials in the EPA and the Irish Government in the South and in DOE and the NIEA in the North are attempting to identify projects to bid jointly for moneys for research, technology and innovation. I will not break the confidence of what those projects might be, but we are trying to fast-forward projects, working especially with the universities, in an effort, at this later stage, to draw down FP7 moneys.

**Mrs D Kelly:** The Minister outlined cross-border waste movements, particularly those involving illegal dumping. However, I am sure that he will be aware that, in recent days, concerns have been raised about the cross-border dumping of the waste by-product of illegal fuel laundering. Was cross-border, cross-agency co-operation between the police on both sides of the border a subject of discussion?

**Mr Attwood:** The Member is right to identify that issue. Even though there appears to have been little illegal dumping of waste from the Republic in the North in the past two years, the consequences of illegal fuel laundering continue to be a serious threat to moneys going to the Exchequer and to fuel quality. Moreover, assets are going into the hands of illegal organisations, criminal gangs and individual criminals, never mind the consequences of the by-products of illegal fuel laundering potentially getting into the water chain and having other adverse environmental impacts. Therefore, the Member is correct to identify the issue.

The Member will also be aware of the scale of cross-border co-operation between the relevant agencies, and, crucially, between an Garda Síochána and the PSNI. It appears that not a week goes by when there is not further success by the respective authorities, including the police services on the island, in their efforts to bear down on those involved in fuel smuggling. As I indicated earlier, although the environmental crime section in DOE is small, I will try, if I am able, to enhance its resource capability so that we send a message to all those who may be tempted to involve themselves in criminal activity — be it illegal waste, illegal fuel laundering or other smuggling activities — that the authorities will bear down on all that.

It is not an easy process, as we have learned from illegal waste dumping, to turn illegality into evidence, evidence into prosecution and prosecution into conviction. It is not a straightforward undertaking, but I assure the Member that, when it comes to the environmental crime unit, the NIEA or DOE, I am very vigilant and will ensure that they apply all their resources and capacity to get those prosecutions over the line.



## Private Members' Business

### Fuel Poverty

**Mr Principal Deputy Speaker:** The Business Committee has agreed to allow up to one hour and 30 minutes for the debate. The proposer of the motion will have 10 minutes in which to propose and 10 minutes in which to make a winding-up speech. One amendment has been selected and published on the Marshalled List. The proposer of the amendment will have 10 minutes in which to propose and five minutes in which to make a winding-up speech. All other Members who wish to speak will have five minutes.

**Mr D McIlveen:** I beg to move

*That this Assembly recognises the serious problem of fuel poverty, especially amongst older people; acknowledges the adverse impact that rising fuel bills are likely to have on the ability of older people to keep warm and healthy; and calls on the Minister for Social Development to make representations to Her Majesty's Government to continue to support Age Sector Platform's call to maintain this year's winter fuel payment at its current level of £250 for pensioner households where someone is aged between 60 and 79, and £400 where someone is aged 80 and over.*

I welcome the opportunity to move the motion. Last Tuesday, the House voted on a motion concerning the part-time RUC Reserve gratuity payment. In the course of that debate, I and many others made reference to the fact that the payment was to reward and recognise those who have spent their lives serving us. The concept behind today's motion is exactly the same. We ought to view the winter fuel payment as sending out a message about how we treat our older people. We must not forget that they represent a generation of people who built up our country in exceptionally difficult and challenging circumstances. Indeed, it is a generation of people who went out to work every day even when it was dangerous and often life-threatening to do so. Therefore, I urge Members to keep those concepts firmly in their minds throughout the debate.

By way of context, Northern Ireland has what has been described as a unique fuel poverty landscape. There are three main factors behind fuel poverty: low incomes, high fuel prices and significant energy inefficiencies in our homes. Those three factors together mean that families

in Northern Ireland now have to make some very difficult choices about their budgets. According to the DSD (Department for Social Development), we spend twice as much of our disposable income on energy as people living in London, for example. However, our average earnings in 2010 were £365 a week, compared with £404 a week in the rest of the United Kingdom.

A further difficulty in relation to fuel poverty in Northern Ireland is the fact that 70% of Northern Irish households depend on oil heating. As we are all aware, the oil market is extremely volatile at the moment, and oil is much more expensive than gas. The Consumer Council has estimated that using oil will cost a household £1,000 a year more than if it were using gas. It will come as no surprise to the House that Northern Ireland has a colder climate than the rest of the United Kingdom. However, what may surprise the House is that, to meet World Health Organization standards, we would need to heat our homes for more than 310 days of the year.

In my capacity as a member of the Committee for Enterprise, Trade and Investment, I know that there has been significant discussion surrounding the possibility of fuel price regulation, social tariffs, energy brokering and efficiency savings. Although I welcome the ground that is being made in those areas and the extensive work that is being done by the Department for Social Development through the warm homes scheme, we need to do more right now to protect the most vulnerable against the effects of fuel poverty. Ultimately, the impact of those Northern Ireland-specific issues is felt most by our older generation.

I have used many facts and figures in this speech, and I thank the Assembly for its patience in allowing me to go through them. I truly believe that, on the figures alone, there is a solid case for maintaining the winter fuel payment at last year's level. However, there is one figure that the Assembly should be especially concerned about: in 2009 and 2010, there were 950 deaths during winter, over and above the usual annual average. Those are what the statisticians call excess winter deaths. Eighty per cent of them were 65 years of age and over.

How can the coalition Government in Westminster justify cutting the payment when there is already an appalling number of unnecessary deaths in the winter months? Recent research from the

University of Ulster suggests that, besides the uncaring and penny-pinching nature of the cut, it does not make sense economically. For every death from the cold, there are eight hospital admissions and over 100 visits to GPs and health centres. For the benefit of those who, like me, are a little mathematically challenged, that means that, for the 950 deaths during the winter of 2009-2010, there will have been 7,600 extra hospital admissions and 95,000 extra visits to GPs and health centres. In addition, for every pound that we invest in tackling fuel poverty, 42p is saved in health costs.

**Mr Storey:** I declare an interest as a member of Ballymoney Borough Council. Five years ago this September, that council introduced an affordable fuel stamps scheme. There have been such schemes previously in Northern Ireland, but that was the first to be implemented by a local authority. Will the Member agree that that is one example of a practical measure that could be introduced across the board? Will he join me in calling on the Minister to look at that scheme as a way of giving practical help to the people whom he eloquently described as being caught in that situation?

**Mr D McIlveen:** I thank the Member for his intervention. I am aware of that scheme, which is to be welcomed. It is good to see that north Antrim is leading the way, as usual. I encourage the Minister to take away that suggestion and look at it in more detail.

I will bring the discussion back to a more personal level. Every day, people come into my constituency office and sign the 'Fight the Winter Fuel Cut' petition. Every day, they come in with concerns about how they will afford to heat their homes this winter and, every day, people come in to see whether they meet the criteria for the warm homes scheme or the boiler replacement scheme. In some cases, those people are genuinely having to make the decision of whether to keep warm or to buy food. Without exaggeration, the Assembly needs to consider the situation on the basis of whether we are content to allow our most vulnerable people to be put in the position of whether to heat or eat.

*(Mr Deputy Speaker [Mr Dallat] in the Chair)*

Recently, I met representatives from Age Sector Platform at my constituency office. Both they and I feel that the decision not to retain last year's level of payment is an absolute outrage.

When the payment was first introduced, it accounted for a third of the winter fuel bill that pensioners were paying. It now accounts for much less. Indeed, I am sure that, in future, Age Sector Platform will be campaigning for the fuel payment to be linked to energy prices. The team at Age Sector Platform has been inundated with calls and concerns from the community, and it reports that pensioners are coming to it in their hundreds with genuine concerns. To date, around 7,400 people have signed the petition, and I am sure that all Members will recognise from their constituency offices the story of people coming in with similar concerns.

The unavoidable truth is that we now have an ageing population, and we must be prepared to support our older generation accordingly. At the Northern Ireland Pensioners Parliament in June, the primary concern of pensioners was about keeping warm in winter. I am not comfortable with the revelation that older people are now more concerned with the basic right of keeping warm than they are with even the fear of crime. Ultimately, the winter fuel payment may be a short-term solution for older people, and, as such, I more than welcome the development of a comprehensive fuel poverty strategy in Northern Ireland. However, our older constituents have to get through this winter, and we must do what we can now to help them through it.

We have no issue with the amendment, but my concern is that this is an urgent issue that needs sorted out this winter. Although we have no issue in principle with the green new deal, even the most optimistic people in the Assembly will agree that it will not happen by this winter. The issue needs to be addressed right away, and we urge the Assembly to consider that.

#### 1.00 pm

**Mr Allister:** I suspect that everyone in this House empathises with the Member's disappointment at the reduction in the winter fuel allowance, which, of course, had been foreshadowed for some time since it was introduced in 2008. The focus of the motion is to invite the Westminster Government to reinstate it, and all to the good if they do. However, given the budgetary process at present, some might doubt whether that will happen. In those circumstances, is he calling on this Executive to make up the difference? Why was that not factored into the Budget that went through this House before he and I were

Members? At that stage, it was known that the reduction was coming.

**Mr D McIlveen:** I thank the Member for his intervention. This motion is to call on our Minister to lobby Her Majesty's Government on the issue. The reduction has come about as a result of penny-pinching by the coalition Government, not through the Budget from this House. I am sure that the Minister will want time to speak on that, but I do not see it as an issue that the Executive can sort out. It is a matter for the Treasury and Her Majesty's Government to sort out.

I urge the Assembly to appreciate that, right now, in consideration of your constituents and with the possibility of another cold, hard winter ahead, we must support last year's level of winter fuel payment. I ask the Minister to lobby Her Majesty's Government to that end.

In closing, I reiterate my sentiments from the beginning of my speech. Northern Ireland has often been famous for all the wrong reasons —

**Mr Deputy Speaker:** Will the Member bring his remarks to a close, please?

**Mr D McIlveen:** However, we have always been known for treating our older generation with dignity and respect, and, in my opinion, the Assembly should pass this motion. Therefore, I commend it to the House.

**Mr Agnew:** I beg to move the following amendment: At end insert

*“; and further calls on the Minister to increase funding for the green new deal to provide the energy efficiency measures required to tackle fuel poverty in the long-term.”*

I welcome today's timely debate on fuel poverty, and I thank the Member for proposing it. I also thank him for his comments on my amendment. We all noticed the recent dip in temperatures at the end of what, ultimately, was a cold summer even by our standards, and all predictions suggest that we face another harsh winter. As the proposer of the motion said, 44% of people in Northern Ireland are described as fuel poor, using the original definition that 10% or more of their income is spent on fuel. That amounts to over 300,000 people, and, given that those stats were produced before the recent rise in electricity prices, I suspect that that number may well have increased.

The proposer of the motion also mentioned the number of deaths caused each winter. Again, that is on the rise, and many of those deaths — estimated to be up to 1,000 last winter — can be directly attributable to the effects of fuel poverty. Older people suffer particularly badly during the cold weather due to their having fixed and, in many cases, relatively low incomes, and 61.5% of our over-60s live in fuel poverty. That figure increases with age, and a staggering 83.2% of lone older people are estimated to be in fuel poverty. We should be concerned about those figures and should look to address that issue.

The proposer of the motion paid much attention to the older generation when debating the issue, as is generally the case when the issue is discussed, but we must look also to the impacts on the other end of the spectrum. Infants who live in fuel poverty have a 30% greater risk of admission to hospital or primary care. Children face their own “heat or eat” battle in the sense that much of the energy from food that should go towards children's development growth is instead used to produce heat. Again, that has future health impacts and may have impacts on cognitive development and future education achievement. There is a direct link between fuel poverty and mental ill health in adolescence. All those factors combined serve to reiterate Mr McIlveen's call on the UK Government by highlighting the issue's severity and the need to retain the winter fuel payment.

However, there are things that we can also do in Northern Ireland. I outlined the costs to society. It is estimated that fuel poverty costs the NHS £859 million a year, UK-wide. If we take our population into account — the higher proportion of people in Northern Ireland who suffer from fuel poverty and our particularly high energy costs — it is likely to cost our Health Department more than £50 million a year. Yet, research shows that £1 spent on alleviating fuel poverty can save 42p in health service provision. Therefore, I welcome the Minister for Social Development's attendance at today's meeting and his interest in that area, but, given those statistics, the issue is not one solely for his Department, or, for that matter, Her Majesty's Government; it must be worked on on a cross-departmental basis.

As the proposer of the motion said, income, energy costs and energy efficiency are factors that influence the rates of fuel poverty. That is why we need to see a cross-departmental



working group that includes the Social Development Minister, perhaps as lead, but also the Enterprise, Trade and Investment Minister, the Minister of Finance and Personnel and the Health Minister, so that we can see how each can play their part in alleviating fuel poverty.

The winter fuel payment is a welcome addition in supplementing old people's income, which is at the crux of the motion. However, with the rate of energy inflation, that payment becomes less valuable every year. In fact, were older people to receive the £250 this year, it would be worth the equivalent of £140 compared with 2005 energy prices. That shows that we need other measures to tackle the problem. We can do little to stop energy prices, certainly those in oil and gas, but I welcome the measure in the departmental strategy, Warmer Healthier Homes, to look at brokering and the use of purchasing power to reduce fuel prices for those in social housing and Housing Executive homes.

That will not tackle the fuel poverty that is also suffered by many people in private homes. Members may be interested to learn that a number of energy co-operatives have sprung up in England. I hope that we can look at that and see how the Assembly can support those who wish to form energy co-ops and perhaps encourage communities to do so. However, we in Northern Ireland are very dependent on fossil fuels. We need to address that, and I know that the Enterprise, Trade and Investment Minister is looking at this, but we must look at what we can do in other areas. I am conscious that, in 2007, the then Finance Minister, Peter Robinson, dropped the mandatory renewables element from building regulations. That needs to be addressed.

Energy efficiency is a key issue in the debate and in my amendment, which I hope will be seen as friendly because I support the motion as it stands. However, we should go further. Investing in the green new deal and energy efficiency measures is the most cost-effective way in which we can tackle fuel poverty. A £72 million public investment will unlock a total investment of £253 million, with contributions from the private sector, including energy companies. Fifty thousand homes a year could receive energy efficiency measures, compared with the 9,000 homes a year targeted by the current warm homes scheme. The costs for each home would also be reduced because of the volume and the private sector involvement. It costs over

£2,000 a home under the warm homes scheme, but under the green new deal scheme the cost would come down to around £1,400. There would be added benefits, with around 10,000 to 15,000 jobs created or sustained and over 300,000 tons of carbon saved each year. We would be hitting a number of cross-departmental targets through the development of the green new deal scheme.

We must also ensure that all our newbuilds have minimum energy efficiency standards. I am conscious that level 3 in the code for sustainable homes must be met in all new social housing developments. I believe that with advances in energy efficiency technology we could and should go beyond that. However, we must see what can be done with private housing, because there is no such requirement in the private sector to build homes to a minimum energy standard. It is much cheaper to do that at the front end when we are building our homes than to retrofit them once they have been built. We need to get it right from the start to prevent people from being fuel poor in the future.

Although we do not yet have a Programme for Government, it is clear that the economy will once again be the overall priority. However, I argue that fuel poverty, given its detrimental impact on human lives, should feature highly in the Executive's priorities. Social and economic issues are not separate. Investment in the green new deal will have economic benefits as well as being a key strand in the battle to reduce and eradicate fuel poverty.

**Mr Deputy Speaker:** Will the Member bring his remarks to a close, please?

**Mr Agnew:** I hope that Members will see my amendment as a friendly amendment. I support the motion, but I hope that people will accept my amendment as taking the issue further.

**Mr A Maskey (The Chairperson of the Committee for Social Development):** Go raibh maith agat, a LeasCheann Comhairle. As the Committee has not had the opportunity to discuss the motion or the amendment, it has not adopted a formal position. However, it is appropriate to put on the record the developing context on behalf of the Committee over the past few months, certainly since the beginning of the new mandate. All Committee members are alive to the issue of fuel poverty and are anxious to take forward some work on the issue. Members, including the proposer of the

motion, have outlined a number of concerns which are felt by all Committee members.

On 23 June, representatives from the Fuel Poverty Coalition and the National Energy Action on fuel poverty made submissions to the Committee. Although those groups stressed that they wanted to work constructively with the Department and the Committee, they had several criticisms, which I want to outline. They felt that the Department's fuel strategy, which was launched in April this year, failed to provide targets or road maps on how the vision for the eradication of fuel poverty would be achieved. The delegation also questioned the effectiveness of the interdepartmental group on fuel poverty, which is chaired by the Minister for Social Development. They cited issues such as the lack of regular meetings and stressed the importance of an immediate review of the effectiveness of the fuel strategy. They also called for the resurrection of the fuel poverty task force and asked for additional resources to be restored to the warm homes scheme. Following those representations, the Committee wrote to the Department raising a number of those concerns. A lot of the issues raised were shared by many Committee members.

Other points raised by the Committee included further information from the Department on the boiler replacement scheme and any other plans or initiatives that the Department or the Minister might be involved in with colleagues to address fuel poverty here, not least the fact that our community has a high dependency on home heating oil.

### 1.15 pm

As Chairperson of the Committee, I met again the Consumer Council representatives who are involved in the Fuel Poverty Coalition. I spoke to them about identifying and adopting some pragmatic steps that the Committee could take. They came up with a number of positions, which they presented to the Committee. Indeed, coincidentally and fortuitously, the Committee will take a further briefing from departmental officials this Thursday on the issues of concern that were raised with them, and it will consider those in some detail.

As I said, Committee members are very concerned that they take this matter forward and that they do what they can and work with the Department, which has a responsibility to take the matter forward on an interdepartmental

basis. Members have been clearly articulating their concern that we are coming into a very difficult and challenging climate — no pun intended — with increased fuel prices and the so-called welfare reforms, which we believe will lead to much greater cuts and rising unemployment. Those events are coming together, and they are not making a very prosperous environment for people who are vulnerable to fuel poverty problems. Our Committee is, therefore, very much looking forward to hearing from the Minister and hearing from the officials this Thursday and to trying to take this matter forward on the basis of working with other Committees. I hope and expect that, following this week's briefing, I will be able to speak to all Committees with a view to trying to take some initiative to highlight the issue and, in fact, to taking some very pragmatic and important steps forward on a collective basis.

Finally, I want to speak as a party representative. In general, our party supports the intention of the motion and the amendment, but I do not think the amendment adds anything precise. However, the motion does not go far enough —

**Mr Deputy Speaker:** Will the Member draw his remarks to a close?

**Mr A Maskey:** We need to have a more concerted effort to address our concerns to the British Government, which placed people in this position in the first place.

**Mr Copeland:** I, too, thank the Members responsible for bringing the motion to the House this afternoon. In assessing these matters, you can look at numbers and statistics until you are blue in the face, or you can sit in front of a coal fire, a radiator or a central heating system that you cannot afford to run until you are blue in the face.

The motion begins with the words:

*"That this Assembly recognises the serious problem of fuel poverty".*

I ask myself, "Do we recognise it?" I also ask whether it is something that we can raise and take along a particular route. The way in which we recognise it appears to be confused, because in the rest of the United Kingdom, you appear to be in fuel poverty if you burn or spend more than 10% of your income. If applied to Northern Ireland, that statistic would not give

13% but somewhere in the region of 44%. If you take 44%, it comes out at 302,000. That is not 302,000 people, as Mr Agnew said, but 302,000 households. Some 302,000 households could be half a million people.

Time after time I stand here and listen to people talking about the waiting lists for housing. They say that there are 38,000 or 39,000 people on the waiting lists. However, it is not 38,000 or 39,000 people; it is 38,000 or 39,000 applications. It is not applications that send us here; it is not applications that mandate us; it is not applications who have need: it is people. We need to start seeing the tears that lie behind some of those statistics.

Many houses in Northern Ireland are of poor quality, and many are not properly insulated. We have a boiler scheme, which, I think, has had only 200 applications. I would be grateful if, at some stage in the future, the Minister could give me an update on the progression of the pilot boiler replacement scheme.

I am speaking in full support of the motion and the amendment, as brought forward by both parties concerned.

However, to truly get an answer, we are going to have to perform a balancing act that allows people to be warm for the next 24 or 48 hours and, at the same, finds money to invest or engineer out the difficulties that are feeding the system and the problem. Fuel poverty does not solely apply to people being cold in their own homes. As has been said, fuel poverty has ramifications in education, the health service and a range of other areas.

Is it honest of us to say that we, here, can do nothing? We can go to Westminster — the Minister would have the full support of any right-thinking person in this room in dealing with Westminster — but Westminster is liable to say no, despite the fact that the rises in fuel duty and gas and electricity prices have all accumulated to a rise in value added tax, which is taxing this distress and the people who suffer.

In Northern Ireland, it is very expensive to be poor. If you use a power card to put electricity into your home, you will pay more, even though you are paying for that electricity before you get it, as opposed to people like me and, I presume, many others, who pay for their electricity after they get it.

No matter what we say in this room, unless we are prepared to take money from one budget and put it into another to address this, we are dependent on the good nature of a fiscally strapped Government in the United Kingdom. I thank the Member for mentioning the coalition Government only twice. I somewhat suspect that, no matter what the mix of political representation in Westminster or had we been discussing this after the previous election, the results would, unfortunately, have been pretty much the same.

I support the motion and the amendment.

I trust that Members will allow me one slight pictorial episode. The house that I was born into had —

**Mr Deputy Speaker:** Bring your remarks to a close, please.

**Mr Copeland:** — a fireplace in every room. Those were coal fireplaces; you lit it and it burned.

**Mr Deputy Speaker:** Time is up.

**Mr Copeland:** Thank you for saving me.

**Mr Durkan:** Given the ever-escalating number of people struggling with fuel poverty and the prospect of another harsh winter, we very much welcome and support the motion and its amendment and their desired intention of alleviating the hardship faced by so many older people in our society due to unaffordable fuel costs.

Aiding the most vulnerable in society has always been a priority for my party, and it remains so today and particularly over the coming cruel winter months. We must ensure that we do not have a repeat of last winter's sheer human cost of fuel poverty, which saw the deaths of almost 1,000 people due primarily to freezing temperatures.

Pensioners face the situation in which they have to choose whether to heat or eat. We must do all that we can in this regard. Not only must we adopt the motion and support the Social Development Minister in his endeavours to protect winter fuel payments, we, as a functioning institution, must take our own proactive steps to tackle fuel poverty.

The social protection fund was envisaged as a tool with which to protect our most vulnerable citizens from the most severe of cuts from

Westminster. However, it in itself has been sufficiently cut in our Budget as to render it virtually negligible.

The previous Social Development Minister's initiatives to tackle fuel poverty were to be applauded and welcomed, but, with the continually growing need for assistance with heating costs, we need to go further. It is not enough either to maintain payments, as fuel prices continue to soar. Ideally, payments would reflect costs.

As stated in Mr Agnew's amendment, more money needs to be allocated to the provision of energy efficiency measures, and projects such as the warm homes and boiler replacement schemes must be properly resourced and properly rolled out.

Yes, these are hard times for government, but they are impossible times for many citizens. We must protect the most vulnerable, and human need must prevail. Statistically, as a few Members have highlighted, fuel poverty is more acute here in the North than in Great Britain. I wonder whether it is a coincidence that nowhere has a more fragmented approach to tackling the issue of fuel poverty than here. That underlines the need for a single Department or agency to be responsible for energy, or, in the absence of that, at least increased and improved cross-departmental working.

Furthermore, it is not ideal or even satisfactory that winter fuel payments are made only to the elderly, not all of whom live in poverty. That has to be underlined. One can think of other vulnerable groups across our constituencies, such as families with young children and people with serious health problems. As a member of the Committee for Health, Social Services and Public Safety, I know that the extension of winter fuel payments will help to alleviate the huge burden on the health service, which is exacerbated by very cold temperatures. Indeed, I am sure that a cost-benefit analysis would demonstrate that the significant investment involved in developing a robust strategy to address fuel poverty would be repaid by the savings realised in primary and secondary healthcare.

As already stated, the most cost-effective and sustainable way to tackle fuel poverty is to introduce energy efficiency measures. Increased focus and funds must be placed on that. In the meantime, we must act, urge the Minister to act and support him when he does. We must urge

Westminster to act to ease the suffering of so many older citizens this winter.

My party supports the motion and the amendment.

**Mrs Cochrane:** Fuel poverty has reached crisis levels. As Mr Agnew said, more than 60% of older people and 83% of lone older people in Northern Ireland live in fuel poverty. Fuel poor households simply do not have enough money to heat and power their homes adequately. The consequences are debts, the forgoing of essential needs, excess winter deaths, ill health and mental stress due to the difficulty of paying bills and living in cold homes.

We all remember last winter and the unprecedented freezing temperatures that lasted for such a long period. Many people faced financial difficulties when it came to heating their homes and preventing pipes from freezing. Even those who can usually comfortably heat their homes found that they had to make choices. Those choices may have included whether to eat out in a nice restaurant, but, for so many others, the choice was whether to eat or heat.

A report today from the National Association of Citizens Advice Bureaux shows a desperate picture of fuel poverty in Northern Ireland, particularly in rural areas. It highlights the fact that one third of elderly clients have had to make a choice between heating and other essential items such as food. It also shows that 59% of disabled respondents have had to choose between food and heat. The number of households in fuel poverty is fast approaching 50%. The main reason for its rapid growth is the 12% rise in fuel prices since 2003, and fuel prices will continue to rise in the medium to long term because of the investment required to replace an ageing infrastructure and the impact of high oil prices. Unfortunately, benefit rates, pensions, tax credits and the minimum wage have not kept pace with fuel price inflation, and, realistically, they are never likely to.

Higher fuel prices drive up fuel poverty. However, improved energy efficiency can bring it down. Large amounts of energy and money are wasted trying to heat and power poorly insulated homes. By bringing the homes of the fuel poor up to the energy efficiency standards of new homes, we could reduce fuel bills by an average of 52%, thereby taking the vast majority out of fuel poverty. Tackling energy efficiency in homes should, therefore, be a key priority for the



long term, whether through loft and cavity wall insulation or whatever. Although I appreciate that DSD has invested money in making homes more energy efficient, it has not gone far enough.

For example, of the 500,000 homes that use oil, around 400,000 have old, inefficient boilers, yet the recent funding is aimed at replacing less than 1% of those.

### 1.30 pm

**Mr A Maginness:** I thank the Member for giving way. She touches on a very important point about energy efficiency in homes. However, to date, the amount of money that the Government have allocated to the green new deal is £12 million, which, incidentally, her party supported in the Budget. Surely that is inadequate to deal with the extent of the problem that she rightly identified.

**Mrs Cochrane:** I thank the Member for his point. It is inadequate. Furthermore, it is not an issue for DSD alone. As Mr McIlveen said, the Department for Health, Social Services and Public Safety (DHSSPS) must also recognise the serious health implications of fuel poverty, given the strong link between fuel poverty and cost to the NHS. For every £1 invested in alleviating fuel poverty, 42p is saved in health costs.

The Citizen's Advice survey, to which I referred, reports that a significant number of people not only attributed their problems to poor insulation and heating but claimed that they would benefit from energy-efficiency advice. That is something on which we should focus. Something similar to the energy assistance package that is being delivered in Scotland could be considered.

There are four key steps to that package. First, it offers tariff advice. Although I appreciate that we do not have as much choice as people in the rest of the UK, we do have some options to seek better tariffs with alternative providers. Secondly, the package provides energy efficiency advice to help people to become more energy-wise. Thirdly, it brings together the various energy efficiency initiatives into one programme so that all the options for home improvements can be accessed through a one-stop shop. At present, there is a lot of confusion about which schemes are still running and what their eligibility criteria are. Finally, it aims to ensure income maximisation; that is, it offers assistance in obtaining all the relevant benefits and sources of income. That sort of joined-up

approach could focus our efforts to truly deal with fuel poverty.

At present, the winter fuel payments are of significant benefit to older people, and I urge the Minister to do all that he can to ensure that they will continue to be paid at last year's rate. Although not a long-term solution to the overall problem, income is one of the key factors that influences whether a household is in fuel poverty. Until such times as other factors — namely, fuel prices and energy efficiency — are adequately tackled, we cannot realistically expect our older people to manage without that income.

It is clear from the debate that fuel poverty is a huge challenge, and, as other Members highlighted, the green new deal, if we invest enough in it, can make significant inroads into tackling it in the long term. The key proposal for that in the green new deal would be the insulation scheme to refurbish tens of thousands of existing homes, including the 137,000 homes that currently fail to meet the decent homes standard. Therefore, I urge the Minister —

**Mr Deputy Speaker:** Draw your remarks to a close, please.

**Mrs Cochrane:** — to address the problem of fuel poverty in the long term and, in the short term, to do all that he can to ensure that the winter fuel payments are reinstated at last year's level.

**Mr Easton:** I support the motion. Last winter was one of the coldest and most prolonged for some time. It came at a time when families and friends met for Christmas in the comfort of their homes to enjoy their holidays. Temperatures dropped to record levels, leaving many people cold and having to keep their heating on constantly, at huge cost to their families. Many people, however, were unable to maintain heating their homes owing to the cost, and that left them open to frozen pipes and having to live in what can only be described as arctic conditions.

I know of many oil companies that sought to take advantage of the situation, and the price of a litre of fuel rose from 50p to 75p. Many people were left with no choice but to pay it, and many others could not afford to pay it.

The recently published 'Northern Ireland House Condition Survey 2009' shows that 44% of households in Northern Ireland have to pay more than 10% of their income for energy. The World Health Organization defines a satisfactory heating regime as being 21°C in the living room and 18°C in other areas, although households with specific needs may require different levels of heating.

The number of people living in fuel poverty in Northern Ireland far exceeds the number in other regions of the UK, which is most concerning. Those who are more likely to feel the effects of fuel poverty or more likely to suffer health problems as a result of the cold weather are the elderly population, which is rising fast. A Northern Ireland Statistics and Research Agency (NISRA) report in 2009 stated that people over 60 years of age accounted for 16.9% of the total population of Northern Ireland. That presents a major challenge to the Government in seeking to maintain the levels of funding provided for our elderly population, especially with the cuts made to our block grant by the Tory-led coalition in London. Therefore, I support the motion and the maintenance of the current level of winter fuel payment, which has gone some way to eradicating fuel poverty and to limiting the effects of cold weather.

Mr Agnew's amendment is well meaning and has some good ideas for more profitable times; however, in the current economic climate many of them are probably not affordable. I welcome DUP Minister Nelson McCausland's boiler replacement scheme. It is targeted at people over 60 years of age who live in private accommodation and who may not qualify under other Government efficiency schemes. It will benefit many in my constituency, which has one of the highest aged populations in Northern Ireland. I hope that it will go a long way to increase boiler efficiencies and result in savings, which are becoming more difficult due to the soaring price of electricity, gas and oil.

**Mr Brady:** Go raibh maith agat, a LeasCheann Comhairle. I, too, support the motion and have no disagreement with the amendment, but I think that it is a different issue, as it is about taking on broader, longer-term efforts.

Over the four years that I have been in the Assembly, fuel poverty has been debated umpteen times. Therefore it is time that a determined effort was made to do something

effective because a lot of lip service is paid to the relief of fuel poverty but not a lot has actually been done. Fuel poverty has been an issue and received policy attention here in the North only since the publication of DSD's 2004 report 'Ending Fuel Poverty' and the more recent 2010 review 'Warmer Healthier Homes'. The situation has also continued to worsen because of escalating fuel prices. The main causes of fuel poverty have already been mentioned: household income; fuel and energy costs; and the energy efficiency of homes, particularly in rural areas. There are more than 300,000 people of retirement age today in the North, which is over 17% of the population. Forty-four per cent of households here suffer fuel poverty compared to Scotland with 33%, Wales with 20% and England with 16%. The problem is much more acute here.

There was an item in 'The Irish News' on Saturday, by a journalist who has obviously not been in the benefits system, about the Fuel Poverty Coalition talking to the Minister about his new fuel poverty measure. He said that the Fuel Poverty Coalition told the 'Belfast Telegraph' that it wants to see targeted support for all households in fuel poverty; but how can you target support when you insist on a definition that covers almost half the population? That shows an inherent ignorance of the problem. In Britain and in the North we have the meanest pension scheme in the developed world. There is almost £2 million of unclaimed pension credit every week, which is something that needs to be addressed. Perhaps more education is needed, particularly for some of our journalists.

Although efforts have been made to alleviate the problem, the situation has gotten much worse since the introduction of the fuel poverty strategy in 2004. The Minister introduced the pilot boiler replacement scheme, which was allegedly targeted at the most vulnerable, with the aim of improving energy efficiency. It has proved to be confusing and difficult to claim, and it appears to have missed those who are most vulnerable and in need of help. We are faced with the stark reality for older people here that in 2004-05 there were 293 excess winter deaths. That statistic was mentioned by several Members. By 2009-2010, that figure had increased to approximately 900. That is an appalling statistic, and we cannot repeat it enough to get the message home. The message

about excess winter deaths has certainly been repeated many times before in the Assembly.

There also is evidence that cold housing is linked to diminished resistance to respiratory infection, hypothermia, bronchospasms, ischaemic heart disease, myocardial infarction and strokes. As was mentioned, the overall annual cost to the National Health Service in 2009 was almost £900 million. Not enough has been done in the fight against fuel poverty; the strategy is not working and needs urgent review.

Increasing older people's incomes will help them to deal with the burden of energy bills. Several provisions could be introduced: the automatic payment of pension credit, for example, could help to address low incomes. I mentioned the fact that almost £2 million in pension credit is unclaimed weekly. Given the higher fuel poverty levels here, the Department of Enterprise, Trade and Investment (DETI) must take a more proactive approach and introduce a compulsory scheme by which energy suppliers must ease the burden for vulnerable people.

The warm homes scheme has certainly helped. However, there is concern that reductions have been made to that successful scheme, given that capital allocations are being cut. It is inconceivable that winter fuel payments are being cut by £50 for people aged between 60 and 80 and by £100 for those over 80. That is despite spiralling fuel prices and the fact that —

**Mr Deputy Speaker:** Will the Member bring his remarks to a close?

**Mr Brady:** — last December was the coldest in over 100 years. It seems that the Government have not addressed the seriousness of the situation, which is set to increase, given our increasing ageing population and energy costs. It is time to do something, and we need to do it now.

**Mr Douglas:** I apologise; I am a bit hoarse. I was at a cross-community event in Glasgow yesterday.

I fully support the motion, which, for me, is about supporting the Age Sector Platform and its endeavours to maintain winter fuel payments. It has been said many times before that the Assembly will be judged not on how much talk there is at debates or on how many questions we ask but on how we deliver actions that support the people of Northern Ireland, and

indeed, how we support the most vulnerable, particularly older people. We are talking about people who have been the backbone of society and who have worked all their lives and paid their taxes. Surely we should be supporting those older members of our society in the twilight of their lives.

Like many Members, I have been in the homes of older people who often have to choose between, as we have said before, food or fuel, or where they switch off their electricity and sit in the dark and cold purely to pay the bills that they are struggling with. We are talking about a generation of older people, many of whom were brought up in poverty and who had to learn the harsh realities of budgeting and dealing with the scarce amounts of money coming into their homes. We are not just talking about a few extra bob in people's pockets and wallets; we are talking about helping people to live their lives just like the rest of us in normal society.

If we rewind to last winter, which was the coldest that I can remember, we will recall that there were problems with freezing and burst pipes. Many people have outdated heating systems.

**Mr A Maginness:** I thank the Member for giving way. I hear what the Member is saying, and I am sure that he is well intentioned, as indeed are many of the other Members who spoke. However, what will the Member do or what will he urge the Government to do other than what is contained in the motion about benefits? What does the Member suggest the Government do about the green new deal, which is one of the best mechanisms for introducing, on a comprehensive basis, energy efficiency in homes and which would, in fact, reduce the level of dependency on antiquated heating systems?

**1.45 pm**

**Mr Deputy Speaker:** The Member has an extra minute added to his time.

**Mr Douglas:** Thank you very much. That is a good question. I support many of those issues. Our difficulty with the green new deal is that it seems disparate and lacks co-ordination. I suppose that we will have the opportunity to debate those issues in the future. Therefore, for me, the jury is out.

As I said earlier, the reality is that many people, particularly those who own their homes, have outdated heating systems. Recently, I visited



such a home. I am not talking about homes in areas that are recognised as disadvantaged; I am talking about areas where people have worked all their lives in decent jobs and have bought their own homes. However, as people get older, particularly if their partner has died, they find it increasingly difficult to pay their bills. They may have paid off their mortgages. However, often, those people end up in poverty, never mind fuel poverty. I am talking about a fair section of our society.

This morning, I found out that between August 2009 and August 2011, oil prices increased by some 63%. Something like 70% of homes in Northern Ireland are heated by oil. I welcome the review into oil industry pricing that will be published, I believe, in October 2011. Hopefully, we will see an opportunity to encourage regulation of that industry.

As other Members have said, we need to take seriously the difficulties that will result from another harsh winter. One Member stated that last year, there were 1,000 deaths because of the harsh winter.

**Mr Deputy Speaker:** Bring your remarks to a close, please.

**Mr Douglas:** We can research, raise issues and discuss fuel poverty. However, at the end of the day, it is about doing something. Therefore, let us show our support for the most vulnerable people in the community. I fully support the motion.

**Mr Swann:** I, too, support the motion. I have engaged with Age Sector Platform's chief executive and board. They are keen to ensure that the motion and their campaign to fight cuts to winter fuel payments receive full cross-party support. I hope that that is achieved today.

The motion states that the Assembly calls on the Minister for Social Development to make representations to Her Majesty's Government to continue to support Age Sector Platform. As DSD is the lead Department with responsibility for tackling fuel poverty, I would have hoped that the Minister had already raised that issue with Her Majesty's Government. However, I thank the two Members for bringing the matter to the attention of the House and the Minister.

As has already been said, a society should be judged on how it treats its most vulnerable people. We have heard a great deal of statistics

in the debate, particularly with regard to excess winter deaths. I remind the House that when we talk about an excess winter death statistic, we are talking about an individual; a person with family and friends. That is why we in the House and society need to do more.

When we reflect on DSD targets to eradicate poverty in vulnerable households by 2010 and in all households by 2016, we should consider that had those targets been met, it would have negated the need for the topic to be raised in the House. In fact, the House has failed to meet any target that has been set for the eradication of poverty in any sphere of society. Indeed, further difficulties and problems are faced.

The previous Programme for Government has also failed. I think it was Lord Morrow who, when talking earlier, said that we have failed here. Surely, the statistics demonstrate that we have failed here, particularly given the number of debates that have taken place in this House on fuel poverty.

It was mentioned that 61.5% of old people are living in fuel poverty in Northern Ireland, which is an increase from 47% in 2006. It was also mentioned that 83.2% of lone older people are living in fuel poverty, which is a staggering 21% increase since 2006. So, we seriously need to take measures that can be adopted in this House and that our own ministerial teams can work on.

There has been mention of the green new deal and its lack of co-ordination. I can also see a lack of co-ordination in and a fragmented approach to the fight against fuel poverty. I reiterate the calls that have already been made for a cross-departmental working group involving DSD, DETI, the Department of Agriculture and Rural Development (DARD), the Department of Finance and Personnel (DFP) and the Department of Health.

Ladies and gentlemen, this is an issue that we can credibly do something about and credibly fight for the sake of all our constituencies. However, we also need to commit to educate people in our society. They need to avail themselves of every penny that they are entitled to, and DSD must assist them in doing that. It is up to better education systems to do that.

Over 40% of pensioners are in fuel poverty, and 13% are in extreme fuel poverty, which means that over 25% of their annual household

income is spent on heating. More can be done to increase energy efficiency in our homes. The warm homes scheme has a target of 9,000 households. I do not think that that is an adequate response, because if it is a matter of ticking a box for one household to achieve one of those 9,000 targets, we have failed many in society who did not make it into that box.

Today, I received a copy of the Citizens Advice report, which was issued ahead of the debate. One third of elderly clients in the Citizens Advice survey have had to make the choice between heating and buying other essential items such as food. We use the phrase "heat or eat" too flippantly. It is just tripping off people's tongues, and we should take into consideration what it actually means. It is not about deciding whether to eat in a nice restaurant; it is about deciding whether to live.

More can be done by improving the efficiency of heating in our homes. Schemes for double glazing, loft insulation and cavity wall insulation —

**Mr Deputy Speaker:** Will the Member bring his remarks to a close?

**Mr Swann:** OK. I hope that this debate is credible and realistic and that people want to achieve honest outcomes from it rather than make headlines and get photo opportunities.

**Mr McCausland (The Minister for Social Development):** I am grateful for the opportunity to respond to the debate, and I thank the Members who contributed to it. I note Members' concerns and comments, and I particularly welcome the opportunity to debate this aspect of fuel poverty. If my response fails to address any specific points, I will, of course, write to Members separately.

The motion recognises the serious problem of fuel poverty among older people and the adverse impact that rising fuel bills are likely to have on older people's ability to keep warm. I welcome the opportunity to respond to the motion, which calls on me to make representations to Her Majesty's Government for the rates of this year's winter fuel payment to be paid at the same rate as that of the past three years, that is, £250 for pensioner households where someone is aged between 60 and 79 and £400 where someone is aged 80 or over.

Winter fuel payments are made to people who are over the age of 60, with a higher rate paid

to people over the age of 80. The payments are not income related, nor are they linked to individual circumstances. They do not take account of fuel poverty needs. They are paid to everyone who has reached the qualifying age. For the coming winter, the standard rates of winter fuel payments will be paid: £200 for households with a pensioner aged under 80 and £300 for households with anyone aged 80 or over.

Members will be aware that those aged under 80 will receive £50 less, and those aged over 80 £100 less, than in the previous three years. The increased rates for the past three years were temporary increases. No increase was announced in the Budget, and the temporary increase will not be continued for this winter.

As Members are aware, the issue of fuel poverty is one that cuts across Departments, and I have and will continue to engage with Executive colleagues on this matter. A number of Members raised the issue of the importance of a cross-departmental approach. I can assure Members that I have raised issues in relation to this and have engaged with Ministers in other Departments.

At a time of rising gas, oil and coal prices, the issue of fuel poverty is a real one for many people, and the focus should be on helping those most in need. In addition to winter fuel payments, support is available through cold weather payments for areas that suffer particularly cold weather. Those payments are made when the temperature is, or is forecast to be, zero Celsius or below for seven consecutive days. The temporary increase of this payment from £8.50 to £25 has been made permanent and is paid per cold weather period.

I would like to give Members some details of the wider package, in addition to social security provision, that my Department has to tackle fuel poverty. In April 2011, the Department launched its new fuel poverty strategy entitled 'Warmer Healthier Homes'. The strategy set our vision for the future as:

*"a society in which people live in a warm, comfortable home and need not worry about the effect of the cold on their health".*

The strategy places significant emphasis on the partnership approach required to tackle fuel poverty and the cross-departmental nature of the whole area of poverty.

At a time of economic recession, rising unemployment and cuts in welfare expenditure, more and more people are finding it difficult to meet their energy costs. The strategy takes forward energy brokering, calls for action on the price of oil imports, introduces a pilot boiler replacement scheme and develops a range of other initiatives. I encourage everyone in the Assembly to read the strategy carefully and to ensure that they are well informed about it and that they encourage others to be better informed about it so that people are aware of the various opportunities to tackle fuel poverty and address the problem.

The Department continues to fund the warm homes scheme, which offers a range of insulation and heating measures to vulnerable householders. Under the scheme, in excess of 80,000 households have been helped with insulation and/or heating measures since it started in 2001. The Northern Ireland Housing Executive administers an annual heating replacement scheme that improves energy efficiency within the social housing sector.

Recently, the University of Ulster launched a report entitled 'Defining Fuel Poverty in Northern Ireland: A preliminary review', and its findings and recommendations will generate much debate. The report reaffirms that, using the UK definition of fuel poverty, which is twice the median income spend on energy — that is, 10% — Northern Ireland continues to show the highest levels of fuel poverty in the United Kingdom. The report also recommends that, to assist targeting of resources and initiatives, a regional target should be developed based on twice the median regional spend — that is, a spend of 18%. Using that approach would mean that 13% of households in Northern Ireland, which equates to 75,000 households, will experience fuel poverty at that level. This provides the Department with a very useful tool that will help to focus initiatives on those most in need.

I attended the launch of the report, and it was useful to have there not only those who carried out this report but also the lady who was the originator of the whole concept of fuel poverty and the 10% figure to get a better understanding of the background to the statistics. One thing that I picked up on was that the whole process of localisation or regionalisation with regard to figures is not unique to Northern Ireland. It is happening

across the United Kingdom with Scotland and Wales and in other regions of Europe.

## 2.00 pm

The Social Security Agency has promoted a benefit uptake programme since 2005. It has resulted in 337,000 older people being contacted and additional benefits totalling £27.1 million being paid to those aged 60 and over. I stress that point because a number of Members emphasised the need to make older folk, in particular, aware of the opportunities for benefit assistance.

My Executive colleague Minister Wilson announced funding of £12 million for the green new deal concept over the comprehensive spending review period 2011-14. My Department's permanent secretary is chairing a cross-departmental group to examine the potential of the green new deal for Northern Ireland. The group is working with the Green New Deal Group to help it to formalise a business plan that can inform any economic appraisal on the best approach to allocating the £12 million identified by the Executive. The Green New Deal Group was hoping to have the business plan with us by mid-September, but I understand that it is now expected to submit the business plan by the end of September. I have been working closely with my Executive colleague Minister Foster on the development of the green new deal. I have asked officials to consider all the current strands of work that support energy efficiency, carbon reduction and renewable technology. All those initiatives display my Department's commitment to helping older people to cope with their winter fuel bills.

**Mr Allister:** I do not want to take the Minister off course, but I want to make this point before he finishes dealing with the winter fuel allowance and the cutting thereof. The House is saying today that many people depend on that full allowance. If it transpires that the full allowance of the past — the £250 and £400 — is not available, what consideration will the Minister give to the Executive funding it? Has he costed it? If so, what would it cost, and is it possible? As the Member for East Belfast said, if the House is to be about anything, it has to be about delivery. Is there a prospect for that? Has he costed what is asked for in the amendment, or is that just an unimaginable, indefinable figure?

**Mr McCausland:** The Member raised that point in an intervention earlier in the debate, and it is one that I will address in due course.

Alex Maskey talked about the fuel poverty strategy and the need for the road map. The new fuel poverty strategy outlines specific actions that we believe are achievable. Officials will brief the Committee on Thursday 22 September. In advance of that, officials have provided an update on each of the 14 actions that are detailed in the strategy. I am very keen to work with the Committee in addressing these issues.

A number of other points were raised by Members. I am sure that Mr Allister is aware of the announcement that OFMDFM is looking at what can be done to address fuel issues over the winter period. I understand that that work is ongoing, and I am sure that there will be an announcement in due course. The Member should take note of the fact that that was announced several weeks ago.

I met the Age Sector Platform to discuss the issue, and I took on board its concerns. We suggest that more could be done, maybe with its assistance and co-operation, to help older folk to become more aware of the benefits that are available. It has a very good network of age sector organisations and takes it down to the level of local senior citizens' groups. There is a marvellous opportunity there, and that is a good way of getting information out to older people.

Michael Copeland asked for an update on the pilot boiler replacement scheme. Some £2 million has been set aside for a boiler replacement scheme. The scheme offers a grant of up to £1,500 towards the cost of installing a new energy-efficient boiler. The rationale for the scheme was to offer assistance to those who had previously missed out on government assistance. All those potentially eligible applicants have been contacted, and we have resources available to assist approximately 1,330 householders. If there is scope left within the budget, we will look at assisting other vulnerable groups.

I will pick up on some other points that were raised. Mr Copeland asked whether we were serious. I can assure him that we are serious. In fact, I am surprised that he even posed the question. Of course we are serious about it: it is a serious issue for many homes right across the Province. He also asked whether it was

honest to pose the question in the motion or to say that we can do nothing, as Westminster is liable to say no. Westminster is indeed liable to say no. His colleague Mr Swann said that he had hoped that I would have raised the issue with the coalition Conservative-Liberal Democrat Government at Westminster. I could say that I would have hoped that he, as a member of a party that campaigned as Conservatives and Unionists, would have raised the issue with his Conservative colleagues already. He said that the response was inadequate. *[Interruption.]* It is obviously important for some people down there to do more listening. He said that it was an inadequate response.

It is true that we would like to do more, but, as one of my colleagues mentioned, we have had £4 billion taken out of the Northern Ireland Budget over the four-year period of the comprehensive spending review by the Conservative and Liberal Democrat coalition Government. There are, therefore, limitations on what can be done but, within the limitations, we will certainly do all that we can and make it a priority.

Alban Maginness said that £20 million for the green new deal was not enough. He is not here any more. In a sense, that is true, but, again, there are financial constraints with £4 billion taken out of the Budget. If he is suggesting that perhaps his party colleague in DOE is happy to surrender more money so that we can put more into those schemes, I would be happy for Alban — perhaps colleagues would pass the message on to him — to lobby his colleague Mr Attwood. If more money were available, we could certainly make good use of it.

Mrs Cochrane raised the issue of better technology. In recent weeks, I have visited a number of firms in Northern Ireland that are at the forefront of energy efficiency technology. It is good to know that we have companies that are not only helping to address issues of fuel poverty through technology but are helping Northern Ireland to increase employment by exporting that technology to many parts of the world.

**Mr Deputy Speaker:** Will the Minister bring his remarks to a close, please?

**Mr McCausland:** I think that I have covered most of the points, and I am happy to leave the matter.



**Mr Agnew:** I welcome the Minister's comments on the work to date on the green new deal. I will speak a bit more about that later in my speech, but I dare say that he will not be surprised that I hope that more can be done and more money can be put into the green new deal programme. I also thank Mr Copeland for his correction: it is, of course, over 300,000 homes, not people, in Northern Ireland that suffer fuel poverty. I appreciate him pointing out that I got that one wrong.

Mr Copeland also highlighted the fact that there are two different definitions of fuel poverty. I warn against the more recent definition, which looks at the regional prices and the current prices of energy. If we keep moving to where the median is, no matter how high fuel prices go — even if they go as high as 100% of someone's income — according to the recent definition, that would mean that families who spend all their money on fuel may not be classed as living in fuel poverty, which seems to me somewhat bizarre. I appreciate the Minister's point that it helps us to see where the most severe instances of fuel poverty are, but we should work with the wider definition.

Robin Swann highlighted the important fact that what we are doing is clearly not working. Fuel poverty is on the rise, and we need to do something more or something different. As I pointed out earlier, each year, as energy prices go up, the winter fuel payment has less and less value to householders as the amount of oil, gas or other fuel that they can purchase decreases. Without energy efficiency measures, the winter fuel payment literally sends money up in smoke.

I appreciate the fact that the Minister highlighted the work that is taking place. However, we need not only cross-departmental working but the finance to back it up, in what I refer to as pooled budgets. It is fine and well that Ministers have input to what should be done, but, if money — or at least initiatives — does not come from the Departments, that cross-departmental working will just be lip service. Pooled budgets are necessary across a number of areas in the Assembly and are certainly necessary on the issue of fuel poverty.

I will move to the green new deal, which is the focus of my amendment. As Judith Cochrane pointed out, we have many initiatives to tackle fuel poverty, but they are disparate. The green new deal will provide a one-stop shop where

people can find all the advice that they require in one place to help to address their difficulties in meeting fuel payments.

I will answer Mr Allister's question about how much it will cost. The Green New Deal Group's original business plan highlighted the fact that £72 million of public spending would invite £181 million of private sector spending. I know that the group is revising the plan to meet the Department's standards. The same people who say that we cannot afford that also say that we should cut corporation tax, which would mean upwards of £300 million coming out of the public sector spend. My argument is that we should scrap the idea of cutting corporation tax and put the money in invest-to-save schemes to prevent problems such as fuel poverty, which has such a detrimental effect on the health of our society.

By investing in the green new deal, we can create thousands of jobs, reduce carbon emissions and, most importantly in this debate, tackle fuel poverty. We cannot afford to pass up this opportunity to make an investment that will create extra private sector support, boost the economy and have beneficial social impacts. I call on the House to support the amendment and thank Members for giving me this time.

**Mr Frew:** Thank you, Mr Deputy Speaker, for the opportunity to speak on the motion. I thank Members for their general support. The debate has addressed the wider issues around fuel poverty, and rightly so. At this time, it is an important issue in our country and for our people.

The Member for North Antrim Mr McIlveen and I tabled the motion: it is simple in nature and targeted. Many times in the past year, I have sat in the Chamber and heard motions being debated that represent what could be described as Utopia, somewhere we would like to be or aspire to be but cannot really get to. We are asking the Minister to perform a simple task on behalf of the Assembly for the people of Northern Ireland, which is to lobby and persuade Her Majesty's Government to reverse their decision on winter fuel payments.

The motion is simple and specific because, at the recent pensioners' parliament, the most popular motion relating to energy prices was, in fact, to do with the winter fuel cut. Almost 97% of those who attended those events asked the Government to reverse their decision. We are

talking about cuts of only £50 and £100, but that is how desperate the most vulnerable in society are. In the greater scheme of things, they could have asked for something that would be very hard to adopt, but they are simply asking for the decision to be reversed. Of course, £50 and £100 will not solve many issues, but, for one or two people, it might be the difference between life and death, which is a point that I want the Minister to take across to Westminster.

### 2.15 pm

I acknowledge the Minister's commitment to tackling the serious issue of fuel poverty. Mr McIlveen and I invited the Minister to come to Ballymena last Thursday, when we talked about issues such as town centre regeneration and social housing areas. The Minister saw at first hand the deprivation that there can be in a highly successful town such as Ballymena, where people drive in and out along main thoroughfares to shop and for employment and recreation yet sometimes drive by deprivation on the grandest scale without seeing it. It is fair to say that Ballymena has some well-kept secrets, one of which is the scale of deprivation in some areas. I am sure that the Minister's eyes were opened to Ballymena. He represents North Belfast, which also has those issues, but he saw at first hand how Ballymena could also come into that category. I thank him for his time last Thursday. His visit will be very useful when I go to him about such issues, because he has seen what I am talking about. I warn him that my visit is just round the corner.

I acknowledge the action taken by DSD, the Minister for Social Development and his predecessor on the £2 million boiler replacement scheme, which will benefit 1,300 successful applicants. I should also mention the capital funding for the warm homes scheme of £15 million, £15.5 million, £16 million and £16.5 million over the next four years, which will be spent on private sector houses. In addition, this year, the Housing Executive will spend £16 million from its maintenance budget on fuel poverty measures, including heating adaptations, heating replacements and thermal comfort improvements. All of that adds up to helping people. People will say that we could do more, and, of course, we could, but I remind Members that we underwent a very difficult Budget process, during which we debated those same issues. There is no one-size-fits-all approach. We have to think of the full spectrum

of government and of the Province as a whole. Therefore, I commend the Minister and his Department for their work to date.

In fuel poverty, we face a dangerous and fast-moving enemy. In the past two years, the cost of heating oil has risen by over 63%. On 1 October, electricity prices will rise by 18.6%. In greater Belfast, gas prices have risen by 39%, and, in the 10 towns area, which I represent, they will rise by 28% on 1 October. Coal prices are also set to rise this month by up to 10%, and the price of LPG rose by 9% in August. All that while annual salaries have been frozen or, worse, cut by up to 15% in some households and, worse still, people have lost their job. I know that the motion refers specifically to the elderly, but we must also remember that the issue affects those at the other extreme — the young and their families. Of course, when families are supported, they will, in turn, support their elderly and loved ones.

I cannot understand Her Majesty's Government's decision to cut the payment. It is not logical to cut £50 from the payment of those in the age range 60-79 while the over 80s are to expect a cut of £100. That just does not add up. Her Majesty's coalition Government have used twisted logic to implement that cut. We can argue about the standards of fuel poverty, the bar set and the criteria used. However, it does not matter whether the qualifications change from one day to another: the people, the householders and the elderly folk affected by fuel poverty will still be in the same scenario. There should be logic in the Government's decision and in the measurement of fuel poverty. That would mean that we would be able to target the 13% of people who will be affected most by fuel poverty and for whom it could well mean the difference between life and death.

From talking to elderly folk in my constituency, I know that they have been extremely worried over the summer months. However, they are not worried about what they are going to spend their money on or what they are going to buy their grandchildren for Christmas. They are not worried about dipping into their savings or about their mobility once the frost comes or whether they will damage a hip or break a leg. Those are the things that elderly folk normally worry about, but they are not worried about those things any more. They are worried about whether they will see March. That is the important issue on which the Assembly must focus its mind.

Many Members spoke about how many people die each year because of the cold in the winter months. My colleague Mr McIlveen and I tabled the motion to ask the Minister to do a simple task.

I acknowledge the amendment proposed by Mr Agnew. I understand, from his policies and politics, why he moved it. It does not fit well with the motion because it targets a specific task, but I understand why he has put it forward, and I understand about the green new deal. We will, of course, be sympathetic to it and its long-term strategy. However, things have to move in that regard. Mr Agnew knows that I come from the construction industry. I know that things have to change, even in that industry, to make that work. Simply asking any Minister or Department to throw more money at it will not achieve the objectives of the green new deal. That is what concerns me most: we must make sure that the vehicle is in place to make those objectives workable. It is with grave concern that we are at this point, but I am not sure whether the green new deal has got that far yet. He talked about equipment going into households, but it is not affordable for ordinary people.

**Mr Deputy Speaker:** The Member should bring his remarks to a close.

**Mr Frew:** Thank you, Mr Deputy Speaker.

*Question, That the amendment be made, put and agreed to.*

*Main Question, as amended, put and agreed to.*

*Resolved:*

*That this Assembly recognises the serious problem of fuel poverty, especially amongst older people; acknowledges the adverse impact that rising fuel bills are likely to have on the ability of older people to keep warm and healthy; and calls on the Minister for Social Development to make representations to Her Majesty's Government to continue to support Age Sector Platform's call to maintain this year's winter fuel payment at its current level of £250 for pensioner households where someone is aged between 60 and 79 and £400 where someone is aged 80 and over; and further calls on the Minister to increase funding for the green new deal to provide the energy efficiency measures required to tackle fuel poverty in the long term.*

**Mr Deputy Speaker:** As Question Time commences at 2.30 pm, I suggest that the House takes its ease until that time.

*(Mr Deputy Speaker [Mr Beggs] in the Chair)*

**2.30 pm**

## Oral Answers to Questions

### Finance and Personnel

**Mr Deputy Speaker:** Question 4 has been transferred to the Office of the First Minister and deputy First Minister and will receive a written answer. Question 13 has been withdrawn and requires a written answer.

#### Civil Service: Equal Pay

1. **Mr Ó hOisín** asked the Minister of Finance and Personnel to outline what discussions he has had with trade unions and other representative groups in relation to equal pay settlements for civil servants. (AQO 309/11-15)

**Mr Wilson (The Minister of Finance and Personnel):** In the run-up to the determination of the final settlement of the equal pay issue, I met with the Northern Ireland Public Service Alliance (NIPSA) representatives on two occasions, in October and November 2009, and my predecessor met with NIPSA in May 2009.

**Mr Ó hOisín:** Go raibh míle maith agat, a LeasCheann Comhairle. Will the Minister ensure that the Department engages in genuine negotiation with representatives of all groups affected to reach a satisfactory outcome? Can he give us an idea of a cut-off point at which this no longer is an issue?

**Mr Wilson:** All the groups that were affected under the Civil Service scheme have been met, and, as far as we are concerned, the remit of the Department of Finance and Personnel was to deal with members of the Civil Service who had an equal pay claim. That has been dealt with. The lump sum has been paid and the new pay grades have been introduced. Some others have put in equal pay claims. That is an issue for their employer, which will be either the Department of Justice or an arm's-length body. It is for them to determine whether there is a pay claim.

**Mrs D Kelly:** How many civil servants, including retirees, are involved in the equal pay claim? If he is not able to provide the figures today,



perhaps he will give an undertaking to provide them at a later date.

**Mr Wilson:** The retirees were not part of the agreement. Those who retired six months previous to when the equal pay claim was lodged would not have been eligible under the law. I have made it clear on a number of occasions in the Assembly that that issue is closed. I know that some who left the Civil Service six months before the claim was lodged feel that they are entitled to it, and some MLAs agree. I have not been told how far back one would go. Secondly, there would be an issue with the details of those particular individuals, and, thirdly, the further back one went, the more it would cost. How would we deal with the cost? It is one thing for Members to say that retirees should generally be covered by it, but we can deal only with pay claims that have some legal standing. The legal advice is very clear: those who left six months before the claim was lodged are not eligible.

**Mr Copeland:** Will the Minister comment on the current situation, particularly on the breach-of-contract cases being taken by civil servants employed by the Police Service of Northern Ireland?

**Mr Wilson:** PSNI staff, we believe, are and should be excluded from the Northern Ireland Civil Service pay claim. Their pay delegation went to the NIO in 1996. PSNI staff are now under the Department of Justice, and the responsibility for their pay rests with their current employer. My officials and I have had discussions with the Department of Justice and the PSNI to explain the situation. In their own organisation, there may well be grounds for an equal pay claim. However, staff have to justify that by the determining whether there is a difference between those at Administrative Assistant and Administrative Office grades and those at some other technical grade and, if so, whether that difference constitutes an equal pay claim. If that is the case, it is for the Department of Justice and the police to deal with, but the Civil Service scheme was clear: it covered only those whose pay the Department of Finance and Personnel was responsible for — that is, members of the Civil Service.

**Mr Allister:** On another, different dimension of equal pay: a pay freeze is supposed to be in operation across the Civil Service. Why then, on 18 July, did the Minister pick out one section

of supposed civil servants — political special advisers — and give them a freeze-busting increase of £7,500 at the upper end of band B? Why did he do the First Minister's bidding in that regard and wreak havoc with the pay freeze that is supposed to apply to civil servants?

**Mr Wilson:** The Member seems very interested in everybody else's pay. I could take that from some other Members. He does not like this: but, this is the Member who goes to court to keep his own pay — *[Interruption.]*

**Mr Deputy Speaker:** Order. The Minister has been asked a question and is giving his reply. May we have order in the Chamber, please?

**Mr Wilson:** You see, the Member does not like the truth being told. He loves to point the finger. He loves to posture. He loves to blame everybody else and to identify what he believes are the faults of everybody else. He would have a bit more credibility if he were prepared to show some transparency about the money that he gets from the public purse, instead of looking at the money that other people get or he believes that they get.

**Mr Allister:** On a point of order, Mr Deputy Speaker. *[Interruption.]*

**Mr Deputy Speaker:** Will the Member take his seat? No points of order are taken during Question Time. You may raise the matter later, if you wish. I call Alasdair McDonnell with the next question.

**Dr McDonnell:** Thank you very much, Mr Deputy Speaker. I will be a bit more restrained than heretofore.

## Infrastructure Funding

2. **Dr McDonnell** asked the Minister of Finance and Personnel what consideration his Department has given to issuing bonds to fund essential infrastructure. (AQO 310/11-15)

**Mr Wilson:** OK. *[Laughter.]* I thank the Member, and we know of his customary restraint, although I am sure that he will not be as restrained in his battle for the leadership of the party. *[Laughter.]* I am sure that he will be fairly robust when it comes to that. I was going to wish him all the best, but that may be the death knell for him, so I will not. *[Laughter.]* I will refrain from that.

The issue of issuing a bond has come up time and time again and has been looked at by officials as part of schemes to try to identify ways of bringing additional spending into the public sector for projects that have not been financed through our departmental expenditure limit allocation or the sale of assets.

I have explained the difficulty with this issue to the House on a number of occasions. The difficulty is that, if the Executive borrow money, the Treasury takes that to be part of the borrowing for the whole of the United Kingdom, and, if borrowing targets are set, the Treasury simply reduces the money that is given to Northern Ireland in accordance with the amount borrowed. That would not benefit us. In fact, if anything, it would be detrimental, because money that we get in for capital spending as part of the block grant, with no interest attached, would be replaced with borrowing on which we would have to pay interest. That is the difficulty around the bond issue. So, it really would not be of any benefit to us. Although, I have no doubt that, were it possible to issue bonds that do not have such an impact, we could raise additional capital because people would be prepared to invest in them.

**Dr McDonnell:** I thank the Minister for that answer. As I look out there, I am frustrated because the whole construction industry is paralysed. Yet, a lot of essential infrastructure could be put in place at current rates if we could borrow money to do so. Let us look, for instance, at schools. We need a number of schools. We could probably get them at 20% of a discount on what they may cost in five years' time.

**Dr McDonnell:** Are there other ways? If we cannot raise money at Executive level, could the education and library boards, local councils or others find ways and means of doing so?

**Mr Wilson:** I thought that when the Member said that he was "frustrated", he was inviting me to give an answer similar to that of the Prime Minister, but I assure him that I will not.

The Member is right. I have had discussions with the Construction Employers Federation. I am still waiting for a paper from the federation on alternative ways in which it could bring additional funding to the table. The Member rightly identified that, at this time, many of the infrastructure projects that we know must be undertaken — schools, investment in the Health

Service, roads, or whatever — could be done much more cheaply today than in two or three years' time when the economy picks up. One way of looking at the situation is to determine whether we can, through private investment initiatives, get building done for the public sector. Can the construction industry itself find ways of raising money? Indeed, and this will be a painful choice for the Assembly, are there ways in which we can divorce from the public sector some of the bodies that need capital spend to get the required work done, so that we could use the revenue streams that they would generate? In housing, for example, we could increase rents, which could provide an income stream against which borrowing could be obtained. However, we would then have to move housing out of the public sector and into some arm's-length body.

**Mr G Kelly:** Will the Minister provide an assessment of the cost to the Executive of issuing bonds? You said earlier that you were against that option, but have you made that assessment?

**Mr Wilson:** It would depend on the rate of interest on the bond market at that time. That, in turn, would depend on our credit rating as an Executive and what rate of interest UK bonds in general would attract. At present, because of the United Kingdom's AAA rating, the rate of interest for UK Government borrowing is very low compared with that for the Republic, Italy and other places. Some might say that that is the result of the budgetary policies that the Westminster Government are following. However, at any particular time, the market will determine that.

**Mrs Overend:** I want to pick up on a point raised by Dr McDonnell. Will the Minister advise whether local authorities have the necessary powers to raise similar bonds or mortgages to assist their development?

**Mr Wilson:** Yes, local authorities have the power to raise money and borrow in that way, and that does not score against our departmental expenditure limit or become part of the total borrowing sum that the Treasury set down. Of course, their problem is that they have a limited range of things on which they can spend the money. Also, some of them may be more cautious about doing that than others, because the repayment of interest over the period would, of course, have a revenue consequence

for ratepayers. However, local authorities are one set of bodies that could borrow, and their borrowing would not score against our departmental expenditure limit.

### Small Business Rate Relief Scheme

3. **Mr Lyttle** asked the Minister of Finance and Personnel for an update on the small business rate relief scheme. (AQO 311/11-15)

**Mr Wilson:** The Department has been consulting on the proposals to expand the main scheme of the small business rate relief scheme. Given the constrained public finances at present, we believe that that increase can be funded only from something other than public expenditure. That is why we proposed a levy on larger retail premises. That levy requires new legislation, and if we are to have it in place by April 2012, which is the aim, it will require accelerated passage. The scheme is designed to last for three years. It is a recession response from the Executive. It is not something that we see as going beyond the three-year period.

#### 2.45 pm

**Mr Lyttle:** I thank the Minister for the update on the scheme. What other mechanisms is the Minister pursuing to assist small businesses at this time?

**Mr Wilson:** We already have the rate relief scheme for small businesses. The proposal that we have out for consultation, which will finish on 18 October, will double the number of businesses brought into the scheme. However, a number of other schemes and initiatives are being introduced to help small businesses. For instance, the Department for Social Development is promoting a lot of regeneration schemes for town centres, and the Department for Regional Development is doing work to enhance street landscapes to improve such areas. Of course, we still have the manufacturing rate relief for many of the small manufacturing businesses, which is capped at 30%. That is designed to reduce the overheads of some of the smaller manufacturing businesses.

**Mr Campbell:** Given that a number of small businesses are just starting out in some towns and are trying to compete with large businesses located at the edge of town or out of town, will the Minister outline the type of business that

might benefit from the scheme? Will he indicate the level of support that might be provided?

**Mr Wilson:** We have not restricted the scheme to any particular type of business. It is designed to capture businesses that have a rateable value of £10,000 or less. Some people have argued that it could be better targeted and that we should be selecting particular types of businesses. However, since this is to be a three-year scheme, since we had wanted to keep the administration costs to an absolute minimum, because we want the money to go to businesses and not to an expensive administration system, and since there is always a difficulty if the onus is on a business to apply rather than having an automatic deduction of money from the business's rates, we have gone for what some people might describe as a fairly blunt instrument. We believe it is the quickest way of getting help to small businesses. It provides 20% rate relief for businesses with a valuation between £10,000 and £5,000 and 50% for those with a rateable value of £5,000 or less.

**Mr McDevitt:** Although I am sure that all Members welcome the sentiments the Minister is expressing in the Chamber, does the Minister accept that, ultimately, we will have to be a lot more radical about addressing some of the significant structural issues facing many small businesses? Will the Minister express an opinion on whether it may require the option of a rating model that is related to the turnover of the business rather than to the rental income or value of the property?

**Mr Wilson:** In the proposals, we have invited businesses to make other suggestions that they believe would be more effective than the suggestions that I have made in the policy document. I am not wedded to one particular idea merely because it came from me. If someone comes up with a different or better idea, or one that is more effective or cost-effective, it will be considered. The difficulty with the suggestion that the Member for South Belfast has made is that it is difficult to get a clear picture of the turnover of some businesses. It would be much more open to manipulation. At least there is an objective database of the valuation of a business. Turnover can be manipulated in different ways. For that reason, we have not considered that suggestion. However, we are looking at any credible suggestions that come forward for the

short term and, more importantly, for the longer term, and we will continue to do so.

**Mr Swann:** Have the major retail outlets responded positively to the consultation process?

**Mr Wilson:** I have met all the major retailers — Tesco, Asda and Sainsbury's — and the British Retail Consortium, and, to be fair, I think that they have not been madly enthusiastic about the scheme. However, I will point out that the proposal affects about 100 businesses across Northern Ireland, which account for about 1% of the total number of retailers in Northern Ireland. The levy will work out at about 0.25% of their turnover. It is, of course, a temporary measure for the next three years. When it is explained in those terms, it becomes and is seen to be less onerous than perhaps some of them have depicted it. However, nobody votes for an extra increase in any tax, so you would expect the major retailers to have been fairly critical of the proposal.

## Corporation Tax

5. **Mrs Dobson** asked the Minister of Finance and Personnel for an update on the discussions he has had with Her Majesty's Treasury on the devolution of corporation tax. (AQO 313/11-15)

12. **Ms Boyle** asked the Minister of Finance and Personnel for an update on the discussions he has had with Treasury regarding the devolution of corporation tax. (AQO 320/11-15)

**Mr Wilson:** With your permission, Mr Deputy Speaker, I will answer questions 5 and 12 together.

The Government consultation closed early in July, and there have been over 700 responses to it. I cannot give the Assembly the breakdown of those responses at present. The Chancellor has indicated that the Government will respond some time in the autumn, and we are currently considering the responses that the Treasury has received. Of course, there is a lot of work to be done in determining the amount that this would cost, as well as in determining other factors that might help to mitigate the cost.

**Mrs Dobson:** I thank the Minister for his answer. What is his opinion of whether full control over corporation tax should be devolved to Northern Ireland or whether our involvement should be limited to setting the rate of tax?

**Mr Wilson:** I do not think that there is any point in our replicating the administrative arrangements that are already in place. We had a couple of meetings with Treasury Ministers at which representatives of business and accountancy firms were present. They indicated that that really would not be to their advantage and, indeed, that most firms would probably resist having to deal with a separate administrative arrangement in Northern Ireland as well as with the Treasury, especially those firms that may have outlets here and in the rest of GB. So, it is my view that the administrative arrangements should still be carried out by Her Majesty's Treasury and that we then pay for that. What the cost of that administration should be is an area for negotiation. Currently, we have been given a figure that I think is ridiculously high, and we have to look at that.

As far as the devolution of the rate is concerned, that will be a decision for the Assembly.

**Ms Boyle:** Go raibh maith agat, a LeasCheann Comhairle. Can the Minister give an indication as to whether the North will be designated an enterprise zone for that?

**Mr Wilson:** I assume that the Member means Northern Ireland. *[Interruption.]*

The Government have designated a number of areas in other parts of the United Kingdom as enterprise zones. I am still not quite clear as to what exactly they mean by an enterprise zone in relation to Northern Ireland. At one stage, the Secretary of State felt that the whole of Northern Ireland could be an enterprise zone. I do not think that that is really a practical proposition, but we will look at what is happening with enterprise zones in other parts of the United Kingdom and at what allowances there are for planning and capital and so on. Whether that is an appropriate model in a place such as Northern Ireland, I do not know. Our past experience of enterprise zones has been that they do not generate additional employment; it is more a case of displacement, with firms moving from one side of the line to the other. I am not so sure that that would be a satisfactory way forward.

**Mr I McCrea:** I thank the Minister for his answers so far.

The Minister has outlined as best he can, without giving too much detail, the outcome



of the consultation. Will he outline what other fiscal measures, other than an adjustment to the rate of corporation tax, would make Northern Ireland a more attractive area for investment?

**Mr Wilson:** A number of things have been discussed time and again in the Assembly. Businesses come to me all the time to talk about the cost of regulation. We really ought to look at that. One of the things that heartens me about the current problems in the euro zone is the prospect that we may well be able to renegotiate our relationship with Europe and get rid of many costly regulations that are very often irrelevant, tie the hands of business in Northern Ireland, and about which the Assembly can do nothing because they are passed down to us. That is one thing that could be done.

Arlene Foster is already looking at tax credits for research and development, and investment allowances. Firms in Northern Ireland are already benefiting from the reduction in National Insurance contributions. I asked a question of the Treasury Minister the other week and I was pleased to find out that about 20 firms in my own constituency benefit from that. That brings down the cost of labour.

There is another big issue. I hope that the Minister of the Environment will not be diverted by his pursuit of the leadership of the SDLP, but will get down to doing something about the planning system. I am sure that the Minister will look at what can be done to reduce that burden and enable business decisions to be made much more quickly as a result of quicker planning decisions.

**Mr Agnew:** When alternative proposals are put to the Minister in Budget debates, he is often heard to ask how we are we supposed to pay for them. Given the huge expense of the deduction from the Northern Ireland block grant if devolution of corporation tax were to take place, will he please outline how he proposes to pay for that? Will it be by top-slicing? If so, will that include health, education and justice? Will we get to a level of top-slicing that is more like cutting the middle right out of our Government Departments?

**Mr Wilson:** The Member raises a good point. I have been at the forefront in saying that we cannot accept the devolution of corporation tax if it will have a massive impact on our current spending. One of the reasons why there have to be very hard negotiations with the Treasury over the autumn is to make sure that we do not

get a bill for the devolution of corporation tax that is totally unsustainable. No provision has been made in the current four-year Budget for the devolution of corporation tax, so even if we got the bill down to a manageable figure, there would still be an impact, unless it is phased in or deferred.

Many people argue that the certainty that the tax rate will be down to a certain level by a certain time will influence investment decisions. As there is a long lead-in for investment decisions, I do not believe that we will see a reduction in the rate of corporation tax within the lifetime of this Assembly. It will come after that.

### **DFP: Procurement**

6. **Mr Elliott** asked the Minister of Finance and Personnel for his assessment of whether the procurement system currently used by the Central Procurement Directorate is of benefit to small and medium-sized enterprises. (AQO 314/11-15)

**Mr Wilson:** I thank the Member for the question. It is best answered by citing some of the statistics. Between May 2008 and November 2010, 73% of all contracts issued by the Central Procurement Directorate went to small and medium-sized enterprises. I am not complacent about that. Small and medium-sized enterprises are usually the kinds of firm that are based in Northern Ireland, and we want to encourage them.

The Member will understand that, again, our hands are tied by European directives about competition, etc. We see many judicial reviews of procurement processes. However, we seek to maximise the procurement opportunities for smaller businesses and we have implemented, for example, the eSourcing single portal, which small businesses can log onto and which lists all government opportunities worth over £30,000, so that businesses can see if there is an opportunity for them. We have looked at how we can simplify the process and the paperwork involved in tendering.

**3.00 pm**

## **Health, Social Services and Public Safety**

**Mr Deputy Speaker:** For Members' information, question 4 has been withdrawn and will require a written answer.

## Community Pharmacies: Remuneration

1. **Mr Boylan** asked the Minister of Health, Social Services and Public Safety whether he has any plans to review the drugs tariff formula used to pay pharmacies. (AQO 324/11-15)

11. **Mrs D Kelly** asked the Minister of Health, Social Services and Public Safety for his assessment of whether there will be a detrimental impact on service delivery as a result of the proposed 30% cut in the community pharmacy budget. (AQO 334/11-15)

**Mr Poots (The Minister of Health, Social Services and Public Safety):** Mr Deputy Speaker, with your permission, I will answer questions 1 and 11 together.

The Department recognises the fact that it has an obligation to provide fair and reasonable remuneration for community pharmacies. In January 2010, the High Court found that arrangements in place at that time did not meet that obligation. Thereafter, the Department and the Health and Social Care (HSC) Board engaged in extensive negotiations with Community Pharmacy Northern Ireland (CPNI) in an attempt to reach agreement on community pharmacy arrangements in 2011-12. However, agreement could not be reached.

New arrangements were introduced with effect from 1 April 2011 to meet my Department's ongoing statutory obligation to provide fair and reasonable remuneration. CPNI has brought a further judicial review challenge to the new remuneration and reimbursement arrangements, and, against that background, it would be inappropriate for me to comment further on community pharmacy remuneration in case it would have any prejudicial effect on the hearing, which is scheduled for 20 and 21 September. I do not accept, however, the assertions that are being made by CPNI, and I assure Members that I am committed to providing — indeed, I am required by law to provide — a fair and reasonable system of remuneration to community pharmacists in Northern Ireland.

**Mr Boylan:** Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister for his answer. Does he accept the fact that pharmacies play a crucial role in providing healthcare and advice in rural communities?

**Mr Poots:** Absolutely. Very often, they are in the front line, and I therefore remain committed to

ensuring that we have strong, community-based pharmacies. I should say that we are dealing with something that was brought about under the previous Administration. The judicial review was sought under the previous Administration, and leave for it was granted in that period. Therefore, I have been somewhat constrained in dealing with the issue, which causes me some concern. I appeal again to the community pharmacists' organisation to withdraw its judicial review and allow negotiations to take place.

**Mrs D Kelly:** If we accept that there will be a detrimental impact on pharmacy services across Northern Ireland, will the Minister undertake to maintain a geographical spread of pharmacies so that the impact of any reduction is not borne by rural communities in particular?

**Mr Poots:** Currently, in Northern Ireland, per head of population, there are 100 more pharmacies than in any other part of the United Kingdom. We have 30 pharmacists for every 100,000 head of population, whereas in England there are 21, in Scotland there are 23, and in Wales there are 24. Clearly, we have a considerable number of pharmacists. It is important that we continue to have pharmacists in our rural villages and in deprived areas, which is why I am happy to negotiate with pharmacists. However, I cannot negotiate in circumstances in which a judicial review is pending.

**Mr Craig:** Does the Minister find it appropriate that people can get prescriptions for drugs that are commonly commercially available over the counter to anyone who wishes to purchase them?

**Mr Poots:** I have concerns about that. We intend to look at that issue because there is a problem. People are getting prescriptions for drugs such as antihistamines, Anadin and Brufen, which can easily be bought over the counter at a low cost. We have already issued guidelines on the use of glucosamine, for example. We can make considerable savings by ensuring that people do not get those drugs on prescription but buy them over the counter without causing huge pain to the public purse.

I should make it clear that this Executive, this Assembly and this country spend around £460 million a year on pharmaceuticals. That is almost as much money as is spent by the entire Department for Regional Development. Therefore, we need to achieve better efficiencies

in the system. We need to get value for money. We need to eradicate a lot of the waste of drugs that we buy and to maximise the amount of generics that we use. There is a lot of work to be done on that issue, and a lot of savings could be made. Community pharmacists perform an important role in the delivery of the health service in Northern Ireland. We do not want to make them the fall guys, but we need to make considerable savings in the budget.

**Mr McCarthy:** The Minister will know as well as everybody else in the Chamber that community pharmacists are anxious to get round the table and, as he said, to develop methods of discouraging waste. However, the Minister must acknowledge that allowing some pharmacies to close will undoubtedly put extra pressure on local GPs and on A&E units, which are already under threat. Can the Minister not recognise that that will be a consequence of closing pharmacies?

**Mr Poots:** I am not sure whether the Member has actually listened to anything that has been said thus far. The Minister can do nothing about the situation because a judicial review is pending. Therefore, the Minister cannot negotiate the deal that was brought about by the previous Minister in the previous Administration, and the leave was sought in the previous Administration. If I could engage with pharmacists, there would be potential to move the situation forward; however, while I am constrained by a judicial review, I cannot move this situation forward.

## IVF Treatment

2. **Ms Gildernew** asked the Minister of Health, Social Services and Public Safety whether he has any plans to extend the IVF treatment cycle to three treatments. (AQO 325/11-15)

**Mr Poots:** Northern Ireland aspires to provide three full cycles of fertility treatment as recommended by NICE; however, financial constraints make that unachievable. I am aware that in some areas of the UK the number of cycles available is increasing. However, it is worth noting that in many of those areas the NHS criteria for treatment are much more restrictive than those that we apply in Northern Ireland. Therefore, fewer couples receive any publicly funded treatment.

An additional £1.5 million of recurrent funding for fertility services was made available in 2009. That, in addition to an investment of £800,000 in a waiting list initiative, means that no patient now waits for more than 12 months for treatment from the time that they are placed on the waiting list. With that funding, it is hoped that it will also be possible to introduce a cycle of frozen embryo transfer in addition to the currently funded stimulated cycle of treatment where that is appropriate.

**Ms Gildernew:** I welcome the Minister's answer; the news about waiting lists is good. However, does he agree with statistics that indicate that there is a 60% chance of conceiving with a three-cycle approach? Notwithstanding financial constraints, it ultimately offers better value for money for the taxpayer.

**Mr Poots:** We recognise that. NICE has made its recommendations on the basis of its research, and we seek to follow the guidance from NICE as far as we can. However, the funding that has been set aside thus far does not allow for that. We are looking at the opportunity of introducing the second cycle treatment through frozen embryo transfers, which is a cost-effective way of achieving it. I recognise that we have come some distance, but we have not gone the full distance. However, at the moment I cannot make any promises, given the funding constraints.

**Mrs Overend:** Has the Minister considered the use of DuoFertility, which is a system based on detecting high fertility cycles in the body? It was developed by Cambridge Temperature Concepts and was outlined on the Cabinet Office website in May 2011. It has been shown to achieve the same pregnancy rate as a cycle of IVF in the same patient population at a cost of £500, compared to a typical NHS cost of £5,000 per cycle.

**Mr Poots:** What the Member says is very interesting, but we normally operate under NICE guidelines. That is the protocol under which we operate. If the system is as good as the Member indicated, I trust that NICE would recommend it to us. It would certainly alleviate our problems.

**Mr McDevitt:** I am sure that the Minister, like the rest of us, will want to acknowledge the huge emotional impact and stress placed on couples who do not get access to a third cycle.



How many patients in this region are awaiting treatment?

**Mr Poots:** We do not have the figures for how many are on the waiting list. I will seek to ascertain that, provided that it can be done for a reasonable cost.

### Hospitals: Missed Appointments

3. **Mr Nesbitt** asked the Minister of Health, Social Services and Public Safety what measures he intends to introduce to reduce the level of missed hospital appointments.

(AQO 326/11-15)

**Mr Poots:** In the previous financial year, 171,740 outpatients missed their hospital appointments without cancelling in advance. They simply did not attend. It must be acknowledged that, to avoid such a waste of resources, the public have a responsibility to ensure that they cancel hospital appointments in advance when they cannot attend.

Between 2008-09 and 2010-11, a reduction of some 13,000 missed appointments has been secured. However, there remains room for improvement. The trusts have therefore implemented key initiatives to reduce the number of missed and cancelled appointments. Those initiatives include setting local "Did not attend" targets for locations and specialities with high non-attendance rates; introducing partial booking across all outpatient specialities and extending that to patients who are waiting for review appointments; developing pathways that reduce unnecessary follow-up appointments; and the production of an annual report by the trusts providing an analysis of the root causes and demographics of non-attendance, together with performance against local "Did not attend" targets. The Department and HSC Board will review those reports and take further follow-up action as necessary.

**Mr Nesbitt:** I thank the Minister for his answer. On the issue of key initiatives, I wonder whether the Minister has considered the use of modern communication techniques, such as mobile phone texting and e-mails. I understand that the health authority in Fife has pioneered that and was saving something like £110 for each missed appointment. If your figure of 171,000 for missed appointments is correct, we are talking about a potential saving of £17 million.

**Mr Poots:** A pilot system was in place in the Belfast Trust between April and June, but I have to say that it had limited impact and was not particularly successful. However, I am keen to have another look at that and to maybe attempt another pilot. I recognise that an awful lot of groups with a large user base use text messaging to get messages out there, and I know that many dentists use it with their clients. So, it is something that I am prepared to look at again. There was a pilot, but it was not successful. However, perhaps we need to look at how that was implemented to see why it was not successful. I should add that there is a degree of overbooking, because hospitals know that there will be fallout and that not everybody will turn up. So, the cost of missed appointments probably is not as much as the headline figures might suggest.

**Mr Newton:** My concern is very much the same as that which Mike Nesbitt raised in his supplementary question. Can the Minister tell us whether the situation with missed appointments is worse in Northern Ireland than in other parts of the United Kingdom?

**Mr Poots:** We do not have figures for the number of missed appointments in the rest of the United Kingdom. However, the headline figure out today showing that over 170,000 appointments are missed is not satisfactory, and we need to look at what we should do about that. I think that, if you are going to attempt to do something about it, you would have to use a carrot and stick approach. We would therefore need to ensure that the public were well informed, on the one hand, about appointments and the proper use of electronic mail and text systems and, on the other, about the potential for being fined if they did not turn up. That is how dentists operate: if you do not turn up, you pay at your next appointment. If we were to challenge this, we would have to take those routes.

**Ms Boyle:** Go raibh maith agat, a LeasCheann Comhairle. In introducing these measures, will you take into account particular circumstances and cases, such as people with bad eyesight? Is it standard for appointment cards to have large print?

**3.15 pm**

**Mr Poots:** Those issues do exist. I accept that, sometimes, when people do not turn up, it is not necessarily their fault. However, 61% of people

who did not turn up for an appointment had forgotten; 16% felt embarrassed about going to the outpatient clinic; 13% did not think that it was important; and 10% tried to cancel by telephone but could not get through. Members can take from those figures that the core problem is people who fall into the categories of either forgetting that they have an appointment or not thinking that it is important. That is not good enough.

### **Ulster Hospital: Accident and Emergency**

5. **Mr Hamilton** asked the Minister of Health, Social Services and Public Safety what actions have been taken to ensure that the closure of Belfast City Hospital's accident and emergency unit will not have an adverse impact on patients of the Ulster Hospital. (AQO 328/11-15)

**Mr Poots:** I wish to emphasise that changes in the configuration of emergency services in the Belfast Trust are operational matters that have been taken on the grounds of patient safety and the sustainability of services. In my statement to the Assembly on 13 September 2011, I acknowledged that the temporary closure of the Belfast City Hospital emergency department on 1 November 2011 would impact on hospitals in other trusts, including the Ulster Hospital. That hospital has a busy emergency department. It is anticipated that it may have an additional 10,000 attendances per annum as a result of the change. The South Eastern Trust is instigating a number of measures to address that challenge. They include recruitment of an additional three emergency department consultants, two of whom will be in place on 1 November; an increase in observation bed capacity; and the provision of additional nursing, allied health professional and support staff. Some minor works are also in hand at the Ulster Hospital. Those works include upgrading and bringing back into use a disused ward and creating a clinical decision unit. All those measures will help to accelerate patient flow to meet the current and anticipated increase in demand.

**Mr Hamilton:** I know that the Minister appreciates that the Ulster Hospital's A&E department is already a busy unit. As he said, it is expected to get much busier as a result of the closure of the City Hospital's A&E department. Will he assure me, the House and

people in the South Eastern Trust area that the trust's ongoing work at the Ulster Hospital will ensure that any resulting impact on other services in the hospital, such as surgery, is also addressed?

**Mr Poots:** The South Eastern Trust is well aware of those matters. That is why it has appointed new emergency department consultants quite early. The creation of the clinical decision unit will help to determine where people go after their initial assessment in the emergency department and will assist us in service delivery. As things stand, the Ulster Hospital has the largest emergency department, based on turnover of patients and admissions. It is important that it continues to operate effectively. Therefore, it is important that the entire hospital system operates effectively, because a ward closure can lead to all sorts of problems in the emergency department. That would be an unsatisfactory situation.

**Dr McDonnell:** The Minister seems to have the Ulster Hospital reasonably well programmed for the closure of the City Hospital's emergency department. However, has the Minister considered the sheer implications for the Royal Victoria Hospital (RVH)? The RVH already deals, I am told, with 70,000 patients each year in a temporary building. The new critical care building will not open for at least 18 months — possibly two years — so you can anticipate some 30,000 extra patients coming to the Royal as a result of the closure of the City Hospital's emergency department. Has he made any provision, or can he give the House any comfort or reassurance that there will be plans in place to ensure that people are not queuing for hours?

**Mr Poots:** Yes. I thank the Member for his question. We have identified that the Royal Victoria Hospital will experience stress as a result of the additional number of patients. To deal with that, there will be a completely new nine-bed short-stay unit in the emergency department. It will be open 24/7 for patients who require interventions with a length of stay that is less than 24 hours. In addition, there will be an acute medical admissions unit that operates 24/7 for patients who need 24- to 48-hour lengths of stay. There is also a plan to relocate the eye casualty to alternative accommodation, which will create more space for A&E. Those changes, together with the enhanced arrangements for ambulatory care,

will assist in meeting the additional pressures on the system at the Royal Victoria Hospital. In addition, the fact that staff are coming over from Belfast City Hospital will allow a much more effective decision-making role to be taken at that hospital, with people being dealt with more quickly.

One thing that we are looking at, although it has not been finalised, is the introduction of a GP to assist with triaging. That has happened in Manchester, and 20% of the people did not require A&E services. That helped considerably to deal with backlogs.

**Ms S Ramsey:** Go raibh maith agat, a LeasCheann Comhairle. I am interested in what the Minister said about the new, nine-bed short-stay unit in the Royal. He said that it will operate 24 hours a day, seven days a week. There is currently one that closes on a Friday afternoon.

**Mr Poots:** There are actually two facilities. The one you are referring to is for 24- to 48-hour stays and is really for people who have suffered head injuries, concussion and so forth. That facility means that the patients can be observed for a reasonable length of time and be allowed to go home without full admittance to hospital. It is the intention that that will become a 24/7 facility as well.

## Cancer Treatments

6. **Mr Buchanan** asked the Minister of Health, Social Services and Public Safety for his assessment of the number of cancer treatments available for use in Northern Ireland compared to the rest of the UK. (AQO 329/11-15)

**Mr Poots:** Cancer prevention and early intervention access to appropriate and effective treatment continue to be our biggest challenges, and they remain a high priority for my Department. Although around £22 million recurrently is spent on a range of cancer medicines here, I acknowledge that further improvement in the availability of NICE-approved medicines applicable to Northern Ireland is required.

In Northern Ireland, the drugs and therapeutics committee, led by the Northern Ireland Cancer Network, has a regional process for the prioritisation of new drugs and therapies. The committee includes clinical representation from oncology and haematology departments and offers clear advice and guidance to the

Health and Social Care Board on priorities for the commissioning of cancer drugs. A new, revised process to speed up the applicability of NICE-approved drugs in Northern Ireland will be effective from 28 September 2011. In addition, I am exploring other options to increase the resources available to fund access to specialist medicine.

**Mr Buchanan:** I thank the Minister for his response. Can he tell the House any more about his plans for making more money available for cancer drugs in Northern Ireland?

**Mr Poots:** Under NICE guidelines, we do not buy all the drugs for cancer that we could and that NICE recommends we should. The shortfall in funding is around £5 million, to cover drugs for cancer, cystic fibrosis, Crohn's disease and anti-TNF drugs for people who are suffering from arthritis.

What are we going to do about that? First, my intention is to bid in the monitoring round for funding for those drugs, because the current situation is inappropriate. I have been receiving correspondence from people who have cancer but are not getting treated with drugs that could have a life-saving impact. As an Executive, we need to respond to that. Secondly, if we were to fund it in the long term, given the funding pressures that we are under, we would need to introduce new and additional funding. I am looking at how that might be achieved. It is wrong that we are not treating everyone for cancer when the relevant drug is available. We are not buying those drugs, and I would like to be in a position to change that.

**Mr McMullan:** Go raibh maith agat, a LeasCheann Comhairle. Will the Minister give an assessment of some of the new cancer drugs that are due to be licensed?

**Mr Poots:** The figure involved for all the drugs that are approved by NICE is £5 million a year.

**Mr Cree:** As the Minister will know, Northern Ireland does not have an equivalent of England's cancer drugs fund. I am reliably informed that there are now 19 treatments that are denied to Northern Ireland patients, because, on grounds of cost-effectiveness, Northern Ireland has no mechanism for accessing treatments that are not recommended by NICE. When will the Minister take action to address that, given that it would cost an estimated £5.8 million to help some 279 patients?

**Mr Poots:** Even treating the people who should be getting NICE-approved drugs would be good start. The last Assembly, the last Executive, the last Minister decided to offer free prescriptions. The cost was apparently to be £13 million; I think that it was closer to £30 million. We are not buying drugs at the cost of £5 million, and people are potentially losing their life as a result. That is why I am determined to investigate this thoroughly and to try to reach the point where we treat these people appropriately and with adequate care.

**Mr P Ramsey:** Minister, I acknowledge your role in promoting helping people with cancer. It is clearly a very emotive subject and one that we all have to face in the constituency office. Will the Minister outline to the House the number of people across Northern Ireland who are on a waiting list for treatment? Have the targets been met?

**Mr Poots:** We are dealing quickly and effectively with people on the waiting list for cancer treatments. For example, the radiotherapy unit and cancer centre at Belfast City Hospital has made a remarkable difference to the treatment that is offered, and people are being responded to in appropriate times. That facility needs to have more lines installed. I announced at the outset that investment would take place in the Belfast City Hospital cancer unit and we would then extend that to the north-west. So, we have a task to ensure that that continues to be the case, and that is why it was important that we made the investment at Altnagelvin.

## Prisoners: Medication

7. **Mr McCartney** asked the Minister of Health, Social Services and Public Safety whether he is aware that 80 per cent of prisoners are on medication. (AQO 330/11-15)

**Mr Poots:** At 5 September 2011, 67% of all prisoners were on prescribed medication. The levels of prescribing at the three Northern Ireland prison establishments were HMP Maghaberry, 80%; HMP Magilligan, 58%; and HMP Hydebank Wood, 38%. Those levels of prescribing reflect the fact that prisoners tend to have poorer physical and mental health than the population at large. The South Eastern Health and Social Care Trust provides healthcare service at the three prison sites and is continually seeking to improve medicines

management and to ensure that prisoners' assessed medical needs are appropriately met.

**Mr McCartney:** Gabhaim buíochas leis an Aire as an fhreagra sin. I thank the Minister for his answer. I understand that there is obviously doctor/patient confidentiality, but does the Department have any view or put in place any monitoring process to ensure that the high percentage of people on drugs in prison is monitored and we are assured that it is not a sort of medicine of first resort instead of last resort?

**Mr Poots:** I have to say that I am shocked by these figures, so I welcome the fact that the matter has been brought to our attention. I certainly will ask whether this high level of prescribing drugs to people in prison is necessary or whether it is suitable because prisoners are calmer as a result. In my view, however, prisons are reform institutions, and, if people are coming out of prison having received large quantities of prescription drugs as opposed to overcoming their problems, there is some degree of failing.

**Mr Hilditch:** I thank the Minister for his answer thus far. Having given a guarantee to monitor, what will be the next steps in trying to reduce prescribing levels in our prisons?

**Mr Poots:** Having already posed the question, I am told that 90% of prisoners have a diagnosable mental health problem, substance misuse problem or both, and 27% have some other form of chronic disease. If 90% of prisoners have a mental health issue or a substance abuse issue already, it gives you an indication of why we are ending up with the figures we have. However, if we have reform institutions that are meant to bring people out of prisons better than they were when they went into them, we need to challenge this and how we are currently doing things.

**Mr Deputy Speaker:** Members, that concludes Question Time. Thank you. I ask Members to take their ease for a few moments while we change our support staff.



(Mr Speaker in the Chair)

3.30 pm

## Private Members' Business

### Office of the Police Ombudsman

**Mr Speaker:** Order. Two amendments to the motion have been selected. Up to one hour and 45 minutes will be allowed for the debate. The proposer of the motion will have 10 minutes in which to propose and 10 minutes to wind. The proposer of each amendment will have 10 minutes to propose and five minutes to wind. All other Members who wish to speak will have five minutes.

**Mr G Kelly:** I beg to move

*That this Assembly welcomes the Criminal Justice Inspection report into the Office of the Police Ombudsman; and calls on the Minister of Justice to take the necessary measures to ensure that full confidence is restored in the office.*

Go raibh maith agat, a Cheann Comhairle. Ba mhaith liom labhairt ar an ábhar seo. I propose this motion on behalf of Sinn Féin.

Let me say at the outset that we, in tandem with everyone else in the Assembly, are very much for an ombudsman's office. However, it has to be an ombudsman's office that does its job, because it was at the centre of the very long negotiations on policing and accountability, and it is a crucial part of that. We are talking today not about the existence of the office but about confidence in the office. If there is no confidence, the office diminishes very fast.

We have now had three separate reports: the Committee on the Administration of Justice (CAJ) report; the Tony McCusker report, which the Minister called for; and the latest one, the Criminal Justice Inspection (CJI) report. All of those reports are damning. In the latest report, which is from the CJI, the lowering of independence is central to the findings. There was a lack of consistency, prioritisation and contact with families. Changes were made to reports at the last minute that were believed to deal with a lowering of criticism of the RUC at the time. We are told that the critical review team did not get all the information. We have found that there is mistrust in the senior management team and that senior members of

staff disassociated themselves with reports that they were integral in producing on the basis that they were being changed at the last minute.

This is not personal, but Al Hutchinson was at the helm during the period that the reports deal with. It is not a short period — three years. Therefore, the buck stops with him. When he appeared before the Justice Committee, he said that, in 44 years of public service, he had not seen anything like these difficulties. Yet, he decided not to go. As my colleague Raymond McCartney said at the same Committee meeting, there is no point in long goodbyes, because they do not work. Some people have used the term “lame duck”, but I do not think that it is appropriate in this case. In the Committee meeting, the ombudsman blamed everyone but himself. He is at the core of the difficulty, so it is worth saying that, the longer he stays, the more damage is done to the ombudsman's office. We want the ombudsman's office restored to what it should be. The difficulty is that he can and will contaminate all those who work and will have to continue working in the office.

I have met a number of families in the past week or so. After years of waiting, they are now left with more questions than they had before. Were intelligence reports withheld? Were the changes to reports made to protect people involved? Who can they turn to now? Their message to me was that they certainly could not turn to Al Hutchinson.

The motion is not about party politics; it is in the public interest and the interest of all of those who have a vested interest in the new beginning to policing. That is why we tabled the motion. It is an alert to the Assembly and its Members, and it is a challenge to the Minister of Justice. The Minister reports to the Committee for Justice and the Assembly on the day-to-day affairs of the Office of the Police Ombudsman. However, after listening carefully to all that he has said on the matter so far, I must now ask: what is he waiting for? For six months, we have been watching the Office of the Police Ombudsman spiral deeper into controversy, and, with every day, public confidence in the effectiveness of the office has been and continues to be eroded.

Yet, we now know that, at the beginning of this month, the Minister met the Police Ombudsman to discuss his position. What was the result?



The Police Ombudsman decided that he would stay in office and collect his, if I may say so, very substantial salary for another nine months. Let us be clear: that is one year and three months after the former chief executive had to resign to bring the scandal to public attention. That was a very big thing to do. I wish that the Police Ombudsman could follow in those footsteps. In all that time, the Minister has yet to state unequivocally that the person whom he pays so handsomely every month should quit.

There is an argument that we cannot create a vacuum and that the present ombudsman should wait for nine months. That, of course, is nonsense. It was argued that that is based in law, but that is also untrue. He should go for the sake of the office, and he should go now. Of all the measures that could be taken to restore public confidence in the Office of the Police Ombudsman, nothing is more important than having confidence in the person who is the Police Ombudsman. Every day that Al Hutchinson remains in post does damage to that office.

I will briefly deal with the SDLP's proposed amendment. We are in favour of it. I have just called on the Police Ombudsman to resign and have done so publicly before now. The DUP's amendment starts by stating that it:

*"notes the damage caused to the office by the investigation of historic cases".*

That is not the problem. The problem is that the malpractice in the ombudsman's office will affect everything in that office. Frankly, the shifting of historical cases to somewhere else without dealing with the problem of malpractice will shift the problem as well.

The time is always right to do what is right, and it is past time for Al Hutchinson to leave. It is the right time for the Minister of Justice to call on him to leave. We have heard from practically everyone else. Listen to the families who have lost all faith in him and to the public. I appeal to the Minister: for once, do not take the advice of your officials, many of whom slipped seamlessly across from the Northern Ireland Office. I commend the motion to the Assembly.

**Mr Weir:** I beg to move amendment No 1: Leave out all after 'Ombudsman' and insert:

*"; notes the damage caused to the office by the investigation of historic cases; and calls upon the Minister of Justice to permanently suspend any*

*new historic investigations by the Office of the Police Ombudsman and bring forward proposals to create public and police confidence in the ombudsman's office, including independent oversight."*

The three aspects to the debate are the original motion, our proposed amendment and the SDLP's proposed amendment. On the basis that it is difficult to deny that there have been problems in the ombudsman's office, we do not have a major problem with the wording of the original motion. Indeed, when I and other members of the Committee for Justice had the opportunity to hear from representatives of Criminal Justice Inspection, we found that we could live with the broad thrust of their recommendations. So, in that sense, there is no doubt that there is valid criticism of the ombudsman's office. Our concern is that, in providing solutions to the problems, the motion does not go far enough.

Although valid concerns have been expressed about the ombudsman's office, there are two key distinctions to be drawn. There has been some revisionist history that says that all the problems of public confidence in the ombudsman's office emanated from Al Hutchinson's time. I placed on record at the time that many of us did not have full confidence in the ombudsman's office, even during the days of the blessed Baroness O'Loan.

**Mr G Kelly:** I do not think that the argument is that the ombudsman's office was always perfect. However, the Member will recall that although a review took place in Nuala O'Loan's time and a number of recommendations were brought forward, Al Hutchinson did not implement those recommendations.

**Mr Weir:** The Member may or may not have read the transcript of the Justice Committee meeting, which highlighted the fact that the previous investigations of the ombudsman's office concentrated purely on current and ongoing cases rather than historical cases. Indeed, it became abundantly clear that, when Michael Maguire gave evidence to the Committee on behalf of the CJI, the problem was purely on the historical cases side. He did not have any problems with the 80% of current cases. There was no like-for-like comparison to be made. Indeed, when it was put to Dr Maguire by members of the Committee that if, on his way home from the Committee, an

incident happened to him about which he felt that he had to make a complaint against the police, would he have full confidence that such a complaint, as a current issue, would be dealt with perfectly well, he indicated that he would. There are endemic issues in the ombudsman's office that go beyond the individual or just a widespread attack on the office.

Historical cases are at the heart of the matter. The Police Ombudsman himself, who agreed that looking at historical cases had put a certain amount of poison in the system, showed that that is undoubtedly the case. Our amendment deals with three aspects. There are concerns about the way in which the ombudsman's office operates. Concerns have been expressed by, for example, the Northern Ireland Retired Police Officers' Association, that in many ways the office is still a law unto itself. It does not have sufficient independent oversight. If, as part of this process or of any implementation of recommendations, there is an overhaul of the ombudsman's office, there must be some way in which the office is held accountable.

There are two main reasons behind the thrust of our amendment. There is a poison in the system. If we detach the historical cases from the ombudsman's office, there is an opportunity for confidence to be much more readily restored to the office. Dealing with the past is the poison that is at the heart of the matter. We accept that, because of European rulings, there has to be some level of investigation of the past.

However, the other aspect, which we find profoundly disturbing, are the double standards from the party opposite in particular. At times, that party will say that we should draw a line under the past. Indeed, the events of the past few days have shown that the Member for Mid Ulster who is bidding for high office in the Republic of Ireland wants to concentrate on the past few years of his activities and not look further into the past.

Some of the Members opposite propagated a similar attitude when in 1998, for example, they were strongly in favour of opening up the jails and letting out those who had committed crimes. However, when it comes to the mistakes that the RUC made in the past in carrying out its work, a very different attitude prevails. In those cases, the RUC is to be nailed to the mast and every action is to be scrutinised. The point that we are making is that, if we are going

to have investigations into events in the past, they cannot simply be one-sided or focused on one aspect. We cannot have a situation in which the police are persecuted for everything that they did or did not do during the Troubles, while others disappear in the hazy mist of the past.

The problem with the present structures is that, on the one hand, there is an ongoing investigation at the ombudsman's office while, on the other, there is no justice for those who have suffered at the hands of terrorism. We accept that, as a result of the European ruling, there needs to be some level of investigation into the past, but let us at least do it on a fair and equitable basis. Consequently, it is our belief that the ombudsman's office is not the right repository for that type of behaviour.

### 3.45 pm

I suspect that the real gripe across the Chamber with the current Police Ombudsman is not to do with the flaws in the office, which go beyond an individual, but with a concern that the reports produced by the office have not been written in the way in which some Members opposite would have us believe that they should have been. As they would see it, they have not got the right responses to the questions they asked. They have not got the reports that they wanted, which would point the finger at the securocrats of the army and the RUC. I believe that, ultimately, that is the real gripe that some people have with Al Hutchinson.

I turn briefly to the SDLP amendment, which we reject for a number of reasons. First, it is simplistic to pin the blame on one individual.  
*[Interruption.]*

I see the honourable Member for South Belfast gesticulating. I am not sure whether it is an amendment or an audition. In the SDLP's 'The X Factor' to see who gets the leadership, today's entrant is obviously Mr McDevitt.

**Mr A Maginness:** I have no interest in it.

**Mr Weir:** I appreciate that. The honourable Member for North Belfast is one of the few people not running for the SDLP leadership or deputy leadership. I look forward to his remarks.

To single out an individual is to get it wrong. From the SDLP's point of view, the biggest crime of the current incumbent of the ombudsman's office is not being Nuala O'Loan, and that strikes at the heart of the SDLP

If we are to move forward in the ombudsman's office, creating a further vacuum at the top will not help. The ombudsman has indicated that, following a timely process, he will depart in June next year, which will allow for a proper recruitment process to find somebody suitable for the post. I am not sure why anybody in their right mind would want to be the Police Ombudsman, but, in a general sense, this will at least allow for the opportunity.

It has been said that another issue is the dysfunctionality at the top of the system, yet, as has been indicated, the ombudsman's office is clearly not the only body of that nature to face such problems. There have clearly been personality clashes between senior figures in the ombudsman's office, resulting in the departure of the chief executive and the chief investigating officer. Indeed, when faced with direct questions at the Justice Committee, the people who filled those posts indicated that they envisaged the ombudsman carrying on. If you are to have continuity or any confidence in the office, to have a situation in which everybody at a high level has been removed would be simply irresponsible.

The SDLP amendment is a form of witch-hunt. It makes a scapegoat of an individual, and it does not deal with the flawed process, which is the one-sided nature of dealing with the past encapsulated in the ombudsman's office and, indeed, the inherent belief that the only people who need to be investigated and held up to scrutiny for the historic situation in Northern Ireland is the RUC. That is simply not sustainable. Consequently, we will support the DUP amendment and oppose that of Mr McDevitt and his colleagues. Like Gary Barlow, I am waiting to see the audition tape from Mr McDevitt in the next few seconds.

**Mr McDevitt:** I beg to move amendment No. 2:  
At end insert:

*“; and further calls on the current Police Ombudsman to resign with immediate effect.”*

I apologise to the House for my hoarseness, which is the inevitable consequence of a fantastic Saturday morning and a splendid Sunday afternoon celebrating the triumph of the underdog in Irish sports.

**Mr Weir:** Do you mean Rangers?

**Mr McDevitt:** Rangers? Although Mr Barlow is not present in the Chamber, in a previous life, before going on to hang out with Robbie Williams and the men of Take That, he may have taken an interest in the law. If he had, as I know that Mr Weir did as a once learned gentleman, he would understand that the gentleman who holds the office of Police Ombudsman is a corporate sole: he embodies that office. Therefore, the call for the resignation of the individual who holds the office of Police Ombudsman is quite appropriate when the public's confidence in that office has been, in my opinion, properly and fundamentally challenged.

The background to our having a Police Ombudsman is worth acknowledging and formally recording in the Chamber. As colleagues will know, the office was created before the Patten recommendations, but it is an integral part of the architecture of a new beginning to policing. Having an independent office headed by a corporate sole to act as arbiter and adjudicator on issues of contention in the today was an important part of breaking with an unhappy and contested past in policing. In the SDLP's view, it is regrettable that the office is also practically the only vehicle through which issues to do with the past can be properly investigated. In fact, it is not just regrettable. If we are honest with ourselves, it is a shameful failure of the House that we have left it to others to carry the burden of the legacy and discovery of some of the terrible deeds in our past. That is something that you, Mr Speaker, will recall that I have commented on previously,

Mr Weir makes an interesting point. As I hear it, it is basically that if we cannot do everything right about the past, do nothing. That is not a solution either; it does not fix anything. When we debate the Office of the Police Ombudsman and the person who embodies that office, we are also, if we are honest about it, acknowledging our failure as an Executive and Assembly. However, is our failure made any better by ignoring the failures that may take place in the Office of the Police Ombudsman? It certainly is not. Are the lives of many thousands of people who were victims of agents of the state or who have issues with how the state conducted itself during the Troubles made any better by choosing to do nothing, just because we cannot do everything? Of course they are not. That is why it is so important that we have a proper and informed debate about how

important the Police Ombudsman's office is and how important it is to have someone of standing in the post, with objective independence at the office's heart and helm.

Colleagues have referred to the previous Police Ombudsman, Dame Nuala O'Loan. She was someone who, in my opinion and, I think, in the opinion of many inside and outside the House, objectified that type of independence. She was someone who was not afraid to annoy everyone.

**Mr Spratt:** I hear what the Member says about the former ombudsman being objective. That does not surprise me, coming from his party. That was certainly not the view of the police staff associations and others that failed to co-operate with her because of her very clear lack of independence in the investigations of complaints against the Police Service.

**Mr McDevitt:** I acknowledge Mr Spratt's opinion. Indeed, I respect it. Mr Spratt has a declaration of interest to make in that regard, which we must acknowledge and respect. It is important that we understand that, in being objective, one will invariably find oneself on the wrong side of many people's subjectivity. It is just not possible to be properly and truly independent without seriously ruffling the opinions of the state and those of individuals who may have a vested or passing interest in your work. Mr Hutchinson has done something different: he has fettered his objectivity. That is not my opinion but the informed opinion of several reports. It is not that we are debating the motion in the context of just a single report on the conduct of the Police Ombudsman but that we are debating it in the context of three: one by Mr McCusker, another by Criminal Justice Inspection and a separate report by the Committee on the Administration of Justice. All conclude, in different ways, that there are fundamental issues with the ombudsman's ability to maintain public confidence in his office.

Indeed, an editorial in a local paper on 17 June put it succinctly, and it may be worth reading a little of that to try to sum up some of the arguments. It noted:

*"When someone is held in such high regard it is always difficult for their successor to put their own stamp on a job."*

That was a reference to Ms O'Loan and the new ombudsman. It continued:

*"It would have been unfair to expect Al Hutchinson to be as forthright as Baroness O'Loan. They are clearly different personalities and entitled to adopt different approaches to the role. However, it is fair to expect that whoever is in the office is fiercely protective of its independence."*

That is the fundamental issue at the heart of the debate: the ability of an individual who is a corporate soul to defend fiercely, robustly and absolutely his or her independence. The confidence issues that we have are not to do with his character as a gentleman. Indeed, individuals on all Benches will find him to be a warm and friendly gentleman. The issues relate to his ability to defend fiercely his independence.

Another important point of policy and principle on which we need to reflect is the relationship between the Police Ombudsman's office and article 2 of the European Convention on Human Rights. Under article 2, complaints against the police relate to violations of the right to life. Article 2 upholds the police's duty to uphold the right to life. The British Government take the view, and it has never been contested, that the person and body responsible for upholding article 2 obligations to the PSNI and, previously, the RUC is the Police Ombudsman. However, the Police Ombudsman himself contests that duty. He argues that he is not responsible and that article 2 is someone else's business. We trawled the statute book and asked the experts, who can point to no body in this jurisdiction other than his that has a duty to uphold article 2. How can we have confidence in an individual who will not uphold a fundamental article on which his office is built?

I do not wish to take the argument very much further except to say that our amendment contains a simple proposition: stand by the independence of that which we created to create confidence in our policing, and you stand by the future of this state. Allow that to be fettered, interfered with or compromised, and you compromise the potential of this state to be reborn.

**Mr B McCrea:** I declare an interest as a previous chair of the human rights and professional standards committee of the Northern Ireland Policing Board. In that capacity, I had the opportunity to discuss many issues with the ombudsman and his office, and it is a bit regrettable that, such is the way that we do business here, I have but five minutes to impart



my knowledge, whereas other Members had 10 minutes. Perhaps I should have tabled an amendment. Nevertheless, I will be able to say what has to be said in the time allotted.

The reputation of the office of ombudsman has been completely and utterly trashed by the recent revelations. I stress that it is the office of the ombudsman, not the ombudsman himself.

The attitude, the way that things went on with the chief executive and the senior investigating officer and all the issues that came out cannot do anything other than undermine the public's confidence in the office. The fact that we are discussing this motion in this way means that it is irrevocable. We will not be able to change the people in the ombudsman's office and say to the people of Northern Ireland that we now have confidence in it. It cannot be done. There will have to be a new way of dealing with it.

#### 4.00 pm

For the record, I do not like the way people direct a witch-hunt at an individual who has been found to have done a good job in many aspects of his business. If we collectively have failed because we cannot confront the issues of the past, we should face up to our own responsibilities and not try to push them off on someone whom we asked to do our dirty work for us. We in the Assembly, this political institution, have failed to deal properly with the issues of the past. I do not think that it is possible for any one individual to deal with this. We need to look at it ourselves.

I want to make a point about article 2. It is absolutely right that article 2 defends the right to life. It also says that, in certain circumstances, Governments and police forces have the right to take life, but they must be independently investigated. It does not say that individuals, armed groups, revolutionary conclaves or anybody else has the right to take life. That is the issue: there is no recourse in law for one side.

**Mr McDevitt:** Does Mr McCrea accept that the British Government's opinion is that it is the job of the Police Ombudsman for Northern Ireland to conduct article 2 investigations in the context of the PSNI?

**Mr Speaker:** The Member has a minute added to his time.

**Mr B McCrea:** Therein lies the conundrum. The Government may well have said that that was the case then, but they do not say that that is the case in the future. All that the article requires is that somebody independent looks at the issue. We can create any body we like, and we can say that there is a different way of looking at this as long as there is some way of doing it. However, my central tenet is that, on the other side of the equation, there were those who took life and thought that they were fighting a good fight for a cause that they believed in. However, they have not been brought to justice, and that is what is wrong with our society. We have left things unsaid, undone and unfinished.

No matter what way we look at things, when we look at the past, there will always be an issue about whether we can have access to security information and who should ask for access to it. Should it be former police officers or somebody completely new? The real issue is that we still face a threat from dissident republicans and others, and that security information is extremely sensitive. When we look at how we move forward, we should put the past behind us and genuinely accept that we have to find a way forward for the sake of our children and for other generations. That is not what I hear or see. I see people standing for the presidency of Ireland and saying, "Do not judge me as a 22-year-old wearing a beret and carrying a gun, because I have moved on". I may well be one of the few people on this side of the House who might be prepared to listen. However, you cannot have inquiry after inquiry to pick off the scabs of the past and to try to do people down. If you really want to find peace and move forward, you have to find a way to do it together. I reject the amendment and the original motion, and I am still thinking about the DUP amendment.

**Mr Dickson:** I will, hopefully, not raise my voice but will try to bring some reason to the debate. I am certainly not standing for the leadership of either the Ulster Unionist Party or the SDLP — or the Alliance Party.

I welcome the debate. It is an important part of the process of restoring confidence in the Office of the Police Ombudsman, and I think that that is what the community desperately wants the Assembly to do. I support the unamended motion because it gives us the opportunity to think seriously and hard about the series of events, particularly given the Minister's



acceptance of the recommendation in Dr Maguire's report and his commitment to support the Office of the Police Ombudsman through the work that needs to be undertaken to put things right. That is particularly difficult for an organisation that is what Mr McDevitt described as a sole corporate body. Perhaps that is another area that needs further investigation.

Our united and primary objective, as an Assembly, must be the securing of public confidence in the arrangements for the oversight of policing. A stable, effective and independent Police Ombudsman's office is critical to securing that confidence. Indeed, like other Members, I welcome the fact that reports have shown high community satisfaction in respect of the investigations conducted by the ombudsman into recent events involving the PSNI. I do not think that there has been much dispute about the outcome of those reports.

Clearly, however, we are faced with a difficult situation, and there is a need to address the governance issues raised in the McCusker report, which refers to serious internal divisions in that office. The chief executive has left the ombudsman's office, the senior director of investigations is on long-term absence, and both posts are being filled on an acting-up basis. Serious concerns were raised about the handling of historical cases in the CJINI report. Furthermore, we are faced with the reality that the process for appointing a new ombudsman will take a long time, and that is not in the hands of the Minister of Justice.

Given all those difficulties, the immediate departure of the ombudsman, as proposed by the SDLP, may satisfy its short-term demands for action but, in reality, will not solve the problem. The SDLP's approach to this is, perhaps, short-term; however, I do not believe that it would benefit the office of the ombudsman in the medium or longer term. The absence of an ombudsman from an office in which the two most senior staff beneath are acting up would not allow that office to operate properly. Those are the serious things that we need to take into account. The situation would be even more difficult, given the good work that is, as I said, being done in investigating current cases and the difficult task of bringing about the necessary processes to restore confidence in that office.

I am opposed to the DUP amendment because it would be unsatisfactory to suspend the

investigation of historical cases indefinitely. In fact, we should look at the language used in the amendment proposed by the DUP. Somebody will need to explain to me how you "permanently suspend" something. Suspension implies something temporary; permanent is something very different. The use of the two words in the one sentence is a bit of a problem.

**Mr A Maginness:** Will the Member acknowledge that the legislation relating to the Police Ombudsman was deliberately amended to bring about the investigation of historical cases and that introducing any change, such as that in the DUP amendment, would require primary legislation?

**Mr Speaker:** The Member will have a minute added to his time.

**Mr Dickson:** Thank you, Mr Speaker, and I thank Mr Maginness, whose point I entirely accept. Until this community can find some other means and mechanism of investigating historical cases, until we can address those issues, this community expects that the ombudsman's office will fulfil that role to the best of its ability. Therefore, I oppose the DUP amendment because Dr Maguire's report recommended suspension not termination of those investigations. He said that the approach was to, "stop, fix...and...move forward".

We have a duty and a responsibility to those who have spent years campaigning for answers to provide them with those answers. Frankly, it is reckless to call for the cessation of historical investigations without political agreement on an alternative. That would lead to a long and endless delay and further pain and heartache for those who have lost family and friends. Nor do I agree with the creation of an oversight mechanism for the ombudsman's office. That would lead us into what could be described as a spiral of accountability where, as I said in Committee, we are in danger of an ombudsman for an ombudsman for an ombudsman.

This is a particularly dangerous situation for Northern Ireland, given our failure to deal with the past and the resulting context wherein there will always be disagreement about the outcome of investigations.

**Mr Speaker:** Will the Member bring his remarks to a close?

**Mr Dickson:** Given all the steps that have been taken and taking all things into consideration —

**Mr Speaker:** The Member's time is up.

**Mr Dickson:** I believe that the path we are on is the one we need to take, and that is to support the motion as it stands.

**Mr S Anderson:** I will speak to amendment No 1, which was tabled by my party. There is a problem in the ombudsman's office — that is stating the obvious. However, the key issue is not personalities but the very nature and remit of that office. That is where the nub of the problem lies. Our amendment is a genuine effort to address that problem.

Although the office was set up in 1998 to provide scrutiny and accountability in the whole area of policing, it has, for a variety of reasons, wandered down a number of other paths. If we are to move forward, the office needs to focus on its key objective. Until it does so, it will continue to face the sort of difficulties it now finds itself in.

As I look at the substantive motion and the SDLP's amendment, I question the motives behind them. Are those who proposed them genuinely interested in making real progress on the back of the McCusker report and the Criminal Justice Inspection report? I very much doubt it. The Sinn Féin motion is more significant for what it does not say than for what it does say. However, it is clear from previous public statements by Sinn Féin and from what we have heard today in the Chamber from Gerry Kelly that it wants the same outcome as the SDLP does with its amendment: they want Al Hutchinson out. The calls for Mr Hutchinson to go are mischievous and misplaced. They say more about those who make them than they do about the ombudsman. I find it ironic that when Al Hutchinson was Oversight Commissioner during the Patten reforms that brought about the key nationalist demand for the disbandment of the RUC he was seen by those opposite as a great man. Now, they cannot wait to get rid of him.

What role do nationalists see for the ombudsman's office? Are they only interested in using the office to pursue their deep-seated vendetta against former police and other security personnel? Since its inception, the ombudsman's office has not functioned properly. The first ombudsman, Nuala O'Loan, hardly

covered herself in glory. In her determination to extend her powers of investigation she lost the confidence of the unionist community and the police. Al Hutchinson inherited her legacy and, I believe, is being used as a scapegoat to mask fundamental failings not of his own making.

We welcome the Criminal Justice Inspection report, but, as outlined in our amendment, we feel strongly that the chief cause of the current problems in the ombudsman's role is the investigation of historical cases. That ought never to have been part of the remit of the office. In his 2007-08 report, the ombudsman said:

*"In taking stock of the pressures in the Office, I came to realise quickly that our staff were coping with immense pressure in maintaining and focusing resources on the current and immediate work of the police complaints system while at the same time responding to the very complex complaints rooted in the conflict and atrocities from 'The Troubles'."*

He also warned that the quality of work was beginning to suffer. More recently — just a week or two ago — he told the Justice Committee:

*"the Office of the Police Ombudsman was not set up to be a proxy for resolving the wider unresolved legacy issues, yet it finds itself cast in that role and driven in that direction by a lack of an agreed resolution on how to deal with the past."*

That is what we need to tackle. Unless the HET issue is resolved satisfactorily, Mr Hutchinson's departure will not make any difference. The problems will not simply disappear with him.

It is vital that the Justice Minister urgently bring forward proposals to tackle the key issues. The ombudsman must be able to get on with the job of dealing with current complaints about the police without interference from anyone. Until that happens, it will be very difficult to achieve widespread public and police confidence in that office. I support my party's amendment.

#### 4.15 pm

**Ms J McCann:** Go raibh maith agat, a Cheann Comhairle. I support the motion and the SDLP amendment, not the DUP amendment. I do not think that anyone, even in the Chamber, can dispute the view that the Office of the Police Ombudsman is in disarray. There are causes and consequences of the scandal. At the heart of my concern are the people whom that office was intended to serve. Many of them are

watching the debate and listening to Members. Their sense of outrage at what has been done to the Office of the Police Ombudsman is one that my party and I share. The office was set up to serve the public, but it has been totally compromised by those who are paid from the public purse.

The Criminal Justice Inspection report was one of three damning reports that were critical of the Police Ombudsman's office. It said that reports had been changed, that there was no agreement between senior members of staff and that the lowering of independence and the effectiveness of the office were affected. Those are serious issues that should concern the Assembly.

It is an affront to the institutions that we represent that Al Hutchinson remains in office. The fact that he continues to be paid and to hold an office that he has brought into such disrepute is an insult. The Police Ombudsman's conduct is in marked contrast to the dignity and restraint of the families who have asked for his help. I am talking about families with whom I have worked in the past, such as the families from Loughinisland, whose loved ones were killed in the bar in Loughinisland, and of young Damien Walsh from west Belfast. I have had meetings in the ombudsman's office. Those families were never consulted about the time it would take for reports to be completed. They were not consulted or brought up to date as the issue was being investigated.

During the debate, a lot of effort has been invested in blaming past and historical cases. You also have to look at some of the more recent cases in the ombudsman's office that the report criticised. Criticism of the ombudsman lies not only in historical cases but in newer cases that he had been asked to investigate and which his office had been investigating. I want to touch on that point: there are only very limited circumstances in which the Police Ombudsman's office can invoke its special powers of investigation; they have to be "grave and exceptional". It is not the fault of the victims of the past, as some Members are saying, or of the families who went to the ombudsman for help. I do not think that Members should blame those people or those families.

The ombudsman has never been asked to investigate every killing in the conflict. We should make that very clear. The claim that

the past is to blame for the present problems of that office is arrant nonsense; it is the nonsense that is peddled when we look at the past in any constructive way.

Al Hutchinson went into that office with his eyes wide open. He knew exactly what was expected of him. He publicly declared his objection to the responsibility for exercising special powers for incidents that had occurred more than 12 months earlier. The problems that have come to afflict those investigations during his term of office have become a self-fulfilling prophecy. He wanted to get the so-called historical investigations stopped, and now they have been suspended.

There will be efforts by some to ensure that the Office of the Police Ombudsman is never properly resourced or empowered to fulfil the duty that it has in the future, but our party will work to save the Office of the Police Ombudsman. It is not perfect; nothing is perfect. However, we are in a new era of policing, and people are looking for accountability. They are looking to see that mechanisms as important as the Police Ombudsman's office are fair and independent and that it has the confidence of communities. It needs to have that, and the only way in which confidence will be restored is if Al Hutchinson goes.

**Mr Craig:** I find myself at odds, because we find ourselves in agreement with some of the sentiments of the original motion: we should ensure that confidence is restored in the ombudsman's office and that the independence of that office is ensured. However, I hear a lot of talk from the other side of the House about how that confidence and independence seem now to be lost. That is very strange, because, on this side of the House, there was never any confidence in the office of the ombudsman, and there certainly was very little assurance of the independence of that office under the present ombudsman's predecessor.

The simple truth — I think that we all know it on this side of the House — is that this body was set up under the Labour Government in 1998 to bash, demonise and criticise the lawful forces of law enforcement in Northern Ireland. It was set up to destroy the reputation of the former RUC, and it has done critical damage to that organisation in many respects. What do we see being done with regard to those who perpetrated violence against that organisation

over 30 years? Little or nothing. I hear Members opposite talk about the falsehood of how we have asked for other things to be investigated. The ombudsman's office and the HET have been asked to investigate a series of atrocities down through the years of the Troubles. As yet, we have seen little or no result from those investigations. Why is it that only the RUC is held to account? Why is it that the men in hoods are let off scot-free by this organisation?

**Mr T Clarke:** And women.

**Mr Craig:** And women. That is part of the issue. It was good to see in the report on the ombudsman's office that there was criticism of how the HET inquiry system works.

Others talked about our failure as a society to deal with the past. I agree: we have failed to deal with the past. There is certainly a past in my family that has never been dealt with by the system. I have never seen justice for my family members who were murdered while part of the security forces, but I have a sneaking suspicion that the perpetrators of that violence may not be that far away. Is that why there is total silence on the issue?

**Mr Campbell:** The Member is drawing out the problems of the HET and dealing with the past. Does he agree that part of the bigger problem that we face in Northern Ireland is that some people want a partial examination of the past? They do not want to look at what they did in the past or at the violence, murder and slaughter that they engaged in. They want to engage in a partial examination of what the security forces did by way of response to what they did. Some of them even refuse to co-operate with the HET with regard to the murder of Joanne Mathers and other murders and will not reveal their part in those.

**Mr Speaker:** The Member has an extra minute added to his time.

**Mr Craig:** Unsurprisingly, I find myself in total agreement with that. That is part of the bigger problem that we have in Northern Ireland — those with a past who do not wish that past to be examined in any way, shape or form. It is wrong that we investigate only what the lawful security forces of this country did. That is part of the reason that I fully support our amendment to suspend that aspect of the HET investigations and to find an alternative. Other Members talked about resources — there are

resource implications in all this — but, more importantly, there is a huge issue of justice. I certainly see no justice for my family.

**Mr T Clarke:** I thank the Member for giving way. I appreciate that he referred to the cost of this matter. However, another element that begins with the letter "c" is co-operation. There are Members on the Benches opposite who do not want to co-operate. If we had co-operation from all sides, everyone could seek justice.

**Mr Craig:** That is absolutely true.

The one thing that I do not like in all this is the hypocrisy. I have heard attack, attack and attack again on Al Hutchinson. Why is he being attacked? He is being attacked because he produced a report that did not agree with the version of history that one side of the House prefers. Was the report wrong, right or indifferent? Let me tell you something: the report was accurate. So, if it is accurate but does not suit your view of history, the man has to go. We all know that that is a witch-hunt.

**Mr Speaker:** I ask the Member to bring his remarks to a close.

**Mr Craig:** I pay tribute to Al Hutchinson for having the bottle to stand up and say what is correct.

**Mr McCallister:** I listened to the debate, and there are several things that it is important to put right. In her contribution, Jennifer McCann suggested that people are blaming victims. I have not heard anyone blame any victim. We believe and other parties collectively believe that something should be put in place that reflects the hurt that has been caused to victims in all this. The failure of the Executive and Assembly to properly address and deal with the past is probably why we are having this debate.

The report rightly said that there was no problem with the new cases that the ombudsman had been looking at. That side of the ombudsman's work has been progressing well and without contention, and that is to be welcomed and acknowledged. In the office of the ombudsman, the failure has been in dealing with the past, yet we keep adding to its workload and looking for someone to handle it. The Assembly has not got to grips with how to deal with the past. The Assembly has not tackled how we deal with victims or help them, and it has not dealt with



any of the issues that come out of the past. It has not tackled how we should face those who want to rewrite some of that history, who want reports to reflect their version of the past and who are unhappy when they do not do so.

**Mr Storey:** I thank the Member for giving way. Is it not the case that one of the problems that we face is that the former deputy First Minister said when he attended the Saville inquiry, for example, that he could not tell the truth because there was something called a code of honour in the very organisation that had slaughtered our people for 40 years?

**Mr McCallister:** It now appears that, by that stage, he had perhaps even left the organisation; we are not sure. Of course, he is now off to seek employment in other parts.

That is one of the issues: how do we get that information from groups? The problem in dealing with our past has been that it has been so one-sided. We have to find a way of addressing it, and that has to be a cornerstone of any CSI strategy or anything that is produced in that regard.

I will be interested to hear whether the Minister has any suggestions for how we can address historical cases. How are we to deal with them? How are we to address them and fix this problem? That is where all the issues in the ombudsman's office have arisen. They are not related to its workload. The office was not designed to deal with those, but it has had to deal with them, struggle on and then face criticism.

We hear from some parties that that office should be, of course, fiercely independent, yet we are standing here today criticising it and demanding that the head of that office resigns. That is not helpful to the debate. That is why we have to reject that amendment.

#### 4.30 pm

I will be interested to hear from the Minister. We are minded to support the DUP's amendment, but the bit that we are most concerned about is the phrase:

*"permanently suspend any new historic investigations by the Office".*

We would like to hear the Minister explain how he would deal with or progress that.

**Mr McDevitt:** I thank Mr McCallister for letting me intervene. I am curious, because Mr McCallister says that it is improper to question whether an office that was established to be independent is, in fact, being independent. It is not just the opinion of some in this House that the ombudsman has failed in his duty to be so; it is the opinion of three separate, outside, independent bodies. If this House is not the place to debate and form judgements on the basis of advice from experts, where is?

**Mr Speaker:** The Member will have a minute added to his time.

**Mr McCallister:** That will be three added minutes. Thank you, Mr Speaker.

The point that I was making was that Mr McDevitt said that the office should be fiercely independent, and here we are, debating it today and calling for the head of that office to resign. That is what the SDLP amendment calls for. That is a conflict: they want, because the report did not suit some of their needs, some sort of rewrite.

We have made it quite clear that the problem in the office is with the historical cases side. Yet you are giving that office something to do that it was not created for. You are giving it that work because there is no way of dealing with it. The Assembly has collectively failed to agree on how to deal with the very important historical cases, many of which would help to bring closure to many families who have waited for many years, and not rewrite that history or make any changes. That is what we are saying: it is a failure on the part of this Assembly to deal with the past.

**Ms Ritchie:** It is important to restore confidence in the Office of the Police Ombudsman, which is an important part of the new policing architecture. I speak to my party's amendment. The Chamber will not need reminding of the hurt and anger that was caused by the Police Ombudsman's report into the Loughinisland atrocity. As a public representative and someone who lives in the community that was directly affected by that massacre, I can say, without equivocation, that confidence in the Police Ombudsman is at an all-time low.

The failure of the Police Ombudsman to reach the conclusion of collusion in relation to the Loughinisland massacre has piled more grief and hurt on to the families of those murdered

and, indeed, on to the community that has lived with that atrocity and its effects and impact.

I remind the Chamber that when we speak of the ombudsman's office and inquiries, we speak of human tragedies; tragedies for those murdered and their families and for the wider community. I want to read a short extract from a letter written on 19 June 1994 in response to the Loughinisland murders:

*"What can anyone do — nothing but weep, and send my love and sympathy, as another human being. The people who performed this monstrous act were not acting on my behalf. Before Christmas after the Shankill fish shop and Greysteel I really felt People Power — and the surge of revulsion which united both communities would really prevail in bringing peace. We must carry on working for peace and harmony together".*

Only part of what that lady hoped for in 1994 has been realised by us. We have brought about the peace but not the harmony and the uniting of communities that that lady spoke about in the wake of the Loughinisland murders.

Since the beginning of the peace process and the ongoing political process, the SDLP was steadfast in its belief that policing reform should be central. We led on that, took the difficult decisions and were proven right. In light of the recent failings of the Police Ombudsman's office, we are now in a situation where the strengthening of that office is central to the process of uniting our communities by bringing us to a position of reconciliation on the past. On reading the report on the Loughinisland massacre, we find time and again that there is evidence not only that police failed to conduct a proper investigation, but that officers involved appeared to actively usurp it. I simply look to the recommendations from the Police Ombudsman as evidence of that. However, he does not arrive at the most logical conclusion: collusion.

The Police Ombudsman refused to work with Judge Cory's definition of collusion, which includes collusion by omission: the authorities turning a blind eye. Despite the Police Ombudsman's office being governed, as I understand it, by 38 separate pieces of legislation, he has a free hand to decide what definition of collusion will be applied to any inquiry. If we are to deal with the past, if we are to have an equal playing field for all victims, and if we are to have continuity in our approach

to the pursuit of justice for those who have been murdered and their families, I believe and contend that we must have an agreed definition of collusion.

Restoring confidence in the ombudsman's office can be done only by strengthening the office in a manner that will copper-fasten its independence through proper resourcing, staffing and finance in order to expedite all the outstanding inquiries and to bring justice and relief to the families. An agreed definition of collusion, perhaps legislated for, would be a major step in safeguarding future police ombudsmen from the potential of interference and political pressure.

In conclusion, we will not have a united community unless we have confidence that the tragedies and questions that hang over our past are being dealt with in an independent, equal and just manner.

**Mr Lunn:** Like others, I welcome the debate and hope that it will turn out to be a contribution towards restoring confidence in the office of the ombudsman, which the motion calls for. That confidence has been severely diminished by a sequence of events, which were virtually all to do with the investigation of historical cases, such as the tragedies at McGurk's Bar and Loughinisland and the reports thereon, the resignation of the chief executive, and the allegations made by Mr Pollock that Department of Justice officials had interfered with the governance and functioning of the ombudsman's office. If I have read the report correctly, those allegations were not upheld.

The reports issued by Dr Maguire and Mr McCusker are forthright and demanding in the actions required. Mr McCusker rightly demanded that governance issues be addressed and internal divisions in the ombudsman's office be dealt with. However, given the fact that there is neither a chief executive nor a senior director of investigations in place, would it help or hinder the need to address those problems if Mr Hutchinson were forced from office or feels that it is appropriate to vacate his office immediately? If Sinn Féin is so determined that he should go, and, if I have heard its Members right, go immediately, why did the party not include that in the original motion?

Sinn Féin now seems to be piggybacking on the SDLP's amendment, but we do not agree with it and we cannot support it. That is not to say that we agree that Mr Hutchinson should be allowed

to fulfil his timetable and be allowed to continue until June 2012. If he can be replaced in an orderly fashion and do his job in the meantime, fair enough, but he has issued a strong defence for his position. He has acknowledged the problems caused by the historical investigations, and he has accepted all the recommendations of the Maguire report, which does not actually contain a recommendation or demand for his demise. As many other Members said, it is generally accepted that the office's performance in dealing with current cases — probably the most important ongoing work — is satisfactory. So, given all the circumstances, we do not feel that it is necessary to call for immediate resignation.

The DUP amendment goes further than Dr Maguire's recommendation in calling for the Minister of Justice to "permanently suspend" any new historical investigations by the office. Again, that goes further than recommendations 1 and 2 of the Maguire report. It also asks for another oversight body to oversee what is evidently already an oversight body, which is a point that my colleague Mr Dickson made. That just does not seem necessary. Both demands cause us problems, and we feel that a more measured approach is required. The suspension of historical inquiry activities, except those being pursued jointly with the PSNI pending the full operation of the strategic plan for the historical enquiries directorate, is enough, and another layer of oversight does not seem realistic or necessary. So we will not be supporting the DUP amendment either.

**Mr Byrne:** I thank the Member for giving way. Does he accept that it is crucial that the public have confidence in the ombudsman's office and in the way in which it works, and that the ombudsman's report into the Omagh bomb inquiry did gain credence, particularly among the victims' families? It is very important that victims feel that an ombudsman's office works in their interest.

**Mr Speaker:** The Member will have an extra minute added to his time.

**Mr Lunn:** I will not need it, Mr Speaker. The Member makes a fair point. There are different views, as evidenced today across the Chamber, about the validity or honesty of various historical inquiry reports. I prefer to dwell on the present. What is the best thing for the ombudsman to do in the coming months? What is the best thing

for us to do? Is it to demand his resignation or to accept the fact that, given the circumstances, cutting off the head of an organisation that has already lost its two most senior personnel is not really the way to go? I am not making a judgement on Mr Hutchinson's performance. He is the man in post and, as we all know, it is not unknown for leaders to linger for a while as their successor is sorted out.

We support the original motion and look forward to the Minister's comments on what he considers necessary to restore full confidence in the Office of the Police Ombudsman, and his view, if he cares to give it, on the future position of the current incumbent.

**Mr Ford (The Minister of Justice):** First, I congratulate Gerry Kelly and his colleagues on securing today's debate on the very important topic of restoring confidence in the Office of the Police Ombudsman. I welcome the terms of the motion, which should gain widespread support, and am grateful for the opportunity to address the issues that have been raised.

As I said when I addressed the Justice Committee on 8 September, I remain firmly of the opinion that the Office of the Police Ombudsman is central to the policing architecture of Northern Ireland and I am committed to ensuring that the office is able to perform its responsibilities in a full and effective manner, capable of securing widespread public confidence. I recognise that, on foot of the recent Criminal Justice Inspection report and Tony McCusker's report to me in June, there is essential work to be done to improve the operation of the Police Ombudsman's office and to ensure that it is capable of securing widespread public confidence. The ombudsman and I have accepted all the recommendations made in Dr Maguire's report. The ombudsman and his senior management team have outlined in their action plan how they propose to address the issues, and progress is already being made on those.

I want and expect a full implementation process that is capable of independent validation so that the ombudsman's office will once again fulfil its functions with the confidence of the public. I also accept that there are areas where I can and should, with my Department, provide support, work co-operatively and deliver the finance needed to build up capacity on historical cases. I support the original motion, as tabled,

subject to one important caveat. That caveat is that there are proper boundaries that I should not go beyond as Minister in ensuring that the right steps are in place in the ombudsman's office.

The ombudsman has an independence of action in respect of the investigation of cases that I am bound to defend. I do not, however, speak to or agree with the proposed amendments from the DUP and the SDLP. With regard to the DUP amendment, although the reputational damage that was caused to the ombudsman's office by the investigation of historical cases is acknowledged, it would be wholly inappropriate to permanently suspend any new historical investigations.

#### 4.45 pm

On 8 September, I emphasised to the Justice Committee that the decision regarding historical cases was a suspension and not a cessation. Our article 2 compliance with the European Court of Human Rights requires us to have a mechanism for the independent investigation of those cases. The Police Ombudsman still has critical responsibilities in that area. In proposing his amendment, Peter Weir talked about different ways to deal with the past. Unless and until a political agreement on a new mechanism is in place, that would be a recipe for unlimited delay. There is no consensus at this stage. Currently, there are no alternatives to the work that is being done. To permanently suspend historical investigations — whatever "permanently suspend" means — would be a direct breach of our article 2 obligations.

I note in passing that the amendment also calls on the Minister to take action to direct the ombudsman's office as to how to carry out those duties. It is not the Minister's role to direct any part of the work of the ombudsman's office. Therefore, on those two grounds, whatever one might think about the sentiments behind the amendment, it is unacceptable as it stands.

I cannot support the SDLP's amendment either. It calls for the current Police Ombudsman to resign with immediate effect. It is incumbent on the Assembly to seek to maintain and support the policing architecture, which has secured widespread public confidence in policing. That includes not only the continued existence of the Office of the Police Ombudsman for Northern Ireland, but the post of ombudsman and the independence and integrity of that

office. No one disputes the regrettable position in which the Office of the Police Ombudsman finds itself at present nor underestimates the difficult period that lies ahead as it seeks to regain public confidence in the adequacy of the processes and the robustness of the conclusions that have been reached by the ombudsman in respect of historical cases.

However, there is a real need to preserve the business continuity of the office so that current complaints — the vast bulk of complaints against the PSNI — continue to be effectively investigated. Dr Michael Maguire made it clear that he would have confidence in reporting any grounds for complaint to the Office of the Police Ombudsman for Northern Ireland at present.

Of primary importance to me, as I know it will be to the Assembly, is the need for an action plan that is capable of independent validation. That is why I welcome the ombudsman's commitment to seeking independent validation from CJINI that the necessary programme of work has been successfully completed. Al Hutchinson will invite Michael Maguire and his team back once he considers that the recommendations have been implemented. They will, once again, conduct a thorough inspection and provide an honest appraisal of the situation as they find it at that stage.

The ombudsman has properly accepted the chief inspector's recommendation that no historical cases should be commenced or completed until Criminal Justice Inspection has indicated that the recommendations are essentially complete and the way is free to resume. I express that view recognising that it should not be my decision any more than I should decide which cases should be considered first or how long it should take to investigate them. Let us not make the critical mistake of allowing what are proper and serious concerns about the work of the ombudsman's office in respect of historical cases to damage wider confidence in the policing architecture and institutions in which I believe Northern Ireland has every reason to have confidence.

In that respect, I have to disagree with points that were made by Jennifer McCann. All of the evidence shows that the office's current work is being done well. The CJINI report substantiates that. However, I must say that I have been surprised by the efforts of some people to denigrate all aspects of the office's work. We



cannot and should not just take those aspects from reports that we like and ignore the bits that do not fit with the pre-prepared narrative.

**Mr A Maskey:** I appreciate the Minister's giving way. I will try to be brief. A lot of attention has been directed, rightly, to the past. However, does the Minister not agree that, on a number of relatively recent occasions that are absolutely nothing to do with the conflict, the ombudsman's office has been shabby? Indeed, one such occasion was the subject of a serious report by Sam Pollock himself; the Taylor case in Coleraine, which resulted in a Public Prosecution Service member of staff being suspended for up to four years. That is not conflict-related. It is not the past. It is recent. It is very current. At present, certain families feel aggrieved by the shabby treatment of their complaints against the police by the ombudsman's office. Some of that has been written up in substantial reports by Sam Pollock and has been acknowledged by the current ombudsman, Al Hutchinson.

**Mr Ford:** I accept the Member's point. The CJINI report highlighted a couple of issues with current cases. However, against the backdrop of something like 3,000 cases every year, the reality is that the vast majority of cases are being dealt with well. If we accept Michael Maguire's critical assessment of how the office conducts and reports its investigation in historical cases, we must also accept his endorsement of the way in which it carries out its investigations into current cases.

Many Members concentrated on the issue of dealing with the past. I think every Member from the Ulster Unionist, SDLP and Alliance parts of the Chamber who spoke mentioned the issue of the past. The absence of a political consensus about the past makes it hard to envisage the early creation of any alternative mechanism to address these cases. The ombudsman is clear that, in the absence of an alternative and all-encompassing approach to the past, contention about the adequacy of the investigation of historical cases will always feature where the outcome does not fit with an existing point of view, and I agree with him.

I restate my view on the need for a discussion on how we tackle the past and in particular on how we avoid focusing on a small number of the most contentious cases becoming a major problem for the overall justice system. I also reiterate my call for a public debate on these

issues and urge the Secretary of State and the First Minister and deputy First Minister to consider how that debate can most effectively be taken forward. That is an issue for all of us. The past simply cannot be left to the Historical Enquiries Team, the ombudsman and the Coroners Service conducting legacy inquests.

Conall McDevitt said that it was a shameful failure of this House in not dealing with the past and John McCallister said that it was a collective failure. In response to John's request for me to say something about my views as to how to deal with the past: this debate is not where we should be discussing the past entirely. However, I believe that the Eames/Bradley Consultative Group on the Past produced what should have been a starting position for discussion. *[Interruption.]*

**Mr Speaker:** Order.

**Mr Ford:** The fact that certain Members have concerns about the one particular issue, namely the payments, should not damage the other good work done by that group. As I said, this is not an issue for today; it is an issue that requires significant discussion and perhaps should be conducted at a rather more serious level than the one that greeted my reference to Eames/Bradley.

There has been much debate about when Al Hutchinson should resign. Let us be clear and practical: an office with no ombudsman, no permanent chief executive and no senior director of investigations would not be a properly functioning office. That was a point made by the two next most senior officers when they went to the Justice Committee. It does not make sense to operate in that way, and I question those who believe that it does, whatever their misgivings about historical cases.

The process for appointing a new ombudsman is one for the First Minister and deputy First Minister. I wrote to them last week in light of their responsibility for the process and the necessity to proceed with it as soon as possible. I also made it clear in my correspondence to them that the appointment process should not be delayed to allow time to address the wider concerns that exist about the ombudsman's office.

As he made clear to the Justice Committee, the current ombudsman is open to leaving earlier than the date he specified — 1 June

2012 — if a new appointee is ready to take up office before then. That is a practical and common-sense approach, which, frankly, leaves the responsibility where it correctly lies, which is with the First Minister and deputy First Minister.

In conclusion, the existence of an effective and independent complaints system is something that the public and the police have a right to expect. That is a key part of the policing architecture in Northern Ireland and is intended to secure public confidence in the Police Service. It must be our aim to get public confidence in every respect.

The system for current complaints is fully functioning. What we now need is comprehensive action to fix the problem with governance and historical cases. I and my Department will take the steps that we properly can to enable and support that whilst respecting the operational independence of the office. I am clear about the proper limits of intervention. I accept the motion as tabled, but, for the technical reasons that I outlined, I cannot accept either of the amendments.

**Mr A Maginness:** There is no witch-hunt as far as the SDLP is concerned in relation to Al Hutchinson. We respect him as an individual. However, we believe that he got things very badly wrong. Three reports substantiate that: one by the Committee on the Administration of Justice, one by Mr Tony McCusker and one by the CJI. All were independent, and all indicated difficulties in the office. Indeed, by showing dysfunctionality in that office, the McCusker report prefigured what was contained in the Criminal Justice Inspection's report. That dysfunctionality does not arise from the flaws of individuals in the office; it arises from the Police Ombudsman's lack of leadership when organising, dealing with issues, supervising and making sure that his office had a critical edge. The fact that he did not create a situation in which management was able to cope, work together and develop systems and protocols for dealing with the issues involved — highly critical issues for all of us in the House — is his personal responsibility.

It is with some sadness that I and my party ask for his resignation. We believe that a new leader is needed at the top of the ombudsman's office. If there is no new leadership, and soon, the damage already caused to that office will simply be exacerbated. We want to limit that damage

and rebuild the office. That requires a new leader at the top, and this Police Ombudsman should, therefore, go as quickly as possible.

The ombudsman's office is a bulwark for the PSNI and for policing here in Northern Ireland. We need a good, efficient and effective office, which has the confidence of the community. We do not have that at the moment.

There has been much talk about lopping off or removing historical cases from the purview of the office. That simply cannot be done, because the legislation says that there is an obligation and requirement for that office to investigate those historical cases. That is because, under article 2 obligations of the European Convention, it is necessary for those historical cases to be investigated. That is a legal obligation. Indeed, as the Minister of Justice said so robustly in the House today, you cannot possibly remove historical cases from the ombudsman's office without having an alternative, and, quite simply, no such alternative has been established.

**Mr B McCrea:** Will the Member give way on that point?

**Mr A Maginness:** Do I get another minute?

**Mr Speaker:** Yes. *[Laughter.]*

**Mr B McCrea:** You did not want to hear it just in case it was good.

Surely the Member understands that the matter has been settled and that, for the purposes of investigating issues of the past, the PSNI is not the RUC, so an alternative way could be found. In fact, the HET was also referred to in Government submissions as a body looking after the past. It is not specified who shall do it, only that, under European legislation, there should be another body, and we could set up another such body.

**Mr A Maginness:** I am grateful for those comments, but I re-emphasise the Minister of Justice's point that there is no alternative. Currently, we have a mechanism whereby the actions of the RUC and, indeed, the actions of the PSNI in relation to article 2 obligations can be thoroughly investigated. There is no alternative, and it would be absurd for the ombudsman's office to be expanded to include people from outside the police.

That is the substance of the argument put forward by unionists, in particular, today. The argument is that, because there is no investigative process in relation to the past, which we as a political party want to see, you throw the baby out with the bath water. In other words, you do not have a mechanism to investigate the RUC and past failings that have been proven by the Police Ombudsman's office.

### 5.00 pm

We should commit ourselves once again to supporting the Office of the Police Ombudsman. However, the only way to do that —

**Mr Speaker:** The Member should draw his remarks to a close.

**Mr A Maginness:** — and remedying this situation is to replace the current Police Ombudsman and replace —

**Mr Speaker:** Time is up.

**Mr A Maginness:** — weak leadership with strong leadership that reconstructs the office.

**Mr Wells:** We have to remember exactly why the Office of the Police Ombudsman was created. Those of us who have been around for a very long time will recall the period when, if you made a complaint against the conduct of an individual RUC officer, that complaint was considered by a more senior RUC officer. Some made the point that that indicated a conflict of interest. One of the recommendations was to establish an independent ombudsman or ombudsperson — whatever you want to call it — that would be totally detached from the RUC or the PSNI, as it is now.

I have noticed that throughout all the contributions, even those made by Members who clearly have some agenda against Al Hutchinson, there was very little complaint about his work in carrying out the day-to-day role of investigating individual complaints lodged by members of the public or their representatives. That was the main principle that established the Office of the Police Ombudsman, and Al Hutchinson seems to get a very high mark for that aspect. It is interesting that he has carried out that role without the controversy that surrounded his predecessor. We all remember just how controversial the office was under Nuala O'Loan. It seemed that not a week went by when she was not embroiled in some issue that brought controversy to her door. Al

Hutchinson has got on with that work in a low-key but effective manner, and many of us who have used him have found him to be extremely efficient.

*(Mr Principal Deputy Speaker  
[Mr Molloy] in the Chair)*

The difficulty is that, in the middle of all this, the poisoned chalice of historical inquiries and the past has been foisted on the office. No one in the House would believe for one moment that that is not a terribly difficult issue. The theme has emerged in this debate time and time again. The problem for the Members opposite is that Al Hutchinson and his team have looked into some of those issues and not come up with the reports that they would have liked. It is as simple as that. Rather than suggest for one moment that he may have come up with a balanced argument, they demand his head on a plate. I have great concerns about politicians demanding the head of someone who is meant to be independent from both the police and other institutions. That worries me. It means that every time whoever succeeds Mr Hutchinson does something that Sinn Féin or the SDLP do not like, those parties will immediately rush to demand that he must be removed and “off with his head”. The reality may be that they simply do not agree with what he said.

Mr Weir talked about the selectivity of the demand for inquiries, which was one of the strongest points made in the debate. Let us be honest: there are individuals in the Chamber who have a terrorist past. Indeed, there are individuals who spoke in the debate who have a very difficult and bloody terrorist past. We know whom we are talking about. The proposer of the motion, for instance, has been convicted of it. It is OK to demand an inquiry into the activities of the lawful forces of the PSNI or the RUC. That is fine — they can be held up to ridicule — but woe betide anyone who asks for an inquiry into the activities of MLAs who have a very seedy past; that is not allowed. Equally, in the Loughinisland case, which affects my constituency, it seems to me that it is not a question of Mr Hutchinson's incompetence. It is quite simply a question of not agreeing with the outcome of the report that seems to be the issue. I must say that alarm bells ring in my head about allowing the ombudsman to be held up as a sacrificial lamb because his reports do

not agree with the preconceived prejudices of certain nationalist MLAs.

Let us say that the amendment proposed by the SDLP were to be made here today, and Mr Hutchinson decided, "Yes, they are absolutely right. I have listened to the pearls of wisdom and Conall McDevitt's leadership speech. It was wonderful, and I will support what he said and resign in the morning." Where does that leave us? The Justice Minister put it absolutely correctly, and so did Mr Lunn. It leaves us without a Police Ombudsman and without several senior officers. That is a recipe for chaos. Even party leaders, when they resign, give at least several months' notice so that their position can be replaced.

**Mr Weir:** Does the Member agree with me that the situation as highlighted there just shows the sheer folly of the position of the SDLP on the issue?

**Mr Wells:** Absolutely. On Thursday, Mr McDevitt sat all day at the Policing Board appointing a senior police officer. That is an important task. He knows how long it took to advertise that position, to trawl through those who applied and to go through the interview procedure. You simply cannot replace a high-powered position such as that overnight. The SDLP is saying that we should leave the Police Ombudsman's office completely headless for the next eight or nine months while that is going on. That is no way for an individual who has a concern about the activity of the police or the conduct of an individual police officer to go forward. That is no way to leave that organisation.

Al Hutchinson, under considerable pressure, has agreed to step aside in June 2012. That is the honourable thing to do. He has given sufficient time for his replacement to be appointed. I do not think that we, as an Assembly, have the right to demand that he goes and when he goes. We need to give him and the office the time to have a smooth transition to a new ombudsman. That is the best way forward for all the people of Northern Ireland.

**Mr McCartney:** Go raibh maith agat, a LeasCheann Comhairle. Ba mhaith liom buíochas a thabhairt do achan duine a labhair inniu. I want to begin by reminding Members of the rationale of the motion that we put forward after examination of the Criminal Justice Inspection's report into the Police Ombudsman's office, particularly around independence and the

public confidence in that office. Core to that is the statutory requirement that the office has to be independent for it to comply with article 2 of the European Convention on Human Rights.

The CJI report — this has perhaps been missed by a lot of the people who spoke this afternoon — came about because the ombudsman asked for it. It was not Sinn Féin, the SDLP or any other political party; it was the ombudsman himself. The reason it came about — the ombudsman himself accepts this — is that the chief executive brought the inner workings of his office into the public domain. Tony McCusker was in front of the Committee and gave a particular insight into the relationships within the office. It was the ombudsman who asked for the report and no one else.

Peter Weir made the observation — I think that other people have made the same observation — that there are people who think that the current ombudsman is not doing a good job, people who think that he is doing a better job, others who think that Nuala O'Loan did that type of job and that someone did a better job, or whatever. The most important thing is that, when you have competing or contrasting views, you establish an independent body, which is then tasked to tell us what it thinks of the workings of the ombudsman's office.

In 2005, the Criminal Justice Inspection did a report into the office of the ombudsman, and it stated that it found an effective, efficient organisation. It also went on to state that it was:

*"delivering on its stated aims and objectives with public confidence in the system increasing".*

When Michael Maguire was in front of the Committee, he was asked if he could say the same about the ombudsman's office in 2011, and he said that he could not. That is the independent view, which is telling us that the ombudsman's office is not effective and efficient. That is what we —

**Mr B McCrea:** Will the Member give way?

**Mr McCartney:** No, I am not giving way. You had your chance.

Michael Maguire articulated that to the Committee. He was in no doubt — I have not heard a dissenting view today contradicting him — that the independence of the office was lowered. I have not heard a dissenting voice.



Not one person contradicted Michael Maguire when he said that.

**A Member:** Are you not giving way?

**Mr B McCrea:** He will not give way.

**Mr McCartney:** It is not a matter of giving way. You had your opportunity.

Bear in mind that, when he was asked about the state of his office, the Police Ombudsman told the Committee that it was unprecedented in his 44 years in public office. It is not just Michael Maguire, Sinn Féin or anyone else saying it. The Police Ombudsman himself said that the flaws in his office were unprecedented in his 44 years in public office.

**Mr B McCrea:** Will the Member give way?

**Mr McCartney:** No, I am not giving way.

He went on to say that not only did he accept that but that he was in charge and was the person responsible. We are being asked by Members to accept that a person who tells us that his organisation is inefficient and ineffective — in his opinion, an unprecedented situation — should continue in that office. We have said that he accepts that he is the person responsible and that he was the person at the wheel who drove the machine to where it is. We all accepted — there were no dissenting voices — that the organisation's level of independence has been lowered. When the Minister appeared before the Committee, Stewart Dickson made the point that, in any other public authority, the incumbent would be asked to go. He was right when he said that.

Other Members have itemised some particular cases. However, this is not about individual reports but about the office as a whole. The Minister must have that in mind when he takes the matter forward to restore public confidence. There was a clash of views. Michael Maguire stated very clearly that reports were altered to lessen criticism of the police, but Al Hutchinson denied that that was the case. There was a conflict, which was to do with the fact that the independent voice must be listened to. When Michael Maguire was asked to continue, he said that the status quo was no longer acceptable. In fairness to him, when he was asked whether that meant that the status quo could take us forward, he said that he was not in a position to say that. However, I think that we all arrived at the same conclusion.

The Minister said today that we have to accept Michael Maguire's assertion that he is fine about the non-historical cases. Some Members on the other Benches made the case that Michael Maguire did say that he would go to the Police Ombudsman with an ordinary complaint. However, Dr Maguire also said that the status quo could not take us forward. That is the most important point in this debate.

I want to deal with a couple of things that Members said. Basil McCrea said very clearly that when it comes to public confidence, the Police Ombudsman's office is "completely and utterly trashed". We have to ask who is responsible for that. I heard Members say today that we cannot call for a person who holds public office to resign. That is incomprehensible. If the person is accountable, he or she can be asked to resign. We were told that we cannot ask people to resign in case there is no one to replace them. If someone makes a hames of a job, we cannot call on that person to resign because he or she can say that no replacement is available. That amounts to a very short-sighted public office.

Stewart Dickson and Trevor Lunn made an important point about the way forward. To me, the way forward is not what the Minister outlined today; rather, it is a very simple explanation. The incumbent Police Ombudsman has accepted that he is the person responsible for the mess. It was the Police Ombudsman himself — not me — who said that the situation had come into the public domain only because the chief executive resigned. It is important that we acknowledge that.

Jonathan Craig asked why this debate was taking place today and why we were challenging the Police Ombudsman's view. We are challenging it because he asked for it, in the shape of the report. The Ombudsman invited the CJI to produce a report, the findings of which are damning. In my opinion, the Police Ombudsman's position is totally and absolutely untenable. John McCallister talked about people rewriting history. We can all say, do and feel what we like about that particular statement, but in this instance it is very topical. Reports were rewritten, and Michael Maguire made it very clear in his report that reports were altered to lessen criticism of the police. He stated that in full view of the Committee, and I did not hear anyone challenge him. In fact, he verified it on a number of occasions. Every member of the Committee was present. It is very important to

make the point that, to have confidence in the independence of the ombudsman's office, we cannot allow a situation to arise in which people rewrite reports willy-nilly.

### 5.15 pm

The clinching point, to which the Minister needs to provide an answer, is that two senior members of the ombudsman's team went to him and said that they wanted to distance themselves from the report.

**Mr Spratt:** Were they independent?

**Mr McCartney:** It is not a matter of whether they were independent. They went to the ombudsman and told him that they wanted to distance themselves from the report, and the ombudsman conceded. Therefore, two people set out to carry out an investigation, their findings went to the senior team in the ombudsman's office, and the report that was sent out had a different complexion. They then went back and said that they would not stand over it, and the ombudsman accepted that. Why would anybody accept a piece of work, alter it, and then, when two senior people go back to him, say, "OK, you were not part of that."? We put that to Michael Maguire, who has long years of service in holding public officials to account. We asked him whether he had seen or experienced anything like that before in his life, and he said no. Two senior members of his team were there when he was asked what sort of place it would be if they wished to distance themselves from a report being put in front of us, and they all laughed. That laughter told us the state of the ombudsman's office.

**Mr Principal Deputy Speaker:** The Member should bring his remarks to a close.

**Mr McCartney:** We ask Members to support the motion. We will support the SDLP amendment and reject the DUP amendment. Go raibh maith agat, a LeasCheann Comhairle.

**Mr Principal Deputy Speaker:** Before I put the Question on amendment No 1, Members should note that, if that amendment is made, the Question will still be put on amendment No 2.

*Question put, That amendment No 1 be made.*

*The Assembly divided: Ayes 47; Noes 44.*

### AYES

*Mr Allister, Mr S Anderson, Mr Beggs, Mr Bell, Ms P Bradley, Mr Buchanan, Mr Campbell,*

*Mr T Clarke, Mr Copeland, Mr Craig, Mr Cree, Mrs Dobson, Mr Douglas, Mr Dunne, Mr Easton, Mr Elliott, Mr Frew, Mr Girvan, Mrs Hale, Mr Hamilton, Mr Hilditch, Mr Humphrey, Mr Irwin, Mr Kennedy, Mrs Lewis, Mr McCallister, Mr McCausland, Mr B McCrea, Mr I McCrea, Mr McGimpsey, Mr D McIlveen, Miss M McIlveen, Mr McQuillan, Lord Morrow, Mr Moutray, Mr Nesbitt, Mr Newton, Mrs Overend, Mr Poots, Mr P Robinson, Mr Ross, Mr Spratt, Mr Storey, Mr Swann, Mr Weir, Mr Wells, Mr Wilson.*

*Tellers for the Ayes: Mr Craig and Mr McQuillan.*

### NOES

*Mr Agnew, Ms M Anderson, Mr Attwood, Mr Boylan, Ms Boyle, Mr D Bradley, Mr Brady, Mr Byrne, Mr W Clarke, Mrs Cochrane, Mr Dallat, Mr Dickson, Mr Doherty, Mr Durkan, Mr Eastwood, Dr Farry, Mr Ford, Ms Gildernew, Mrs D Kelly, Mr G Kelly, Mr Lunn, Mr Lynch, Mr F McCann, Ms J McCann, Mr McCarthy, Mr McCartney, Mr McDevitt, Dr McDonnell, Mr McElduff, Mr McGlone, Mr M McGuinness, Mr McKay, Mrs McKeivitt, Mr McMullan, Mr A Maginness, Mr A Maskey, Mr Murphy, Mr Ó hOisín, Mr O'Dowd, Mrs O'Neill, Mr P Ramsey, Ms S Ramsey, Ms Ritchie, Mr Sheehan.*

*Tellers for the Noes: Mr McCartney and Mr McMullan.*

*Question accordingly agreed to.*

*Question put, That amendment No 2 be made.*

*The Assembly divided: Ayes 38; Noes 53.*

### AYES

*Mr Agnew, Ms M Anderson, Mr Attwood, Mr Boylan, Ms Boyle, Mr D Bradley, Mr Brady, Mr Byrne, Mr W Clarke, Mr Dallat, Mr Doherty, Mr Durkan, Mr Eastwood, Ms Gildernew, Mrs D Kelly, Mr G Kelly, Mr Lynch, Mr F McCann, Ms J McCann, Mr McCartney, Mr McDevitt, Dr McDonnell, Mr McElduff, Mr McGlone, Mr M McGuinness, Mr McKay, Mrs McKeivitt, Mr McMullan, Mr A Maginness, Mr A Maskey, Mr Murphy, Mr Ó hOisín, Mr O'Dowd, Mrs O'Neill, Mr P Ramsey, Ms S Ramsey, Ms Ritchie, Mr Sheehan.*

*Tellers for the Ayes: Mr Durkan and Mr Eastwood.*

### NOES

*Mr Allister, Mr S Anderson, Mr Beggs, Mr Bell, Ms P Bradley, Mr Buchanan, Mr Campbell, Mr T Clarke, Mrs Cochrane, Mr Copeland, Mr Craig, Mr Cree, Mr Dickson, Mrs Dobson, Mr Douglas,*

Mr Dunne, Mr Easton, Mr Elliott, Dr Farry, Mr Ford, Mr Frew, Mr Girvan, Mrs Hale, Mr Hamilton, Mr Hilditch, Mr Humphrey, Mr Irwin, Mr Kennedy, Mrs Lewis, Mr Lunn, Mr McCallister, Mr McCarthy, Mr McCausland, Mr B McCrea, Mr I McCrea, Mr McGimpsey, Mr D McIlveen, Miss M McIlveen, Mr McQuillan, Lord Morrow, Mr Moutray, Mr Nesbitt, Mr Newton, Mrs Overend, Mr Poots, Mr P Robinson, Mr Ross, Mr Spratt, Mr Storey, Mr Swann, Mr Weir, Mr Wells, Mr Wilson.

Tellers for the Noes: Mr Craig and Mr McQuillan.

Question accordingly negatived.

Main Question, as amended, put.

The Assembly divided: Ayes 47; Noes 44.

### AYES

Mr Allister, Mr S Anderson, Mr Beggs, Mr Bell, Ms P Bradley, Mr Buchanan, Mr Campbell, Mr T Clarke, Mr Copeland, Mr Craig, Mr Cree, Mrs Dobson, Mr Douglas, Mr Dunne, Mr Easton, Mr Elliott, Mr Frew, Mr Girvan, Mrs Hale, Mr Hamilton, Mr Hilditch, Mr Humphrey, Mr Irwin, Mr Kennedy, Mrs Lewis, Mr McCallister, Mr McCausland, Mr B McCrea, Mr I McCrea, Mr McGimpsey, Mr D McIlveen, Miss M McIlveen, Mr McQuillan, Lord Morrow, Mr Moutray, Mr Nesbitt, Mr Newton, Mrs Overend, Mr Poots, Mr P Robinson, Mr Ross, Mr Spratt, Mr Storey, Mr Swann, Mr Weir, Mr Wells, Mr Wilson.

Tellers for the Ayes: Mr Craig and Mr McQuillan.

### NOES

Mr Agnew, Ms M Anderson, Mr Attwood, Mr Boylan, Ms Boyle, Mr D Bradley, Mr Brady, Mr Byrne, Mr W Clarke, Mrs Cochrane, Mr Dallat, Mr Dickson, Mr Doherty, Mr Durkan, Mr Eastwood, Dr Farry, Mr Ford, Ms Gildernew, Mrs D Kelly, Mr G Kelly, Mr Lunn, Mr Lynch, Mr F McCann, Ms J McCann, Mr McCarthy, Mr McCartney, Mr McDevitt, Dr McDonnell, Mr McElduff, Mr McGlone, Mr M McGuinness, Mr McKay, Mrs McKeivitt, Mr McMullan, Mr A Maginness, Mr A Maskey, Mr Murphy, Mr Ó hOisín, Mr O'Dowd, Mrs O'Neill, Mr P Ramsey, Ms S Ramsey, Ms Ritchie, Mr Sheehan.

Tellers for the Noes: Mr McCartney and Mr McMullan.

Main Question, as amended, accordingly agreed to.

Resolved:

*That this Assembly welcomes the Criminal Justice Inspection report into the Office of the Police Ombudsman; notes the damage caused to the office by the investigation of historic cases; and calls upon the Minister of Justice to permanently suspend any new historic investigations by the Office of the Police Ombudsman and bring forward proposals to create public and police confidence in the ombudsman's office, including independent oversight.*

**Mr Ford:** On a point of order, Mr Deputy Speaker. I appreciate that it is probably not reasonable to ask you to define "permanently suspend" for me, but I wonder whether you could advise me what the constitutional significance is of a resolution of this House instructing a Minister to do something that is ultra vires.

**Mr Principal Deputy Speaker:** You will know that, as the Deputy Speaker, I cannot give you any direction in that situation. *[Laughter.]*

*Adjourned at 5.55 pm.*









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