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Northern Ireland Assembly

Monday 21 May 2012

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

Members observed two minutes' silence.

Assembly Business

Committee Membership: Committee for Agriculture and Rural Development

Mr Speaker: I would like to inform Members that I have been notified by the nominating officer of the SDLP, Dr Alasdair McDonnell, that Mrs Dolores Kelly has been replaced as Deputy Chairperson of the Committee for Agriculture and Rural Development with effect from 19 May 2012. Dr Alasdair McDonnell has notified me that he has nominated Mr Joe Byrne as Deputy Chairperson of the Committee for Agriculture and Rural Development. Mr Byrne has accepted the appointment. I am satisfied that the correspondence meets the requirements of Standing Orders, and I therefore confirm that Mr Joe Byrne is Deputy Chairperson of the Committee for Agriculture and Rural Development with effect from 19 May 2012.

Ministerial Statement

UK Audit of Retained Tissue Samples

Mr Speaker: The Justice Minister wishes to make a statement to the House. Before I call the Minister and before we move to questions on the statement, I remind the House that we are dealing with very sensitive issues. I ask Members to bear that in mind in their questions. Members should also be mindful that certain matters may well end up before the courts and be careful in what they might say in the House this afternoon. I remind Members that the Committee Chair is the only Member who has some latitude in formulating his questions. No other Member has that latitude. I certainly do not expect further statements from Members.

Mr Ford (The Minister of Justice): With permission, Mr Speaker, I wish to make a statement concerning the publication of a report today by the Association of Chief Police Officers, with the assistance of the National Policing Improvement Agency, on the retention of human tissues by police forces in England, Wales and Northern Ireland. At the outset, I would like to acknowledge the hurt and pain that some families have suffered as a result of the issues brought to light by this report. Echoing your comments, Mr Speaker, in this statement I will not refer to any individual cases. I ask Members to take the same approach.

Whilst the police acted within the law and there would have been important evidential and medical reasons for the retention of human tissue, it is an issue of deep regret and concern that families were not always involved in decisions affecting their loved ones. Although the retention of human tissue following a post-mortem examination without informing families was common practice prior to 2006, not just in Northern Ireland but across the UK, I share the

views expressed by Assistant Chief Constable George Hamilton: there is a great difference between acting legally and doing what is morally and ethically right. I know that those views are shared by the Chief Constable, who will hold a press conference on the matter today. The families affected must be uppermost in our thinking, and it is a matter of deep concern that those who have suffered bereavement have had to endure further distress and upset.

As to the background to the report, the Human Tissue Authority issued a direction in 2010 requiring all mortuaries holding post-mortem tissue samples to undertake an audit of that material. To ensure a consistent approach, the Association of Chief Police Officers advised Chief Constables in England, Wales and Northern Ireland to conduct an audit of all human tissue held in connection with suspicious deaths and murders. That included human tissue held by or on behalf of police following post-mortem examinations. Given the sensitivity of the issue and the impact across the justice system, I wanted to make this statement to the Assembly.

The PSNI established a dedicated team to carry out the audit in Northern Ireland. That audit identified 71 significant body parts that have been retained, originating from 64 victims. The cases go back as far as 1960. It should be borne in mind that that is not unique to Northern Ireland, as retained material has been identified in the audit returns from the majority of police forces in England and Wales. Although the audit did not strictly extend to the Office of the Police Ombudsman, that office identified seven significant body parts, belonging to four victims, that had been held as part of its investigations. That information has been included in the ACPO report.

I can confirm that 51 families resident in Northern Ireland where the next of kin could be identified by the PSNI have been contacted. The Office of the Police Ombudsman has also confirmed that three of the four families affected by its findings have been contacted. In all those cases, the family liaison process is ongoing, and specially trained family liaison officers remain available to the families in the weeks ahead. Steps are being taken to inform the next of kin in 10 cases where they are resident outside Northern Ireland and to identify the next of kin in a very small number of outstanding cases. It was intended that those visits would have taken place before the details

of the audit became public. Unfortunately that was not possible, because the outcome of the audit was leaked. That made an already difficult situation worse, as it created undue worry and concern for families, including, specifically, families who were not affected by the findings but who will have feared that they might have been. The distress caused to those families is a matter of grave concern.

The samples identified as part of the audit were retained at post-mortem examinations to assist the police investigations into establishing the cause of death, as well as for evidential purposes. Further analysis or re-examination of such samples can often prove vital in identifying evidence that will bring an offender to justice. That is normal practice, and I must stress that all samples were taken under the appropriate legal powers.

Prior to the commencement of the Human Tissue Act 2004 in 2006 there was — indeed, there still is — no legal requirement to obtain consent for the taking and retention of human tissue at a coroner's post-mortem examination, if it is required to help determine the cause of death. However, the Human Tissue Act puts in place strict requirements for dealing with that tissue after the coroner's investigation has concluded. Those requirements do not extend to samples retained under the powers in the Police and Criminal Evidence (Northern Ireland) Order 1989 on behalf of the PSNI. The PSNI is not bound by the terms of the Human Tissue Act, but in 2006 it decided to implement the spirit of the Act's intentions, which require that all families are informed if material is retained. That has made an important difference to the handling of recent cases and remains current practice. The PSNI will review the reasons for the continued retention of samples and ensure appropriate liaison with families. Although the body parts were kept for good and valid reasons, I am extremely mindful that they relate to families who have lost loved ones and have suffered further hurt since the issue came to light.

I turn now to the points raised by the audit. The report makes a number of recommendations to ensure that best practice is followed in future. The recommendations cover police practice but also extend to both the Coroners Service and the State Pathologist's Department. A copy of the ACPO audit report is being placed in the Library. I will be considering the most appropriate mechanism for ensuring that the

recommendations are fully implemented in consultation with relevant stakeholders. That is important to ensure public confidence. A range of organisations have an interest, and I want to ensure that the approach is clear, coherent and co-ordinated. My officials and I have already been in contact with the Human Tissue Authority, Criminal Justice Inspection Northern Ireland and Her Majesty's Inspector of Constabulary to open discussions on the best approach.

Members of the Justice Committee have asked whether any tissue was destroyed prior to 2006 without a family's consent. I believe that it is both entirely natural and sensible to pose that question. On Friday, I met the State Pathologist and a senior representative of the Coroners Service. The State Pathologist clarified to me that there were past occasions when human tissue was taken without the family's knowledge and subsequently disposed of without family consent or knowledge. To many, that may seem a shocking statement. However, I need to put in context the substantive body of work that was done in Northern Ireland prior to 2006 to help build public confidence in post-mortem procedures and to recognise the proper place of families. That was primarily in response to events at the Alder Hey and Bristol hospitals. It included the establishment of an independent human organs inquiry, which critically reviewed post-mortem procedure and practice in Northern Ireland. The work covered all post-mortems, whether conducted by hospital pathologists or the State Pathologist.

The recommendations of the inquiry were far-reaching and led to a public information leaflet, which explained how families could enquire if organs had been removed or retained at a post-mortem carried out on a member of their family, being widely distributed across Northern Ireland. A dedicated human organs enquiry line, which was promoted via an extensive media campaign, was also available. I understand that over 300 families made enquiries through that line and had their concerns addressed as a result. In addition, a series of public meetings was held at which professionals, including the State Pathologist, explained the practices that they had followed and apologised for any distress caused. When the inquiry team's report was presented to the House on 5 June 2002, the then Minister of Health, Bairbre de Brún, apologised for the hurt caused to families as a result of organs being retained. On behalf of the

criminal justice system, I add my apologies to those of the then Health Minister.

Today, there is, as indeed there has been for the past number of years, a very different approach to such sensitive issues around post-mortems. Medical practice is more centrally focused on the needs and interests of families, while meeting the requirements of the Coroners Service and Police Service, which have legal responsibility for the investigation of such deaths.

In the light of all that has been done in response to the human organs inquiry and the current audit, I believe that a further review of how post-mortems were conducted in the past would result only in further pain and distress for many families. However, I know from the PSNI and the State Pathologist that any family that has outstanding concerns in this area can raise those concerns with either organisation and have them responded to in a sensitive and open way. In the first instance, the helpline established by the police in conjunction with the victims' service and Victim Support will be an appropriate point of contact and will refer individuals to the organisation that can assist them best. I have spoken to both the Commission for Victims and Survivors and Victim Support Northern Ireland, and I will review these arrangements with them in two weeks' time. That will provide an opportunity to assess whether anything further needs to be done to support victims.

As regards my responsibilities looking forward, my focus is on ensuring that the recommendations of today's review are implemented fully in Northern Ireland. I am currently discussing with relevant organisations how best to achieve that, taking note of the approach to be adopted in England and Wales.

In conclusion, I repeat that I deeply regret the fresh pain that families have had to suffer since the issue became known. I appreciate that it will be difficult for families to deal with, both in terms of the shock of hearing that body parts were retained without their knowledge and the fact that their views were not sought on how the remains should be dealt with when the police investigation concluded. We cannot change the past, but lessons have already been learned on how we need to deal with such sensitive issues. I assure Members that I fully appreciate the gravity of the issue, and I will ensure that the audit's recommendations are implemented fully.

12.15 pm

Mr Givan (The Chairperson of the Committee for Justice): I thank the Minister for the speed with which he has brought the statement to the House, recognising its important nature. I express my heartfelt sympathy to the families involved in this, and I offer them my support as they go through what must be a traumatic occasion for them.

The Committee looked at this last Thursday. I think it is clear to most that there was not just systemic failure on the part of the police — the Minister rightly said that how things were carried out was morally and ethically wrong, albeit not illegal — but a failure on the part of the Office of the Police Ombudsman and the State Pathologist's Department. Right across the criminal justice system, there has been systemic failure. It surprises people that, although the Office of the Police Ombudsman was newly formed, this culture seems to have carried over to it. In 2002, when the State Pathologist's Department apologised following the inquiry into the retention of organs in the health service, one would have thought that it would then have undertaken a review of the criminal justice system. Clearly, that has not happened. Therefore, we call for an independent inquiry across the criminal justice system into how this has been handled. People will want to know the truth to give them full information and disclosure to help them to deal with this and to restore confidence in the criminal justice system and confidence that this will never happen again. When the Minister reviews the situation in two weeks' time, will he consider calling for an independent inquiry?

Mr Ford: I thank the Committee Chair for his comments at the start of his contribution. It was indeed difficult to get the issue to the Committee last week and to the House today as speedily as possible while seeking to be as factually accurate as possible.

I have no doubt that work will need to continue. The Member correctly referred to the issues as they apply right across the criminal justice system, not just to the police. It is my understanding that the Office of the Police Ombudsman was not involved at the very beginning but that, becoming aware of the inquiry that was being carried out, it reviewed its practice and procedure. Indeed, the Independent Police Complaints Commission in England and Wales

also did so. That body is also involved in this, although not directly coming under the authority of ACPO.

Mr Givan enquired specifically about an independent inquiry. My focus, as I have tried to make it today, has been on the needs of the families of those concerned. That is why moves have happened so speedily to ensure that the helpline is operational for them today, and that is why I said that I will do the review of how that is operating in two weeks' time. That will allow enough time to gather evidence of gaps in the way in which the bereaved relatives are being treated without allowing it to carry on too long before we ascertain what may need to be done. The key issue is to find ways of ensuring that the system is joined up and deals with the needs of those who are currently suffering anguish because of what happened in the past and that those who face the prospect of post-mortems on loved ones in the near future know that they will be fully involved. It may be that an inquiry is appropriate at that stage, and that is one of the issues that I will consider when I look at matters in two weeks' time. At this stage, we need the focus to remain on the needs of the families.

Mr McCartney: Go raibh maith agat a Cheann Comhairle agus buíochas leis an Aire as an ráiteas sin inniu. I thank the Minister for his statement, and I echo the sentiments of the Chair of the Committee. Obviously, this is a complex and sensitive issue, and we all have to be very mindful of the families who are experiencing trauma at this time. The Minister said that he would revisit this in two weeks' time, so he should be mindful of the fact that, in the statement, there is an acceptance and, indeed, an acknowledgment that many families will be wondering whether human tissue belonging to their loved one —

Mr Speaker: I encourage the Member to come to a question.

Mr McCartney: — has been retained and disposed of without the family being made aware of that. What steps will the Minister take to ensure that those people are also informed?

Mr Ford: I thank the Deputy Chair for his comments. He raises the issue of families who will have concerns about practice in the past. When I referred to those who contacted the enquiry line previously, I said there were over 300 families. In fact, there were 340 calls that related specifically to coroners' cases as

opposed to those related to the more routine hospital cases. Many of those who may have had concerns about the past had the opportunity to follow them up when that helpline was operational between 2003 and 2005. It is an issue that may arise, and concerns may reappear for some of those people.

It was also noticeable that the O'Hara report in 2002 noted that, although some relatives were distressed to learn that organs had been removed without their knowledge and then disposed of, the distress was:

"greater among those where organs of a loved one lay for years in containers for no reason which anybody can explain".

So, it is clearly a matter of significant sensitivity for a number of families who have been affected in different ways. The important thing for us today is to ensure that the work done by the helpline and by the organisations involved, including the Coroners Service and the State Pathologist's Department, deals with addressing those enquiries as sensitively as possible in the case of each family.

Mr Elliott: I thank the Minister for making a statement at what is a very distressing time for the families. I follow on from Mr McCartney's point about the relatives. Does the Minister have any indication of where the leaks about the affair that he referred to in his statement came from? What process was immediately put in place to inform families and provide a helpline and support them?

Mr Ford: I thank Mr Elliott for his comments. It is my understanding that it was always anticipated that the report would be published this morning, and arrangements were in hand for announcements to be made this morning both here and in London. Somebody chose to leak the report. The basis on which they did that I cannot guess, but it is absolutely clear that distress has been caused to a significant number of families, many of whom are not in any way involved in this but had feared they might be. That is an issue for those who chose to leak the report.

As a result of the leak, there were difficulties, but the Police Service, in conjunction with the Department of Justice, sought to be as clear and as open as possible last week. The comments from ACC Hamilton were extremely helpful in reassuring people about what was being

done. I asked officials to go to the Committee last Thursday afternoon, accompanied by the ACC and the State Pathologist, to ensure that the information could be given as accurately as possible at that stage, and I sought to make a statement to the House at the earliest possible opportunity. The key issue is to ensure that those who want to use the helpline are made aware of it and get the opportunity to have their fears addressed.

If I can take time a little more of your time, Mr Speaker, I will say for the benefit of the media that the number for the helpline, which is operational from today, is 90279100. So, if Members or their constituents have concerns, they can contact the helpline at any stage.

Mr McDevitt: I declare an interest as a member of the Policing Board. The Policing Board considered this matter at meetings on Tuesday, Wednesday and Thursday of last week and will meet the Chief Constable again today to discuss it.

Does the Minister agree that this was a systemic failure in the PSNI, the Coroners Service, the State Pathologist's Department and the Office of the Police Ombudsman? That systemic failure extended not just to the handling and policies around the management of the material but to communication with the families for whom this matter has such terribly hurtful consequences. Will he further confirm that that systemic failure extended to communications within what we today call "the system" and that, like the Policing Board, he was only made aware of the existence of the ACPO review in very recent times?

Mr Speaker: I encourage the Member to finish.

Mr McDevitt: Does he agree that such reviews, given their sensitivity, should not be kept secret from those to whom these bodies are accountable?

Mr Ford: I thank Mr McDevitt for his positive comments about the way we are dealing with matters, and I appreciate that the Policing Board, alongside the DOJ, has a significant issue to address.

I certainly agree with his general point: there was clearly a systemic failure. That failure did not just affect the agencies he named; it also affected health service bodies across the UK in the years up to 2006. The problem has been since then. Although current procedures are significantly better, there has clearly been a failure in going back to address those historical

issues. I hope that, in giving the reassurance we now seek to provide to families, we will see what further work may need to be done. However, the exact management of it lay with the Police Service, and the Member and I may have views on whether issues could have been shared more widely in a way that was more constructive than in more than just the past few weeks.

Mr Dickson: Minister, thank you for your statement to the House at what must be a very distressing and difficult time for the relatives of victims. The House is to be congratulated on the very sensitive way in which it has dealt with these matters.

Minister, you said in your statement that you would take note of the approach to be adopted in England and Wales. Will you tell us a little more about how you will take note of that? In light of the report that is being published today, what actions will be taken in Northern Ireland to ensure a co-ordinated approach right across the United Kingdom?

Mr Ford: I thank my colleague, especially for his references to the way the House is treating this sensitive matter. This will, clearly, cause significant difficulties as we look to address matters properly in the future. I am concerned to see that we get the system right for the people of Northern Ireland, but there will, clearly, be lessons from the recommendations of the ACPO report. We will be able to learn from what is being applied by police services across England and Wales, as well as seeing that the justice system acts in a joined-up way, involving the State Pathologist alongside the police and the Department of Justice here.

The important thing will be to see that we keep up with best practice being implemented by other police forces while identifying the needs of local people. That is why my officials have already had discussions with a number of agencies, including the Human Tissue Authority, CJINI or others who may have a role. Indeed, the new HMIC responsible for the PSNI was in my office on Friday, and I had the opportunity to discuss the matter face to face with him. Aspects of the matter clearly relate to different regulatory authorities. The important thing will be to get a joined-up system so that nothing falls between the agencies but we do not have overlap. There will also be lessons to learn from the way matters are conducted across the water. I am determined to see that we get that system

joined up. At this stage, however, I have not gone further than preliminary enquiries with the various agencies to see how we will do that.

Mr Weir: I thank the Minister for his statement. Obviously, our thoughts are very much with the families directly affected by this, but, in his statement, the Minister also spoke of the families who were not directly affected by the findings but feared that they may have been. Will the Minister confirm that the helpline will be able to give information to families to indicate that their relative is not one of those affected and, therefore, give them some peace of mind?

Mr Ford: I thank Mr Weir for that important point. I am not sure whether those directly answering the helpline will be able to give individuals information on whether they are or are not affected. That is the responsibility of the Police Service or the Police Ombudsman's office. As I said in my statement, 51 families in Northern Ireland have been identified and spoken to by the Police Service and three by the ombudsman's office.

The important thing will be that those manning the helpline see what other services may be necessary and appropriate, whether it be specific information from the State Pathologist, merely emotional support from Victim Support or a range of other options that will be available. The key thing is that the helpline will be the signposting point. We will be able to see the needs of families and how we seek to address them when we do the review in two weeks.

Mr G Kelly: Go raibh maith agat a Cheann Comhairle agus gabhaim buíochas leis an Aire as a ráiteas go dtí seo. I thank the Minister for his statement. Along with other Members, I am pleased that it is a victim-based response that we are getting.

Safeguards were mentioned. The important question for everybody now is what the safeguards are, so that this will not happen again. Will the Minister go into some detail about that? Specifically, is he contemplating legislative change? In his statement, he said:

"However, the Human Tissue Act put in place strict requirements for dealing with that tissue after the coroner's investigation has concluded. Those requirements, however, do not extend to samples retained under the powers in the Police and Criminal Evidence (NI) Order on behalf of the PSNI."

12.30 pm

Mr Speaker: I encourage the Member to finish.

Mr G Kelly: I was putting the question in context, Mr Speaker.

Is there a possibility of bringing in legislation in which that can be covered? I know that the PSNI has said that it is going to do it in the spirit, but so that families will definitely be told if that —

Mr Speaker: Time.

Mr G Kelly: That is the question.

Mr Ford: I will try to take the questions amongst that. I appreciate the welcome that Mr Kelly has given to the comments. We are talking about the failings of the system more than six years ago. Since the new legislation came in in 2006, the police have been guided by the legislation as it applies to the health side of things as a manner of best practice, and there have been no concerns raised as to how that is done. At the moment, therefore, I do not see that there is any necessity to change the legislation. If it is guiding police practice and, apparently, problems are not arising from that, it seems that there is little need to move in that direction. At that stage, there were reasons why the legislation applied to the health system, rather than the justice system only. The important thing is to learn lessons and to see whether anything emerges from the operation of the helpline over the next two weeks and whether that may be necessary. However, at the moment, I doubt it.

Mr Wells: As the Minister is aware, the then Minister of Health and the state pathologist apologised for the retention of human tissue in 2002. Surely, at that point, the Department of Justice, under direct rule, as it was then, should have thought, “Hold on here, maybe we are also retaining human tissue without informing the relatives.” First, it is inexcusable, surely, if that question was not asked. Secondly, does that not make it even more imperative to have a public inquiry into the issue?

Mr Ford: There is absolutely no doubt that Mr Wells makes a valid point as to what happened six years ago, but I am afraid that I have a very great difficulty in answering for what happened. In the context of what went wrong previously and whether there is appropriate information that would make an inquiry worthwhile, I have doubts about whether there is any value in having an inquiry into the failings of the system

under direct rule in the period that led up to six years ago and which actually also covered a period of devolution prior to 1972. So we need to be cautious in assuming that an inquiry will do anything to meet the needs of families or to relieve their grief and distress. I am open to seeing whether that is appropriate, on the basis of what we discover over the next two weeks, but, at the moment, I am not persuaded that that is appropriate.

Mr Hussey: I too express my sympathy to the families concerned, and I express an interest as a member of the Policing Board. The Minister said that:

“Steps are being taken to inform the next of kin in 10 cases where they are resident outside Northern Ireland and to identify the next of kin in a very small number of outstanding cases.”

How quickly can we expect the families of those 10 that are outside Northern Ireland to be informed?

Mr Ford: Mr Hussey's question is entirely reasonable. My understanding is that the majority of those 10 are elsewhere within the United Kingdom. One could assume, therefore, that, in co-operation with local police services, it will not be very long until they are informed. However, I believe that a minority of them are beyond the United Kingdom, and it is very difficult to give any timescale for them.

Ms J McCann: Go raibh maith agat, a Cheann Comhairle. I thank the Minister for his statement. Given the sensitivity of the issue, I do not want to go into it in any great detail. The Minister mentioned the distress and devastation that the families who are affected by this are feeling. He did not mention this in his statement, but is he prepared to put a support package around those families? I believe that they will need support in the weeks and months to come.

Mr Ford: Yes, and that is an entirely reasonable point about the support the families may need. I think I did say in the statement that the family liaison officers would remain there for the weeks ahead. Obviously, in the cases of some families, that will be a very short time; others may need support for longer. The operation of the helpline, involving victim support, will involve those who are particularly qualified and experienced in dealing with those who have suffered trauma as a result of crime. I do believe that a support package is there, being provided by different

agencies, but the point of having the review in two weeks' time is to ensure that that is being adequately addressed.

Mr McGlone: Go raibh maith agat a Cheann Comhairle agus mo bhuíochas leis an Aire chomh maith as na freagraí go nuige seo. I thank the Minister for the way that he has dealt with this extremely sensitive issue. Our thoughts and prayers are with the families as they try to come to terms with this very difficult matter.

I want to pick up on Ms McCann's point: will the Minister outline what support and resources his Department has set aside for working collaboratively with other Departments on issues such as counselling, where required, or practical measures such as burial costs?

Mr Ford: We all echo Mr McGlone's comments about the families concerned being in the thoughts and prayers of us all. It is fair to say that, at this point, the Department has not seen the need to set aside any specific resources to deal with the matter. In the future, we may have to address the additional work to be done by, for example, Victim Support, but I have no doubt that any resources required will be found within the Department's existing budget line. I do not think that they will be particularly large, but that will depend on how many people need support and the depth of support required.

Mr Craig: I declare an interest as a member of the Policing Board. I thank the Minister for his statement and, especially, for providing information on the helpline, because I also declare an interest as one of the families who needed reassurance.

A number of things are puzzling to say the least. The matter has been known about since 2010, which leads me to ask why you and others were not aware of it. Also, the same state pathologist who looked into the issue from a health —

Mr Speaker: Will the Member come to his question?

Mr Craig: — perspective in 2002 did not feel it appropriate to look into the policing issues as well. Will the Minister accept that an inquiry into all the relevant issues is needed?

Mr Ford: The way that Mr Craig raised the issue shows how sensitive the issue is for all in the House. His comments were similar to those that Mr McDevitt made about awareness across the criminal justice system, specifically

the board and Department, at an early stage. Those are issues, but I am not sure whether they are necessarily issues for today, when our focus should be on meeting the needs of the bereaved. The way in which the state pathologist related health and justice matters is clearly an issue of some concern. However, if I were convening an inquiry, I would want to do so on the basis of it being one that established something beneficial to those currently distressed, not one that merely raked up cases that might add to their distress without making any substantive difference to the outcomes.

Mr Lynch: Go raibh maith agat a Cheann Comhairle agus buíochas leis an Aire as an ráiteas sin inniu. In response to my colleague Gerry Kelly, you said that there was no need for legislation, but the Human Tissue Act came into force in 2006, and the issue has not been dealt with until now.

Mr Ford: I thank Mr Lynch for continuing that point, but, as I see it, we have not had problems since the legislation was introduced in 2006. The way in which the inquiry into historical practice was conducted over the past three years is a different issue from that of whether the legislation is adequate. The impression that I have been given is that the police are adhering to best practice as it applies legislatively to the health side. Therefore, at this stage, there is no reason to believe that we need to change the legislation. However, the clear issue is that we ensure that we learn lessons from the inquiry and from the way in which families respond.

Mr S Anderson: I, too, thank the Minister for his statement and express my sympathy to all the affected families at what must be a very difficult and stressful time. The Minister touched on the 2006 legislation, but is he satisfied that the legal and administrative arrangements in place since then are adequate to ensure that such a dreadful situation will never happen again?

Mr Ford: I appreciate Mr Anderson's comments. It would be a foolish Minister who stood in this House and said that nothing would ever go wrong in the future. All I can say is that the evidence shows that the system now works in a joined-up way and that it addresses, in a sensitive way, the concerns that individuals raised in the House today. That ensures that the police are adhering to best practice, and, as I just said, as that best practice applies legislatively on the health side. However, it

would be foolish to say that nothing could ever go wrong in the future.

Mr I McCrea: I thank the Minister for his statement. I join with other Members in expressing my heartfelt sympathy to those families who have endured this news over the past week. Indeed, my prayers go out to them.

Does the Minister agree that the person or persons who are responsible for leaking this information prior to it becoming public did nothing to help the families accept what they were going to be told and that they left a lot of people uncertain about whether they would receive a call? Does he agree that that person or persons should hang their head in shame?

Mr Ford: Just to take the last phrase, I am not sure whether those who engage in leaks such as this would understand the concept of shame. I agree, and I thought that I made this fairly clear in my statement, that there is no doubt that the distress of families, including those who are not in any way involved in this, has been increased because they felt that they might be involved. It is noticeable that this leaked in Northern Ireland and not in any part of England or Wales, but, had the plan to allow the police and the ombudsman's office to make that contact gone through before there was any public announcement, individuals who heard about it today in the way that it had been planned would not have been distressed, because they would have already had the news that they either were or were not involved. Therefore, I agree entirely with the sentiment of what Mr McCrea said, although I doubt whether some people have any shame about such matters.

Lord Morrow: The Minister said that some cases go back to 1960. Many of us were at school then. The Minister said that:

"The report makes a number of recommendations to ensure that best practice is followed in future."

Is that falling short of saying that this will not happen again? If the legislation is not adequate, will the Minister assure us that he will seek additional legislation to ensure that it is fit for purpose?

Mr Ford: Certainly, as Lord Morrow highlights, we are talking about something that went on a considerable time ago. As I said to Mr Anderson, I do not think that I can ever guarantee that problems will not occur in the future. However, I

believe that we have had a system in place for the past six years that has shown that things can be done right. I echo the point that I made to Mr Kelly and Mr Lynch when I said that, if there are issues of legislation, the Department will certainly consider them. To me, it appears that the police are adhering to the best practice of the legislation, and, therefore, there is no requirement to change it. However, if it appears that there is a requirement to change the legislation, I will certainly be prepared to promote that to the House.

Mr Allister: The Minister told the House that, over the years, there were a number of occasions when human tissue was not only taken without the family's consent or knowledge but was disposed of without consent or knowledge. Patently, that is in addition to the 71 cases of significant body parts that have been retained. Will the Minister tell the House how many of those cases involved the disposal of significant body parts and whether those families will now be informed of the taking and disposal of those parts?

12.45 pm

Mr Ford: Mr Allister has taken this to a slightly different point. As I said earlier, issues were addressed in the work done for the O'Hara report, and the helpline that operated between, I believe, 2003 and 2005 sought to address families' concerns after the information that the Member outlined came to light.

There were issues related to health and justice pre-devolution, after the devolution of health powers and before the devolution of justice powers, so I cannot give him any figures. However, I can say that individuals were contacted; there was an awareness campaign; meetings were held; and individuals got the opportunity to express their concerns. As I said a few moments ago, 340 families who had concerns about the retention and disposal of body tissue as part of the justice system had the opportunity to have those concerns addressed at that stage. If any of those families or others who feel that they might have been affected contact the helpline now, they will certainly be given whatever assistance can be provided.

Mr D McIlveen: I also thank the Minister for his statement. Of the 3,594 victims of the Troubles, only 64 families are affected by the announcement. What record-keeping is in place to give the families concerned some closure on

why particular pieces of tissue were taken and others were not?

Mr Ford: I thank Mr McIlveen for his point. I just want to correct his numbers slightly: between the police and the ombudsman's office, we are talking about 68 individuals — 64 plus 4. Not all were victims of the Troubles; over a lengthy period, in the region of 4,000 people were victims of a violent death. However, as he correctly highlighted, the great majority were victims of the Troubles.

The answer to his substantive point is that concerns were addressed in a number of cases when people had the opportunity to enquire previously. Individuals have the opportunity to contact the helpline now to ascertain what is happening with their particular concern. I believe that that sort of issue is better addressed by individual families, who can follow up on their concerns through the helpline and the relevant agencies, rather than seeking to do anything in a global statistical way.

Assembly Business

Committee Membership

Mr Speaker: The first item on the Order Paper is a motion on Committee membership. As with similar motions, it will be treated as a business motion, and, therefore, there will be no debate.

Resolved:

That Mr Thomas Buchanan replace Mr Jimmy Spratt as a member of the Committee for the Office of the First Minister and deputy First Minister; and that Mr Robin Newton replace Mr Paul Givan as a member of the Committee for Enterprise, Trade and Investment. — [Lord Morrow.]

Private Members' Business

Incapacity Benefit: Reassessments

Mr 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 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 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 Brady: I beg to move

That this Assembly expresses concern that the reassessment process for people who are moving from incapacity benefit to employment and support allowance is resulting in many people being unfairly deemed "fit for work" and losing their benefit; and calls on the Minister for Social Development to review urgently the reassessment process to avoid both the undue distress it is causing and the additional burden it is placing on the public purse by triggering so many appeals.

Go raibh maith agat, a Cheann Comhairle. I think that the motion is one that Members can support because it affects and will continue to affect all constituencies. Under welfare reform, 76,000 people here will migrate from incapacity benefit to employment and support allowance (ESA). The exercise will take approximately three years to complete, having started in February 2011 and running, if on time, to March 2014.

The North has a higher proportion of claimants on incapacity benefit than England or the other devolved Administrations: 8.6% of our working-age population receive incapacity benefit compared with 5.2% in Britain. Therefore, the migration of claimants to employment and support allowance, in particular, will have a greater impact.

The work capability assessment was introduced in October 2008 to assess entitlement to ESA, which has replaced incapacity benefit, and income support on incapacity grounds, for new claimants from 27 October 2008. The assessment is being used to determine limited capability for work and limited capability for work-related activity. In the transition from incapacity benefit to ESA, it is intended that the award of ESA will become the main route

to disability-related support within universal credit, so access to employment and support allowance will be determined by the work capability assessment.

There is a high level of ill health and disability within disadvantaged communities. There is obviously an association between poverty and ill health and disability. Approximately one third of disabled people currently live in poverty. There is evidence to show that incapacity benefit and disability living allowance (DLA) have had a significant impact on reducing poverty. There is no doubt that impending changes will reverse that trend and increase poverty among the sick and disabled. Many people are currently entitled to incapacity benefit and DLA. The implementation of changes such as the work capability assessment currently deals with incapacity benefit, but a similar process will be introduced for DLA.

According to Advice NI, approximately 60% of incapacity benefit claimants are aged 50 or over. Some 9,000 live in Belfast and 4,000 in Derry, with the third largest concentration in Craigavon. Almost 50% suffer from mental and behavioural disorders such as drug and alcohol addiction. The Law Centre has also been concerned about the limited understanding of mental health problems in the assessment process and the limited weight given to supplementary evidence such as GPs' and carers' testimonies. It also states that 46.6% of individuals in receipt of incapacity benefit here have mental or behavioural disorders. It states that mental health issues need to be more specifically focused on in addressing the migration process.

Figures from the Department for Social Development (DSD) indicate that, to date, 9,000 claimants have been reassessed, of which 24% were declared fit for work and lost their entitlement, 46% were deemed fit for work with support, and 30% were assessed as unfit to work and gained unconditional ESA entitlement. Advice NI estimates that more than 20,000 will have their entitlement downgraded to the support category, and that group will be subject to a loss of benefit sanctions in line with jobseeker's allowance.

I will now deal with some of the specifics of the work capability assessment. It is carried out by Atos, which is a data processing company contracted here by the Minister's predecessor

to carry out reassessments in relation to incapacity benefit. Atos is paid by results, the result being the number of people processed rather than the accuracy of the reassessment. The work capability assessment is a tick-box exercise that relies on standard interrogation techniques to identify inconsistencies in a claimant's account, which could result in no points being awarded — it is a points-based process. The claimant is not privy to the point-scoring during interview and has no opportunity to challenge any judgements by the Atos operative, which are often highly subjective judgements at the time.

I have spoken to some claimants who have had some ridiculous decisions given to them, and I will give some examples. Mental health was assessed by asking general knowledge questions, such as who is the British Prime Minister; and people have been asked to count backwards from 400 to 350. Someone not actively rocking in their chair is taken as an indication that they do not have a mental illness. That is one of the recommended criteria for Atos operatives to use as an evaluation. Declaring someone fit for work on the basis that they had been discharged from hospital, despite the fact that they had been discharged because they were too ill to undergo further treatment.

Medical evidence as well as the work capability assessment can be submitted to the decision-maker, a member of the Social Security Agency, but, currently, the work capability assessment has primacy in the decision-making process. The administrative downgrading of medical evidence in the primary process is why so many decisions are overturned on appeal. I know that an amendment has been tabled in relation to the provision of medical evidence. In my experience over many years of dealing with cases of incapacity, etc, and, indeed, appeals, good medical evidence is always a prerequisite and, if it is available, it will certainly help in the process. Indeed, in two of the examples I have given, where claimants received no points, they easily won their appeals and were awarded points well in excess of those required to win their appeal.

Recently, the chief executive of Mind, Paul Farmer, resigned from the British Government's advisory group tasked with scrutinising the work capability assessment. He resigned in frustration at the Government's refusal to

listen to the growing chorus of alarm over the reliability of the test.

Disability charity Scope backed MIND's decision, saying that the huge number of successful appeals was a damning indictment of the test.

A CAB study into the accuracy of the test found that people with serious illnesses and disabilities, who could not reasonably be expected to seek work, have been found fit for work. It reported that 60% of successful appeals involved claimants who had originally been awarded no points by the work capability assessment (WCA). The work capability assessment has been fundamental, not marginal, yet despite evidence of the scale of WCA inaccuracies, the British Employment Minister, Chris Grayling, claimed the process required only tweaks.

I urge the Minister to take into account the following suggestions: the immediate review of the work capability assessment to ensure that the assessment process is fit for purpose; DSD could assume responsibility either for getting medical evidence on behalf of the claimant or for meeting the cost of medical reports to be assessed by the Social Security Agency's decision-maker in relation to the awarding of employment and support allowance; GPs, consultants and other health professionals could consider waiving fees for providing medical evidence in support of ESA claims by their patients; the current Atos Healthcare payment-by-results regime should include a penalty for any inaccuracies or errors in its assessment if a case is overturned on appeal, or, where this may not be deliverable in relation to the current contract, it could be inserted into any subsequent or renewal contract.

In Britain, Atos Healthcare has netted over £1 billion to date and is running at a cost to the Department for Work and Pensions of £100 million a year. More and more appeals are being lodged because of the flaws in the work capability assessment. In 2011, an estimated £50 million of taxpayers' money was poured into appeals against Atos Healthcare rulings. Four of every 10 appeals were successful. Professor Malcolm Harrington, who reviewed the work capability assessment, stated that he was "shocked" and "staggered" by the tremendous waste of public money tied up in the appeals process.

I ask the Minister to take on board what has been said and to hold to what he said at an information session in the Long Gallery on 19 September 2011:

"My Department will continue to review WCA and to make changes where necessary to ensure that our high standards of support continue."

He also said:

"We can however give an assurance that at the Department for Social Development we will continue to place the customer at the forefront of our priorities as we move forward".

Mr Copeland: I beg to move the following amendment: After "allowance", insert

", with no cognisance being taken of their medical records,".

I thank Members for tabling what I consider to be an important motion and ask that they consider accepting our amendment, which highlights the role that medical evidence should play in arriving at these decisions. This may seem rather strange to some, but I also ask the Minister to accept comments from many of my constituents who have gone through the process that, in general, his staff in the Department for Social Development display a good deal of human kindness in guiding people through it.

If there is a failing in the process, it is in the so-called test itself, which involves, in a new form, the "big doctor". I must confess that I was totally remote from the "big doctor" for the first 40 years of my life, but I know that, depending on community background, he rates very highly after the banshee and the bogeyman on a list to be avoided at all costs. The truth is that many of our people are being put through a process that tells them that they and their doctors are wrong. After pushing a number of questions or carrying out a number of tests, they are told that they are fit for work.

Ulstermen and Ulsterwomen, regardless of their background, are not silly. They know that 62,500 people are unemployed, and according to the statistics that I have, there are 5,417 vacancies. So being moved from a classification of being unfit for work through illness to the classification of being fit for work when there is none causes certain difficulties.

The test, as I understand it, is carried out by a private company, as has been said. And this private company has, in my view, come up with

a few things that are very hard even for me to accept. One of them, in several cases in my constituency, defies Einstein's theory of relativity and the space-time continuum. It lists or states an interview that, let us say, began at 9.00 am and was concluded at 9.25 am, lasting 25 minutes, but further on in that magnificent piece of paper, it indicates a number of events that took place during that 25-minute meeting. Even I, with my basic grasp of mathematics, have, on occasions, come up with 33 or 34 minutes' worth of events in a meeting that lasted 25 minutes. In any court of law — or physics — such a thing is impossible. The fact that someone is paid to come up with that nonsense to go through an appeals service is an affront to every single person in the Chamber.

1.00 pm

I have also seen documents produced wherein a man is described as a woman and a woman as a man. It is foolishness. There is something basically wrong with a test that indicates that so many people on appeal are successful on grounds of medical evidence when medical evidence has not been considered during the process. As I understand it, medical opinion is sought: a medical opinion from a GP. The GP, I am told, receives no financial remuneration for filling in the form and, consequently, some forms are filled in and some are not. So we have a process where someone is referred to as a "healthcare professional". Those Members who sit on the Social Development Committee will remember a bit of squirming on behalf of a senior departmental official when I asked him what constituted the medical qualifications of a medical healthcare professional.

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

The outworkings, in human terms, of some of those decisions are heartbreaking. I know that the Minister is, in many ways, a victim, in that he has had legislation handed down to him. However, we may need to examine ways in which we can attune this particular piece of legislation, if possible, to suit our own particular circumstances.

We have come through 40 years of murder and mayhem. The people affected by that, in many cases, will have sustained injuries during that time. Many of them, in my constituency and perhaps elsewhere as well, are former members of the security services who have been through

horrific and horrible events that, for ever and a day, have changed their lives from the point of occurrence. They find themselves being questioned about their injuries, many of which are invisible in terms of physical disfigurement but are nevertheless very real and present. Some of the cases are so distressing that it is not the first occasion on which I have been at an appeal where the chairman of the panel, or someone with medical experience on the panel, has suspended proceedings because of the effect that it is having on the constituent.

I will cite two out of many examples. A lady from the Lagan Village, whose stated condition was agoraphobia, had not been out of the house for four and a half or five years. It was not a dreamed-up condition; someone had to do her shopping. She was disallowed the benefit for not turning up at the assessment. Only intervention by me — when I learned of it, funnily enough, through Facebook — brought action. I must say that the departmental officials and those involved behaved very appropriately and rectified the situation as soon as was humanly possible. However, it would have been so much less onerous on my constituent had it not occurred in the first place.

The second example is even more distressing. It was a case assessed on the personal capability for work assessment test. Benefit was disallowed but subsequently reinstated when the mental health issues became apparent. The claimant was a female, one of four children abandoned by their mother when the claimant was less than six months old. The police gained entry to the property because neighbours had been alerted to the crying of a baby, which was her. She was entrusted into the care of a member of the family, as was common some years ago, and did not enjoy satisfactory treatment.

She was put up for adoption at seven years of age and returned as unmanageable at 13. She was entrusted to another family member and endured an existence in the attic of a house in Belfast that would test anyone's view of human relationships. She is the mother of two children, both of whom have been taken into care because of her inability to cope. She cut herself; she abused alcohol, drugs and tablets; and then she became the mother of another child. Her life changed. She has, in so far as she is capable, dedicated herself to trying, in very trying circumstances, to provide for that child as best she can. The state's answer was to tell her,

after all that, that there was nothing really wrong with her and that she should be ready to return to work. It almost tipped her over the edge. The appeal part of the process was abandoned halfway through when it became evident that to continue would have constituted nothing other than mental cruelty.

There is nobody in the Chamber who does not recognise the need for reform of the welfare system, and there is nobody in the Chamber who is not aware that one person's benefits are another person's taxes. The truth is that the system that we apply must be applied fairly and justly. I do not believe, through no fault of the Minister, that that is the current case. We must tell people to bring appropriate medical evidence where they can get it. Medical evidence should be inculcated into the system if at all possible. The truth of it all is that, if we in the Chamber cannot talk about what we believe to be unfair on behalf of our constituents, we are failing. It is our duty to rail against unfairness where we see it. It is the Minister's duty to do what he can on behalf of all of us, within what is very narrow ground, to protect the most vulnerable people in this society. I ask for the support of you all for the motion as amended.

Ms P Bradley: I thank the proposer of the motion for his very in-depth analysis. Like many other Members in the Chamber, I am inundated with calls from constituents on the subject.

In many cases, people are ill through no fault of their own. They do not ask to be ill, and the evidence often suggests that people end up claiming illness benefits as a last resort, when every other avenue is not appropriate. It is right and just that our illness benefits should evolve from a system that compartmentalises those who are not in full health as being permanently excluded from our workforce and writes them off. I am sure that everyone in the Chamber agrees that that needs to be looked at. Illness and disability does not affect everyone in the same manner. The activities that can be done can vary from person to person. The reassessment and the more flexible outcomes and support reflect that nature while still protecting those who are too ill to be in employment.

This is a new avenue for us. Following the lead from the UK, we are attempting to ensure that we have in place the most fair and robust process, and least stressful, to ensure that

evaluations are done in a way that reduces stress to those who are undergoing re-evaluation. We are attempting to ensure that that is done in a way that instils confidence in everyone involved and in a timely manner.

It is right that we continue to evaluate periodically the system that we have in place to ensure that those ideals are put in place. The current system has been in operation for some time. As of the end of February this year, 9,328 people had completed reassessment. Of those, 7,126 were moved on to one of the two ESA groups, while a small proportion — 30% — had their award disallowed, with only 237 not receiving any other form of assistance. That is less than 4% of the total number of people who were reassessed. Some 246 appeals have been heard by the independent tribunal, with only 97 — 39% — being successful.

The remaining 150 decisions were upheld. That means that, according to the independent tribunal, 60% of the decisions were correct. We must strive to ensure that we continue to work to reduce the amount of decisions that are made incorrectly. Sadly, for a variety of reasons, it will not be possible to ensure that 100% of decisions are correct, but I believe that, through periodic re-examination of the system and debate in this Chamber, we can ensure that we are promoting and encouraging best practice and accountability to some of the most vulnerable in our society.

We must work to ensure that the message that is given about the changes is the correct message. The process is not about forcing the ill to work and is not simply a number-reducing exercise; it is about empowering people to be active in our workforce and our communities to the best of their ability. It is about identifying the often multiple barriers that people face when they have health issues so that they can have the same opportunities and ambitions as people who do not have those health issues. It is also about ensuring that people with health issues are not forced to live in poverty but have the opportunity and support to be financially independent.

As mentioned in the amendment, I agree that medical evidence is paramount when decisions are being made. I know that, in many of the appeals that have been overturned, that decision has been due to the extra medical evidence. Studies show us time and again that

employment has many beneficial qualities, including raising self-esteem, reducing social isolation and helping people to recover from illness.

Mr Durkan: Go raibh maith agat, a Phríomh-LeasCheann Comhairle. I support the motion and Mr Copeland's amendment.

There are many problems with the current work capability assessment. Indeed, those problems have, on previous occasions, been aired in the Chamber, in the Committee for Social Development and in the media. However, we do not need to listen to some of the heartbreaking accounts on 'The Nolan Show' or elsewhere to know the hardship and stress that this flawed process is causing for vulnerable people in our communities. We see it every week in our constituency offices, and Members who spoke previously gave specific, real-life examples of how it is affecting people on the ground. People with complex and serious debilitating conditions are being told that they are capable of work. Not only do those often erroneous decisions cause financial hardship but the stress and anxiety that they cause often compounds people's conditions, particularly for those with mental illness.

The fact that the process is failing here should come as no great surprise to anyone. The Harrington review of the work capability assessment in the UK was quite damning in its identification of what could and should be done to make the process fairer and more effective. Professor Harrington flagged up problems such as the impersonal nature of interactions with Atos, the difficulties in assessing some conditions, and the fragmentation and communication between the different agencies and organisations that are involved.

The impact of the process in Northern Ireland, which has a higher proportion of claimants on incapacity benefit than the other regions, was always going to be harsh. While it was failing in the UK, it is failing here. Like many other aspects of the welfare reform agenda, we believe that a special case can and should be made for Northern Ireland. Here, 8.6% of the working-age population gets incapacity, compared with 5.2% in England. Figures suggest that up to 17,500 claimants here will join the unemployment register over the next three years simply through the migration to ESA, and others with partners in work, or those who have been prudent enough to save, may drop out of the system altogether. Even those who are rightly

deemed capable of work will hardly be capable of finding it, given the dearth of jobs here. So, what chance is there for those who are incapacitated?

As Mr Brady said, the current Atos assessment displays an extremely limited understanding of mental health problems, and it does not give enough weight to supplementary evidence from GPs or carers. Almost 46.6% of individuals who are in receipt of incapacity benefit here have mental or behavioural disorders, and there is clearly a need to focus more particularly on mental health issues and to address them in the migration process.

1.15 pm

The same could be said of those who suffer from conditions with fluctuating degrees of severity, such as MS and Parkinson's disease, which are proving to be extremely difficult to assess. Atos Healthcare's ineptitude is plainly evident in the spiralling number of appeals and the rising success rate of appellants, which, anecdotally, according to those who work in advice services in our communities, is rising to around 50%. The high rate of appeals, and the long wait for them, comes at a significant financial and reputational cost to the Department. It also causes further anxiety and expense for claimants.

We are greatly concerned at the perceived lack of accountability of the healthcare professionals who carry out assessments. The reason why so many decisions are being overturned at appeal is often because of the presentation of medical notes at that stage. This is a ridiculous situation, especially where claimants often have to pay £50 to get those notes, sometimes from a GP who is actually sitting on the tribunal.

I have said previously in the Chamber that the SDLP supports a fairer benefits system. We are not naive enough to think that there are not people who abuse the system, but neither are we cynical enough to support a system that will abuse people. Recently, Scottish GPs voted that the Atos assessment was unsatisfactory, and GPs to whom I have spoken here share the view that it causes undue problems for vulnerable people.

Mr Principal Deputy Speaker: Bring your remarks to a close.

Mr Durkan: We support the motion and the amendment, and conclude that the current reassessment process is not fit to work.

Mrs Cochrane: I, too, welcome the opportunity to speak on the motion and the amendment. I have also seen first-hand the stress and uncertainty brought on by the reassessment process for ESA. I believe that the idea behind ESA is positive, in that those who can work should work, provided that appropriate jobs are available. Personal support should be given to those who are unable to carry out certain tasks or who require assistance with retraining in a different field after recovering from an illness. The benefits of getting people back to work after an illness or a disability are clear, not only for their health and well-being, but economically. However, the underlying principle of the process must be to help and not to hound people.

Other Members have referred to the work of Professor Malcolm Harrington. His initial conclusions on the work capability assessment were that the process was too mechanistic and that there was not enough of the human touch: people did not know what was happening to them, and no one was telling them. Yet, this is the same system that is determining whether a claimant is fit for work.

Prior to February 2011, 66% of claims for ESA had been disallowed, with the success rate of appeals standing at 40%. This was disturbingly high, as it appeared that significant numbers of people were being found to be fit for work when they were, in fact, not. The available information suggested that the standard of decision-making by the staff of the Social Security Agency was satisfactory and that the problems with ESA were a result of the new computerised test.

Because of this process, vulnerable people have had essential payments cut and there have been numerous cases of individuals with debilitating medical conditions, such as Parkinson's disease, MS, rheumatoid arthritis or mental health issues, being wrongly deemed fit to work. People with medical conditions such as those have good days and bad days, and assessing them over the phone on a good day creates a wholly inaccurate picture of their illness or disability. With such a generic and impersonal test, it is unsurprising how many claims have been successful at appeal. Realistically, it is the first opportunity that a claimant has to have their individual

circumstances and medical history looked at and discussed in detail on a face-to-face basis.

Although some adjustments have been made to the work capability assessment, considerable criticism continues from those in the advice and voluntary sector, as 27% of those who have migrated from incapacity benefit to ESA have been disallowed altogether. There is a widespread view that access to the support group is also extremely limited. With no input from a claimant's GP or health worker, and limited knowledge of the claimant's medical history, we cannot realistically expect a tick-box exercise carried out over the phone to adequately assess whether an individual is or is not fit to work.

A one-size-fits-all approach does not work, and we must focus our efforts on fixing a flawed assessment process. The benefits system should be reformed to make work pay and to encourage those who are, in fact, fit for work into paid work. However, with so many decisions in the current assessment process being challenged, significant finances are being directed into the appeals process.

As Mark Durkan said, Scottish GPs called for an end to work capability assessments at their annual British Medical Association conference in March. They commented that the computer-based assessments are inadequate and give little regard to the nature or complexity of the needs of long-term sick and disabled persons. We, too, need to consider a better assessment process to ensure that the most vulnerable are given the support that they need. I support the motion and call on the Minister to review the process urgently.

Mr Easton: The welfare system that we have today was born of our society's concern about how it treats its poorest and most vulnerable. It was seen that the state should protect the most vulnerable when they need it the most. One of the things that make people most vulnerable is poor health that leaves them unable to work.

Welfare reform, which requires people to move from incapacity, DLA or income support on the grounds of incapacity, is a reform that we have to ensure that we get right. The current process, which is the work capability assessment, has three main outcomes for those on long-term illness benefits. It is another reform that has been imposed on us through the issue of parity with the rest of the UK. However, we must be

sensitive to the fact that, as a region in the UK, Northern Ireland is unique as regards these types of benefits. A higher percentage of the population in Northern Ireland is on incapacity benefits than in any other region in the UK. A great number of recipients suffer from severe mental health issues, having come through the conflict that we experienced over 30 years. The capability assessment process seems to be failing some of them. The process has left those with mental health issues, particularly the most vulnerable, many of whom are long-term claimants with multiple barriers to employment, feeling let down.

Some 75% of 300 respondents to a survey on the Mind website stated that the WCA had made their mental health worse, and 51% admitted that they had had suicidal thoughts as a result of worry about the WCA. Suicide is still much stigmatised in our community, and it is an issue that is often hidden. That statistic and honesty gives me real concern that many more people are feeling similarly and that some might act on these thoughts purely as a result of their reassessment and the possibility of an appeal process. A staggering 95% of respondents indicated that they were fearful that they would not be believed in this process. That is a worrying statistic, and the evidence appears to suggest that we are placing this very vulnerable group under more pressure than necessary. The process also appears to have a lack of empathy with and understanding of illness in the mental health arena.

Northern Ireland is also unique compared to the rest of the UK when it comes to employing people with disabilities, regardless of hidden or covert disabilities. That needs to be addressed. People who are forced off incapacity benefit must have a reasonable expectation that a job exists that they can be reasonably be expected to do.

We must address the prejudices that exist in our employment arena and that stop people who want to be productive members of our community from fulfilling their potential. In my experience, people do not want to be ill long term or to be written off. The premise of this reform is that no one will be written off. However, we must ensure that we empower individuals to come off this benefit when their health allows them. The rate of successful appeals suggests that we have not got the equation quite right. Feedback from those

suffering from mental health issues and other disabilities suggests that we have not got the equation right, and it is with that in mind that I support the motion.

Mr Principal Deputy Speaker: As this is first debate in which the Assembly will hear from Mr Chris Hazzard, I remind the House that it is the convention that a maiden speech is made without interruption.

Mr Hazzard: Go raibh maith agat, a Phríomh-LeasCheann Comhairle. I rise to speak on the motion brought before the Chamber by my party colleagues. It is no coincidence that I have chosen this topic for my maiden speech. The reassessment of those in receipt of incapacity benefit, while well under way in Britain, has only begun here in the North, but it is already having a serious detrimental impact on many of my constituents. To date, around 9,000 people here have had their claims reassessed. Within the next two years, 57,000 more people are scheduled to undertake a test, the design and implementation of which has already provoked a great deal of criticism. Citizens Advice is just one amongst a number of groups and experts that have described the current fit-for-work test as not fit for purpose. They have good reason.

Let me just take a moment to describe the test to Members. Many people understandably expect that a person deemed eligible for benefit on the basis of a medical assessment in the past would be reassessed on the basis of a medical re-examination, but that is not the case. The test, designed by a British occupational therapist and conducted by a private company, is not a medical reassessment but a capability test. The work capability assessment is not designed to determine how chronically ill a person is. It is not designed to determine whether their condition has worsened or improved. It only decides, regardless of your health and physical condition, whether you could carry out some sort of work. It applies to any kind of imagined work, not a specified job or a real job in the real labour market, but the projected possibility of a job. It does not assess your employability or match your capability with jobs that are available. It does not take account of the likelihood of any employer being prepared to accommodate your illness. The only decision that the test is designed to make is whether you can be ill and work at the same time.

At its most ridiculous, British Ministers argue that those with fluctuating conditions such as MS and bipolar disorder will be able to move in and out of work — three months at their desks, six months away on sick leave, six months back at their desks, three months on sick leave, and so on. Can you imagine any business knowingly employing many people on that basis and still being successful? The current British Government see themselves as pro-business and as market realists, but have you ever heard anything so absurd? Who will suffer the consequences of that absurdity? It certainly will not be the British Minister or the British Treasury, who are driving a cuts agenda that targets the poorest and most vulnerable in our society rather than facing up to the difficulties of taxing the rich and powerful.

I have no doubt that most Members are already dealing with the outworkings of this in their constituency offices. I am dealing with them in mine. Like other Members, I have heard the media talk of scroungers and accusations of people swinging the lead, but that is not the reality that we are being faced with in our constituencies. We are being met with the plight of seriously ill people who, on the basis of a poorly thought out test that was carried out by an outside international company with no interest in the impact on our communities, could lose benefits, sometimes all their benefits.

According to recent figures released by DSD, only 30% of those reassessed in the Six Counties retained their original entitlement. Just under half, or 46%, had their entitlement downgraded to fit for work with support, which carries obligations to prepare for work and undertake rehabilitation. Almost one quarter, or 24%, were declared fit for work and lost their entitlement. All those in receipt of employment and support allowance, with a few exceptions, are obliged to undertake a reassessment test every year. That means that the 46% who fall into the fit for work with support category are particularly vulnerable to losing their entitlement at a subsequent assessment.

The process is fundamentally flawed, and that is clearly evident if we consider the high numbers of successful appeals and the profile of those appeals. Of those who were refused benefit, 40% were successfully reinstated on appeal. When the claimant was accompanied by CAB, the success rate increased to around 60%. A high proportion of those who were successful

on appeal had been allocated no points during the work capability test. That in itself signals serious problems with the reassessment process.

Let me remind the House that although Atos is funded by the British Government, appeals are paid out of the block grant. Measures to increase the accuracy of the reassessments and to reduce the number of appeals are particularly significant to the Executive here. I also want to point out that many of those who have successfully appealed still face an annual Atos test.

In Britain, where the process is well under way, many have found that, a few months after a successful appeal, they are again declared fit for work by Atos, and that the whole appeal process has to start over again. That has resulted in a revolving system, where benefits are removed, reinstated, removed again, and so on. That is no way to treat sick and vulnerable members of our community.

Mr Principal Deputy Speaker: Draw your remarks to a close.

Mr Hazzard: All welfare systems are a balance between ensuring incentives to work and preventing the defenceless falling into abject penury. We must not allow the balance to tip the wrong way. I call on Members to support the motion.

Lord Morrow: There is a task here for the Minister to examine the criteria that are used to determine whether a person who was formerly in receipt of incapacity benefit and who is being reassessed for employment and support allowance is fit for work. We are aware that social security benefit is a non-devolved matter and that what we are discussing involves a directive from Westminster, and we should keep that in mind during the debate.

However, I want to stress that some people should be deemed fit for work, or at least some form of work. Some people are grateful for that.

1.30 pm

There is also a role for the Department for Employment and Learning, as the Disability Discrimination Act 1995 must be robustly enforced for a number of disabled people who are being moved to jobseeker's allowance. Likewise, employers must understand that they cannot simply make use of disabled persons for free in work placements. I have heard several examples of disabled persons working for free

for some considerable time, but they were invariably overlooked when paid posts became available. That is totally wrong. I am pursuing that matter with the Office of the First Minister and deputy First Minister; I have submitted a number of questions for written answer on that matter, and I look forward to receiving replies.

Numerous constituents who had been in receipt of incapacity benefit have come to my office in a distressed state after being reassessed as being fit for work. Fortunately, we have been able to assist with appeals, and, so far, all but one has been successful. Therefore, there is clearly something fundamentally wrong with the assessment process, whereby a person is examined by an assessor and deemed fit for work.

I want to detail a number of reports that have come through my office and were subsequently overturned. One report suggested that a claimant was not distressed, as they were not rocking back and forth in their chair. I find that to be an intolerable remark. Another report concluded that a claimant had no sight defect, despite being blind in one eye and awaiting a corneal transplant for the other eye and receiving treatment twice weekly in Belfast, for which he had to be driven all the way from County Tyrone. In another report, a claimant with significant learning difficulties was deemed to be fit for work, as they could operate complex devices like a dishwasher. To put it mildly, I find those remarks to be insulting.

Following the successful appeals achieved by my constituents, I submitted a question for written answer to the Minister to query the number of allowed appeals over the past three years. The reason why I chose the past three years was to cross over the period of the change in Government at Westminster and the sweeping reforms that followed. The Minister's response showed that between April 2009 and March 2010 there were 354 successful appeals, between April 2010 and March 2010 the figure had jumped to 1,410, but, startlingly, after the renaming of benefits and welfare reform, the figure between April 2011 and March 2012 was 2,065. When we break that down, that shows that the vast percentage of appeals was allowed in the past year.

It costs a serious amount of money to pay appeal panels, which, at a minimum, are made up of a legally qualified member and a medically qualified member. The emotional cost

to appellants is also significant and cannot be overlooked. I have real concerns about the benchmark that has been set to deem people as being fit for work and about those who are carrying out the examinations. To put it mildly, a lack of common sense is being applied.

Mr Swann: It was Benjamin Franklin who said:

“Justice will not be served until those who are unaffected are as outraged as those who are.”

The issue we are debating, especially in the context of our amendment, is social justice. The purpose of our amendment is to strengthen the motion, and I thank the Members who tabled it.

In the past, the Minister has said that the fact that 40% of cases are appealed successfully is a sign that the system works. Minister, I must say that my interpretation of those figures is somewhat different, and I feel that you are wrong. How can a system that heaps mental anguish on the weakest in society, and in which at least 40% of cases are unnecessary in the first place, be considered successful? I think that it was the Member for North Down who said that it shows that 60% of the decisions were correct. However, it also shows that 40% of the decisions were wrong in the first place.

From my constituency work, I know the impact that the process has had on people's health, especially on those with significant mental health issues. For the purposes of social justice, I want to focus on the outcome of the current tribunal appeals process. As I said, 40% of appeals are successful. However, behind that figure the outcome is significantly different for those who have independent representation — such as that from Citizens Advice, Advice NI or, indeed, from Members here and their staff — and those who try to represent themselves. Where someone is represented, they have a 70% to 80% chance of winning their appeal; where they are not represented, that figure drops to 20%. Even allowing for advice services taking forward the most winnable cases, the differential is still massive. The Minister, who is also responsible for advice provision, should also know that the advice agencies do not have the resources to meet the current demand. In a situation where the decision-maker relies on the examining medical practitioner's word — based on only a 30-minute or 40-minute interview — being sacrosanct, the individual is left at a serious disadvantage.

Our amendment would ensure that the decision-maker has access to the individual's extensive medical history and is able to take a balanced view, based on the comments of the professional about the 30-minute assessment, knowledge of the client and detailed, established notes taken over many years by another professional. Our purpose is clear: to reduce the number of wrong decisions being taken in the Atos assessment and, in doing so, reduce the mental anguish that is being caused unnecessarily to so many individuals.

When will we know the system works? We will know when every decision taken by the Minister's staff is the right decision, first time. Social justice demands it, and the Ulster Unionist Party asks for it.

Mr McGlone: Go raibh maith agat, a Phríomh-LeasCheann Comhairle. I thank those who tabled the motion. At the outset, let me state that the SDLP does not oppose the idea of simplifying the social security system. We do not oppose the principle of getting people back to work when or if they are able to. We do not oppose welfare reform. However, we do oppose unfair reform. The concern that is expressed in the motion is that many people are being unfairly deemed to be fit for work and are losing their benefit as a result. Colleagues have shared their constituency experiences, as we see the transition — smooth is the last thing that it could be called — from incapacity benefit to ESA. We see the outworkings of that change as people are being cut off.

That is happening as a result of the deliberate narrowing of the criteria under which claims are assessed. In other words, the definition of “fit for work” has been changed. The ongoing reassessment of an estimated 76,000 incapacity benefit recipients began on 28 February 2011. By 29 February this year, 9,328 individuals had completed reassessments. Of those, 2,202 had their incapacity benefit award disallowed following a work capability assessment. That represents 24% of those who were reassessed. To put this in perspective, let us look at the figures in Britain — in England, Scotland and Wales. According to a summary from the Department for Work and Pensions in March 2012, in the reassessment of incapacity benefit claimants for employment and support allowance, 37% of claims were disallowed. I grant that more people have been reassessed there over a slightly longer period. Whether

the figures here will rise as the process nears completion remains to be seen. There are then those who are awarded ESA but placed in the work-related category. Such claimants may receive the benefit for up to 12 months, after which their household income becomes a determining factor. That will have severe repercussions for a lot of people.

Beneath these figures lie harrowing examples of people who have been regularly assessed as unfit over a long time — I have dealt, as have colleagues, with cases going back 5, 10 or even 15 years — but, suddenly, the individuals concerned are told otherwise. They are being told that they are, after all, fit for work and that they had better find some quick. In Britain, a quarter of those who have been told for more than 15 years that they were not fit for work have, on reassessment of their claims, been told that they are fully fit for work. A further 40% of the same group are being told that they will be able to work at some point with help. If numbers here break down in similar percentages, there will be a huge impact on the welfare system. Long-term claimants tend to get sicker and may lose their sense of purpose. These people will need a great deal of help and support to rejoin the labour market, and that is if suitable jobs are available for them. That problem is magnified when they have been unfit for work for a considerable period of time and are nearing retirement age, as, in some cases, they are. The Minister will need to ensure that resources are made available to provide the necessary help and support to all of these people.

Inevitably, there are concerns about the training and qualifications of the assessors. I know that complaints have been made about the treatment of some people with disabilities during the reassessment of their claims. Assessors have, at times, shown little or no understanding of the disability being assessed. That the assessors are contracted to a private company and are unaccountable to the Department is another area of concern.

To date, more than half of the claimants who have been disallowed have appealed and are currently going through that process, which can be costly. As the motion indicates, this is a sign of the undue distress being caused to claimants and will take up more and more resources as the process continues. Regardless of the high-minded rhetoric used to justify the reassessment process, the perception is one

of a process designed to cut the costs of the welfare system, where Tories have paid to bail out the banks by targeting the most vulnerable. The people who are paying are those who most need our help. I support the motion and I call on the Minister for Social Development to urgently review the reassessment process.

Mr Agnew: I will not repeat much of what has been said already. In the debate, many of the main points have been raised on the figures of appeals and the concern that we should all have about the substantial number of people who are being deemed fit to work having been originally deemed unfit to work. I question what the agenda is. Perhaps it is to prevent unfair remuneration, through an incapacity benefit system and employment and support allowance, to people who are fit to work in order to protect those who cannot work and need support. It may be to save the public purse from money that is being spent on people who could potentially be earning themselves. However, one of the unintended consequences has clearly been an unfair system whereby people who are clearly unfit to work are having the genuineness of their claims questioned. In some cases, they have been denied benefits in the first instance, and, later, having shown their cases to have been right, that decision has been overturned. They go through significant and considerable stress and hardship. Indeed, the cost to the public purse of dealing with appeals cases is significant and considerable. We have to judge the quality of the system based on the original agenda. If it is to tackle unfairness and waste of public money, it is failing in a significant number of cases.

I welcome the amendment, and I speak in favour of the motion and the amendment. Not only is the reliability of claimant submissions being questioned, but, by excluding GPs from the initial process, we are, to some extent, questioning the ability and honesty of GPs in assessing the patients they have worked with, in many cases, over a number of years. This information is key. As has been pointed out, a short assessment cannot assess many of the disabilities and illnesses that it is required to judge. Not exclusively, but particularly with mental health, how can any kind of judgement in a very short space of time be made by someone who has never met the claimant, does not know the claimant and is not fully au fait with the claimant's condition, or, indeed, is an expert in how that condition may affect the person?

1.45 pm

In my previous role in the Simon Community, I worked with a number of individuals who had mental ill health. I saw those people on good days when they were able to use their skills to cope with daily living, but I also saw them on the days when they could not cope and needed support. A number of those people could be deemed to be fit for work under this assessment, but anybody who knows them intimately and has known them over a period of time would know that they could not be fit for work on a sustained basis.

We have to question the system, given the failure rate and that 40% of rejections are successfully appealed. However, it was mentioned that the statistic for that is actually 60% for those who have Citizens Advice accompaniment to their appeals. That suggests that we have to query a number of the assessments and try to get things right at the front end rather than waiting until the appeals process.

We have to be honest: no system will ever be perfect, and there will always be some margin for error. However, I contend that the system is fundamentally flawed.

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

Mr Agnew: In deeming genuinely incapacitated people to be fit for work, the system has shown itself not to be fit for purpose.

Mr McClarty: Like others, I am very concerned at the process for reassessing people who claim incapacity benefit.

Given previous contributions, it is clear that I am not alone when I say that I have been inundated by calls from anxious constituents who are fearful that their limited income will suddenly stop. The Minister will, of course, argue that the reassessment will not stop welfare support but that it will facilitate a more appropriate entitlement that will help people back into work. The sentiment is there, but the reality is not. Reassessment is stopping benefit for some people, namely those whose partners work, however limited that working income.

Furthermore, many of my constituents have been hit with a letter that rejects their claim for incapacity benefit and deems them to be fit for work. Yet, those same people genuinely struggle

with their ailments to the extent that getting through the day is a challenge. That leads me to question the process and the training of the professionals who are carrying out the assessments.

There are many issues here, many of which other Members raised. However, I will reiterate some of them to highlight to the Minister how serious the matter is and how deeply flawed the process is.

The process is too ambitious. In Northern Ireland, 76,000 claimants will be subject to the reassessment process over a three-year period. Approximately 500 claimants a week will be assessed. I repeat: 500 people a week. I can only begin to imagine the severe pressure that assessors are under to make quick decisions. That pressure will undoubtedly lead to mistakes. It has led to mistakes. The escalating number of successful appeals proves that. It is essential that we note that those mistakes are not minor: they are negatively life changing and contribute stress and anxiety to those who are already suffering from illness and certainly do not need that extra burden.

The ambitious figures are also resulting in delays, particularly as appeals are emerging thick and fast. That is just not acceptable. We should not expect people to sit and wait, wondering whether they can afford to feed themselves while the Department gets its act together. Again, we must consider that those most affected by all this are, foremost, struggling to deal with the cost of illness, financial and otherwise. I believe that, since the process began last year, the enormous challenge has proven to be severely underestimated.

The working capability assessments here are based on the UK standard and are not Northern Ireland specific. Northern Ireland needs to write its own rule book on illness and capability to work. We are a post-conflict society. A huge proportion of our population is suffering from the effects of that conflict. Of course, we have come a long way, but scars are still being borne. The prevalence of mental illness here, for example, is one of the highest in the UK. We need to understand mental health and other illnesses better before assuming that people are simply fit for work.

There is a much bigger picture. There will always be people who take advantage, and I agree that

we have a responsibility to address that. We must remember that we are living in very difficult times and people are, quite simply, desperate. It is not simply a case of benefit-scrounging; in a lot of cases, it is survival. Getting a job is not simple, particularly in Northern Ireland, where unemployment is at its highest. My constituency of East Londonderry is potentially facing over 400 further job losses if the Justice Minister gets his way. I am far from saying that incapacity benefit should address that shortfall, but I do not agree that this migration of benefits is to help people get back into work. There is no work for them.

Many serious issues were raised concerning work capability assessments. I am therefore led to believe that the reassessment process is deeply flawed, and I appeal to the Minister to immediately review it to avoid further fear and anxiety among the public and to limit the ridiculous cost to the public purse from appeals. Therefore, I support the motion and the amendment.

Mr McCausland (The Minister for Social Development): I thank all who contributed to the debate, and I welcome the opportunity to respond to the motion, which calls on me to review urgently the reassessment process owing to the distress that it is causing people on incapacity benefit and the cost to the public purse of the volume of appeals.

It may be useful if I provide some background on reassessment. Employment and support allowance was introduced in October 2008 to replace incapacity benefit as part of the Welfare Reform Act (Northern Ireland) 2007. The legislation was passed by the Northern Ireland Assembly on 25 June 2007, almost five years ago. That was in the term of the previous Assembly, and a previous SDLP Minister put the Bill through the Assembly.

The 2007 Act made provision to allow for the migration of existing incapacity benefit customers to employment and support allowance. In Northern Ireland, approximately 76,000 incapacity benefit customers will go through reassessment, which commenced in February 2011 and is due to be completed by April 2014. I am pleased to be able to advise that the Social Security Agency is on target to meet the deadline.

The work capability assessment is a key component of reassessment, as the medical

opinion and factual reports are used, along with the information provided by the customer and any independent medical evidence, by the Social Security Agency's decision-makers to establish entitlement to employment and support allowance. Customers undergoing reassessment are required to take part in a work capability assessment, which focuses on the functional effects of an individual's condition rather than the condition itself. It is used to determine a person's ability to engage in work or work-related activity. That ensures that all who are able to work are given assistance to help them back into employment.

The outcome of the work capability assessment does not mean that everyone is ready to take up work immediately. It is recognised that the incapacity benefit caseload will include customers with very different needs, given the broad range of medical conditions. Those customers who are considered to have no limited capability for work and who move on to jobseeker's allowance receive support from an employment services adviser from the Department for Employment and Learning. The advisers also provide support and assistance to those entitled to employment and support allowance who are placed in the work-related activity group. Customers with the most severe conditions move into the support group in employment and support allowance and are not required to participate in work-focused activity.

The debate has focused on the work capability assessment and the medical aspects of the customer journey. Members have related the experiences of individual constituents. I recognise that the work capability assessment can and, indeed, has been improved.

No doubt, Members are aware that there already exists a requirement under section 10 of the Welfare Reform (Northern Ireland) Act 2007 for yearly independent reviews of the work capability assessment. Professor Malcolm Harrington, an occupational health specialist, was appointed to undertake those reviews in Northern Ireland and Great Britain. In his first review, Professor Harrington found that the system was not broken, but he set out recommendations to improve the process and the way in which we treat customers. In his second review, Professor Harrington found that significant strides to change and improve the process had been taken since his first review. Members will recall that his first report was

laid before the Assembly in September 2011, followed by a second report in November 2011. His third review is already under way, and the report is expected in November or December.

The Social Security Agency is working with Professor Harrington and has made very good progress in taking forward the recommendations from his reviews. Professor Harrington has recognised the excellent standard of decision-making that he found in Northern Ireland. In his first two reports, Professor Harrington did not recommend a radical redesign of the customer journey or the work capability assessment. Of the 22 recommendations contained in his first report, 14 were specific to the Department and, of those, 13 have been implemented. Those included improvements to the customer journey and the provision of mental health champions to provide advice and support to healthcare professionals and decision-makers when dealing with customers with mental health issues. Work is ongoing to implement the remaining recommendation. Note the emphasis that has been placed on mental health issues. I think that all of us are aware of the particular challenges that are faced by people with mental health problems not only as they go through the customer journey, but any of the challenges that many of them face in life. Those can be particularly traumatic.

Work has also begun to implement his year 2 report and includes the recent informal consultation on proposals for making the work capability assessment process better for cancer patients. The two areas that have been picked up on particularly are mental health and cancer.

The motion suggests that there is a disproportionately high level of appeals generated by the reassessment process and that the outcomes indicate that there is a serious problem with the decisions being made. As of 31 March, 2,828 customers had been notified that their benefit was being disallowed. Of those, 1,662 customers had exercised their right to appeal the decision that they had a limited capability for work. The overall appeal rate for reassessed cases is 63% against an original planning assumption of 66%. It is worth noting that the appeal rate for incapacity benefit customers against the personal capability assessment was 49% in 2007, which was the last full year of the benefit.

Members have voiced concerns about the number of appeals that customers win and stated that that indicates that staff are getting too many decisions wrong. The main reason why decisions are being overturned by a tribunal remains that additional evidence was provided to the panel that was not available to the decision-maker. The most recent report from the president of appeals tribunals indicates that the level of incorrectness for employment and support allowance was 0.7%. That represented two incorrect decisions from the 281 cases monitored.

The outcome of appeals for reassessed customers at 31 March was that 35.8% had their appeal allowed. That compares favourably with the allowed rate for incapacity benefit appeals in 2007, when 36.6% of appeals were allowed. So the figure is very much the same as it was with incapacity benefit.

It is important to restate that the reassessment of incapacity benefit customers is not about disallowing benefit. It is about ensuring that customers are receiving the right benefit and the right level of support to meet their individual circumstances.

The importance of continuing to support customers who have their incapacity benefit disallowed was paramount in the planning for reassessment. The introduction of the specially trained customer advice and support team ensures that customers receive immediate support and financial advice on their entitlement to other benefits. Assistance is provided to customers who decide to claim another benefit or want to appeal.

2.00 pm

Prior to the start of the reassessment, a major concern was that too many people would not understand the process, would be lost to the benefit system and would end up with no support. The customer advice and support team ensures that every disallowed case where there has been no contact with the customer is tracked as an additional safeguard measure, and there are currently only eight customers being tracked to ensure that they receive some assistance.

I should add that the customer advice and support team intervention that we have in Northern Ireland is not in operation elsewhere. There is a different arrangement elsewhere. It

was introduced in Northern Ireland to cater for our customers and to ensure that we make their journey as suitable as possible. It is something that the Department thereby provides.

The reassessment customer journey recognises that this is a difficult time for those going through it and ensures that ongoing support and advice is readily available at each key point in the process. Customer reaction to the way in which Social Security Agency staff have helped them through the assessment journey has been very positive. I note that at least one Member commented on that point, and I thank Mr Copeland for that.

The decision by the Social Security Agency, following extensive consultation with the voluntary and community sector, to make regular telephone contact a key feature of the reassessment process has proved to be very successful. Customer feedback has been extremely positive, and the effectiveness of the current approach can be quantified by the low number of incapacity benefit customers who have had their benefit disallowed because they have not returned their medical questionnaire. As of 31 March, that figure stands at 35.

There have been excellent results from customer satisfaction surveys. By the end of March, over 23,000 customers had undergone reassessment, yet the Social Security Agency has received only 34 complaints. I should add that there are seven points along the customer journey where there is telephone contact with the customer. That regular intervention and contact with the customer is a key element in how the process operates.

The principle behind employment and support allowance is that appropriate work helps to improve a person's self-esteem and is good for most people's physical and mental health and well-being, as well as their finances. Any significant changes to the reassessment process would be constrained by the long-standing policy of parity in social security matters. Any changes to the existing regulations could result in a disjoint with the regulations in Great Britain. A breaking of parity could have serious financial implications.

The Social Security Agency uses the Department for Work and Pensions IT systems to process and pay benefits. That ensures that the taxpayer is not asked to pay twice for the implementation of systems in Northern Ireland that are common

across the rest of the United Kingdom. The arrangement means that the Social Security Agency does not pay for IT development costs but pays for IT running costs based on a pro rata usage basis.

One final consideration is the potential impact that a different approach to reassessment could have on the systems that are being developed nationally to administer universal credit from October 2013. The debate has explored fully the concerns of Members, and I share many of the concerns that have been expressed about the impact on individuals. However, I assure the Assembly that arrangements are in place to ensure that the work capability assessment continues to be reviewed and improved.

My time is limited, but I want to pick up on a few points. It is often said that Atos is paid by results. That is incorrect. There are 10 physical indicators and seven mental health indicators. The point should be made that rocking in a chair is only one of a number of indicators. It is not a yes or no thing, and you are not in or out depending on that; it is simply one of the factors to be considered and taken into account during the work capability assessment.

The Harrington review is ongoing. It is over a five-year period. As I said already, he did not recommend a radical redesign of the customer journey. I intend to supply MLAs with a diagram setting out the customer journey very clearly. I have found it helpful in keeping an oversight of the programme, and others would benefit from that because it makes the details of the process clear. A few MLAs' comments were inaccurate, and it is clear that there is some misunderstanding. For example, the input from a medical adviser, a psychiatrist or whoever should be in at the start of the process. It has to be in early, as it is considered at a very early stage. If it is there, it may well be that you do not have to go for a work capability assessment.

Special arrangements are in place in Northern Ireland to support customers with mental health issues. Mental health champions are in place, people have support from the customer and advice support (CAS) team, and healthcare professionals receive comprehensive training in relation to mental health. Their work is audited by Atos —

Mr Principal Deputy Speaker: Bring your remarks to a close.

Mr McCausland: — and by the Social Security Agency's health assessment adviser. It would be helpful if we could spend some time looking at this more fully, as it is a complex system and there may be some misunderstandings.

Mr McGimpsey: I support the motion as amended. I am grateful to Members who have taken part in the debate. I am particularly grateful to the Members who tabled the motion. Clearly, there is consensus in the House, and I will not exhaust us by going through all the points made.

It is important to reflect that this is not a devolved matter per se; it is firmly within the remit of Westminster. However, as we are a firm part of the kingdom, our citizens are perfectly entitled to the benefits of the process as it comes through, not least because Northern Ireland could not afford this type of resource on its own. It is important to reflect the fact that the process, as administered in Northern Ireland, is a matter for the Department and the House to consider. When you look at the numbers who are being reassessed, as people are moved from incapacity benefit to employment and support allowance, it is clear that very large numbers are involved. It is generally recognised that there is a problem in the system, and that is best encapsulated by the point made by many Members, which is that around 40% of appeals were allowed. Forty per cent of those who appealed against a decision were successful. It is a staggering indictment of any process to have, in effect, a 40% failure rate. It would not be accepted in any other area, and I am glad that the sentiments here are that it is not acceptable for us.

Of course, the surreal side to this is the logic of declaring people who are unfit for work to be fit for work and moving them from incapacity benefit to employment and support allowance, bearing in mind that the number of people who are unemployed is 62,000 and rising. The opportunities for those folks to find employment are very limited. Nevertheless, it is important that we do the job and do it properly. As Members have said and as I am well aware, we have health issues in Northern Ireland that are particular and different to those in the rest of the United Kingdom. For example, our mental health need is 25% greater than that in the rest of the UK, and our spend is around 25% less. There are issues around intellectual and cognitive capacity that are not being picked up

in the system. The recommendations in the Harrington review are coming through, and we are looking at the recommendations made in the review of the rest of Great Britain. It seems that those that are being acted on and carried forward will do a great deal to help. It is clear that the Minister and the Department recognise that there is a problem and steps need to be taken. They are in the process of taking those steps. I wish them well in doing so to ensure that we make the system fair, so that everyone in the process is treated fairly and properly and given the benefits that all citizens are entitled to by right.

Clearly, there is a problem with Atos and the assessment process. I am not familiar with the organisation, but I am aware that it is not part of government. I think that there is a question mark over private organisations playing such an important role in dealing with mental and physical incapacity issues. I think that there is clearly a serious problem with Atos, not least because it is hitting a 40% failure rate in the appeal process.

I support the motion as amended. It has been a very useful debate. There is clear consensus in the House on something that we all, including the Minister, see as unfair and unjust. We are moving forward together to deal with it.

Mr A Maskey: Go raibh maith agat, a Phríomh-LeasCheann Comhairle. First, I thank Mickey Brady, who is the main person responsible for bringing the issue to the House this afternoon. I thank all the Members who spoke and extend my gratitude to those who supported the motion. Of course, I want to indicate our support for the amendment tabled by Ulster Unionist Party Members. We think that the amendment is helpful, because it reminds people that it is preferable that the medical evidence is available when assessments are carried out. So I want, again, to thank all the Members who spoke and indicated their support for the motion and, indeed, the amendment. Many Members gave personal anecdotes from their experience as MLAs dealing with the issue over the past number of months.

I remind the House that the motion is in two parts. One part deals with the reassessment process itself, and the other deals with the fact that this is a matter for the public purse. The appeals that are dealt with come out of the public purse — in other words, through the

block grant. It costs people here. If the system is flawed, people here pick up the tab.

All Members who contributed to the debate indicated their dissatisfaction with the reassessment system. The motion has nothing to do with parity. It does not deal with the Act or the principle of shifting from DLA to PIPs. It simply deals with the process of reassessment. I am reminded of the time, several months ago, when we were advised by a range of stakeholder organisations that the system was likely to be flawed. Our attention was drawn to the experience of the process being rolled out in Britain, and we were referred to the Harrington report. When Harrington reported here, he carried out a desktop exercise; in Britain, he carried out site visits, virtually unannounced, to a range of social security offices. To my knowledge, that has not happened here. However, I would be very concerned if it had, because Professor Harrington was due to meet members of the Social Development Committee but could not carry out that engagement because he was sick. So I would be concerned if he had been here doing other work and none of us had been made aware of that. I presume that he is continuing his desktop-type analysis here, although I stand to be corrected on that. We look forward to the positive sides of Professor's Harrington's report and to the experience being garnered from his and similar reports.

When we raised that issue with the head of the Social Security Agency during a meeting with the Minister, we were told that the contract negotiated here with Atos had additional clauses to correct some of the difficulties experienced in Britain. We were told that the process here was an improved contract of reassessment. Therefore, it strikes me as important that such a motion is brought to the House, because, clearly, notwithstanding the fact that the contract was supposed to be improved, there are still difficulties.

2.15 pm

Some Members believe that 40% of the appeals that are made are successful, and others may think that it is a higher figure. Really, when you start to hit the figure of 40%, it does not matter whether it is 40%, 50% or 60% — clearly, there is a problem. What the motion says and what all Members are saying unanimously — it is a very important message — is that the system is flawed. You can argue about the extent of the

flaw and about the difficulties that are contained within, but all the Members who have spoken have acknowledged that there are flaws in the system.

It is important to remind ourselves of the particular anecdote from Mr Morrow. He referred, as did the Minister, to the anecdote that we have heard on a number of occasions, about a person who had not been displaying rocking in the chair. When we raised that with the Social Security Agency — it was a surprise to me — we were told that that was, in fact, true but it was only one of 27 descriptors. The system is supposed to be getting more simplified, but we were told not only that that was only one of 27 descriptors but, in fact, the descriptors will increase in number. We were advised of that by the Social Security Agency, so it was proved to us, as Members who raised it, to have been a case in point, where people had been reassessed and declared fit for work despite the fact that they had a serious condition.

The motion, supported by all the Members who have given their own testimony, is that the system is, to some extent at least — the extent depends on your take on it — flawed. That has caused, in some cases, fairly serious trauma to people who have been claimants and have had their claim rejected. Not all those who have had their claim rejected have even put in an appeal. Again, anecdotally, we can say that some people thought that there was no point so they did not bother. That is something that I cannot quantify, so I will not give any facts or figures on it.

From our party's point of view, we are very pleased that Members across all parties are agreed that there is a problem with the reassessment process and that it is important, as the system rolls out, that we get to the bottom of that problem. The motion calls on the Minister to ensure that a proper review is carried out on those flaws, which, all of us are able to testify, have had serious impacts on quite a number of people who have had their claims rejected. That is obviously very unfair and wrong. The fact of the matter is that, if we have to go to appeal and to tribunals, it takes a lengthy time, which adds to the adverse impact and, perhaps in some cases, to the trauma. It certainly adds to the cost to the public purse here, which, I think that we would all agree, should not be acceptable.

Without rehearsing all or any of the rest of the arguments, I am satisfied that all the Members who have spoken have done so very eloquently from their experience. That may not make the motion unique, but it is informative that all the Members who have addressed it this morning have spoken from their own direct experience as local representatives dealing with cases and claimants or even attending appeals.

I urge the Minister to ensure that such a review is carried out. Professor Harrington's work has been an important part of that, but it is critical that we get that work in a particular framework, so that we can report back. The Minister himself suggests that we may need a wider debate on the issue. I think that everybody would welcome that wider debate. There is no question or doubt about that, because it is a learning process. The experience that we have all gained so far leads us to believe clearly and to know, as the testament of all the Members who spoke indicates, that there is a problem. What the motion is addressing is that we must get the problem fixed.

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

Main Question, as amended, put and agreed to.

Resolved:

That this Assembly expresses concern that the reassessment process for people who are moving from incapacity benefit to employment and support allowance, with no cognisance being taken of their medical records, is resulting in many people being unfairly deemed "fit for work" and losing their benefit; and calls on the Minister for Social Development to review urgently the reassessment process to avoid both the undue distress it is causing and the additional burden it is placing on the public purse by triggering so many appeals.

Mr Principal Deputy Speaker: Order. As Question Time begins at 2.30 pm, I suggest that the House takes its ease until then.

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

2.30 pm

Oral Answers to Questions

Environment

Derelict Property: North Coast

1. **Mr McKay** asked the Minister of the Environment whether he will seek additional funding to extend the intervention for derelict sites on the north coast to Ballycastle. (AQO 1987/11-15)

Mr Attwood (The Minister of the Environment):

I thank the Member for his question in a packed House. I support the principle of additional funding being extended. The purpose behind the intervention in Portrush and Portstewart was to deploy government resources to mitigate the appearance of the built environment, in this case because of the state of Portrush and Portstewart for people who live there and the many tourists who go there, not least the increased number of tourists who will go there at the end of June and early July. I support the principle, which is why I look forward to hearing from colleagues in Derry, the council and my built heritage people with a similar bid, I hope, in June monitoring for the sort of intervention in Derry in advance of 2013 that we have seen in Portrush and Portstewart. If the argument can be escalated to other parts of the North, including the Causeway Coast, which is, arguably, our single biggest natural asset, you will find no argument from me against that. I trust that there will be no argument at the Executive against that.

Mr McKay: Go raibh maith agat, a LeasCheann Comhairle. Unfortunately, it has been a trend in the past that many government organisations, including NITB, have simply forgotten about Ballycastle, to the detriment of the town and to the benefit of other places like Portrush and Portstewart. It is unfortunate that that seems to be continuing. Does the Minister accept that funding should have been made available to Ballycastle and the rest of the north coast when it was first put in place? Will he give us an assurance that, in the interests of the

community there, he will seek to address that inequality before the summer?

Mr Attwood: The initial claim by the Member cannot be visited on me or my predecessor in the Department for Social Development, Margaret Ritchie. A master plan was developed for Ballycastle, and I initiated some events in Ballycastle to build up its profile. My mother, who is in the Gallery today, will remember that, as kids, we spent summer after summer in Ballycastle on the beach having great holidays. Many continue to do so.

I do not agree with the argument that the time to help out the north coast generally was when we deployed the money for Portrush and Portstewart. Why? Because that was a short-term intervention with end-of-year moneys that my officials said should be returned to the Department of Finance and Personnel. I said that we should deploy that money for good projects. Given the recent announcement about the Irish Open, that was the time and place to deploy that end-of-year unspent money in that area. A precedent has been set, and it is a good precedent. Money should now flow to Derry in advance of 2013 for the same reasons as Portrush and Portstewart. Arising from that, including the context of the review of public administration (RPA) and the rundown of planning transfer function, I would like to see other parts of the North, including the north coast, benefiting from that sort of project.

Mr Swann: I thank the Minister. Given that there are an increasing number of derelict buildings in villages due to deterioration, do you agree that the planning criteria for townscape character need to be reviewed to allow for a more practical opportunity for demolition and rebuild? That would go some way towards the re-enhancement of Ballycastle, Bushmills and other towns and villages.

Mr Attwood: Many planning applications have been granted where work has not progressed. Therefore, we are in a bind: there is planning permission for sites that have been abandoned, are in decay, are half-finished or are derelict. There is an immediate problem — be it Ballycastle, Bangor, the Lisburn Road, Portrush, Portstewart or many places in between — about what we do to improve the appearance of those sites, given the sense of decay and dereliction and the negative impact that that has on local trading conditions, on one hand, while using

planning powers to enforce against developers and others who have money — I have spoken about this in the Chamber before — and planning permission and have the opportunity to improve the appearance of sites but singularly fail to do so. That is the immediate crisis that we face, and I think that there should be immediate intervention from government in the way that I pointed out.

Mr Swann raised fundamental issues that also need to be addressed, including whether we will be more flexible in allowing those with planning permission to extend it, given that economic circumstances have meant they have not been able to develop sites. In all that, I will take on board what Mr Swann just said.

Mr Campbell: The Minister outlined the good work that will be done in Portrush and Portstewart this summer. He also outlined other projects that could flow from that work. Will he agree that, if we had more notification and an advanced time, with 12 months' rather than 12 weeks' notice, we could plan things better, whether it is the celebrations of Londonderry as the UK's first City of Culture, the World Police and Fire Games or other events? Twelve months' notice is much preferable to 12 weeks' notice.

Mr Attwood: As the Member will know, because he was a Minister, if a bit of money comes out of the blue from left field and you have eight or 10 weeks to spend it before the end of the year, it is government's responsibility to demonstrate good authority and spend the money. I compliment the people of Coleraine, Portrush and Portstewart and the councillors and the council leadership, who, having been granted £405 million, have spent in and around —

Mr Campbell: £405 million?

Mr Attwood: It is £405,000. Christmas has not come that early, I assure you. For the record, the sum is £405,000. The current estimate is that £385,000 was spent. That shows good authority by my Department and DFP in approving that project and by the council in spending the money. I agree with the principle that there should be more advance notice. I expect the Derry bid to be accepted, because I have raised it already at the Executive table and did not find much resistance. In the event that something comes forward from the council and from my built heritage people, I want this to become a feature of monitoring rounds on a rolling basis so that people across the North

know that there may be an allocation on that basis that they could bid for. That would deal with the issue that Mr Campbell mentioned.

Bovine Tuberculosis: Badger Cull

2. Mrs Overend asked the Minister of the Environment whether he has had any discussions with the Minister of Agriculture and Rural Development on the implementation of a pilot badger cull scheme to tackle bovine tuberculosis. (AQO 1988/11-15)

Mr Attwood: I thank Ms Overend for that question. If it is deemed appropriate, I will have a conversation with the Minister of Agriculture and Rural Development on the matter. Badgers are a protected species under the 1985 order, and, to have a cull, my Department would have to grant a licence. As yet, nobody has approached me about an application for a licence, which will explain why there has not been any conversation with DARD. If an application is forthcoming, I will look at it, but I want to make it very clear that I will do so using two standards: one one hand, whether a cull will have a direct impact on reducing bovine TB; and, on the other, whether it will enable the build-up of scientific information to make a further assessment of the best way to go forward with tackling the threat, which continues to infect a small but significant percentage of our cattle herds.

Mrs Overend: Does the Minister accept that there is a reservoir of TB in wildlife? Could he outline whether he or his Department has held discussions with any of the authorities that are engaged with or are planning the pilot scheme on the cull of badgers in other parts of the UK? Has he tried to establish whether there are any similarities to the Northern Ireland situation?

Mr Attwood: Yes, there is a reservoir of threat in the badger population, but that also extends to feral ferrets and deer. I do not know whether my Department has consulted on the assessment schemes carried out in England and the Republic of Ireland, but it may have. I will come back to her on that.

The real issue is how we will manage the threat to the North. The experience of culling in England and in the Republic of Ireland suggests that, although you may cull in a certain area, badgers from outside that area that carry a threat will then repopulate that area. Therefore, that is a short-term intervention that does

not work in the long term. On the other hand, the problem is that the success or otherwise of the cull is determined by local geography; namely, whether badgers inhabit an area where they might or might not easily migrate to other neighbourhoods because of the hills, woodlands and the like. Therefore, if we were to have a cull in the North — I am not prejudging that; no application has been made — we need to have a model that works, given our rural landscape, not necessarily the model that has worked or not worked, depending on the science, in the Republic or in England.

Mr Hazzard: Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister for his answers thus far. Does he have any plans to meet the Minister of Agriculture and Rural Development in an effort to explore ways in which his Department can help to increase biosecurity in our countryside?

Mr Attwood: If an invitation is forthcoming, I will certainly be keen to meet. The issues of biosecurity, the protection of our rural landscape and the protection of our farmers, given that agriculture is still our largest industry, are the business of government. I will certainly meet other Ministers, but I demonstrated that when it came to trying to protect the modiolus modiolus in Strangford lough. I met and worked with the Department of Agriculture and Rural Development (DARD) in order to create a position of strength, which may now prevail in avoiding European Community infraction proceedings.

I will work with other Ministers on other rural issues, including the potential of fracking in Fermanagh, being guided always by my responsibility, which is to ensure that, when it comes to planning and environment, all appropriate standards are robustly honoured and enforced.

Mr Rogers: I thank the Minister for his response. To what extent is his Department receiving the co-operation of the Department of Agriculture and Rural Development in delivering the restoration plan that followed the modiolus restoration research project, which reported in February 2011?

Mr Attwood: These are changed times, and there is a new order of things in the management of modiolus modiolus, as people know. Earlier this year, the European Commission, following a package meeting, advised the Northern Ireland Executive, me in

particular and the Minister of Agriculture and Rural Development, that it was commencing the infraction process. As I said before, infraction, if proven, commences with fines of £8 million and upwards. That would have happened in the case of modiolus. However, following that, the two Departments worked hard together to interrogate the options and went to Europe. As a result, it appears that a better situation has arisen, whereby a proposal, inter alia, to have a no-catch zone for the mid-zone — a substantial part — of Strangford lough, together with a range of other interventions, including the restoration of modiolus, may be sufficient to mitigate the risk of infraction, if not avoid it, and, at the same time, protect the lough and the modiolus and allow us to look at opportunities for the fishing community in that part of the North.

Mr Agnew: I thank the Minister for his answers on modiolus, but I want to go back to badgers and to something that he mentioned in his original answer. Does he agree that the current scientific evidence does not support a badger cull as a way of tackling bovine TB and that such a cull should be taken forward only in circumstances where scientific evidence supported it?

Mr Attwood: As I indicated in my opening answer, I would make any assessment of an application for a licence against two criteria, one of which is that referred to by Mr Agnew. I have to assess whether a cull would result in a direct reduction in bovine TB. In that regard, I concur with the intention of the question. I might differ, however, where the science produces different conclusions and suggests — I say this with some vigilance — that, where the geography ensures or restricts the movement of badgers from one area to another, a cull, if it is done on a sustained basis, may have a sustained impact on bovine TB in that area.

2.45 pm

The science suggests that geography and the character of the countryside impeding the movement of badgers from an area where there has been a cull into an area where there has not, and vice versa, has a bearing on whether a cull is appropriate. However, I want to make it clear that the science leads to different conclusions. I will make a judgement based on all the science, evidence and information, as well as my own assessment of what I think is the right legal standard to be achieved. In those

circumstances and only in those circumstances might I come to a conclusion about licences.

Mr Deputy Speaker: I remind Members that supplementary questions have to be brief. There should be one question only, and Members should bob up and down until they are called.

Listed Buildings

3. **Mr McDevitt** asked the Minister of the Environment what steps he can take to protect more listed buildings, especially those that are currently at risk of dereliction. (AQO 1989/11-15)

Mr Attwood: I thank Mr McDevitt for his question. At present, there are 8,500 listed properties in the North. Save for 5% of them, owners do what they have to do in protecting that built heritage. As I keep saying, built heritage is part of the quality of our lives. Derry and Belfast are the industrial cities of this island. The more we can promote and protect these buildings, the better our own lives and our tourist product and tourist spend will be. I know that there were people — I met them last night — experiencing the Titanic signature project and the other appeals of this city over the weekend.

What do we do? We ensure that we spend as much as we can on grant aid. Last year, we spent 62% more than the previous year, and we increased the limit for listed grant aid up to £150,000. We have served more urgent works notices in the past six months than were served in the previous 40 years. That is still far short of what we need to do, but it sends a message to those who have listed buildings and are not maintaining them that we will come after them to ensure that they live up to their responsibilities. I have convened heritage crime summits to bring the weight of experience outside the Department into the life of the Department and to ensure that we have an action plan to ensure that heritage crime does not become a growing problem as we go forward.

Mr McDevitt: The House will welcome the news that the Minister is determined to ensure that those who have the great privilege of being custodians of a listed building live up to their responsibility. Can he assure the House that urgent works notices will continue to be issued in great numbers to continue to send out the signal that, when you have a listed building, you are a custodian of a very special thing?

Mr Attwood: I agree that urgent works notices will be issued. In the past two weeks, I have instructed my officials to produce a further calendar to escalate the scale of what we are doing. I would like to think that great numbers will be reached, but time will judge me on that. In the meantime and in parallel, government itself has a responsibility. Some 5% of listed buildings that are in government ownership and for which my Department and other Departments have responsibility are currently at risk. In speaking to the wider community, government needs to speak to itself. In speaking to itself, it has to ask each Minister, including me, this question: what we are doing in respect of the 5% of listed buildings in the government estate that are at risk? The responsibility to tackle the issue is immediate and urgent for me and other Ministers. I will write to other Ministers to ask what leadership we will show to improve on that 5% figure.

Mr G Robinson: Will the Minister consider listing the remaining buildings associated with the former RAF Limavady site due to the historical and tourist potential, as demonstrated in the recent BBC documentary, 'Dig WW2 with Dan Snow'?

Mr Attwood: I am pleased that the Member mentioned that site and location. I will refer it to my director of built heritage. If an assessment process has not been undertaken, it will be, and a decision will be made. It may be that it merits listing, or it may be that it does not. However, I think that I have demonstrated that, if there is merit in the argument, it will prevail. I demonstrated that even in recent days when I made sure that a church in Dundonald was available for listing. At the same time, that does not mean that all buildings of heritage value that may not be listed will necessarily be preserved. There will be times and places when our built heritage that has seen better days may be subject to planning approval that will see that it no longer exists.

Mr Copeland: Can the Minister confirm the differences, if any, between buildings of architectural significance and other buildings, perhaps such as those at the Maze, that have a historic or a political significance? Is there a process in the way in which assessments are carried out in both cases?

Mr Attwood: The high standard is "listed", which is the premium or gold standard for buildings of historic heritage or value. As I said,

8,500 buildings may qualify for that. At the moment, having put more resources into it, we are rolling out what is known as the second survey to make assessments about those that should be listed, those that should be delisted or those that should continue to be listed. Unfortunately, that could well take up to 2020. There is a PAC hearing about the matter this week.

There are other categories of buildings. For example, in conservation areas such as that in Derry, the buildings themselves may not be listed, but the area has conservation value. So, that is a lesser standard, but it is still of a high enough standard to mean that, on the one hand, policy requires that we do what we can to protect the area, while on the other, when it comes to planning permission, nothing that will have an undue impact is allowed. So, there are various interventions that ensure that the wonder, beauty and scale of our built heritage are protected as well as they can be going forward.

Local Government Reform: Finance

4. **Mr McCallister** asked the Minister of the Environment whether he has presented a financial package to the Executive to support local government reorganisation and rates convergence. (AQO 1990/11-15)

5. **Mr Givan** asked the Minister of the Environment how ratepayers will be protected from increases in their domestic rates bills as a result of local government boundary changes. (AQO 1991/11-15)

Mr Attwood: I thank Mr McCallister for his question. I acknowledge that funding of the RPA is a huge issue. In my view and as I have made clear to the Assembly, it is an even bigger issue, because the Executive decided to go down the way of having 11 councils rather than 15. If we had gone for 15, six councils would not have been merged and the upfront costs and burden would not have been as high.

I believe that the Executive should assist in the RPA. That is why, in my June monitoring submission, which has to be submitted within the next 10 days, I will make bids for Executive moneys to help with the RPA. They would be used to help in dedicated ways, such as in resources for the improvement, collaboration and efficiency (ICE) programme or in resources

and staff for change managers. So, the principle of help is something that I accept. However, the councils also have to accept the principle of helping themselves. If there are opportunities, for example, through a new loan policy, which I am looking at, through more sharing and collaboration to produce more savings or through the disposal of surplus assets, they should be part of the narrative of the funding of the RPA. Government may help, but everybody else has to help everybody else.

Mr Deputy Speaker: I was told earlier that questions 4 and 5 were to be grouped. Will the Minister clarify whether that was a grouped answer?

Mr Attwood: That is the case.

Mr McCallister: I am grateful to the Minister for his reply. If only the Executive would listen more to the Minister and to this party, perhaps we would be in a much better place. Does the Minister accept that the cost to be borne — *[Interruption.]*

Mr Deputy Speaker: Order, please. I thought that I gave Members good advice just a few minutes ago, but they did not listen to a word of it. Continue.

Mr McCallister: Thank you, Mr Deputy Speaker. As the Minister tries to create convergence, does he agree that that is likely to put great pressure on ratepayers and businesses throughout the new council areas? Does he also agree that it could damage business in our regional towns and communities?

Mr Attwood: I thank the Member for his question. I do not want to create the misimpression that the Executive never listen to my view. However, Executive minutes are littered with the quite numerous times when I have had to record my dissent. Last week, I recorded my dissent about what I think remains an ill-judged and ill-worked-out proposal in respect of £80 million of social investment fund moneys not spent in the past 14 months.

A Member: Hear, hear.

Mr Attwood: Thank you very much.

I want to reassure Members, councillors and ratepayers that the transfer of functions under RPA is meant to be rates-neutral. If we are serious about transferring planning functions to councils, we cannot do that on the cheap. The

transfer of planning functions is the significant change under RPA, and resources must follow that. I want to give the reassurance that I will not, at any time, be minded to do that or to see the transfer of other functions on the cheap.

I also believe that councils have to show good authority to their ratepayers by interrogating even more vigorously and accelerating the process of sharing and collaboration. Last August, the councils came forward with a rigorous programme of sharing and collaboration that would realise close to £600 million savings over 25 years. This year, next year and in the run-up to RPA and thereafter, there are real opportunities for more sharing and collaboration. That will allow councils to show good authority and demonstrate to ratepayers that we will do this at the lowest cost possible, consistent with good practice and best evidence, and in such a way that the burden does not fall on ratepayers.

Mr Givan: I should probably declare an interest as a local government representative on Lisburn City Council, which has the lowest rates of any city council and the third lowest rates of any council in Northern Ireland. I am proud to declare that interest.

The Minister will be aware that, although some councils are merging, others, including Lisburn, are losing areas. Dunmurry, for example, is being haemorrhaged off and moved to Belfast City Council. Dunmurry belonged to a council whose rates were considerably lower than those in Belfast, so what assurances can the Minister give to those ratepayers that any impact on their rates — they will see a double-figure percentage increase — will be ameliorated?

Mr Attwood: All of that is work in progress. There will be tensions when ratepayers in old council areas merge with ratepayers in councils with rates differentials. Over time — I stress that it will, in all likelihood, be over time — rates will converge. The notion that there can be a Big Bang approach to rates convergence seems an unlikely one, especially when there are differentials between merging councils and those differentials are significant. The Member's point would, quite rightly, give rise to anxiety that people will see a huge increase in their rates burden — commercial or private residential. Since the decision to implement RPA was taken just before Christmas, work streams have been established to interrogate all those issues in

order to employ best practice. Included in those is the creation of a new business case — it will be available just after the summer — in which the full costings of RPA will become more fully known. Given the changed circumstances and the economic circumstances that we face, that will allow us to get the best models going forward, including one for rates convergence.

3.00 pm

Finance and Personnel

Mr Deputy Speaker: Question 9 has been withdrawn and requires a written answer.

Unrated Properties: Belfast

1. **Mr A Maginness** asked the Minister of Finance and Personnel what action has been taken to identify unrated commercial and residential properties in Belfast. (AQO 2001/11-15)

Mr Wilson (The Minister of Finance and Personnel): I thank the Member for the question. Land and Property Services (LPS) works in partnership with Belfast City Council building control officers to ensure that the valuation list is maintained in an accurate and timely fashion. Building control officers will, in carrying out their normal duties in connection with new properties or alterations to existing properties, gather that information and supply the data to LPS, which is required to carry out a valuation assessment. No system is 100% foolproof, and new buildings can sometimes be missed out. However, the district valuer also has the power to value any unrated property that is brought to its attention by bodies other than the council; for example, by the public.

Mr A Maginness: I thank the Minister for his answer. How much in rates does he estimate is being lost in the system? The question is fairly speculative; nonetheless, the Minister may have some estimate.

Mr Wilson: It is not possible to estimate because, of course, if we knew that properties were vacant, we would take the steps that I outlined to make sure that they were being valued. However, there are cases in the system at present. In the Belfast City Council area, 142 cases are in progress in respect of non-domestic properties and 279 cases in respect of new domestic properties. Currently, 150,000

properties are rated in Belfast. Obviously, we are not collecting rates from those properties that are in the valuation process at present. If we knew of ones that are not currently being rated, we would be able to get an assessment, but if we know of them, they will be in the list that I have just mentioned.

Mr Humphrey: I declare an interest as a member of Belfast City Council. Where does the statutory responsibility for maintaining valuation lists in Northern Ireland rest?

Mr Wilson: It rests with the Commissioner of Valuation for Northern Ireland and the district valuers in LPS. Of course, public bodies have a duty — as do the public — to inform LPS when they become aware of any properties. Do not forget the way that rates work: we decide that we want to raise a certain amount of money and spread that across the rateable valuation of all the known properties in Northern Ireland. So if a property has not been identified, rates are not levied on it and the amount that we want to gather is rated on the properties that are known. Therefore, it is in the interests of the public to notify LPS of a property that they believe has not been valued, so that it is brought into the system.

Mr Gardiner: The Minister may have covered part of my supplementary question. What action are he and his Department taking to ensure that development that has not been the subject of planning permission is identified and added to the rating list?

Mr Wilson: If the property in question has not been subject to planning permission, it may be that building control officers will be aware of work that has been done that, for example, required building control. As I said, building control officers not only notify LPS when completion certificates have been issued on new properties or on improvements to existing properties, but if in their duties as they look at properties that they have got to do work on, they come across a property that they believe is not on the valuation list — councils have been good at working with the Department on this — they will inform LPS. That is one way in which councils ensure that that property goes onto the valuation list. As I pointed out, it is in the interest of councils to do that because it means that their rates base goes up as a result of more properties being identified.

Empty Premises Relief Scheme: North Antrim

2. **Mr D McIlveen** asked the Minister of Finance and Personnel what advice and support his Department is giving to businesses in the north Antrim area to ensure that maximum benefit is derived from the empty premises rate relief scheme. (AQO 2002/11-15)

Mr Wilson: The empty premises relief scheme arose from lengthy consultation on the rating of commercial premises. As a result of the responses that were received, the Department decided at the end of the consultation to include in the legislation the relief on empty properties. The rule is that if a property has been empty for 12 months prior to the beginning of this rateable year, and providing that it has been used for retail purposes, it will be subject to 50% rate relief for one year. The idea is to entice businesses into properties.

Mr D McIlveen: I thank the Minister for his answer. On a point of clarity, can he advise the House as to what the main reasons might be for applications for empty premises relief not being awarded?

Mr Wilson: The main reasons are that the properties have not been vacant for 12 months prior to the beginning of this rateable year or have not been used for retail purposes.

Mr D Bradley: Go raibh maith agat a LeasCheann Comhairle agus gabhaim buíochas leis an Aire as a fhreagra go dtí seo. Agus ba mhaith liom an méid seo a fhiafraí de. In the media of late, there has been a lot of discussion about the non-domestic revaluation. How does the Minister see businesses benefiting from the non-domestic revaluation, and is it possible to bring the revaluation forward, as some business organisations have requested?

Mr Wilson: I will make this very clear because certain expectations have been built up around the revaluation exercise: just because there has been, let us say, a halving of property prices since the previous revaluation does not mean that rates will be halved. We will still be gathering the same amount of rates. Equally, of course, when property prices went up, we did not increase the rate from each property either. However, some people will benefit, because their rateable valuation or their rent on their property will have risen less than the average during the period, while other properties will pay

more because their valuation or rent has gone up by more than the average, or not fallen by as much as the average fall has been. There will be a change in the relative payments of properties. Some will be losers and some will gain. We will still be lifting the same amount of rates.

As far as bringing the revaluation forward is concerned, a considerable amount of work is to be done to get the information. All Members will want to ensure that, when we do it, the revaluation is robust. That means that we have to gather the information. Once the information is gathered, there is a lead-in time, because councils have to be informed about whether there has been a change in the rate base for their council area so that they can make adjustments. Hence, there is a length of time involved that means that any revaluation exercise starting now will not be operative until 2015.

Mr Ó hOisín: Go raibh maith agat a LeasCheann Comhairle agus gabhaim buíochas leis an Aire. Can the Minister assure the House that a similar and uniform approach to the scheme will be employed right across the board?

Mr Wilson: It will. One of the reasons why we delayed the valuation in 2010 was because such an amount of churn was going on in the market that we could not have ensured that we would have a comprehensive and robust revaluation. International guidelines are laid down for any valuation exercise, and given that we want the valuation exercise to be able to withstand the test of appeals, and so on, it of course has to have the same standards applied right across Northern Ireland. Hopefully, once we have got the valuations done in 2015, it will give us an opportunity to do regular updates from then on.

Fair Payment Charter

3. **Mr McQuillan** asked the Minister of Finance and Personnel whether the fair payment charter is restricted to the construction industry or whether it also covers supply and services contracts. (AQO 2003/11-15)

Mr Wilson: Supplies and services contracts, which are undertaken by the Central Procurement Directorate (CPD) on behalf of Northern Ireland Departments, are not subject to the fair payment charter. That is because supply chains can be very complex and global,

and, therefore, it can be difficult to implement and police any form of fair payment charter. However, the terms and conditions of contracts for supplies and services specify that the suppliers should normally be paid within 30 days of receipt of a satisfactory invoice and that subcontractors should be paid on the same terms and conditions. The Member will be aware that the Government are paying most of their suppliers — I think that the figure is 95% — within 10 days.

Mr McQuillan: I thank the Minister for his answer. What sort of monitoring is in place to check that primary suppliers are passing back to the subcontractors the benefits of receiving early payment?

Mr Wilson: Well, first of all, in the construction sector, the project manager — in the supply of services, the contract manager — is obliged to look at the invoices that are submitted to see that they are being paid on time. In the construction sector, because it is easier to police, the project manager has the additional responsibility to look at invoices that have come in and, if they are not paid, to ask why they have not been paid. If they have not been paid on time, the main contractor can be asked to explain himself. Whether it is in the supply of services or the supply of construction contracts, if there is not a satisfactory performance, a certificate of unsatisfactory service can be issued. Since January of this year, a sanction can be imposed on such contractors, which will stop them being able to apply for public sector contracts for the next 12 months.

Mr Hazzard: Go raibh maith agat, a LeasCheann Comhairle. Are all Departments co-operating fully with the fair payment charter? If not, what is his Department doing about that?

Mr Wilson: The fair payment charter is a voluntary code. When they award construction contracts, centres of procurement expertise — COPEs — are required to ensure that the conditions of the fair payment charter are followed. It is up to the project manager on each of the major contracts to ensure that, on a monthly basis, as I have explained, invoices that have been submitted have been paid. If they have not been paid, it is up to the project manager to find the reason for that. Has the work not been satisfactory? If the work has been deemed to be satisfactory, an explanation has to be given. As I pointed out, if a contractor

continues not to perform to the conditions that have been laid down, a certificate of unsatisfactory performance can be issued, and there are real sanctions attached to that.

In the construction sector especially, we are moving back into the bad old days, where main contractors are putting more and more of a burden on the subcontractors, either through late payments or by cutting payments. That is bad for the supply chain, and it is bad for the health of the industry. Within our powers, we will seek to ensure that that supply chain is protected.

Mr McGlone: Go raibh maith agat, a LeasCheann Comhairle. The Minister said that a certificate of unsatisfactory performance can be issued in circumstances where a contractor has not complied and come up to standard. How many of those have been issued by the Department in the past year or two?

Mr Wilson: The fair payment charter was only recently introduced. I made a statement on it in the Assembly in January this year, so it is in its infancy. I will not judge the success of this by the number of certificates that we issue. I will judge the success by how few certificates we issue because if we are not put in a position where we have to issue certificates, it means that the measures are working.

3.15 pm

I would far rather see subcontractors being paid on time than being put under pressure by payments not being made or, in some cases, denied to them. However, once we have had an opportunity to see a year of this scheme in place, I will give the House an update, and the Member can, of course, always ask a question to get an update. It is in its infancy and it is too early to say, but I hope that I will not have to issue any certificates.

Peace III

4. **Mr Douglas** asked the Minister of Finance and Personnel to outline the progress, including the spend, on the Special EU Programmes Body Peace III programme. (AQO 2004/11-15)

Mr Wilson: The Peace III programme is progressing well and is almost fully committed, with 158 projects worth £284.2 million approved. That represents 98% of the total programme budget. Peace III has achieved all its annual expenditure

targets to date. As of 1 May 2012, expenditure of £109.8 million had been achieved.

Mr Douglas: I thank the Minister for his comprehensive response. I am sure that he will agree that the Peace funding programmes have made a significant contribution to peace-building in Northern Ireland and the border counties. How would a potential Peace IV programme be developed?

Mr Wilson: Like all the other Peace programmes, it will be developed as a result of public consultation, written submissions and research. The principal concerns in that consultation will be, first, to identify the current peace-building needs. Secondly, there will be a critical look at Peace III and earlier Peace programmes to see where the deficiencies were. Then, of course, there will be the development stage of future programmes based on the evidence obtained. That will be undertaken by the steering groups associated to and led by Special EU Programmes Body (SEUPB).

Mr Allister: Will the Minister tell us something of the cost of running the SEUPB, given its lavish offices and bloated staff complement? In respect of a Peace IV programme, would the Minister agree that it would be far better to spend the match funding that would be demanded for such an unnecessary project on direct spending, and that if we did not have a Peace IV programme, he would have more funds to spend, which would otherwise be going on match funding?

Mr Wilson: On the exact costs of the SEUPB, I cannot give him the figure off the top of my head, although I can say two things to him. First, we have insisted, and the Minister in the Irish Republic has agreed with me on this, that — *[Interruption.]* In fact, he is just ringing me here, I think, Mr Deputy Speaker to confirm that — *[Laughter.]* I will try to pass that off quickly.

We have agreed that there should be 3% efficiency savings year on year in the SEUPB. This year, there will also be a staff review within the SEUPB. It is my view that the current level of 65 staff should be reduced substantially to the original level of, I think, 45. That staff review will be ongoing.

As far as any future Peace money is concerned, I do not think that there is the connect that the Member suggested because it would, of course, depend upon what money Westminster

then made available to us for direct spend in Northern Ireland. There is no guarantee, of course, given the current climate, that the money that would have gone to Europe — because that is what happens: the UK Government put money into Europe and Europe then gives it back to us — would have come to Northern Ireland.

Ms Ruane: Go raibh maith agat, a LeasCheann Comhairle, agus gabhaim buíochas leis an Aire as a fhreagra go dtí seo. I thank the Minister for the answers to date. The Minister will be aware that it is no secret that I support the Narrow Water bridge project. Will the Minister confirm that he is aware that Louth County Council has initiated an appeal of a recent decision in relation to that? We are awaiting the outcome of the appeal and I would welcome an update.

Mr Wilson: I am aware that 13 projects were accepted under the most recent INTERREG call, that the Narrow Water bridge was not successful in that and that an appeal has been made. A number of factors were considered when making a decision on the successful projects, which have now been shortlisted down to the 13. One of the factors would have been the deliverability and the ability to spend the money within the time. Regardless of all the other merits or demerits of the project that the Member mentioned, I think that one of the factors concerned whether the money could be spent within the time. That is critical, because the one thing we do not want to do is allocate money to a project and find that it cannot be spent.

Corporation Tax

5. **Mr Dickson** asked the Minister of Finance and Personnel for an update on discussions with Treasury on the devolution of corporation tax powers. (AQO 2005/11-15)

12. **Mr P Ramsey** asked the Minister of Finance and Personnel for an update on the devolution of corporation tax powers. (AQO 2012/11-15)

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

The Executive continue to work with the Government in devolving responsibility for corporation tax. There have been two meetings of the joint ministerial working group on rebalancing the Northern Ireland economy. Our final meeting has been arranged for 25 June.

Considerable progress has been made on the work programme that was agreed, and which I have outlined at previous Question Times. There are a number of issues to be resolved over the next months, particularly around the potential costs and practical implications of transferring corporation tax and the timing of the measure. That said, I anticipate that the ministerial working group will produce a report in the summer and that a decision will be taken by the Government on whether to agree the devolution of powers following that report.

Mr Dickson: Thank you, Minister, for your reply. Minister, you have said on a number of occasions that corporation tax, on its own, cannot be described as a silver bullet for our economy. What plans do the Executive and you as Minister have to invest in some of the other key economic drivers, which will offer a whole package to potential economic investors in Northern Ireland?

Mr Wilson: Much of that will be up to the Department of Enterprise, Trade and Investment. However, given some of the changes in EU rules, especially around selective financial assistance, that is going to become more difficult. The Executive have looked at a range of things that we can do to stimulate the economy, even within the levers that we have currently. The Member will be aware that there is a working group under the chairmanship of the Minister of Enterprise, Trade and Investment. Through that, a wide range of recommendations have come from stakeholders, industry and a range of people. Those things will be followed through.

The main recommendation has been to look for high quality investment projects that can be brought into Northern Ireland. We want investment projects that bring wages that are higher than the average because we want to lift the wages in the private sector, not bring down the wages in the public sector. My Department has sought to encourage the manufacturing industry through the rate concessions that have been made to manufacturing businesses.

Mr P Ramsey: I thank the Minister for his response. Will a reduction in the corporation tax bring jobs to the private sector? Given the success of this morning's event, can the Minister outline to the House whether the devolution of corporation tax powers is being encouraged and promoted by most businesses

across Northern Ireland as a measure that will have a huge economic benefit to the region?

Mr Wilson: I heard what the Member said about the promotion of jobs. There is no doubt about it: if you reduce the amount of tax that a company has to pay, you may well attract more businesses into Northern Ireland and leave them with more income for new investment in Northern Ireland, which, in turn, should generate more employment. However, there are wide and varied predictions as to what the impact would be. Even the Secretary of State and those who support the devolution of corporation tax powers and a reduction in corporation tax in Northern Ireland say that the benefits will only be experienced over, maybe, a 10- or 20-year period.

It is very difficult to model any economic outcome over that period because so many variables can change. For example, we do not know what impact the break-up of the euro area might have in the next six months not only on the European economy, but on the UK economy and banking within that. To try to build any of those variables into any model and talk about job creation in that light makes it very difficult.

Mr Murphy: Go raibh maith agat, a LeasCheann Comhairle. Following on from the Minister's previous answer, does he agree that the one essential part of measuring the potential outcome is to have the correct information from the Treasury and the Revenue Commissioners in relation to the total tax take from here? In doing so, we can measure any potential benefit from that. Is the Minister satisfied that the Executive will have that information properly to hand in order to take decisions around the implementation of corporation tax powers when they are devolved?

Mr Wilson: In any conversation with the Treasury, you always wonder whether the correct figures have been given. The Treasury simply seems to take the view that it has given us a figure and we should just believe it, but I am not always sure whether that is the best way of conducting business.

The figures on the cost of devolving corporation tax can vary as a result of a number of factors. There is the actual corporation tax that is paid currently — surprisingly, even that information is difficult to get at, especially as businesses that have a footprint in Northern Ireland and a footprint in other parts of the United Kingdom may pay to different tax offices. There is also

the secondary impact of any reductions in corporation tax and whether those should be counted. Even if you decide to count them, how do you measure them? There is the tertiary impact, as well. Should you include the fact that if you get more people in employment, you pay out less in benefits, and should we get some share of the value of that? There are so many variables in all that, as well as displacement, etc, that the figure is not as easy to obtain as some people would expect.

Mr Campbell: Given the unspecified extent of the price tag, which we do not know yet, that will be attached to the devolution of corporation tax, and the protracted timeline that we could be faced with, which the Minister has outlined, are there any other measures that could be implemented in the next two or three years, while we are working at that, which would make Northern Ireland a much more attractive place to invest in?

Mr Wilson: There are. One of the big debates at present has been around whether we should set up enterprise zones in Northern Ireland. The Executive have not taken a view on that because many of the benefits of enterprise zones that exist in England, Scotland and Wales are already available right across Northern Ireland: for example, access to broadband, rate reductions for the manufacturing industry, certain planning restrictions being lifted, etc. However, one benefit that we have been pursuing with the Treasury is the capital allowance aspect of enterprise zones, and I know that Arlene Foster has done quite a lot of work on that. Indeed, many businesses tell me that because they will not make huge profits anyway for the first few years, allowances based on the amount of capital that they have to invest initially could be very attractive to them. That is one of the fiscal issues that we need to discuss more fully with the Treasury.

Mr Deputy Speaker: That concludes questions to the Minister of Finance and Personnel. I ask Members to take their ease for a moment while there is a change in the Chair.

3.30 pm

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

Private Members' Business

Prison Service: Archived Material

Mr Deputy Speaker: The Business Committee has agreed to allow up to one hour and 30 minutes for this debate. The proposer will have 10 minutes to propose the motion and 10 minutes to make a winding-up speech. All other Members who wish to speak will have five minutes.

Miss M McIlveen: I beg to move

That this Assembly notes the importance of the role played by the Prison Service in the history of Northern Ireland and pre-partition Ireland; recognises the wealth of material of historical significance owned and held by the Prison Service and the educational importance of this material; and calls on the Minister of Justice to take all the necessary steps to ensure that this collection is fully archived, that its totality is maintained and that it is as accessible as possible to the general public.

I thank the Justice Minister for attending today. Despite falling under the remit of the Justice Department, this is an issue of cultural and educational significance. There have been discussions and expectations for some time that there would be a Prison Service museum. However, today's debate is concerned with the collection itself.

I, along with my colleague Peter Weir, have taken the opportunity to visit the Prison Service collection, the vast majority of which is held at Woburn House just outside Millisle. A small portion of it is on show at Woburn House, and it provides a fascinating insight into almost 200 years of prison history on this island. It is not simply confined to the modern-day Northern Ireland Prison Service. It represents an important part of the history of this island, and it should not be buried.

The items in the collection stretch back to the 1840s when all the prisons on the island were under the control of Dublin Castle. There are artefacts relating to prisons from all over pre-partition Ireland and prisons in Northern Ireland, including the Maze, Crumlin Road jail, Londonderry and Armagh. Included in the

collection are original cell doors from Armagh prison, early 20th century prison uniforms, prisoner photographs, pictures and contraband seized by the authorities. The Prison Service is also holding original artwork and crafts by prisoners, including murals from the Maze prison. The fact that there are so many prison records, documentation and artefacts in Prison Service ownership means that a treasure trove is waiting to be discovered. At present, that wealth is denied to the wider public for a variety of reasons, including security concerns and the fact that we simply do not know everything that is there.

Parts of the collection are displayed at the Prison Service college at Woburn House, which allows some limited access, and has been open to the public on world heritage day on a couple of occasions. Such access was facilitated by the former curator and archivist whose contract was terminated a number of months ago, which means that public access is even more limited, and there are no plans to open for this year's world heritage day.

The bulk of the collection is held at Woburn House, although a small portion is on loan to Crumlin Road jail. Answers to questions for written answer have indicated that the total collection contains an estimated 66,000 items, 6,000 of which have been catalogued. The job of cataloguing the material has fallen to the former curator who now attends Woburn House on a voluntary basis to carry out the work. If he did not do that, the collection would simply lie there collecting dust with no one to catalogue it and with no one having any idea of what is held at the site. Given that his role is purely voluntary, the cataloguing aspect has almost ground to a halt. The fact that there is such a huge amount left to do means that, in any event, it would be insurmountable for one man to complete. Museums with much fewer artefacts have teams of archivists working on them.

I previously asked the Minister what plans there were for a Prison Service museum and was advised that plans had not yet been formulated and that they would be considered after consultation with key stakeholders. In his response, I would be grateful if the Minister would update the Chamber on the progress of the stakeholder consultation, who the key stakeholders are and what the Prison Service's plans are for a museum.

Despite the Minister's assurances in response to other questions I submitted on the future of the collection, there is a worry that it will be broken up before it has even been catalogued. Approaches have been made to go through the documents and artefacts and to lift items for other projects. Although the Minister has sought to assure me in response to questions that there are currently no plans to remove or dispose of the artefacts from Woburn House, the phrasing of that response and the manner of the approaches for items causes a great deal of concern.

It has been said on several occasions in the Prison Service that the intention is to allow those in charge of the Maze project to select what they want from the collection and for the remainder to be dispersed, with artefacts going to the Ulster Museum and documentation going to the Public Record Office of Northern Ireland (PRONI). From a historical and educational perspective, it is extremely important that the collection remains intact. I seek the Minister's assurance today that that will be the case. Given the limited space already available to the Ulster Museum, sending artefacts there could simply mean consigning them to storage when there is a fascinating story to be told.

Those who have visited Woburn House have said how differently they view the Prison Service as a result. The collection contains a story not only of prison life in pre-partition Ireland and Northern Ireland but of the prisoners and prison employees, which would be lost if the collection were broken up. Of course, those items could be loaned to other exhibitions, but for that to happen, the collection needs to be properly catalogued. To tell the story, you need to know what you have.

The Minister advised me that the Prison Service has been asked to consider the loan of artefacts to the Maze/Long Kesh programme delivery unit, which is considering a future display to include Prison Service artefacts at the new peace and reconciliation centre at the Maze. He also said that if such a request were accepted, an agreement would be drawn up and an inventory completed. I think that that would be quite appropriate, but I am concerned that the collection might be dispersed without the Minister's knowledge. I seek his assurance today that he will seek to keep the collection intact.

The threat to the integrity of the collection persists and is compounded by the uncertain future of Woburn House. The new multipurpose training college at Desertcreat is due to become operational in 2015, with Prison Service personnel being trained there. What does that mean for the Prison Service collection? Where will it then be housed? The ideal scenario would be to have a central holding centre where the items could be on permanent display. That would mean that the public could have greater access to the displayed items and that there could be a proper facility from which other items could be loaned. It is, of course, vital that the process of cataloguing items not only continues but is stepped up. For that to happen, finance would obviously need to be made available to employ staff. I ask the Minister to look at that possibility, even on a cross-departmental basis.

A process had already begun for the collection to obtain museum status, which would have meant that it was eligible for grants, but the termination of the curator's employment halted that process. It needs to be restarted. As has already been indicated, the Maze/Long Kesh programme delivery unit has expressed an interest in some items. However, it is difficult to comprehend how the unit can know what it is looking for and how it can possibly find it without a more comprehensive catalogue being completed. As I said, there are over 66,000 items, and only 6,000 of those have been catalogued. It has taken one man, who has knowledge of the Prison Service and archiving, over six years to do that.

The Minister may well have no current plans to dissipate the collection, but I would hate to see this valuable resource being lost to us and future generations through neglect, negligence or recklessness. I certainly want the public to be able to see as much prison history as possible, as it represents a fascinating view of life here. However, such a view should not be limited to snapshots such as the Maze. The history of the Prison Service did not begin in 1971 and end in 2000. What is available can tell the tale from the establishment of state-run prisons to the present day, including the development of prison records and the treatment of offenders through the centuries, as well as the human stories of prisoners and staff. Similarly, the collection should not simply be gathering dust on the shelves of Woburn House or the Ulster Museum.

It is right that items should be loaned out and put on public display in museums and exhibitions to inform and educate, but, equally, it is important that they remain part of a whole collection so that historians are able to use the unique information that is available. For that to be done, it is necessary to complete the process of cataloguing. Naturally, the removal of funds for that to be done creates concerns about the future of the collection. Therefore, I ask that the Assembly acknowledges the importance of the collection to our understanding of our history, and I seek support for the motion.

Mr McCartney: Go raibh maith agat a LeasCheann Comhairle agus ba mhaith liom a rá go mbeidh Sinn Féin ag tabhairt tacaíochta don rún. I will first of all state that Sinn Féin will be supporting the motion. We find ourselves in support of the concept that has been outlined by the proposer, Michelle McIlveen. The history of many nations is often mirrored by the history of imprisonment. You can look at places like South Africa and others. When you go to Scotland, particularly Stirling prison, you get a good sense of the history of Scotland through the history of the prison and the documents that are recorded, and that complements the fine history that is found in other museums and places of learning.

Sometimes, particularly when people talk about imprisonment as it pertains to the North, there are, obviously, competing histories and stories. In many ways, that is a good thing, and I think it should be encouraged. I do not think we should feel that there is a single version of history. Each person will tell the story of imprisonment from their own perspective. In recent times, particularly with the work on the development of the Crumlin Road prison, Armagh prison and now the Long Kesh site, that is one of the things that have enriched that engagement for me. Many people now accept that it is valid and only right that there are different people's perspectives. Imprisonment impacted on many people, including the staff who worked there, the visitors, people who were imprisoned there and the Quakers. All the different people add together.

The one great strength of the motion is that it refers to a particular collection that stretches back 100 years at least — maybe 150 years or more. That is good, because from all those artefacts, people will get a sense not only of the history of imprisonment in the North — or,

indeed, across the island, as alluded to by Michelle McIlveen — but of the many different chapters in our history. People might claim that some are more controversial than others, and I think we should be trying to avoid that. There is a history, which is there to be seen and embraced, and I do not think that we should have any fear of it.

I am finding out today just how many single artefacts there are in the collection. What I would like to see developed is for that set of artefacts to tell a story, and the Department has a role in this. In recent times, the Department has, on individual request, released documents that pertain to an individual prisoner's imprisonment. On a personal level, I declare an interest as a former political prisoner, and I have availed myself of that service for documents that pertain to me. Not all of them were released, and perhaps that is a story for another day. However, it is important that, when you read those documents, you get a sense of the impact that imprisonment had as it unfolded. Those types of documents will have a role to play in the future as we extend the story of imprisonment.

I think we have done it, and have been seen to have done it, across this island. If you visit Kilmainham prison, you get a good sense of the history of that prison. It is done in such a way that, as the curator of the prison told us, you are not there to tell a particular story, but you create a scenario and then allow people to join the dots themselves. I think that is the way that that type of history should be told. We have shown, with the development of Crumlin Road prison and with the recent announcement last week that not only are people developing the history of the Crumlin Road prison, they are now turning it into a place where commerce can take place. You can have a visitor attraction that is also a place of commerce.

Armagh Prison is the same. It has successfully been turned into a place for people to go and reflect. I have talked to people across the community from different perspectives who have gone there and have come away enriched by the experience. I see no reason why we cannot do that with the other prison sites, particularly the one at Long Kesh. So the collection, the need —

3.45 pm

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

Mr McCartney: This party recognises the need for the collection to be conserved and indeed enhanced. We support the motion.

Mr Elliott: I welcome the debate today, a lot of which is around the history of the prisons and of the Prison Service in particular. Quite often, when we look at prisons in modern-day Northern Ireland, we think of the past 40 years, whereas I appreciate that this is about much more than that. I also appreciate the wording of the motion. It actually is about much more, even predating the partition of Ireland. We need to preserve and look after those archives.

I recall being in Lithuania a few years ago and visiting a couple of defunct prisons there. It was amazing; they had artefacts from generations, almost, preserved in those prisons. They were using them as a tourist attraction to some degree, although they highlighted that it was not particularly appealing for tourists to go there; it was more for locals to visit at that time. However, they had done a really good job in preserving the history of the prisons and of the prison officers and how they felt. They gave almost a live tour of what prison life was like in those times and down the generations. Like this, it did not just relate to one period in time, but went back a number of years.

It is important that we all recognise the hurt and suffering that was endured in those times, particularly by prison officers. I know that many prison officers and staff, and indeed their families, underwent serious intimidation and threats at times. That was clearly very distressing for them then and is still very distressing for the families, because they have had to endure that for a long time. We had casualties; a number of prison officers and staff were murdered, and that was a very unfortunate situation. These people were put into employment as prison officers because that is a job that needs to be done. It is a job that needs to be carried out effectively and efficiently. It is unfortunate that we had some in Northern Ireland who lost their lives because of that.

I believe we have an opportunity to ensure that preservation. I note that Miss McIlveen asked the Minister for assurances around the preservation of those artefacts, and I reiterate that. I hope that the Minister can give us some assurance that those artefacts that are currently preserved will continue to be preserved and not broken up. I referred to Lithuania earlier,

and it appeared that they kept the artefacts on a prison-by-prison basis as opposed to bringing them all together. I am not so sure that that would be possible here because some of the older prisons are now not in place. Unless you put them into a museum nearby, it would be much better to bring them into a collective situation.

I know that there was significant dedication and service from prison officers and staff throughout the years, and I pay tribute to them. They used to be called prison warders as opposed to prison officers, but, irrespective of the name, I think there needs to be an absolute recognition of the work carried out by prison officers and staff, and the threats and intimidation that they underwent. I had to visit prisons to see inmates on occasion, and I can tell you that some of the prison officers I talked to felt like prisoners themselves while they were in there. Times were so bad that prison officers often felt that they, not the prisoners, were the people being apprehended and imprisoned. They felt under that much pressure.

The Ulster Unionist Party supports the motion and welcomes it.

Mr A Maginness: I thank Miss McIlveen for bringing the very worthwhile and timely motion, which, of course, the SDLP supports. Clearly, Miss McIlveen has done a lot of research. Everyone in the House should welcome the idea of archiving artefacts from the Prison Service, post and pre-partition in Ireland, in a systematic and professional way. It is important that we preserve our history, and this is one way of doing that. Of course, once the archiving has been done and the material is sorted out, it will add considerably to our tourism offer, certainly in Crumlin Road prison and perhaps in other parts of Northern Ireland.

I was in Crumlin Road prison last week at the launch of Danny Boy whiskey by the Belfast Distillery Company. It is a very impressive project, combining industry and tourism. It is not simply the manufacture of whiskey. It is the sale of whiskey — Irish whiskey, I hasten to add — and there is a tremendous thirst for Irish whiskey throughout the world, in particular, in the United States, China and Japan. It is a great product to sell. However, combined with the tourism product in Crumlin Road prison, it is a unique blend, if I may put it that way, and I think that it will be particularly successful.

I know that some of the artefacts are already in Crumlin Road prison. If we can use some of them to add to the prison's appeal to tourists, we will create something of great worth for the curious tourists and travellers who visit Belfast.

This is very important. My first academic love was history, and it continues to be a great love of mine. If we lose our history, we lose something precious to our culture. It is of great value. Clearly, this would preserve our history in a very meaningful sense, not just for the purpose of business or tourism, but for education and giving future generations an understanding of how this part of Ireland was governed and how we conducted ourselves. I think it important, therefore, that the motion is supported. I look forward to the Minister's considered response to a very sensible and, as I said, timely, motion.

Mr Dickson: I support the motion and thank the Member for bringing the issue before the House.

I agree that the Prison Service played a very important role in the history of Northern Ireland. Prison officers faced many challenging situations, particularly in the past 40 years. Many have made sacrifices for society over all the years, pre-partition and post-partition. We are moving through a period of reform and modernisation to equip the Prison Service to face the challenges of the 21st century in Northern Ireland, and, as we do, we must make sure that the services and sacrifices of the past are not forgotten.

As we know, the history of the service is encapsulated, as other Members have told us, in some 66,000 items currently held in the Prison Service college in Millisle. More than 6,000 of those items have been catalogued by a now-retired member of staff, who has offered to continue that work on a voluntary basis. I am sure that the whole House will want to join me in thanking him for all that work. I understand that many of the 66,000 items are photographs, but some of them will be material of important historical significance. It is important that the items in that category are preserved and archived.

I imagine that there are organisations that have an interest in the future of many of the items and artefacts. There could be options as to where some of the items could be located; Mr Maginness made reference to the former prison on the Crumlin Road. As those options

are considered, we must also acknowledge that some items may still to this day be subject to data protection rules due to their place of origin. It is important that before any long-term preservation or transfer is agreed, compliance with the Data Protection Act 1998 is assured. We also need to understand the obligations that the Prison Service has to the Public Record Office and that there are appropriate protocols in place.

With all those things considered, we must ensure that items of historical significance are preserved and are as accessible as possible so that future generations will be able to understand the work of the Prison Service pre- and post-partition, as the motion states, and acknowledge and appreciate the service and sacrifices that were made for our society.

Mr Givan: I commend my colleague Michelle McIlveen for tabling the motion. It is very timely. To date, the contributions from all sections have been made in an appropriate manner, given the sensitivity around the issue.

As many will know, and you will have seen in the motion, I declared an interest in the subject: family members of mine, including some very close direct relatives, served in the Prison Service. They have all now retired from the service and are glad to have done so. My comments come from the perspective of someone who has belonged to a Prison Service family and was part of the wider Prison Service family. It is important that we never forget the sacrifice made by those who served in that very difficult job, which resulted in a lot of heartache, pain and anxiety for those families.

Prison has motivated a lot of people from all sides to get into politics. I was motivated to get into politics because of the inappropriate release of prisoners as a result of the Good Friday Agreement. I stood in the car park at the Maze prison when the final prisoners were released as a result of that agreement. It was then that I felt that that was wrong and that it was time to get active. Others will tell a story about their experience of prison life and why they decided to get active in politics, but I decided to get into politics to try to do something about an issue that was wrong rather than shouting from the sidelines.

My experience is from a Prison Service family's perspective. One of my distinct memories is of when the family member returned from work,

and the smell of smoke on the uniform was so pungent that it stayed with me. Every time they came through the door, you knew straight away that they had come from a smoky environment — the individual does not smoke. I recall an occasion on which a snooker ball was brought home because it had been thrown during a disturbance in the prison. I remember asking what that was about, and it was just dealt with; the person said that they had brought it from work. It was never really discussed or referred to in my home. That experience was kept out of our home, but I always knew that there was something particularly strange because the vehicle was always checked underneath and we were always conscious of where the car was being driven. We were never allowed to tell anybody about the employment of individuals in my home.

Therefore, I knew that there was something different about the job. So many families had the same concerns. Some had to move home, while some had security installed in their houses. That story has not been told, but it needs to be told, and we should never forget about it. Indeed, hundreds were injured during that time, some severely and some fatally.

4.00 pm

Mr Weir: Does the Member agree that the experience of individual prison officers is yet another reason why there needs to be a dedicated prison museum in Northern Ireland?

Mr Deputy Speaker: The Member has an extra minute.

Mr Givan: Yes, I agree, and I thank the Member for his intervention. Those officers were injured implementing government policy, and they held the line for decisions that were taken in London. Some made the ultimate sacrifice for that, and then when the policy was reversed, they had to implement it. They were the pawns in the game, but some suffered horrendously.

Thirty officers were killed as a result of their employment in the Prison Service. A Mr Walker was killed in 1942, but 29 were killed during the terrorist campaign. In my remaining time, I want to read their names into the record: William McCully; PC Dillon; John D Cummings; Robert John Hamilton; John Wesley Milliken; Thomas Graham Fenton; Desmond Ernest Irvine; Michael Christopher Cassidy; Agnes Jean Wallace; George Foster; Edward Donald Jones; Thomas

Gilhooley; David Teeney; Gerald Francis Melville; William Wright; Elizabeth Matilda Chambers; James Andrew Ferris; William McConnell; Patrick Thomas Kerr; Leslie Jarvis; Brian Samuel Armour; John Griffiths; James Alexander Peacock; Albert Miles; John Murdie McTier; Patrick Mackin and his wife, Violet Mackin; William Wilson; Graham Cox; and William Cecil Burns. Their sacrifice and memory must never be forgotten.

Mr Lynch: Go raibh maith agat, a LeasCheann Comhairle. Like my colleague, I declare an interest as a republican ex-prisoner who spent many years in a number of prisons. I am very encouraged by the maturity of the debate today. The Member who spoke previously said that, one time, a snooker ball went missing. I think that I remember us searching for that snooker ball in Long Kesh.

Nobody denies that the Prison Service played a major role over the past 40 years — indeed, the past 200 years — in the prisons. However, its role, like that of all other stakeholders, should be told and, as the motion states, fully archived. I believe that that can be best done within the framework of the proposed conflict resolution centre on the Long Kesh/Maze site.

As the motion states and Michelle McIlveen said, there is a wealth of information. I heard that there are 66,000 pieces. Indeed, I have many in the attic myself from a different perspective. Most of the material held is of historical significance and from all perspectives. It is not only from a republican perspective that I say that all records should be maintained because, as my colleague said, material relating to the British Army, the Quakers and the various prisoner organisations that passed through and were associated with the prisons should be archived. There needs to be equality of all stakeholders' material, and perspectives should be collected, fully archived, totally maintained and made accessible to the public. That can be best done on the sites that we have. We have a number of sites that are only beginning to come to fruition.

I also believe that they can be of educational importance, so that present and future generations can learn the lessons about the need to avoid conflict.

The site and the archive material can also provide a tourist perspective. I have visited Kilmainham jail in Dublin on a number of

occasions, and, as was mentioned earlier, it brings huge numbers of people to that city. I have also visited Robben Island, the famous prison in South Africa. It has become one of the major tourist attractions in that country, bringing thousands of people there each year.

We have had a very mature debate, and I support the motion, but it should be inclusive of all.

Mr Kinahan: I, too, welcome the opportunity to speak on this motion and the fact that we have had such a mature debate. I particularly welcome the history lesson on the collection from Miss McIlveen, and I congratulate the one curator whom she talked about, who has managed to curate 6,000 items out of 66,000. It is a huge job. I would love to see a museum being set up; we all need to see a museum somewhere. If that does not happen, Minister, we need to look at the other options, whether in the form of private investment, for making sure that the collection is kept together. I am against — I think that most would be against — the best of the collection being picked out to go to one location, unless it can be cleverly copied and maintained so that the whole story stays in one place. There are means of doing that today, and we should seek assurance on that point.

I very much welcome Sinn Féin's support and that of everyone else for the motion. I acknowledge that there are many different stories to be told in different ways, but it is most important that these stories are told and that there is no whitewashing, no invention and no lies.

I will put my old fine art hat on and point out that not only does the collection need to be curated, it needs to be preserved. The early BBC films and footage are rotting away because they were kept in a room at the wrong temperature. Clothes and hats can be eaten by moths or can rot away when they get damp. Plastics and other materials have come in. There is a great deal that needs to be done, and it is not an easy task. You have to plan how you keep such a collection.

When I started at Christie's, we did not sell any memorabilia from Ireland. In that time, Adams and other auction houses in Ireland have sold memorabilia from the conflict. In the early days, there was no memorabilia from the conflict in the North, and a Royal Irish Constabulary helmet would not have been sold. Today, those same sales mix the history, North and South. It is not just about preserving the collection. We have to

think about its value, and that value will change. That means that every item has to be looked at and assessed. It is not just the item itself; it is the story, and the other items that go with it, that will give you its value. With that value, you have to think about insurance, which adds to the need to keep the collection together.

I would also like to make sure that we do not forget the families who supported their loved ones who worked in the Prison Service; not just all those whose names were read out earlier, but every single person linked to them. We must not forget them because they will have gone through the same angst and pain. I look forward to seeing a history of the prisons in a proper collection, and I am glad that this debate has been carried out in such a mature way. We must never forget them. The Ulster Unionists support the motion.

Mr Allister: Certainly, it would be very remiss of those of us in this generation if we did not take steps to preserve that which tells us about previous generations, no more so than in relation to the gallant contribution of the Prison Service to the well-being of us all. In recent times, as has been said today, 29 people paid supremely with their life for doing their job on behalf of the law-abiding community. Others suffered grievously. One prison officer suffered being shot in the head by a Member of this House, Mr Kelly. Another died as a consequence of the prison escape in which Mr Kelly and others took part. We have much for which to be grateful to those who were lawfully doing their duty.

It is right that the House should contemplate the preservation of artefacts, historical items and all that makes up a history. However, this same House has really very little room to talk, because this House, under its own Assembly Commission, has taken steps to hide away the artefacts of this House and of our history as a Parliament and Assembly.

Mr Deputy Speaker: Will the Member come back to the motion, please?

Mr Allister: Yes. The context of this House holding forth upon what others should do, but not what it does, will not be lost on many people. Here we are debating this issue quite properly, but every effort is made to ensure that we never debate, for example, the re-hanging during jubilee year of a portrait of Her Majesty that the Commission controls and owns. I say

to the House that it should examine itself in the context of examining this motion and —

Mr Deputy Speaker: I ask the Member stick to the motion, please, or we will have to move on.

Mr Allister: — lead by example in that regard.

I have heard some people say that we could take parts of the collection. It is shameful that only 10% of it has been catalogued. That is a shameful neglect of duty and indicative that the necessary funding has not been afforded to those who could do the job. However, some seem to think that we could take part of the collection. Indeed, we have heard in today's debate that those who are overseeing the Maze project are interested in selecting certain items and cherry-picking — or is it terror-picking — from the selection. One could well imagine what some people might be interested in amongst the archives: some of the handmade weapons that were found in the prison, the murals that go with it, and all of that. I want to say very clearly that those whom I represent would have no time for the cherry-picking, or terror-picking, of items for inclusion in the Maze project.

It is interesting that Mr McCartney talked about modelling things on Kilmainham jail. Anyone who has been there can only come away recognising that it is very deliberately a shrine to the 1916 events. It was the National Graves Association peddling all of that. If that is what is being held up as an example of what we could and should do with the artefacts from our rich Prison Service history, it betrays what some really want to do. In my book, there is no place for the glorification of terrorism, be it outside the prison or inside the prison. I, for one, want no part in a project that would aid that in any shape or form. Let us celebrate the tremendous contribution made by our Prison Service to the freedom that we enjoy, but let us not tarnish or sully it —

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

Mr Allister: — by equally seeking to promote the ill fame of those who were occupants of the prisons.

Mr Ford (The Minister of Justice): I congratulate Miss McIlveen and her colleagues for securing the debate and bringing the issue to the Assembly. As she said, she has highlighted the issue in a number of questions to me. It has been interesting to hear the

breadth of debate around the Chamber and, indeed, by and large, the unanimity. I share Miss McIlveen's assessment that the Northern Ireland Prison Service has played an important role in the history of Northern Ireland, and reference has also been made to the pre-partition arrangements. I have paid tribute to the officers in the Prison Service on a number of occasions for the difficult job that they do, and have done, in challenging times and for the sacrifice that has been made.

4.15 pm

The work that is now ongoing to reform the Prison Service is meant to build on that proud history as we transform the service to one that is fitted for the challenges for today and tomorrow. However, I certainly agree with the sentiment expressed in the Chamber this afternoon that, as we seek to move forward, we should not forget the past. Most Members referred to different aspects of that past, most poignantly when Paul Givan read a list of names. That aspect is something that I think we should all be entirely conscious of as we seek to discuss what otherwise could be a very divisive issue.

As Michelle McIlveen pointed out, the Prison Service holds a significant collection of artefacts. It may be helpful if I take a bit of time to outline the nature of the material, which amounts, as was said by many, to some 66,000 items that are stored at the Prison Service college in Millisle. They have been accumulated over many years from a number of prison establishments, including some that have long since closed; for example, Armagh, Belfast and the Maze prisons. Around 6,500 of the artefacts have been catalogued, again, as was said, by a retired member of staff who was retained by the Prison Service to catalogue those items. He was supported by serving and retired members of staff as he carried out that function.

I acknowledge the scope and the scale of that collection. I visited the Prison Service college at Millisle and viewed some of the artefacts. I recognise that much of that collection is likely to be of considerable historical or educational significance. However, I should also add the caveat that, equally, many of the 66,000 items are of no historical significance at all. We need to be realistic as we look to the future of the collection and ensure that we maintain the important items and have the educational opportunities without suggesting that every

single item is worth preserving. Most of the items are, in fact, photographs of individuals who have served time in custody. Many of the photographs originate from the Maze compounds and cells from 1970 onwards. Although many of the photographs are of limited interest, there are, as is generally known, a number that quite clearly capture the history of the Maze compound in particular, because many existing photographs were taken illegally by prisoners and give some indication of life within the compounds. Other items include contraband that was confiscated from prisoners or that was found during searches, including stills for brewing poteen, so I can perhaps assure Alban Maginness that the new Belfast distillery is not actually that modern — that practice was being carried out some years ago within the prisons. However, hopefully, the licensing laws are now being fully complied with.

We have also seen a variety of other makeshift tools, including ones used for digging, carving and as weapons, some of which, no doubt, were used for training, particularly in the Maze compounds, by paramilitary factions.

The motion calls on me to take all necessary steps to ensure that the collection is fully archived. As I said, the archiving process has begun and, to date, around 6,500 items have been fully catalogued. However, the process is neither easy nor straightforward, and it is likely to take considerable time to complete. Members need to be realistic about the other demands being placed on staff in the Prison Service college at this time.

In the meantime, the Prison Service is giving consideration to the future arrangements for storing and managing the artefacts, particularly given the intention to relocate training from the current college site at Millisle to Desertcreat.

I suppose that I should add for Danny Kinahan's benefit that it is not just about storing and maintaining the artefacts, but adequately preserving them. However, I must say that some of the artefacts that I examined are of such crude construction that the skills of the fine art dealers whom he is so knowledgeable about are unlikely ever to be required.

Although I recognise that the collection includes artefacts of significant historical and cultural value, we need to acknowledge that much of it is of no historical significance whatsoever, so I do not believe that it is either practical or

desirable to retain the collection in its entirety, as some Members suggested. The real issue is about ensuring that we get the items of value and ensure that they are properly looked after.

There is clearly a wide interest in the future of some of the artefacts. A number of organisations, including the Prison Service Trust and the Retired Prison Officers' Fellowship, have already expressed a direct interest. Other interested parties include, for example, the Office of the First Minister and deputy First Minister, which, as was said, is responsible for bringing forward the refurbishment of Belfast prison, and which clearly would wish to have a number of artefacts that originated in Belfast available to put on display in the refurbished prison for viewing by tourists.

Given that the Maze/Long Kesh regeneration group unit has secured some £18 million worth of funding to construct the new peace and reconciliation centre, the programme delivery unit has also requested that the Prison Service provides artefacts previously associated with that site for display in the new building. Further funding has been approved by the Heritage Lottery Fund to furnish the building, including the provision of display facilities for artefacts previously associated with the site. The Royal Air Force and the army have indicated their willingness to co-operate in providing suitable material, and given the Prison Service's long association with the site, particularly throughout the Troubles, I believe that it is appropriate that it should also be represented.

Senior representatives from Belfast prison and the Maze/Long Kesh regeneration group have visited Millisle and are in discussions about suitable artefacts that could be loaned for display — I emphasise the word “loan”. A number of artefacts are on display at Belfast prison under a service level agreement, which clarifies that the artefacts are on loan and remain the property of the Prison Service. A small number of artefacts are also available for display at the Ulster Museum. I hope that that assures Members that we do not propose to break up the collection. However, clearly, as other Members said, there are benefits in putting some of the artefacts on display at different locations to tie in with the history of those locations. That seems to be a sensible way to maximise their educational value. However, I repeat that that must be done in the context of a service level agreement, which

makes the ownership of the items and the lending arrangements clear.

I certainly agree that it is important, where our legal obligations allow, that photographs of particular historical interest to the Prison Service are preserved and stored, and, where possible, displayed in appropriate locations. However, it is critical that we first obtain a clear understanding of the Prison Service's legal obligations in relation to that collection of artefacts to ensure that it remains compliant with its obligations under the Data Protection Act 1998. Clarification is also needed on whether NIPS will be obliged to provide any of the items and documentation to the Public Record Office, given that body's responsibilities.

The Prison Service has held a number of meetings with the Departmental Solicitor's Office and been in communication with the Public Record Office on the future of the artefacts. However, no decisions have been taken at this stage. Discussions are ongoing, and a meeting has been planned for early next month at Millisle, at which the Public Record Office and the Departmental Solicitor's Office will be present. That will allow the role of the Public Record Office and the potential for sharing the collection in other places to be thoroughly explored. I hope that that will represent a significant step forward in the direction that Members have called for today.

I assure Members that I recognise the importance of many of the artefacts that we talked about as part of the historical heritage of the Prison Service and wider society in Northern Ireland. The Northern Ireland Prison Service has no long-term interest in retaining the artefacts, but it must ensure that it meets its legal obligations in disposing of or suitably transferring them. As such, it is important, in the first instance, to clarify the legal issues, particularly those surrounding data protection obligations and to identify what interest, if any, the Public Record Office holds before any decision can be taken. I assure Members that any decisions on the future of the artefacts will be taken by the Prison Service in the best interests of preserving a critical collection that captures the history and heritage of all our pasts.

Mr Weir: First, I thank all those who took part in the debate. I welcome the broad support for the motion from all sides of the Chamber. That support was a bit more disguised from some

Members than from others, but there seems to have been broad acceptance of the motion.

I want to deal with some points raised during the debate. As was indicated by the Member who proposed the motion, we visited the museum site together and saw the wide range of artefacts there. It was very much an eye-opener. As is often the case, the museum is something that is on my own doorstep, but which I had never had the opportunity to see. One of the purposes of the motion is to express regret that although the museum is there and has been open to various groups at different stages, the opportunity for the wider public to visit the museum and view those artefacts has been extremely limited. A number of Members raised the potential opportunities the museum presents, and I think that it is important that the public have that knowledge of the past and where we have come from.

As was indicated by, I think, the proposer of the motion and echoed by others, including Mr Elliott, this is not just about the past 40 years, important as they are. This collection dates back to the middle of the 19th century. I note that some of the research on the history of prisons on the island of Ireland refers to the first prison reform package that was produced in 1777, which shows that very little is new under the sun. Indeed, some may say that we are still waiting for its full implementation. This great historic process should interest many people. As was said by a number of Members, particularly Mr Kinahan, it is about a history and education that the wider public has so far been denied.

As the proposer highlighted, at the heart of this issue is ensuring that we have an intact collection that is not broken up. I have some reservations about what the Minister said at a later stage, when he talked about progress and almost left the impression that stuff may be hived off to the Public Record Office. That is not the purpose of this motion; it is about keeping the archive intact. The proposer and the Minister indicated that we are at the stage at which around 6,000 of 66,000 items have been catalogued. There is no doubt that many of those 66,000 items may not be of outstanding historic interest. However, until all items are properly catalogued, dismissing a lot of them would be ill-judged. I suspect that there may be a lot of hidden treasures in there that we should seek to preserve for the future.

Turning to some of the other Members who spoke in the debate; although he has departed the Chamber, Mr McCartney, along with Mr Lynch, supported the motion fairly fulsomely. One might say that they gave a degree of blanket support to the proposal. Indeed, indications have been given that the full history needs to be shown. Mr McCartney and Mr Maginness gave the example of the opportunity provided by the development of Crumlin Road jail. Mr Maginness seemed to get sidetracked and had almost a glint in his eye when whiskey was mentioned. I do not know whether his mind has taken him so far in that direction that he has now departed the Chamber. However, as he said, this proposal is timely.

Mr Elliott and, later, Mr Lynch mentioned the international perspective, and there are many examples throughout the world of previous prisons and jails being used for archives. Undoubtedly, some will serve as a fine example while others, perhaps, may provide an example of things that we should avoid. Therefore, it is important that we get it right. We should never be so introspective in this country that we do not learn from outside.

Mr Elliott, Mr Givan and Mr Kinahan mentioned the sacrifices of prison officers, which I think is an important aspect to this. Particularly in light of the events of the past 40 years, we need to give that recognition, and doing so is of particular significance to prison families. Mr Elliott sought, with others, an assurance that the archive would be maintained as a proper collection. Mr Dickson also talked about the need to recognise the service, sacrifice and role of the Prison Service.

Mr Givan spoke very personally of his background. His was an example of a prison family and showed the impact of that perspective. Again, as he said, this is a story that has not yet been fully told.

Mr Lynch expressed a particular preference for the archive to be located on the Maze site and highlighted its tourism potential. Mr Kinahan brought a unique and expert perspective by saying that this was not just a matter of cataloguing; with his background in fine art, he talked about the creation and preservation of the archive and realised the value of it. Indeed, he welcomed the fact that we were looking at this in a fairly mature way.

Mr Allister referred to the need to ensure that the archive allows future generations to see some of the history of previous generations. He also highlighted the sacrifices made. He raised the concern that there cannot be cherry-picking in this and that it cannot reflect a terrorist perspective. We need to be cognisant of that.

4.30 pm

Finally, when talking about building on what is a proud history, the Minister highlighted the nature of some of the material. It is clear that a certain amount of progress has been made. As we move forward, the concern is that the progress in reaching this point has been quite slow. Although he mentioned that there will be a point early next month at which there will be further discussions and, hopefully, decisions taken, they will have to be on something that preserves the integrity of the archive.

In conclusion, I welcome what has been a mature debate. I pay particular tribute to the curator, who, over the past six years, has single-handedly, and now on a voluntary basis, sacrificed many hours to catalogue these items. There is a history and a tradition that can be of value from an educational and a tourism point of view, and there is a need to preserve the best of the past. We should unite on pushing for a Prison Service museum and the retention of the artefacts. I appreciate that, in a recent Adjournment debate, the Minister gave indications that the site at Millisle was being considered at a broader level and that decisions had yet to be taken. One of the indications that was given in the review of prisons in Northern Ireland was that the training college would cease to exist at its current site and would, effectively, move to Desertcreat. Perhaps there is an opportunity to look at the current site in Millisle and, indeed, at the former borstal as a permanent home for an archive and a museum and at making it much more open to the public. I throw that out as one suggestion, and at the heart of this is, first, the creation of a proper Prison Service museum that is accessible to the public and, secondly, the retention of the archive in a coherent and integral form. I thank various Members for their support for this matter, and I urge the House to support the motion.

Question put and agreed to.

Resolved:

That this Assembly notes the importance of the role played by the Prison Service in the history of Northern Ireland and pre-partition Ireland; recognises the wealth of material of historical significance owned and held by the Prison Service and the educational importance of this material; and calls on the Minister of Justice to take all the necessary steps to ensure that this collection is fully archived, that its totality is maintained and that it is as accessible as possible to the general public.

Mr McCartney: On a point of order, a LeasCheann Comhairle. I did not want to raise this point of order during the debate because I think that, in the main, the debate was very mature. Can the Speaker's Office read the Hansard report and make a ruling on when a Member made a claim against another Member that could not be substantiated in a court, even a Diplock court?

Mr Deputy Speaker: Yes, of course, the Speaker can look at the Hansard report of the debate. I am sure that, the issue having been raised, he will take a close look at it. However, it will be up to the Member who may have been offended by any comment to raise it, preferably on the Floor of the House directly or with the Speaker.

Mr McCartney: Further to that point of order, Mr Deputy Speaker, but given that the Member was not here at the end of the debate, I felt that it would be appropriate to raise it so that it could be brought to the Speaker's attention immediately.

Mr Deputy Speaker: Thank you for that further point of order. You are entitled to raise it as a point of order, but there are separate and specific arrangements for when accusations have been made against a Member. I ask any Member who may have been offended to follow those arrangements. If they need any guidance, they can contact the Speaker's Office. Where someone feels that accusations have been falsely made against them, I would appreciate it if the Member concerned raised it.

Mr McCartney: Further to that point of order, Mr Deputy Speaker, far be it from me to question

the position of the Chair, but, in recent times, a Member raised an issue on behalf of another Member and the Speaker dealt with it.

Mr Deputy Speaker: It is up to the Member concerned to disprove the allegations that may have been made against them. I have given advice that the Clerks gave me that is based on precedents. Following that guidance from the Clerks, I propose to move on.

Adjourned at 4.35 pm.



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