

# Official Report (Hansard)

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The Editor of Debates, Room 248, Parliament Buildings, Belfast BT4 3XX.  
Tel: 028 9052 1135 · e-mail: [simon.burrowes@niassembly.gov.uk](mailto:simon.burrowes@niassembly.gov.uk)

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# Northern Ireland Assembly

Tuesday 8 April 2014

*The Assembly met at 10.30 am (Mr Speaker in the Chair).*

*Members observed two minutes' silence.*

## Assembly Business

**Mr Campbell:** On a point of order, Mr Speaker. I wonder whether you could return to me or to the House on a matter that was raised during yesterday's take-note debate on the Assembly and Executive Review Committee's report on petitions of concern, when there was a rather weak and insipid attempt to force a vote by those who have set themselves up as an opposition. I understand that you have previously ruled on votes on take-note debates such as that.

**Mr Speaker:** As the Member will know, I was not in the Chair at that point yesterday. Let me look at Hansard and come back either to the Member directly or to the House.

## Ministerial Statements

### Mills Report: Waste Management

**Mr Durkan (The Minister of the Environment):** With your permission, Mr Speaker, I wish to make a statement advising the Assembly of my response to the Mills report into waste management in Northern Ireland.

The Mills report found that we have significant criminal infiltration in the waste sector, some of which is linked to organised crime. It also identified issues for how my Department has managed that feature of the waste sector and, in particular, how effectively we have responded to the challenge posed by those who are prepared to risk human health, the economy and the environment for significant and ill-gotten financial gains. That uncomfortable finding must focus us on the broader question of resource efficiency. That must be the starting point for tackling the challenge.

In the 21st century, those societies that use resources most efficiently will have the best chance of prospering. Also in the 21st century, those businesses that view environmental challenges as economic opportunities, rather than problems, will have a competitive edge in global markets.

As the global population continues to grow and consumption levels continue to rise in the major emerging economies of China, India and elsewhere, we will see energy and material prices continue to rise.

In this world, allowing resources to be turned into waste will be an increasingly costly and risky business activity. In short, this will be a century in which the old mindset of waste as a natural by-product of economic activity will be consigned to its own dustbin. Economies and businesses that persist with that mentality will find themselves left behind by more efficient competitors.

That is why the most fundamental lesson from the Mills report is the need to drive greater levels of resource efficiency and work to curtail the creation of waste in the first place. At the highest level, therefore, my response to the Mills report is to strengthen our efforts to create, first, much higher levels of resource efficiency in Northern Ireland and, second, a much more robust, legitimate and prosperous waste sector for the remaining waste we do produce.

The benefits to the North of that approach will be to protect human health by ensuring that waste is properly managed; ensure that our environment is not damaged and degraded by illegal dumping of waste; reduce the supply of waste available for criminals through closer working with councils that collect municipal waste and arrange for its management and treatment; unlock economic gains through resource efficiency across all industry sectors; and support the development of legitimate waste operators in a well-functioning waste sector.

The Mills report tells us that we have much work to do to deliver these 21st-century benefits. Let me outline the actions that my Department will take to turn the situation around.

As has been widely reported, an estimated total of over 500,000 tons of waste was discovered last year by the Northern Ireland Environment Agency (NIEA) in an area adjacent to the River Faughan in the townland of Mobuoy near Derry. That area was adjacent to and included a licensed waste facility.

In June 2013, my predecessor, Alex Attwood, revoked the licence of the operator of the facility following an unprecedented investigation into allegations of large-scale criminal offending involving the illegal disposal of very large amounts of waste. He also commissioned Chris Mills, the former director of the Welsh Environment Agency, to conduct a review into the lessons to be learned from the incident. I received that report on 10 December last year and released it publicly on 18 December.

As I stated at the time, I did not sit on the report. I released the report immediately because I wanted to put Mr Mills's important findings and recommendations into the public domain as soon as possible. That has also enabled my officials to compile an action plan based on the Mills recommendations and to engage with district councils on immediate steps we can take jointly with local government to tackle the significant problems that can arise

once waste has transferred from the councils to the waste operators.

What problems did Mr Mills find? The key finding from the Mills report is that the waste sector in Northern Ireland is highly vulnerable to infiltration and that some of that activity is linked to organised crime. That, though, is not unique to Northern Ireland and also happens in Britain and Ireland. Indeed, it occurs in many countries around the world, so we are not alone in facing those serious problems, but I will not allow that fact to be used as an excuse to delay action here to address the challenge.

The report also highlights the vast profits and low deterrents that criminals can exploit. The report points to problems in the design and implementation of the waste regulation system administered by NIEA. Mr Mills found a lack of overall strategy and direction, a lack of integration between different teams in DOE, over-complication in regulatory design and deficiencies in some legislative powers.

Those are not minor problems. They will not be solved overnight. They will require a sustained effort over the next few years. I am absolutely determined to make that happen. I am pleased to announce the following key actions for fixing those problems and responding to the Mills report recommendations. I have directed the chief executive of NIEA to implement the actions in accordance with the specified timelines.

A full operational strategy with a detailed action plan will be developed and published to encourage resource efficiency, ensure the proper disposal of waste and tackle waste crime.

That will be published by the end of June.

A new resource efficiency directorate will be created to bring together the various regulatory and enforcement teams in the NIEA. That will be established by the end of May. An analysis of skills needs will be undertaken to inform a training programme to ensure that staff with the right skills are posted to the new waste directorate. The analysis will be completed by 30 June.

A review of potential legislative enhancements in areas such as duty of care, the fit and proper person test, the number of waste authorisations, waste remediation and "polluter pays" mechanisms will be conducted. That will be completed by 30 June.

NIEA will build on its existing work with other government organisations here and in Britain, in the Republic of Ireland and across Europe. That will involve a number of government bodies, but a high priority will be to strengthen significantly the partnership between my Department and the district councils, which have responsibility for the initial collection of municipal waste before it is transferred to waste operators via council-led contractual arrangements. A plan for those partnerships will be completed by the end of May. NIEA will develop a series of resource efficiency partnerships with trade associations and individual businesses. A plan for those partnerships will also be completed by the end of May.

A plan will be developed to ensure that the DOE's internal whistle-blower system is strongly promoted. That will be completed by 30 April.

Much work has already been undertaken on several of those actions. I emphasise how comprehensive the actions are. Partnerships with the business community will be strengthened, which will focus on supporting efforts by businesses to avoid creating waste and reusing any residual waste. I anticipate that that will create cost savings and enhance the competitiveness of many businesses. DOE's programmes to support community efforts to reduce waste will be enhanced. That will be wide-ranging, covering everything from continued support for the recycling infrastructure and local community waste reduction projects through to continued support for waste reduction efforts. Much stronger partnerships will be built with local councils on all waste management issues. Local councils play a crucial role in delivering waste reduction action plans and recycling efforts and arranging for the collection and disposal of waste. The agency will work much more closely with local councils to ensure that the way in which councils manage their waste collection and disposal systems, and the way in which we regulate and enforce on waste work, are in strong combination. That will help all waste operators to understand that the public sector is working closely together at central and local levels to secure major improved performance and full compliance. That will provide the extra support that legitimate waste operators need and make it harder for those operators who do not want to comply.

Clearer regulatory systems must be developed so that waste operators find it easier to understand their obligations, and it is easier for NIEA to assess whether operators are complying with those obligations. I am

developing a better regulation Bill, which has been endorsed by the Executive. That will transform our overall environmental regulatory systems by creating the capacity for DOE to issue one streamlined, integrated permit to a business. It will also give NIEA uniform inspection powers. That means that an individual agency officer would be authorised to inspect against all environmental regulations rather than only a limited number, as is currently the case. That will mean that the same number of officers will be able to carry out a significantly increased overall number of inspections in a much more focused way.

NIEA has adopted a new simple operating principle. For regulated businesses' environmental compliance performance, NIEA will make it easy for good performers and difficult for poor performers. In short, if you regularly comply, you will be freed of pointless red tape and receive fewer inspections; if you have a poor compliance record or are operating outside the system, you will get a lot more attention from NIEA.

Under these general regulatory reforms, our systems and processes for regulating waste will be strengthened and improved. That will give legitimate waste operators the confidence to invest and grow their businesses. It will also give communities and businesses the confidence that any waste that they create will be properly and legally disposed of.

#### **10.45 am**

NIEA will continue to pursue waste criminals with the full force of the law. That is the essential and powerful safety net that must be in place to underpin all the other efforts that I have outlined. Tough and effective waste crime enforcement is critical. That is why we have employed 10 new enforcement experts in NIEA's environmental crime unit with money that my predecessor secured in the 2012 June monitoring round. We must be vigilant and fearless in chasing people who deliberately set out to make money by damaging our environment, our communities and our legitimate businesses through illegal waste dumping, fuel laundering and other forms of waste crime. It is unacceptable and must be eliminated. This tough enforcement activity for those trying to do the wrong thing will provide additional support to citizens, schools, community groups, councils and businesses that are trying to do the right thing. There is an enormous amount of work to be done if we are to create much higher levels of resource efficiency, more effectively regulate and manage waste, and eliminate waste crime in

Northern Ireland. As we put all those actions in place, I am making arrangements for the Department to continue to access advice from Mr Mills to ensure that his knowledge is available to help us with the implementation of his report findings.

Finally, I refer to the motion approved in the Assembly on 11 March calling for a public inquiry into waste disposal in the north-west and the rest of Northern Ireland. I will now seek the agreement of my Executive colleagues to a full and comprehensive public inquiry into waste management issues across the North. Such an inquiry would build on the valuable findings of the Mills report but be much more wide-ranging in its remit, covering all public bodies involved in waste; the nature and structure of the waste sector and its links to Britain and the Republic of Ireland; the origins of waste crime and the uses made of waste crime proceeds now and in the past; and the effectiveness of waste regulation and waste infrastructure. Such a public inquiry would need to be conducted at a time that does not interfere with our active criminal investigation flowing from the illegal waste dump in Campsie. It would build on the findings of the Mills report by revealing more information on waste crime.

In the meantime, I will not delay action in response to the Mills report. Indeed, the actions that I have announced today will set in motion a transformation in resource efficiency and waste management in the North. That transformation will not be easy, but it is essential to protect human health, our precious environment and underpin a modern and vibrant waste sector contributing to the local economy.

I commend the statement to the Assembly.

**Mr Speaker:** Before we go to questions on the statement, I strongly ask Members to be particularly careful to say nothing that might prejudice any ongoing criminal investigation or any resulting legal proceedings. I ask Members to be mindful this morning of the legal criminal procedures that are ongoing at this time. If that is clear, I call Anna Lo, Chair of the Environment Committee.

**Ms Lo (The Chairperson of the Committee for the Environment):** Thank you, Mr Speaker. I take your guidance very seriously.

I thank the Minister for his statement. I welcome the actions that he has put in place to address illegal dumping. I also welcome the public inquiry and commend him for taking on

board the comments from the motion that we had a few weeks ago on the issue.

Will the Minister give us an update on the progress on clearing the site? In the meantime, what is the council doing to replace the waste operators and where is council waste being left?

**Mr Durkan:** I thank the Chair of the Committee for welcoming the statement and for her question. The clean-up of the site is a huge issue in my constituency, naturally enough, and a big one here — and rightly so, given the potential cost. I hasten to add that the Department's immediate response was to secure money from the Executive, quite a proportion of which was used for a quick clean-up of the area so that waste that posed any potential risk to human health or the environment was removed or treated immediately. However, that leaves about 499,000 tons of waste still there, and the issue of how that will be treated remains.

NIEA is engaging top-class experts to advise on clean-up options at the Campsie site, including cost estimates. Clean-up decisions will be based on that expert advice. As that is happening, the agency has, as I said, already removed some high-risk and medium-risk waste and increased its monitoring of the surrounding environment to ensure that nothing gets into the waterways there.

Every legal effort is being used to recover the costs from the polluters. This is a high priority for enforcement action. If it is not fully successful, I will have to consider funding options at that stage.

The issue is wider than the local council because the waste that could be identified seems to have come from a very wide area and from many regions. Other councils will have made alternative legal arrangements for the disposal of their waste.

**Mrs Cameron:** I, too, thank the Minister for his statement to the House this morning and welcome it.

The statement refers to central government working more closely with councils to support legitimate waste operators and make it harder for non-compliant operators. How does he envisage that working in practice? What areas of cooperation will be considered? Is there not a vital role here for the National Crime Agency in tackling organised crime, such as illegal dumping?



**Mr Durkan:** There is an important role for all of us in tackling crime such as this. Today, I have outlined measures that my Department and I are taking to do so. I have met the Justice Minister and will meet him again soon to discuss deterrents to this type of crime. As I outlined in my statement, the profits are vast, but the deterrents are very low. Therefore, it is a very attractive crime. The sentences or deterrents should reflect the seriousness of the crime, which is far from victimless. It can cause damage to human health and, undoubtedly, damages the environment. Who is left to pay? Ultimately, should we be unable to make the polluter pay, it will be up to the taxpayer here to foot the bill. I think that we would have public support to pursue these criminals with the full force of the law, and I am happy to work with each and every agency to do so.

The Member also asked about enhanced partnerships between central and local government. That is key. Partnership working has existed and does exist, but it could and, indeed, will be strengthened further as we move forward. My officials and I interact regularly with the regional waste partnerships across the North. The reform of local government, which, I am sure, we will talk enough about later, will provide greater opportunities for councils to interact with the Department. With fewer councils, we can ensure greater uniformity in how they do business.

**Mr McCartney:** Go raibh maith agat, a Cheann Comhairle. Ba mhaith liom fáilte a chur roimh an ráiteas seo agus, mar sin, gabhaim buíochas leis an Aire as. I welcome the statement and thank the Minister for what was a comprehensive and detailed response to the issue and the Mills report. The key to this — I think that is the Minister's own word — as we take forward the ongoing work and the public inquiry, is giving communities and businesses the confidence that any waste created will be properly and legally disposed of. That is the way to take this forward. I welcome the Minister's response to the public inquiry as well. It is important that we reassure people. Being from the constituency, the Minister will know —

**Mr Speaker:** I encourage the Member to come to his question.

**Mr McCartney:** — that rumours still prevail that physical structures are built on what are, as yet, undetected illegal dumps. I ask the Minister to comment on that.

**Mr Durkan:** I thank Mr McCartney for the question. I am glad that he recognises that we

are moving forward. That is very important. Although a public inquiry cannot start immediately in case it interferes with the ongoing criminal investigation, I hope that I have demonstrated to all Members today that I am not just sitting on my hands waiting until such time as we can proceed with that. That is why I have brought forward the proposals today, and I am determined to get them implemented in the timescales that I have set down today, which are challenging enough.

I am fully aware of the public concern, fear and suspicion. That is why I want to take every step possible to me to allay that fear, concern and suspicion. That is why I have agreed that we proceed with a public inquiry and why I am doing this in the interim.

The site-specific issues to which the Member refers have been taken on board and are being further investigated by the agency and, indeed, by officials in the planning department.

**Mr P Ramsey:** I commend and thank the Minister for bringing such a detailed statement to the House and for some of the actions to come out of that. All Members for the constituency, including you, Mr Speaker, will be aware of the serious worry and, as the Minister said, the fear across the city and the north-west. Can the Minister assure the House and the people of Derry and the north-west today that such incidents and levels of illegal dumping will not happen again?

**Mr Durkan:** I thank the Member for his question. Unfortunately, I cannot give an assurance that this will not happen again; what I can do is give an assurance that it will never happen this easily again. We will not make life as easy for waste criminals as we have.

The Mills report rightly identified gaps and a lack of interaction between sections of the Environment Agency and gaps between the agency and the planning department. Prior to today, I have taken steps to address those. Where such gaps exist, there will always be criminals who are ready, willing and able to exploit them for their own financial gain, regardless of any impact on the environment or on other people. It is vital that we do not make it easy for them. The scale of the incident on the outskirts of our home city was unprecedented on this island, so I think that I can assure him that anything on that scale will not happen again and that we are taking every step to ensure that we drive crime and criminality out of the waste industry.

**Mr Elliott:** I thank the Minister for the update on the report. He will be aware that there is considerable frustration among the public, particularly about new laws at local councils. In Fermanagh, I have had complaints from people who have got a £75 fine for dropping a cigarette butt or a sweet paper. There is a huge difference between that and 500,000 tons of waste being dumped. Can the Minister give us and the public any reassurance about how he will deal with the bigger waste disposal dumps mainly activated by criminal gangs?

**11.00 am**

**Mr Durkan:** I thank Mr Elliott for that question. In answer to an earlier question, I outlined my interaction to date with the Justice Minister and the future meetings that I have scheduled with him to discuss this issue. I do not believe that the current deterrents for waste crime match the seriousness of the offence. That is something that I have to work with my colleague Minister Ford and, indeed, the judiciary on.

As regards the poor individuals being fined £75 for dropping litter, I have been contacted by some of these people as well, looking for my assistance with quashing the fine. Enforcement is an important tool in addressing waste crime, but it must be done on a scale matching the offence.

**Lord Morrow:** I thank the Minister for his statement, in which he said:

*"The DOE's programmes to support community efforts to reduce waste will be enhanced."*

A lot of the waste has been deposited close to one of our valuable rivers, the Faughan. I understand that some angling clubs wrote to the Department about the issue a long time ago. The Minister was not in office at the time, but what action did the Department take, or what meetings did it set up with that angling club to discuss the matter further, so that it could be pursued long before it ever was? It strikes me that there has been reluctance to move on the issue and that something could have been done years before it was.

**Mr Durkan:** I thank the Member for the question. He rightly identifies that it was before I was Minister and certainly before Alex Attwood was Minister, which raises this question: who might have been Minister of the Environment at that time? The Mills report flags up the issue that letters had been written and contact had

been made by members of the public, including the local angling club, with concerns around the site and raises the question of why these were not acted on. This has caused me great concern, even though it happened — or did not happen — many years ago. The steps that I announced today and hope to move forward will ensure that something such as this cannot happen again and that we will not have the same silo mentality that has existed within the agency and between it and DOE planning. It is important to acknowledge that what happened and how things were or were not responded to was wrong, to ensure that it does not happen again and to have the systems and safety net in place to ensure that, when something like this is brought to the Department's attention, it is acted on immediately.

**Mr I McCrea:** I thank the Minister for his statement. I think that this is a genuine attempt to address the illegal dumping of waste. I have had conversations with people who express concern about this and, indeed, those in the constituency in Londonderry, and they want the House to unite in supporting the National Crime Agency. Will the Minister give an assurance that, regardless of his party's views on supporting the National Crime Agency coming to Northern Ireland —

**Mr Speaker:** I encourage the Member to come to his question.

**Mr I McCrea:** — if work can be done with that agency, he will not object to it?

**Mr Durkan:** The Department previously worked closely with the PSNI, obviously, and continues to, along with SOCA, on the issue of waste crime. However, I have to express some disappointment at how SOCA, which is, I suppose, the predecessor to the National Crime Agency, has responded and interacted with my Department and, indeed, how it has dealt or failed to deal with waste criminals. That led someone I know to suggest that SOCA might be an abbreviation for "silent on criminal activity". As I said in answer to Mrs Cameron's question, I am keen that my Department works with each and every agency that can bring about prosecutions and asset recovery. I am happy to give that assurance again.

**Mr Eastwood:** I thank the Minister for his statement and for the actions contained in it. I welcome the wide-ranging public inquiry that he mentioned. Has he done any work on how much that will cost?

**Mr Durkan:** I thank the Member for his question. Well, I do not really, actually. *[Laughter.]* As Members will know, public inquiries by their very nature can be open-ended, long-running and, as a result, extremely costly. I have not yet conducted any calculations or estimations of how much this public inquiry would cost. I have, as I said, written to Executive colleagues indicating to them my desire to pursue the public inquiry and asking for their support. Ultimately, I will seek their financial support as well.

**Mr Allister:** It is hard to regard the massive illegal dumping at the Mobuoy site as anything but a huge failure by the NIEA. How such a thing happened under its nose has never really been explained. Given that it is the same organisation that, with such officiousness, comes down heavily on the easy pickings of individual farmers on the slightest incident of pollution and arrogantly imposes an area of special scientific interest (ASSI) categorisation without ever properly consulting the affected farmers, does the Minister think that that organisation is fit for purpose, since it seems to have been asleep at the wheel on this big issue?

**Mr Durkan:** I thank the Member for his question. I do not think that this was just a massive failing by NIEA; it was a massive failing by the Planning Service as well. There has been a litany of errors, and the Mills report outlines them. Today, I have announced the steps that I am taking to reduce the possibility of anything like this happening again.

Prior to this, I announced a root-and-branch review of the Environment Agency, its structures and how it operates. That will be extremely important in how we address this major issue as well as those outlined by Mr Allister. That is important not just to give confidence in the agency back to the public, but to assist its staff. For us to get the most out of them and make the most of the undoubted expertise that they have, the agency needs to be improved. I am committed to improving the agency and ensuring that it is fit for purpose in everyone's eyes.

**Mr Byrne:** I thank the Minister for his statement. Technical officers from the local authority, Derry City Council, were in charge of this operation, and £50 million has gone amiss. What can be done to reassure the public that those officers and the management of that council are really in charge of dishing out the land tax money in order to make sure that this does not happen again? Will there be rigour

and determination in trying to recover some of the money?

**Mr Durkan:** I thought that Mr Eastwood's question was bad. I thank the Member for his question.

I have outlined the determination to recover the money from the criminals responsible for this incident. It is imperative that we make the polluter pay. I spoke of the need to strengthen relationships — we will do this — between central government and local government. We will also strengthen the scrutiny of the way in which councils treat their waste. I hope that that assures Mr Byrne.

**Mr Agnew:** I thank the Minister for seeking the agreement of Executive colleagues for a public inquiry. However, I remind him and the Executive that the Assembly has expressed its will very clearly, and I ask him to ensure that the Executive meet their duties in that regard.

The Minister made reference to the public inquiry including a comprehensive investigation of waste disposal. The motion that the Assembly passed also asked the public inquiry to investigate the role of his Department in failing to regulate other industries such as quarrying. Will he guarantee that that will be part of the terms of reference for the public inquiry?

**Mr Durkan:** I thank the Member for his question. That was part of the amended motion that was passed by the Assembly and will indeed be part of the terms of reference of any public inquiry. I am fully conscious of the issue, and I assure the Member that it is a high priority. Already, following my instruction, the DOE permanent secretary is chairing a group of senior planning and NIEA officials to ensure a more joined-up approach, particularly around regulation of the type of activity to which Mr Agnew refers.

**Mr Speaker:** I ask the House to take its ease while we wait for the Minister of Health, Social Services and Public Safety.

## **Health and Social Care: Promoting Quality and Good Governance**

**Mr Poots (The Minister of Health, Social Services and Public Safety):** In recent weeks, I have informed the Assembly about serious failings in the quality of care provided to patients and the robustness of governance arrangements in the Belfast and Northern

health and social care trusts. My approach in responding to those failings has been to find out what went wrong and to ensure that action is taken to correct it, as these are serious matters and are deeply concerning for the patients and their families who have been affected by them.

In my previous statement, I said I wanted to establish the facts concerning these failings, take immediate medium-term and long-term action to correct what went wrong and ensure that the necessary learning would be applied across the entire health and social care system in Northern Ireland. I will come on to further actions taken to address the specific failings in the Northern and Belfast trusts shortly, after I outline for Members the key elements of my strategic approach to improving the quality of care provided to patients and the robustness of governance arrangements across the health and social care sector in Northern Ireland. There are three key elements to this strategic approach; a review of unscheduled care, staff involvement and governance.

First, Members will recall that, following the major incident at the Royal Victoria Hospital's emergency department declared by the Belfast Trust on 8 January, I commissioned the Regulation and Quality Improvement Authority (RQIA) to conduct a systemic assessment of arrangements for unscheduled care in the Belfast Trust with a view to informing the wider picture regionally. The review that is under way is being carried out by eminent professionals who are each expert in their field of unscheduled care. Its remit is to examine the fundamental underpinning systems, processes, resources and model for unscheduled and emergency care, including how we build sufficient resilience regionally.

### **11.15 am**

At this point, I can tell Members that the review team has been working with the Belfast Trust to gain an understanding of the flows of patients to and within the hospitals in the trust. A wide range of relevant information has been sought and provided by the Belfast Trust, the Health and Social Care Board and other HSC organisations, including the Northern Ireland Ambulance Service (NIAS). Members of the review team have had a comprehensive briefing from the chief executive and senior executives of the Belfast Trust on the programmes of change that the trust has been undertaking to improve hospital services in Belfast. During the next month, the review team will visit trust facilities and meet front line staff and managers. It will also meet other organisations in relation to the wider regional aspects of the review. The

chair of the review team has had initial visits to all trusts, including the NIAS. He has advised that, in every trust, there are examples of innovations designed to improve the flow of patients and their experience of the care provided.

The review team will provide its report to me in June, but I am not prepared to wait for receipt of the final report and recommendations in June; I want to see actions now. Therefore, I welcome the fact that, to help share the learning across organisations and to consider initial findings from the work of the review team, the RQIA will hold two summit events in May. The outputs from those events will help to inform the recommendations of the final report of the review, which I have asked to be completed by mid-June. The review team's report will provide one of the three building blocks on which the improvement in the quality of patient care and governance will be taken forward.

I move on to staff involvement. I want to ensure that the need for best practice in unscheduled care is maximised across the HSC and is addressed urgently. I believe that there is no better way to do that than to directly involve the staff who deliver that care and to empower them to act. Staff involvement is, therefore, the second building block on which I intend to deliver positive change. In that respect, I participated in the Royal College of Nursing emergency care summit on 19 February, where I heard at first hand the views of emergency nurses and their commitment to drive emergency care forward and improve care for our patients.

Members will recall that, in my statement to the House on 18 March, I announced that the College of Emergency Medicine had agreed to hold an unscheduled care summit that will pull together information from a wide range of unscheduled care experts and foster action across the HSC. The unscheduled care summit, which takes place tomorrow, is about whole-system solutions. I have said before that many of the solutions to the challenges in emergency departments (ED) will be found outside the door of the ED. That is why I have asked the college to ensure that the summit brings together some of the most senior representatives of hospital medicine, general practice, nursing, social work and allied health professionals, as well as managers and representatives of the trade unions in Northern Ireland, and charges them with looking at the issues systematically.

As I told the Assembly on 18 March, the college has also agreed to work with my Department and the wider HSC to hold a follow-up event, 60 days after the summit, to build on the outcomes of the summit and develop recommendations on how to maximise the effectiveness of urgent and unscheduled care services in Northern Ireland. I expect that the summit and follow-up event will not only share vital learning but produce definitive proposals for my consideration in June this year, alongside and complementary to the RQIA's report.

Today, I am announcing the third building block of my strategic approach to delivering the improvement that the Assembly and the public have asked for. I want to see if a step-change improvement in the quality of governance arrangements across the HSC is needed and whether they support a culture of openness and transparency, a culture of enquiry and learning and a culture of redress and making amends when we get things wrong.

Subject to appropriate approvals, I am commissioning external experts from outside Northern Ireland who have a high level of expertise in the field to undertake a study to provide me with their independent advice on the effectiveness of these governance arrangements and how they can be further developed and strengthened.

In order to secure the best possible response for the population of Northern Ireland, an initial approach has been made to the former Chief Medical Officer for the Department of Health in England, Professor Sir Liam Donaldson. I am pleased to advise the Assembly that he has indicated that he would be willing to take up the assignment. No doubt you will be aware that Professor Sir Liam Donaldson has extensive experience in healthcare. From 1998 to June 2010, Sir Liam was the Chief Medical Officer for England and the United Kingdom's Chief Medical Adviser, and his record and achievements speak for themselves. Internationally, Sir Liam served as a member and vice-chairman of the World Health Organization's executive board and conceived of, founded and led the World Alliance for Patient Safety, which is an initiative that moved action on safety to a global scale. Terms of reference for this work, which I expect will be completed by the end of the year, are appended to the statement and are available on the Department's website.

My strategic approach to improving the quality of care and the effectiveness of governance in the HSC could not be clearer: three significant and serious building blocks to bring about

improvement. One is under way, the second will begin tomorrow, and the third I have announced today. They all involve eminent people who are experts in their field, with wide experience of healthcare. They are all working to clear terms of reference and are all taking a coherent strategic approach, and they are driven by my resolve and by the determination and commitment of all in the health service.

Although it is crucial to learn from the past, it is essential to look forward to the future and to ensure that, in learning from the past, appropriate actions are taken to ensure delivery of high-quality, safe and effective services that are underpinned by robust governance arrangements across the whole health and social care sector. That is exactly what my strategic approach is intended to do, and that is what I intend to deliver.

I have made clear and demonstrated my commitment to openness and transparency about our Health and Social Care services. I apprised the Assembly and the citizens of Northern Ireland of the serious issues in the Northern and Belfast Trusts as soon as possible after I became aware of them. In that respect, I want to take this opportunity to provide the Assembly with an update on matters relating to both trusts.

In my written statement to the Assembly on 28 March, I informed Members about the continuing work at the Northern Trust on the implementation of the improvement programme and about findings emerging from the second phase of implementation. Following the statement, a number of reports highlighted the pain and anguish suffered by the families of those patients who directly experienced serious deficiencies in the quality of care that they received. As I indicated in my statement on 28 March, I asked the trust to confirm to my Department as soon as possible that all appropriate action, such as initiating fuller investigations and making sure that all affected patients and families are given the appropriate information and support, has been completed. I also asked the trust to ensure that those individual cases have all been reported appropriately, properly investigated and that learning from those instances is effected in the trust and more widely in the HSC as necessary. I want to update Members on the assurances that have been provided to me.

The trust has advised me that it has informed the families in all 20 cases. I want to be clear: I expect meaningful engagement with families, which includes giving them the opportunity, if they wish, to participate in the serious adverse

incident investigation. The families should be afforded sight of the final report and be informed of progress with the implementation of recommendations. I am seeking assurances from the trust that appropriate actions have been taken in all 20 cases to report to all relevant authorities, including the coroner, to investigate the incidents to identify learning and to implement recommendations from completed investigation. Some of those investigations are ongoing. I will be receiving regular updates in future and will keep Members fully informed.

Mr Speaker, on the matter of the Northern Trust, I will, if I may, take the opportunity to clarify that the turnaround team was appointed to the Northern Trust in December 2012, not 2011, as I inadvertently indicated in response to a question for oral answer to the Assembly on 31 March 2014.

On Monday 10 February, I delivered a statement informing the Assembly of my instruction to the Regulation and Quality Improvement Authority (RQIA) to carry out an inspection of the emergency department and the acute medical unit (AMU) at the Royal Victoria Hospital in the Belfast Trust over the weekend of 31 January to assess the quality of care and dignity afforded to patients in those facilities.

A Belfast Health and Social Care document entitled 'Improvement Plan for Unscheduled Care in Belfast Trust', which is being published today on the Belfast Trust website, details the actions taken to improve unscheduled care for patients. The final report of the findings of the RQIA inspection will also be published this morning. Despite the failings identified in the report, one clear message shines through: the commitment of staff to their patients. They are staff who are genuinely upset when they feel that, for reasons outside their control, they have not given the best care to their patients. They are doctors and nurses, social workers and many other health professionals, such as porters, domestic staff and managers, who are making enormous effort to ensure that the sickest and most vulnerable people are given priority and to ensure that patient safety is protected. My thanks and appreciation go out to them all. The challenges are complex, and some of the solutions will not be immediately deliverable.

When I made my statement to the Assembly on 10 February, I outlined the RQIA's interim findings from its inspection; those interim findings are now fully reflected in the report published today. I was deeply upset to hear of suggestions that dignity is not always afforded

to those who die in our emergency departments. That cannot continue; it must change. I was angry that people had experienced unacceptable levels of care, and I was angry that staff do not feel supported in delivering the care that they wish to. I was particularly angry at the suggestion that targets should come before patients. That is unacceptable, and I cannot, and will not, tolerate it. In response to the report's findings, I asked the RQIA to secure from the Belfast Trust a detailed action plan setting out how it will address the failings and issues identified. That action plan, in the form of a quality improvement plan, is included in the RQIA's report and describes how the trust is addressing all the recommendations in the report. The document that the Belfast Trust is publishing today complements and provides further details on the quality improvement plan in the RQIA's report.

Following receipt of the RQIA report, at the end of last week, my officials met the senior teams of the Belfast Trust, the Health and Social Care Board (HSCB) and the Public Health Agency (PHA) to consider the RQIA's recommendations and the trust's response, as set out in the trust's quality improvement plan. At that meeting, the Health and Social Care Board and the Public Health Agency confirmed that the trust's improvement plan was a reasonable response to the findings and recommendations in the report. The RQIA has also confirmed that it has accepted the appropriateness of the trust's quality improvement plan to take forward the recommendations of its report.

The improvement plan presents an opportunity to improve the service and to give better care to patients. It is critical that the plan be implemented without delay, and I have advised the trust of my clear expectations in that regard. I have also assured the Belfast Trust that it will have the full support of me, the Department, the Health and Social Care Board and the Public Health Agency in taking forward that challenging agenda.

My Department was also updated on the immediate actions taken by the Belfast Trust, following its meeting on 5 February with the RQIA, at which it was presented with the RQIA's interim findings. Details of the immediate actions being taken by the trust were included in my statement to the Assembly on 18 March, and I am pleased to provide a further update.

A nursing workforce review has been completed, which, as I announced in that statement, resulted in the appointment of 15

additional nurses in the emergency department and 25 in the acute medical unit. The additional nursing staff will permit, for example, an increase in the nurse:patient ratio in the resuscitation area to 1:1 and in the number of nurses in the focused assessment areas at all times to four. In the AMU, the additional staff will facilitate a greater level of personal care and assistance with nutrition.

### 11.30 am

The trust's chief executive and senior team have reinforced to staff directly that patients must be admitted on the basis of clinical priority, not targets. There will be senior management cover for evenings and weekends to provide support and guidance for staff and aid the flow of patients. The trust, in partnership with trade unions, immediately provided support clinics in the emergency department and acute medical unit to give immediate support to all staff working in those pressurised environments. The support team was made up of senior experienced nurses, occupational health staff, human resources staff and trade union colleagues.

A review of support services has been completed and resulted in a dedicated portering team being based in the emergency department, 24 hours each day, every day. There are enhanced cleaning services in place, with dedicated cleaning staff for the emergency department until 10.00 pm and further services available from the night cleaning team until 7.00 am.

Additional catering provision is in now in place and is overseen regularly by the catering manager/supervisor. Supplies of water, tea and coffee and light snacks are available in the department at all times, and emergency stores are readily available for times of surge.

Security is readily available, 24 hours each day.

A learning and development/support programme is in place for all new nursing staff to ensure that they have appropriate levels of training and induction to support them in their new role. The trust is establishing systems to ensure that staff receive feedback on any safety concerns that they raise, including through team meetings.

Additional senior nurses for ED and AMU have been appointed to oversee clinical care. An associate director of nursing for unscheduled care is to be appointed. An ED clinical lead for safety and governance is being appointed.

The use of internal transport, with nurse escort, to ensure timely transfer between sites is being provided.

A direct assessment and admission facility for the frail elderly on level 7 in the Belfast City Hospital is in place.

The trust will ensure that additional stocks of pillows and blankets are held and are available to the sister/charge nurse for times of increased requirement. Those will be ordered, and the stocks overseen, by the ward sisters.

The trust has reviewed, and is in the process of procuring, the necessary additional patient equipment, such as cardiac monitors, IV pumps etc.

The functions of the acute medical unit have been clarified, and additional arrangements, such as a 4.00 pm meeting between the patient flow co-ordinator and senior medical decision-makers, have been put in place. Additional administrative support to ensure 24/7 clerical support in the AMU has been provided.

As I advised in my statement of 18 March, that action has built on the initiatives already taken by the trust following the recommendations in the review of the emergency department carried out last year by the College of Emergency Medicine, details of which were included in that statement.

Although the actions in the trust's improvement plan will improve the experience of patients using the emergency department and the acute admissions unit in the RVH, the trust cannot, at this time, guarantee that the Manchester triage diagnostic timescales for patients who present at the emergency department will be adhered to at all times. That is because of the inability to fill all the medical posts, and it has the potential to impact on the care provided should seriously ill patients wait longer than recommended when the emergency department is under pressure.

That issue has been recognised by the trust and has been included in its risk register. Appropriate mitigating action is in place, which is monitored by the trust and the Health and Social Care Board.

Although I am looking to the Belfast Trust to ensure that a consistent approach is taken to the implementation of its quality improvement programme, Members can be assured that the bodies with responsibility for commissioning and regulating the health service will remain vigilant in discharging their responsibilities as we move forward. I shall be seeking their

assurance that progress continues to be made, that things have improved and that momentum is maintained.

I previously referred to the five serious adverse incidents (SAIs) related to the quality of care provided by the Belfast Trust. Those incidents caused all of us to have concern about the quality of governance in the trust. My Department wrote to HSCB in February 2014 to ask it to review completed emergency department-linked SAI investigations to ascertain whether delay may have been a contributory factor, the involvement of families and carers in the investigation process and the involvement of the Coroners Service. That work, which will cover serious adverse incident investigations between 2009 and 2013, is under way. It is anticipated that it will be completed by the end of April or early May. I have updated the Chair of the Health Committee on that time frame, and I will provide a further update to the Committee once the analysis is available.

Although I am confident that our services are overwhelmingly safe and are delivering better outcomes than ever, and that the experience of the vast majority of patients, clients and their families is a positive one, there is clearly a need to provide greater independent assurance on the safety of services. Throughout the rest of this year, the RQIA will continue with a series of planned reviews, including a review focusing on the experience of older people in acute care, a separate review focusing on discharge arrangements from acute hospitals and a review focusing on the implementation of the regional stroke strategy. In addition, as part of a significant change to the work programme of the RQIA, I have decided that the RQIA will, from 2015-16 onwards, undertake a rolling programme of inspections of the quality of services in all acute hospitals in Northern Ireland each year. Currently, inspections of acute hospitals are limited to hospital infection prevention and hygiene. The inspection reports will be published by the RQIA on a hospital-by-hospital basis as they are completed, and they will focus on a range of quality indicators around triage, assessment, care, monitoring and discharge. Members will appreciate the important linkages between the programmes of work already scheduled and the further work I have asked RQIA to undertake.

In the interests of openness and transparency, and in order to provide reassurance where possible, I have instructed all six trusts to, by the end of September 2014, review all serious adverse incident reports completed between January 2009 and December 2013 and provide

information to my Department covering their engagement with families and their compliance with statutory requirements to inform the coroner in cases in which patients or clients died. I have also instructed them to confirm that escalation and reporting to other organisations happened appropriately, and, if there are any general or specific issues, to report on any not previously identified to bring them to my attention.

Although that work will initially be undertaken by trusts, the Health and Social Care Board, given its responsibilities for serious adverse incidents, as well my Department, will consider any findings. The RQIA, as part of a planned review of adverse incident management, reporting and learning, will, later this year, independently investigate and quality-assure the work each trust has undertaken as part of that exercise. The RQIA will also, as part of that same planned review, consider the appropriateness of trusts' systems for identifying serious adverse incidents by considering their current arrangements for reporting and handling adverse incidents, litigation cases and complaints. That will involve RQIA sampling cases from the adverse incidents, complaints and litigation systems and reviewing trust systems for identifying, where appropriate, cases as SAIs. That work will complement and support the wider governance review that I am commissioning.

Although a number of reviews and investigations will be ongoing, it is important that we continue to implement improvements already identified. Today, I have given the go-ahead for the phased regional implementation of an enhanced assurance process for all deaths in hospitals in Northern Ireland. The mortality and morbidity review system, which is being developed by the Belfast Trust, will be rolled out across Northern Ireland hospitals over a three-year period and will record, review, monitor and analyse all hospital deaths. This system, used effectively, will provide additional scrutiny of the death certification process; enhance a culture of learning across trusts; improve reporting of serious adverse incidents where a death has occurred; act as an additional safeguard to ensure that deaths are appropriately reported to the coroner; and improve the quality of information provided to the coroner and as part of serious adverse incident notifications.

Rolling out the system will ensure that the causes of death are accurately recorded, reviewed and analysed, thereby facilitating identification of poor care management; learning from errors; openness and



transparency; and improvements in patient safety and care. This will provide not only a means by which to quality assure information on deaths at hospital level but additional assurance and oversight in line with statutory responsibilities, and will ensure the identification and sharing of learning from all deaths that occur in our hospitals.

I am in no doubt that the incidents and revelations of recent weeks have dented the reputation of our health service and caused distress for those patients and their relatives who have been directly affected. I hope that the actions I have set out in this statement will provide reassurance and alleviate the worry that has been caused to many.

In conclusion, I want to assure the Assembly and the public that I am committed to ensuring that the quality of care provided to patients, coupled with the corporate governance that underpins care, is the best that it can be and that we have a mindset across the HSC that will deliver this. All the actions that I have taken in recent weeks, and the further actions that I have announced today, are designed to give assurance that the provision of high-quality care and robust systems and procedures are the routine day-to-day business of the HSC and that, when failings do occur, these are quickly identified and rectified with openness and transparency.

I believe that the facts to be established by the reviews to report later this year will confirm this to be the case. However, I also want to ensure that we learn from recent experience and refocus or redirect our efforts where necessary. I am confident that the strategic building blocks that I have put in place will, over time, deliver a step-change improvement in the quality of care provided to patients and the quality of governance arrangements across the health and social care sector in Northern Ireland. I commend the statement to the House.

**Ms Maeve McLaughlin (The Chairperson of the Committee for Health, Social Services and Public Safety):** Go raibh maith agat, a Cheann Comhairle. I thank the Minister for his statement. However, there is little new in the statement except that there will be an initial contact with the Chief Medical Officer in England and an enhanced role for the RQIA. I listened very carefully as the Minister referred to:

*"a culture of enquiry and learning".*

However, I suggest that our staff and patients require a culture of action. How will the Minister

deal with the criticism that this statement is simply another review and that it does not deal with assurances to families, increased recruitment, closure of beds or workforce planning? I note specifically that the Minister is seeking assurances from the Northern Trust in relation to the 20 cases in that trust. Has the assurance that appropriate action has been taken not yet been given? Is the Minister actually suggesting to the House that this statement is new or will make any difference to staff and patients in our emergency departments today? I call on the Minister to provide actions, not reviews or words.

**Mr Poots:** I note that the Member did not apologise to the Speaker for falling asleep during the speech. She must have been sleeping if she did not notice that a whole series of actions are being taken, including the employment of an additional 40 nurses; the completion of the review of support services, which has resulted in dedicated portering on a 24-hour basis each day; enhanced cleaning services being put in place; and the trust, in partnership with trade unions, providing support clinics in emergency departments and acute medical units.

Security is readily available 24 hours a day. Additional catering provision is in place to be overseen by the catering manager and supervisor, ensuring supplies of water, tea, coffee and light snacks. The Belfast Trust is enabling systems to ensure that staff receive feedback on any safety concerns. A learning and development support programme has been put in place. Additional senior nurses for ED and AMU have been appointed, and an associate director for nursing and unscheduled care is to be appointed. An ED clinical lead for safety governance is being appointed. A further measure is the use of internal transport with nurse escorts to improve timely transfer between sites. There is a direct assessment and admission facility for the frail elderly on level 7 of Belfast City Hospital. I could go on, but it is quite embarrassing.

**11.45 am**

**Mr Wells:** Minister, I congratulate you on engaging the service of Sir Liam Donaldson, who is one of the foremost experts in healthcare in the United Kingdom. What engagement has the Minister had with CEM, the Royal College of Nursing and the BMA?

**Mr Poots:** The Royal College of Nursing held an emergency care summit, which I attended, and we have engaged with that organisation.

Following on from that, the College of Emergency Medicine is holding a major summit tomorrow, which will involve all the key people, including the nursing staff. That will be followed up in two months with further work on the findings from tomorrow and how we have implemented the recommendations that come out of tomorrow's summit. We meet the RCN regularly and we will continue to do so. That is very important because our nursing staff provide front line care daily. They see and can identify the problems, and it is very important that we pay attention and listen to them when they identify issues of concern.

**Mr McKinney:** I thank the Minister. I will deal with the issue of SAIs. The Minister made plenty of reference to openness and transparency, but let us be clear that the issue here is about a potential cover-up and the potential failure in a statutory duty to report. So, what does the Minister propose? SAIs will be investigated, not by an external authority, but by the same trusts that held the information in the first place, and then the Health and Social Care Board and the Department will consider their investigation into themselves. I suggest that this is the health service investigating itself. Can the Minister tell us where the openness and transparency is in that?

**Mr Poots:** I think that another Member has not been paying much attention. I know that it was a long statement and maybe the concentration of some people does not last very well, but I am not sure what precisely the Member thinks we are asking Sir Liam Donaldson to do.

**Mr Beggs:** I think the Minister for his statement on promoting quality and good governance, but, like others, I have noticed that it regurgitates much that has been said before. We have learned today of a very basic failing at Antrim hospital, where a plastic tube was inserted into the wrong patient. A memo has been issued highlighting the role of ward staff, X-ray porters and, indeed, radiographers. Can the Minister indicate, in order to produce better quality healthcare and good governance, what additional resources will be provided to enable staff to cope with the pressures? Does he agree that every member of staff has a role to play to ensure that the right patient gets the right treatment?

**Mr Poots:** The Member may think that we are living in some Utopia where 70,000 people are employed and no one ever makes a mistake. Unfortunately, people do make mistakes, and the memo that went out from the Northern Trust was to assist and to help to ensure that

mistakes are minimised and happen less frequently. That is very important.

What people seem to fail to understand about serious adverse incident reporting is that it is very much a process of identifying what has gone wrong, how it went wrong and how you can avoid it happening in the future. That is what we are about, and we need to be open and transparent about these issues if we are to continually improve the services that we provide. The truth is that we provide much more extensive care than was previously the case to people who are often very ill. The consequence can be that sometimes it does not work out right because of human error and failure. We need to ensure that we minimise that, and that is the work that we are trying to do. That is what we are trying to deliver.

In interaction between staff and the HSC, there were in excess of 15 million key interactions between staff and patients and social care clients. There are over 78,000 people employed in commissioning and delivering the full range of health and social care services, so one can understand that it does not take a very large percentage to have serious adverse incidents. We could get it right 99.9% of the time, but when you have 1.5 million interchanges, it can still be quite traumatic for a number of people. Thankfully, the vast majority of people reporting to us are reporting good experiences with health and social care.

**Mr McCarthy:** I thank the Minister for his rather lengthy statement. I noticed that it was delivered with less enthusiasm than perhaps previous statements. Perhaps that is a sign that the Minister is getting tired, disillusioned or is maybe fed up with making excuses for inefficiencies in the health service.

However, we are where we are at. I just want to go back to the question of staff involvement. He said in his statement:

*"I participated in the Royal College of Nursing emergency care summit on 19 February".*

The Health Committee met the Royal College of Nursing a couple of weeks ago and they were absolutely at their tether's end in relation to —

**Mr Speaker:** I encourage the Member to come to his question.

**Mr McCarthy:** I will do my best, Mr Speaker. They were at their tether's end in relation to how they were being treated and the Minister

met them in February. When will these hardworking and hard-pressed staff see the light at the end of the tunnel? If nurses and their staff are under extreme pressure, there is no doubt that our patients will suffer and perhaps that is one reason why we are in the mess we are in today.

**Mr Poots:** I will be very blunt about it: our entire system is under extreme pressure, so I recognise that nurses are under extreme pressure, as are clinicians, management, staff on the floor, including porters, cleaners and the other ancillary staff, as are allied health professionals and social workers. The pressure is arising largely as a consequence of more and more work. We are victims of our own success in that more people are living longer and the consequence is that we get more ill people with complex conditions arriving at our hospitals, very often unscheduled, for emergency care, and we have to respond to that. I am being asked to respond to that very often with less and less. Indeed, next year I am going to be asked to respond to it with £70 million less as a consequence of welfare reform. We cannot get away from these things. If others wish to starve the health service, do not come complaining if the service is not as good as you anticipate it should be.

We have managed to improve things considerably over the past three years. We have managed to improve the outcomes in cancer, cardiac care, stroke and sepsis. Those are the big killers in our hospitals. We have managed to reduce waiting times, but I cannot do it, and I do not think that anybody else could do it, with the proposed cuts that are coming our way as a result of welfare reform. The House needs to be aware of that as do the public. Those who want to put welfare reform before health will diminish the healthcare of our population, and we need to make it very clear to the public that, if that is the choice that people in the Assembly want to make, the public will suffer as a consequence.

**Mrs Cameron:** I thank the Minister for his lengthy statement to the House. I sincerely hope that the welfare reform-related cuts do not come into place and that the parties opposite come to their senses fairly soon. What assessment has the Minister made of the desire of staff for transparency and learning in the health system?

**Mr Poots:** I see only a powerful desire among staff to ensure that things are done in a much more open way than was previously the case. A culture existed in health for many years that

that was not the way that things were done. People recognised, particularly after the hyponatraemia inquiry, the detrimental impact that the lack of openness had, first and foremost, on the families. The consequences were absolutely devastating for those families, but it also had a hugely detrimental impact on the members of staff — the doctors and nurses. People recognise very clearly that that is not somewhere we wish to be in the future and it is much better to be open about these things at the outset.

I do not think that we want to get into a claim culture in health in Northern Ireland, as that would have the ability to destroy the health and social care system. We need to be open and transparent with people when mistakes are made, and there needs to be an understanding by everyone that, on occasions, mistakes are made. We in the health service need to ensure that we minimise such mistakes and seek to ensure that we provide the best possible care to all our people at all times.

**Mr Brady:** Go raibh maith agat, a Cheann Comhairle. I too thank the Minister for his statement. Minister, in answer to the question from the Chair of the Committee, you went through a litany of changes. Might it be naive to suggest that those already should have been an integral part of the health service?

We are to have reviews about the reviews, and we have innumerable reviews already. Does the Minister realistically think that Transforming Your Care can be introduced to any degree until that is all completed?

**Mr Poots:** I might remind the Member that his party held this Department at one stage. Much of the stuff that we are talking about as far as culture is concerned was not challenged when his party held the Department. It is us. We are seeking to change the culture that people are carping and complaining about. You did not seek to change that culture. The opportunity existed for previous Ministers to do it, and they did not do it. Do not come criticising me when your Minister did not do it when Sinn Féin held the Department.

**Mr I McCrea:** I welcome the Minister's statement. I commend him for coming to the House with it and doing what many other Ministers do not do, which is to come with the good and the bad news. In the Minister's statement, he referred to the rolling programme of RQIA hospital inspections. Will he provide some further detail on how he sees that being rolled out?

**Mr Poots:** I thank the Member for the question, which is more about how we can improve things than about complaining and making a virtue of it.

Previously, RQIA unannounced inspections of hospitals were limited to hygiene and cleanliness. We propose that inspections will focus on a number of quality indicators: triage, admission, assessment and discharge. All those areas will be covered. The proposed programme of inspections will be unannounced and will focus on a selection of quality indicators that the trusts will not be pre-notified of. The RQIA inspection reports will be published on a hospital-by-hospital basis, as and when they are completed, which will allow benchmarking of the best.

The RQIA already has a number of planned reviews under way. They will focus on acute hospitals and are more wide-ranging than a focus on particular services. The reviews will include a review of the experience of older people in acute hospitals, which is very important, and discharge arrangements for our acute hospitals.

#### 12.00 noon

**Mr McKay:** Go raibh maith agat, a Cheann Comhairle. I refer to the 20 families who were affected in the Northern Trust area, on which the Minister made a previous statement. Minister, those 20 families were not all informed before you made that statement and, indeed, had to go to other MLAs and to the media to get in contact with the health service to find out whether it was actually them they were talking about. I find it highly ironic that the Minister accuses other people of being asleep, when he was asleep at the wheel in that case. When will the Minister focus on his own job? When will he stop focusing on welfare reform or even Bairbre de Brún? At the end of the day, the buck does not stop with her or with the trusts: the buck stops with you.

**Mr Poots:** Obviously, something that I said previously must have stung. It is good to see that that is the case. The 20 cases that were identified were identified by the current directors in the Northern Trust. They came to me, and I made it public. That was the openness.

**Mr McKay:** You did not make sure to tell the families.

**Mr Speaker:** Order.

**Mr Poots:** The Member had his opportunity, and he failed to make his point very well. That is his problem.

The trust sought to inform all the individual families that were involved. I asked the trust to ensure that meaningful engagement took place, so that is a matter that I have been clear about. Meaningful engagement must take place with the families, which will include giving them the opportunity, if they wish — not all the families wish to do so — to participate in the serious adverse incident investigation. They should be afforded sight of the final report and be informed of the implementation of the recommendations.

My Department has written to the Northern Trust to seek further information on the 20 cases, so we are not asleep at the wheel. We are focused on ensuring that the trust follows up on what we have asked. Investigations are ongoing, and I will receive regular updates on the outcome of those investigations and on the implementation of the recommendations.

**Mr Rogers:** Thanks to the Minister for his statement. Minister, you talk about whole-system solutions. If we are to learn from the past and provide a strategic approach to healthcare provision in the future, do you not think it is long past time that you agreed to an independent review of Transforming Your Care to measure its effects on pressures and patient outcomes?

**Mr Poots:** I have previously told Members that, if they have better ideas than Transforming Your Care, we need to hear about them. I ask those who suggest that we should not proceed with Transforming your Care, "What are you proposing — that we build two additional hospitals with another 1,000 beds in Northern Ireland?". I propose taking people out of hospitals, providing care and support for people outside of hospitals and ensuring that they receive the appropriate care. What are other Members proposing? If they are saying that Transforming Your Care is not the way, what are they suggesting? We will wait. There is plenty of time. We have months ahead to hear the ideas.

The only issue that I have with Transforming your Care is that I want to see it implemented faster, quicker and better. That is where I will put pressure on — not for a review but for faster implementation. It is the only way forward that I can see and the only way forward that my health professionals can see. The experts, the Chief Medical Officer and all of the team identify Transforming Your Care as the best way

forward. It is not something that is completely new and radical; it is completely logical. That is why we will continue to go down that route.

**Mr McCallister:** It is great to see the collective responsibility of the Government working so well. I have several points. On workforce planning, there is no clear strategy on how you will fill vacant posts at Lagan Valley, Downe or other hospitals like that. As Mr McKinney pointed out, effectively, the health service is investigating itself. Crucially, setting aside welfare reform, TYC is to take £83 million out of the acute aide of the health service and move it into social care. Does that not effectively leave his flagship policy dead in the water?

**Mr Poots:** It certainly does not. Moving money from one to the other is completely rational. For example — I see some Members getting excited already — just a few years ago, 60% of the mental health care budget was spent on hospitals and 40% was spent in the community. It is now 56% in the community and 44% in hospitals. The shift of funding has ensured that we improve healthcare by moving away from a hospitalised, institutionalised system to one where we can provide a greater level of care in people's homes, their communities and the primary care facilities. We make no apology for moving towards identifying conditions at an earlier point, intervening at an earlier point and providing support and care for people in those situations in the community where they belong, as opposed to institutionalising people in hospitals.

**Mr Dallat:** I had not intended to ask a question, and I certainly do not mean to cause the Minister palpitations. However, having listened to the answer that he gave to my colleague earlier about the review of all adverse incidents, I have to ask this: Minister, this is déjà vu, is it not? We have been here before, asking health trusts to investigate themselves. Surely, that is not on.

**Mr Poots:** It is always good when I provoke Mr Dallat into asking a question. That is what the Chamber is about: exchange and question and so forth. I welcome that.

We have sought to ensure that we can move things forward. The trust has the information at hand, so it will have a course of work to do. However, on governance, openness and transparency, the inquiry, learning, the culture of redress and making amends, we are commissioning the services of Sir Liam Donaldson. He will carry out work on that, with independent advice on the effectiveness of the

governance arrangements and how they can be further developed and strengthened. Bringing someone of that standing in to assist us is very significant, and I welcome the fact that Sir Liam Donaldson is prepared to take up the assignment. I have no doubt that we will all have something to learn from his extensive experience and skill, which has been gained over many years, not just in the United Kingdom but across the world.

**Mr Allister:** Three years into office, more reviews, more summits, more fine words, but no review of what I suggest again to the Minister is one of the biggest contributors to the difficulties and chaos in our A&Es: the reduction in the number of beds in our hospital system. Over the past five years, the number of beds has been reduced by between 16% and 20%. Is that not a big contributor to the logjam in our system?

**Mr Poots:** The Member needs to understand that people stay in hospital for shorter times, and, consequently, there is a lower requirement. In all this, there is an issue that we need to identify: at what number of occupied beds can we critically run a hospital? The tipping point can be difficult, at times, if a hospital is already at capacity. It is important that we continue to observe the situation and ensure that we have appropriate beds available. The truth is — the Member and the House should be aware of it — that about 30% of our hospital beds are being used by people who could have been discharged. Some of them may be there for only a day longer than they should have been, but they could have been discharged.

Therefore, we need to do more work on the social care side to ensure that the appropriate packages are in place and on the step-down facilities to ensure that people who still require considerable care, but not necessarily in hospital, have that care available. There are courses of work that can be done. However, I do not believe that the answer lies in creating more hospital beds; the answer lies in ensuring that we maximise their utilisation and that people are discharged at the appropriate time and to the appropriate location.

**Mr G Robinson:** I commend the Minister for his very welcome statement and congratulate him on the job that he is doing in difficult circumstances. What experience does Liam Donaldson bring, particularly in patient safety?

**Mr Poots:** Sir Liam was chair of the World Health Organization's patient safety programme

and the National Patient Safety Agency. He is currently the patient safety envoy to the director general of the World Health Organization. He is recognised as the leading international voice on healthcare, quality and patient safety. As Chief Medical Officer in England, he was responsible for seminal reports on patient safety, including 'An Organisation with a Memory', 2000; 'Getting Ahead of the Curve: A Strategy for Combating Infectious Diseases', 2002; 'Good Doctors, Safer Patients: Proposals to Strengthen the System to Assure and Improve the Performance of Doctors and to Protect the Safety of Patients', 2006; and 'Safety First, 2006. This is an individual who has spent a lot of time on and dedicated a lot of his expertise to patient safety. It is really good news for Northern Ireland that we have been able to secure his services to assist us in further improving patient safety in our hospitals.

## Executive Committee Business

### Consumer Rights Bill: Legislative Consent Motion

**Mr Speaker:** I call the Minister of Health — the Minister of Enterprise, Trade and Investment. I apologise, Minister.

**Mrs Foster (The Minister of Enterprise, Trade and Investment):** I am glad to be the Minister of Enterprise, Trade and Investment. I beg to move

*That this Assembly endorses the principle of the extension to Northern Ireland of the Consumer Rights Bill.*

The Consumer Rights Bill was introduced to Parliament on 23 January 2014. It is intended to amend or extend existing UK-wide consumer and competition legislation. The primary aim is to make it easier for consumers to understand and access their key rights in relation to quality goods and services. The Bill will do this by consolidating in one piece of legislation key consumer rights covering goods, services, digital content, such as e-books and software, and the law relating to unfair terms in consumer contracts. These existing rights are currently contained in eight separate pieces of legislation.

The Bill will, therefore, address one of the major problems with the existing law, which is that it is overly complex, making it difficult to understand. That complexity creates confusion that causes detriment for consumers and business, as it results in unnecessary and time-consuming disputes. As part of this consolidation of consumer rights, the Bill will also implement the remaining provisions of the consumer rights directive. The directive's other provisions have already been implemented by two sets of UK-wide regulations.

The Bill will create clarity by being more prescriptive on how long certain rights will continue to exist, rather than leaving that to be decided according to the circumstances of each individual case. It will introduce a right to reject goods that are not of satisfactory quality for up to 30 days, removing the current uncertainty. After 30 days, traders can offer a repair, which, if unsuccessful, rekindles the right to reject.

The Bill will make it easier for consumers and small and medium-sized enterprises to

challenge anticompetitive behaviour through the Competition Appeal Tribunal.

### 12.15 pm

The Bill consolidates the enforcement powers used by trading standards departments to investigate breaches of consumer law, which are currently contained in around 60 pieces of legislation. It will also give the civil courts and public enforcers greater flexibility to take the most appropriate action for consumers when dealing with breaches or potential breaches of consumer law.

The Bill has been drafted as the result of extensive research and after an exhaustive consultation process. That process started back in 2008 when the Department for Business, Innovation and Skills launched a call for evidence on the need to reform UK consumer law. That was followed by three separate consultations on various aspects of the Bill. Northern Ireland was included in all those consultations, and a response was provided by the Consumer Council for Northern Ireland, which supported the intention to simplify and clarify consumer rights.

Independent research was also commissioned to provide empirical evidence of the reality of business practices in relation to consumer rights. That involved an initial sample of 1,000 businesses and was followed up with interviews with a smaller sample of those businesses. A draft Bill was published in June of last year, bringing together the various proposals included in the previous consultations.

The proposals in the Bill have been welcomed by business and consumer groups alike across the UK, including the Northern Ireland Consumer Council. The benefit for consumers is quicker and equitable resolution of their disputes. For businesses, it will mean that less time and resources will be employed in trying to resolve consumer disputes and reduce the potential loss of goodwill that such disputes can cause. Additionally, businesses will ultimately benefit from the opportunities for growth that increased consumer confidence will help to create.

Most of the Bill's provisions deal with a range of transferred matters, apart from those dealing with competition matters. However, all the legislation dealing with consumer rights that will be amended by the Bill has been made on a UK-wide basis. I consider it to be in the best interest of Northern Ireland consumers that the legislation setting out their rights to quality goods and services is no more complex than it

needs to be. Enshrining those rights in one statute as opposed to the current eight pieces of legislation is a major step forward in reducing the current complexity.

It is important that consumers and businesses in Northern Ireland should benefit from those changes at the same time as their counterparts in Great Britain, given the increasing growth in Internet retailing and in retail outlets with branches across the UK. Including Northern Ireland in the Bill will mean that the objective of clarifying and simplifying consumer rights will be shared by consumers and businesses across the UK.

I commend the motion to the Assembly.

**Mr Speaker:** I understand that Mr Agnew will speak on behalf of the Committee for Enterprise, Trade and Investment.

**Mr Agnew:** That is right, Mr Speaker, thank you. I welcome the opportunity to speak in the debate on behalf of the Committee for Enterprise, Trade and Investment. At its meeting on 16 January 2014, the Committee considered an update from the Minister on the progress of the Consumer Rights Bill, which was published in June 2013. The Minister advised that a legislative consent motion would be required for the Bill, which is designed to make markets work better and reduce regulatory burdens for business.

As consumer law is a devolved matter, the Committee wrote to the Minister seeking the rationale for bringing the legislation through via a legislative consent motion rather than legislating in the Northern Ireland Assembly. On 6 February 2014, the Committee considered the Minister's response, which advised that the proposed approach would be of more benefit to consumers in Northern Ireland than introducing separate legislation through the Assembly; that the Bill's provisions covered reserved and transferred matters and therefore any Northern Ireland legislation could only replicate the parts of the Bill that fell into the transferred field; and that separate legislation would confuse consumers and would undermine one of the Bill's principal aims, which is to have all consumer rights that relate to goods and services in one statute. The Minister further advised that any delay in introducing Northern Ireland legislation would be disadvantageous to Northern Ireland consumers.

The Committee explored those issues further during an oral briefing from DETI officials on 20 February 2014. Officials clarified that the Bill was an opportunity to consolidate legislation,

rectify weaknesses regarding downloaded content and clarify how consumers can get redress when purchasing goods or services. Officials also informed the Committee that, during the consultation phase for the Bill, no issues were identified that were peculiar to the needs of businesses or consumers in Northern Ireland.

As part of its deliberations, the Committee considered correspondence from the Consumer Council at its meeting on 27 February. The Consumer Council advised that it welcomes the Bill and its intention to simplify and clarify the law for consumers. It also advocated an effective information campaign to ensure that consumers are aware of the rights and remedies available. The Minister may be in a position to inform the Assembly of any proposals to increase awareness of the Bill's provisions.

Having considered all the evidence, the Committee agreed to support DETI in seeking the Assembly's agreement to the UK Parliament considering provisions of the Consumer Rights Bill. The Committee agreed its report outlining its position. That report was circulated to all Members and published on the Committee web page. The Committee supports the motion.

I would like to speak very briefly as an individual Committee member and as a representative of the Green Party. In recent times, the Committee has increased its scrutiny of legislative consent motions and other regulations that come before the Committee. Failure to scrutinise legislation fully would be a failure in the role of Assembly Members as legislators and the role of the Committee as a scrutiny body. I ask the Minister and her Department to work with us in that regard and to provide information up front, which will facilitate speedy deliberation from the Committee. I look forward to working with the Minister in that regard.

**Mr McKinney:** I welcome the opportunity to contribute today in my capacity as a member of the Enterprise, Trade and Investment Committee. As we heard, the draft Bill was published in June 2013, and its overall spirit to promote efficiency within markets and to reduce the regulatory burden on business is one that the SDLP agrees with.

Consolidating sixty pieces of legislation into one is an admirable change that we and the Committee support, as it makes the legislation easier to understand and access for the consumer. The Bill will provide for faster compensation for the consumer when they

have been wronged under competition law. The Bill has an important function, and that is to simplify the law so that the rights and responsibilities of the consumer are clear. As Mr Agnew pointed out, the Consumer Council said that consumer proficiency is extremely important in this regard. The Bill, although technical, will help to make often daunting compensation procedures simpler, more cost-effective and more accessible, and the SDLP supports the Consumer Rights Bill legislative consent motion.

**Mr Mitchel McLaughlin:** Go raibh maith agat, a Cheann Comhairle. On behalf of my party, I support the motion. Very often, the Assembly deals with legislation that perhaps, at times, overlaps or duplicates what is done elsewhere, with no great improvement or difference. There are also opportunities to stamp our personality on legislation. For that reason, I come somewhat reluctantly to the issue of legislative consent. In this instance, I think that it is a pragmatic and efficient response, given that there is an overlap between what are devolved matters and issues that are not transferred. It would be altogether too complicated to expect consumers to understand the full suite of rights and entitlements that they have. In this instance, I think that the Minister has brought forward an entirely sensible proposition that we support.

**Mrs Foster:** I thank Mr Agnew who spoke on behalf of the Committee and the other Members who spoke on their own behalf.

This is a pragmatic way of dealing with the issues. It would be unacceptable if consumers were confused about what rights they were able to access and deal with in Northern Ireland because we went our own way. The legislative consent motion means that we have a very clear agenda on consumers' rights and businesses' responsibilities. Therefore, I welcome the fact that Members have indicated their support for today's motion.

Eight pieces of legislation will now be consolidated into one. From my point of view, that is a very good move forward to better regulation. Indeed, I had the opportunity just yesterday to discuss such issues with Lord Curry of our red tape review. We need to do more of that.

I thank Members for their queries in Committee. They raised sensible queries that we were able to deal with, as, indeed, was the Consumer Council. I hope that everyone understands that this is a good motion, and I commend it to the House.



*Notice taken that 10 Members were not present.*

*House counted, and, there being fewer than 10 Members present, the Speaker ordered the Division Bells to be rung.*

*Upon 10 Members being present —*

*Question put and agreed to.*

*Resolved:*

*That this Assembly endorses the principle of the extension to Northern Ireland of the Consumer Rights Bill.*

**Mr Speaker:** The Business Committee has arranged to meet immediately upon the lunchtime suspension. I propose, therefore, by leave of the Assembly, to suspend the sitting until 2.00 pm. When the House returns, the first item of business will be Question Time.

*The sitting was suspended at 12.26 pm.*

*On resuming (Mr Principal Deputy Speaker [Mr Mitchel McLaughlin] in the Chair) —*

**2.00 pm**

## **Oral Answers to Questions**

### **Regional Development**

**Mr Principal Deputy Speaker:** Questions 1, 2, 8 and 14 have been withdrawn.

### **Waterside Station**

3. **Mr Eastwood** asked the Minister for Regional Development to outline the anticipated cost of developing the old Waterside station as an integrated transport hub. (AQO 5964/11-15)

**Mr Kennedy (The Minister for Regional Development):** Translink has been considering proposals for a new rail station in Londonderry for some time. As part of that process, it completed a study, which was the subject of a public consultation during 2013. That identified the old Waterside station as the preferred location for a new rail station.

Translink has progressed work on a business case for a new rail station. Initial estimates show that the cost of developing the old Waterside station, which is a listed building, is considerable. It is also clear that the preferred location for a new station presents the opportunity for a wider development, which may attract EU funding sources. I have asked officials to explore this option further.

The enhanced project would involve redeveloping the old station as an integrated active travel and public transport hub. In that regard, the project would link into the existing active travel infrastructure, the Peace Bridge and related greenways, acting as a focal point for cycling, walking and public transport and linking the local walking and cycling infrastructure with the regional rail network.

In addition, to enhance the cross-border role of the station and reflect the funding criteria, the project would involve the development of cross-border cycle routes or greenways, linking County Donegal to the existing active travel infrastructure within Londonderry.

The project is at an early stage and delivery will, of course, be dependent upon securing the necessary levels of funding and, when seeking EU funding, ensuring compatibility with specific

eligibility criteria. I have, however, asked my officials to engage immediately with key stakeholders to develop detailed plans.

**Mr Eastwood:** I thank the Minister for his answer. Subject to seeing the full detail, I welcome the announcement. Will he assure the House that the city centre bus station is secure because we see it as a vital part of our travel infrastructure and public service infrastructure in the city?

**Mr Kennedy:** I thank the Member for his supplementary question and the welcome that he has given to the announcement of the hub proposal. The general reception in the Londonderry area has been positive. It might be helpful to clarify further the vision that we have for a transport hub at the Waterside site.

The vision is for an innovative active travel and public transport hub that would serve the wider city and the surrounding area. It would provide cyclists with some facilities and would include parking, changing and maintenance within a refurbished station. In addition, the station would be directly linked to the Peace Bridge and the existing greenways. Opportunities would be explored to extend walking and cycling infrastructure in the city, including between the University, Ebrington and cross-border links.

The Member asked about the existing bus terminus. It is not envisaged that the proposed development will include a new bus station. The intention is that connectivity will be improved between existing facilities and new facilities, with overall transport services being enhanced as a result.

**Mr Ó hOisín:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. I thank the Minister for his answers. Does he have any estimates of the costings for any new hub for the Waterside? He referred to connectivity. How will the new Waterside hub connect with the proposed developments at Bellarena or those envisaged for Eglinton or Ballykelly?

**Mr Kennedy:** I am grateful to the Member for his supplementary question. Obviously, we are in the very early stages of the project development and it is not possible to provide accurate costings. Early estimates suggest somewhere in the region of £17 million as a starting point. So, that is a significant potential investment. I have made clear that, at this point, there is nothing in any budget for that. I have been open and honest about that. I will, of course, look to the Member, and his

colleagues around the Executive table, for further support when we develop our proposals as to having them properly funded.

As for overall development, the Member will know of the enhancements that we made in saving the Coleraine to Londonderry line. There is the potential for further enhancements at various parts of that. The loop system work is due to be undertaken in the next couple of years. We will continue to develop that. All in all, we are very focused on public transport opportunities for enhancing road, rail and other modes, including cycling and walking.

## **Reservoirs Bill: Impact**

4. **Mr Clarke** asked the Minister for Regional Development for his assessment of the impact the Reservoirs Bill (NIA 31/11-15) will have on reservoirs for which his Department has responsibility. (AQO 5965/11-15)

**Mr Kennedy:** Northern Ireland Water already manages the reservoirs under its control, in line with standards set out in the Reservoirs Act 1975 for England and Wales. The introduction of the Department of Agriculture and Rural Development's Reservoirs Bill will therefore not have a major impact on NI Water. It will, however, be required to introduce a new activity in relation to the preparation and maintenance of formal on-site and off-site flood plans. In addition, the introduction of the Bill is likely to reduce the potential sale value of surplus reservoirs, because a buyer will have to comply with the Reservoirs Bill and carry out the required surveys and any necessary maintenance.

**Mr Clarke:** I thank the Minister for his answer. I detect from the answer he gave that the cost to the Department is not quantifiable. However, I am sure that he will, like me, be disturbed by the number of reservoirs we have that are actually in private ownership and the effect that the Bill could have on those. Certainly, from my little knowledge, the last one I heard of, in 'The Dam Busters', was blown up before it caused any severe damage. I am sure that the Minister is somewhat concerned. Will the Minister tell the House whether he will be supporting the Reservoirs Bill as it goes through its stages, given that some of us believe that it will place an unnecessary cost and burden on his Department and landowners?

**Mr Kennedy:** I am grateful to the Member for his supplementary question and, indeed, his recollection of a very good film. Obviously, the progression of the Reservoirs Bill is a matter for

the Department of Agriculture and Rural Development, through Committee Stage and on the Floor of the House. We await that.

The Member made a point about the overall ownership of reservoirs. NI Water owns approximately 46 reservoirs, 23 of which — exactly half — are no longer used for water supply. It may well be that, in the future, NI Water will want to look at offloading those and at engaging with the public sector — initially, with other Departments — and, perhaps, other interested bodies, such as councils. With the reorganisation of local government, it will be interesting to see whether any of those previous water supply facilities could be utilised by councils to become recreational areas.

**Mr McAleer:** Go raibh maith agat, a LeasCheann Comhairle. Minister, there is still a lack of clarity as to who would be the reservoir manager in situations where NIW leases a reservoir to, say, a community organisation. Are you in a position to help clear up that matter?

**Mr Kennedy:** Under the current legislation, which, my understanding is, will still apply or will transfer within the new legislation, whoever is considered the owner of a reservoir becomes the reservoir manager. So, if it is NI Water currently, that is who owns it and that is who has to manage it. If it is purchased by any other body, group or even by an individual, as I outlined in my initial answer to Mr Clarke, that buyer will have to comply with the Reservoirs Bill and carry out required surveys and any necessary maintenance. We are absolutely clear that, if you own it, you manage and maintain it.

**Mr Dallat:** Perhaps I can fish a little deeper and ask the Minister whether there is an opportunity to develop fishing tourism, possibly regenerating communities that have had those reservoirs down through the years? Is this a golden opportunity for the Assembly to demonstrate some collaborative development?

**Mr Kennedy:** I am grateful to the Member for his supplementary question. I think that there are opportunities. If reservoirs are no longer being used as a water supply for NI Water, it effectively makes more sense to put them on the open market and find out who, whether a group, a Department or an agency, would want to be responsible for them. I would encourage that because angling is a healthy and popular pastime, and I see opportunities for local councils to develop an interest in it. There would be an initial purchase cost, but a lot of

these reservoirs have been well maintained over the years and would be an asset to any council, group or body.

**Mr Cree:** Will the Minister confirm when work to drain Portavoe reservoir began, when it is likely to be refilled again, and what action is being taken to protect wildlife and habitat in that area?

**Mr Kennedy:** I am grateful to the Member for the question. It is an important question, and I beg some indulgence, Mr Principal Deputy Speaker, in giving my answer.

The lowering of the water level in Portavoe reservoir began in October 2013 and is required to assist essential health and safety work to refurbish valves and other maintenance work required to protect the structural integrity of the reservoir. NI Water is unable to complete the work without draining the reservoir because of the nature of the construction of the valve tower and the need to access the scour valve for refurbishment. The scour valve is an essential element for releasing water from the impounding reservoir to ensure the protection of properties from flooding downstream because of a large rainfall event. It is expected that water in the reservoir will be lowered to the required level by the end of April 2014, and the maintenance work will be completed by the end of July 2014. These dates are, however, subject to favourable weather conditions as the low water level must be maintained to enable maintenance work to progress.

As the Member will know, some concerns have been raised about the lowering of the water level. I repeat that it is required to carry out essential health and safety work. Northern Ireland Water has had ongoing consultation with the NIEA and DCAL on the planned works. I have taken a personal interest in the issue because I am aware of adverse public comment. I want to satisfy myself that NI Water and all the other agencies have performed in a proper manner and that the necessary consultations, or at least briefings, have been provided to all interested parties. In order to prepare for the works, DCAL had not stocked fish into the reservoir since last August, and, consequently, the lowering of the water level should have had minimal impact on the fish remaining in the reservoir.

**Mr Principal Deputy Speaker:** Minister, I gave you some leeway because I felt that you were responding, perhaps to some media commentary today, but the two-minute rule normally applies.

## Water Charges: South Belfast

5. **Mr McGimpsey** asked the Minister for Regional Development for his assessment of the impact the reduction in non-domestic water charges has had on business in South Belfast. (AQO 5966/11-15)

**Mr Kennedy:** From 1 April 2014, Northern Ireland Water has reduced all non-domestic charges by 4% on average. Although the actual impact on businesses will differ depending on the volume of water they consume or the rateable value of their premises, I will give examples that indicate the savings that businesses typical of those in South Belfast might expect this year. A shop that, last year, paid £310 for water and sewerage services will save £13; a restaurant or café that last year paid £1,540 will save £60; and a medium-sized factory or industrial unit that was billed over £3,000 last year will save £127.

### 2.15 pm

It is not only businesses that will benefit. The reductions will mean lower bills for hospitals, churches, residential homes and many voluntary organisations that also pay water and sewerage charges. As the Member will know, this is the second year in a row in which NI Water has reduced non-domestic charges. That means that, in real terms, taking inflation into account, non-domestic customers will pay 11.7% less for their water and sewerage services than they did two years ago. That is good news.

**Mr McGimpsey:** Yes, that is good news as far as business is concerned. I remind the Minister of another piece of good news from Roads Service: the reduction in car-parking charges in towns in Northern Ireland, including Newtownards, Magherafelt, Newry and Ballymena, all of which are getting reductions. That is to help businesses, but the one place that was excluded was Belfast. If Belfast is included in the reduction of non-domestic water charges, what is the logic of its being excluded from the reductions in car-parking charges? Belfast traders are equally entitled to the support.

**Mr Kennedy:** I am grateful to the Member for his supplementary question. Of course, the House will know about the announcement that I made in the past 24 hours to bring some relief to town centres across Northern Ireland. It will apply to 95 car parks in 28 towns and cities across Northern Ireland. The announcement

has been warmly welcomed by retail outlets and operators and chambers of commerce.

I understand the Member's point about Belfast. I have worked closely with the Belfast chamber and other agencies, including Belfast City Council, on a range of measures. The quality public transport bus and rail service in Belfast is significant; we also have to bear in mind the park-and-ride facilities that serve into the centre of Belfast. Those facilities have boosted retail trade as, indeed, have measures on fares brought forward by Translink such as Metro Saturdays, which are very good value indeed. The accumulation of all those measures, I think, means that Belfast is being fairly treated. We will continue to look at the issues and give assistance wherever we possibly can.

**Mr Principal Deputy Speaker:** Of course, the supplementary and your answer had nothing to do with the original question. I want to make that point very clearly. *[Laughter.]*

**Mr McKinney:** The reductions are welcome, but bills still represent a substantial cost, particularly to small businesses. What advice and support is available to businesses to help them to conserve water and, ultimately, reduce bills?

**Mr Kennedy:** I am grateful to the Member for his supplementary question. Indeed, he raises an important point that many operators of businesses, small and large, continue to raise. It is important that they liaise with NI Water to see how savings can be effected, not just in their bills but in their overall usage. I encourage all businesses and customers to do that.

## Enniskillen Bypass

6. **Ms McGahan** asked the Minister for Regional Development for an update on the Enniskillen bypass. (AQO 5967/11-15)

**Mr Kennedy:** The A4 at Enniskillen forms part of the south-western key transport corridor, which provides access between the east and the Fermanagh lakelands and cross-border regions. The majority of traffic passing through Enniskillen converges at the Gaol Square junction in the centre of the town, resulting in considerable congestion during periods of peak traffic demand. Details of the preferred route corridor for the proposed Enniskillen bypass were made public in July 2011. Since then, scheme development has been ongoing with a view to being in a position to announce the preferred route alignment in mid-to late 2014. Further development of the project beyond the

identification of the preferred route will depend on the outcome of future budgetary settlements.

**Ms McGahan:** Go raibh maith agat. I thank the Minister for his response. Can he give me a clear timescale for the completion of the project?

**Mr Kennedy:** I am grateful to the Member for that. She will know that options for a preferred route are still under consideration. As for an indicative assessment of the likely scale of the works involved, we do not have sufficient detail to identify a preferred solution at this point. All of that factors into the timing and, indeed, cost. Our current estimate is somewhere between £20 million and £30 million. We are aware of the importance of the scheme and the potential is there. If everything were to go well, we would be looking at procurement and possibly a contractor in place by mid-2018. However, it is dependent on finance, and I caution the Member with that warning. The friendly advice that I offer her, as I offered her colleague, is that, if you want to help me to get more money from Executive colleagues, I will not turn you away.

**Mr Elliott:** The Minister will be aware that I continually lobby him on this issue. Has he held any consultations with landowners in the area on the preferred route, and has any testing been carried out on the ground conditions?

**Mr Kennedy:** I thank the Member for his supplementary. I can confirm that he has badgered me continually about the project, as I would expect him to from his constituency point of view. We await the publication of the preferred route later this year, the statutory consultation that will flow from that and, potentially, a public inquiry, which could commence as early as 2016. The conclusion of the requisite environmental surveys and assessments and the detailed highway design will be subject to the availability of finance, and, of course, it is important that there is ongoing consultation with landowners and property owners.

**Mr G Robinson:** May I be bold enough to ask the Minister about progress on the Dungiven bypass?

**Mr Principal Deputy Speaker:** Careful. Let us see whether a relationship can be drawn with the original question.

**Mr Kennedy:** I am grateful to the Member for his geography lesson: Dungiven is in close proximity to the Enniskillen bypass. *[Laughter.]*

The Member will know that we are still considering the inspector's report arising out of the public inquiry. The issues are not yet concluded, and we hope to make progress on outlining our thoughts on that in the not-too-distant future.

**Mr Gardiner:** The Minister is very familiar with my question of the Minister because I continually hound him on the subject, but I hope that he takes it to heart this time. It is about Millennium Way in Lurgan, from the Malcolm Road to the Gilford Road area. The Lurgan people have been waiting for about 20 years for that road to be extended and completed, and I am still patiently waiting, Minister. Can you tell me when you are due to start?

**Mr Principal Deputy Speaker:** I was hoping that you would at least use the word "bypass". *[Laughter.]*

**Mr Kennedy:** I think that a number of Members have bypassed some of the main issues, but it is a test that hopefully we are up to. I am conscious of the long-standing interest that the Member has had. He has been pressing for work to be done at Millennium Way in Lurgan over many years, and I am pleased to update him. We recently obtained updated planning permission for the scheme. That is hot off the press. That came through from Planning Service, I think, at the end of last month. Hopefully, that will help us as we seek to progress that important scheme. I know that it will benefit the people who live in Lurgan and travel to it.

**Mr Principal Deputy Speaker:** Mr Jim Wells is not in his place.

## **A6: Average Travel Time**

9. **Ms Maeve McLaughlin** asked the Minister for Regional Development to compare the average travel time for the entire A6 route with average travel times on other main routes. (AQO 5970/11-15)

**Mr Kennedy:** The 2011 regional strategic transport network journey times survey reports that, during the morning peak, the north-west key transport corridor, which includes the A6, has an average travel time for Belfast to Londonderry of one hour and 22 minutes, with an average speed of 49.9 miles per hour; and from Londonderry to Belfast of one hour and 33 minutes, with an average speed of 43.3 miles per hour. That is 68 miles. In comparison to other journey times during the morning peak, on

the eastern seaboard corridor, Larne harbour to Belfast, which is 24 miles, takes 44 minutes. In the opposite direction, the journey time is 32 minutes. That is prior to the commencement of ongoing works on the A8.

Elsewhere on the eastern seaboard corridor, Newry to Belfast, which is 35 miles, takes 41 minutes, with the journey in the opposite direction taking 33 minutes. On the northern corridor, the journey time from Moira roundabout along the A26 to the M2 and Coleraine, which is 62 miles, takes one hour and 21 minutes. In the opposite direction, it takes one hour and 15 minutes. On the western corridor, the journey from Londonderry to Strabane, Omagh, Ballygawley and the land frontier at Aughnacloy, which is 56 miles, takes one hour and 20 minutes. In the opposite direction, it takes one hour and 32 minutes. On the south-western corridor, the journey time from Enniskillen to Belfast, which is 84 miles, takes one hour and 38 minutes, whereas, in the opposite direction, it takes one hour and 21 minutes. The Carrickfergus to Belfast morning commute of 6.8 miles along the A2 takes 22 minutes to complete, whereas, in the opposite direction, it takes 14 minutes. That is prior to the commencement of ongoing improvement works.

I will be happy to hear your supplementary question.

**Mr Principal Deputy Speaker:** You probably answered all the supplementary questions.

**Ms Maeve McLaughlin:** Go raibh maith agat. I thank the Minister for that response. As somebody who travels the Derry to Belfast road at least four times a week, I wonder about the time of one hour and 23 minutes. Does the Minister travel in a helicopter or what is he driving? Specifically on the difficulties on the A6 at Dungiven and Moneynick, is there an assessment of the average travel time, particularly between those two bottlenecks?

**Mr Kennedy:** I am grateful to the Member and glad that she did not ask me to repeat the answer. The issue that she raises is fundamental as to the need for the A6 scheme. I am a supporter of that project, and I want to see it advanced as quickly as possible. That would significantly impact on and benefit journey times particularly.

In respect of the A6 and Randalstown section, I am pursuing the potential for alternative finance. There have been discussions with the European Investment Bank and, indeed, DFP in

the Executive, and we are looking at options where we could bring that scheme forward. So, there is no lack of willingness for us to bring forward a project of that nature.

**Mr Principal Deputy Speaker:** That ends the period for questions for oral answer. We will move to topical questions.

2.30 pm

## **Flooding: Summer Rainfall**

1. **Mr Newton** asked the Minister for Regional Development what action he is taking or intends to take to protect householders in east Belfast, given the history of summer flooding in that area, with rainfall reaching deluge proportions within a short period of time. (AQT 1001/11-15)

**Mr Kennedy:** I am grateful to the Member for his question. He will be aware that, during the most recent episode of flash flooding, as it then was, within the past couple of years, I made it my business to go out on site to look at conditions and, obviously, to try to bring forward measures that would alleviate the problems and improve the systems that operate there. There are capacity issues and, I suppose, issues of an historical nature. Nevertheless, I believe that NI Water has been attempting to improve the service that it offers to alleviate the problems.

I could never stand here and say that we have flooding solved or that it is eradicated. We want to take measures that will militate against flooding, but, in sharp periods of rain, volume can sometimes overtake the current systems, and it is a matter of trying to improve the systems that are there over a gradual period. Of course, that is not a cheap option either, and we should not underestimate some of the costs involved.

**Mr Newton:** I welcome the words of the Minister. Given the history of this and given that some residents have been flooded three or four times, it would give encouragement to them if either of the capital schemes planned for the area could be announced and brought forward. That would give at least some encouragement, and residents would see investment to address the issue.

**Mr Kennedy:** I am grateful to the Member. I do not disagree with his assertions. He will know that we are financially challenged. He will also know that his party colleague and my Executive colleague, Minister Hamilton, is painting a reasonably gloomy picture for the next couple

of years for investment. That impacts on all Departments, including Regional Development, and, in turn, on the agencies, including Northern Ireland Water, that are under my control. If more funding can be made available and freed up, I will certainly not be slow in ensuring that it is spent properly to mitigate and reduce the risk of flooding, not only in east Belfast but in other areas. Of course, over the most recent winter, we had the impact of the coastal flooding issues. They have been impacting too in some areas. We need to think carefully how we can get the necessary funds made available to spend that money wisely.

### Road Races: Admission Fees

3. **Mr I McCrea** asked the Minister for Regional Development what discussions he has had on charging for admission to motorbike road races in line with the arrangements for the Ulster Grand Prix. (AQT 1003/11-15)

**Mr Kennedy:** I am grateful to the Member for his topical question. Recently, I attended the launch of the North West 200, and I recently signed off the roads orders. That is principally my prime and sole responsibility. It is an event that I support, and it was for one of those reasons that I successfully carried through the legislation to provide extra flexibility for contingency days for the North West 200.

The sport itself is not my responsibility. I would respectfully say that DCAL should have some input to that. For some reason — again, I have to be honest — there seems to be not much enthusiasm from DCAL to support that sport. That is a matter for others to comment on or to explain. Of course, the Member's party colleague Minister Foster, who has responsibility for tourism, has responsibility for ensuring that the tourism market is fully exploited for the international event that the North West 200 has become.

**Mr I McCrea:** I thank the Minister for his answer. I am somewhat confused as to why other Ministers, namely the Minister of Culture, Arts and Leisure, would be found wanting in respect of this. Will the Minister assure the House, the motorcycling fraternity and the organisers of the races that he will have discussions with his Executive colleagues, whether it be the Minister of Enterprise, Trade and Investment or the Minister of Culture, Arts and Leisure, to try to ensure that the issues that he refers to as having not been moved forward are indeed moved forward?

**Mr Kennedy:** I am grateful to the Member for his supplementary question. I confirm that, in the aftermath of the washout on the Saturday of last year's event, I had discussions with ministerial colleagues, both the Minister of Culture, Arts and Leisure and the Minister of Enterprise, Trade and Investment. That, in turn, led each of us to look to the responsibilities that we all have in assisting the organisers of the North West 200. The product of that was the Road Races (Amendment) Bill that I successfully carried through the House. That is appreciated by the organisers of the North West 200 and by the whole House generally. It is a matter for other Ministers to indicate how they have been assisting the organisers of not only the North West 200 but the other highly popular sports that we have in Northern Ireland.

### Enterprise Service: Belfast to Dublin

4. **Mr A Maginness** asked the Minister for Regional Development to update the House on any plans to improve the Enterprise service, given that Michael Portillo — I was never a great fan of his when he was in office but I am a great fan of his programmes about railways — recently emphasised in his programme about Irish railways the importance of the route taken by the Enterprise between Belfast and Dublin. (AQT 1004/11-15)

**Mr Kennedy:** I am grateful to the Member for his topical question and, indeed, for his interest in seeing railways enhanced and progressed. I am happy to say that we have been able to put forward a scheme through the Special EU Programmes Body (SEUPB), working with other Departments here, that will enhance facilities to the Enterprise service. That is very welcome. That was the replacement scheme for the project for a bridge at Narrow Water. I am not going to rehearse the disappointments that many had in respect of that, but, to ensure that European money available to the Executive was not lost, it was important to bring forward a scheme. The best candidate for that was work to the Enterprise that will enhance the existing service. The Enterprise service had grown a bit tired and jaded, but, with this work, it will continue to attract more users including, I hope, the Member himself and, indeed, Michael Portillo.

**Mr A Maginness:** I am sure that Mr Portillo, if he is listening, will be very pleased with the Minister's response, as indeed I am. In the meantime, when one wearily travels home from Dáil Éireann, having visited that esteemed institution by train, there is a gap between about

5.00 pm and 7.00 pm when there is no train service. Could the Minister make representations to see whether that gap might be filled?

**Mr Kennedy:** I am very grateful to the Member. I will not comment on whether his question reflects a long-standing ambition of his to be a more permanent Member of Dáil Éireann.

Ultimately, we want to improve the travelling times between Belfast and Dublin. That is in everybody's interest. It is in the interests of business, tourists and, generally, Northern Ireland Railways and its counterparts. The Member will probably know that there are some issues with the Dublin network services that have to be accommodated, but I am very pleased to say that, on these issues, I have a good working relationship with my counterpart in the Republic of Ireland. I hope that we can progress things. I see the work that we are engaged in to provide increased facilities with SEUPB funding as a continuation of that.

## Portavoe Reservoir

**Mr Weir:** The Minister should not worry: I am not a Portillista nor will I mention bypasses.

5. **Mr Weir** asked the Minister for Regional Development why the Northern Ireland Environment Agency, and specifically its wildlife unit, was not consulted before action was taken at Portavoe reservoir. (AQT 1005/11-15)

**Mr Kennedy:** I understand the importance of the issue. I suppose that, under topical questions, a Member is entitled to raise any issue. I explained the current position in a fairly extensive answer to Mr Cree. I said that there were lessons that could and should be learned about consulting as a consequence of this. I will task officials to provide me with the information and the full background to the work. I understand that it has raised public concerns, but my understanding is that the NIEA and DCAL were certainly aware of the intention to carry out necessary maintenance work to the reservoir. I indicated that, as a consequence of that, DCAL had not stocked anything since August 2013. If there were missing parts in the consultations, I want to get to the bottom of that so that we can identify them, learn the lessons and apply them for future use.

**Mr Weir:** I thank the Minister for his positive response. Will he give us an assurance that, when the investigations take place about the lessons learned, perhaps a written statement will be produced to the Assembly and

assurances given that the mistakes in the consultation on Portavoe reservoir will not be repeated?

**Mr Kennedy:** I am grateful to the Member for his supplementary question. I do not want to make a drama out of a crisis. I will reflect on the information given to me and on its public content. I will reflect on the best way to communicate that to Members for the constituencies of North Down and Strangford, because the reservoir forms part of the boundary between the two council areas, if not the Assembly and parliamentary constituencies.

## Bellarena Park and Ride: Derry

6. **Mr McCartney** asked the Minister for Regional Development for an update on the park and ride at Bellarena, and to acknowledge, in light of the previous question about the railway, that another Michael — Michael Palin — described the Derry to Belfast line as the most beautiful journey in the world. (AQT 1006/11-15)

**Mr Kennedy:** I am grateful to the Member for his question. If he would care to write to me specifically about the issue, I will ensure that we get an update for him. I am aware that there are plans and proposals for the railway and other modes of transport, including, as he said, a park-and-ride facility that will facilitate sustainable modes of transport and assist people in the area. That is where we want to get to not only in Belfast but in Londonderry and other places in Northern Ireland. The Member will be aware that I was recently in Copenhagen, where I saw evidence of sustainable modes of transport really making a difference to the quality of life experienced by the local population. We would do well to replicate that here. I am passionate about that, and, when I see opportunities and funding is available, we will certainly try to exploit them. I am keen on cycling and walking and rail, bus and other public transport issues.

2.45 pm

## Enterprise, Trade and Investment

**Mr Principal Deputy Speaker:** Before we proceed, I inform Members that question 9 has been withdrawn.

## Film Industry



1. **Mr McKinney** asked the Minister of Enterprise, Trade and Investment to outline any recent discussions she has had with representatives of the film industry in line with her strategy to grow the local film industry. (AQO 5976/11-15)

**Mrs Foster (The Minister of Enterprise, Trade and Investment):** Attracting large-scale, internationally mobile television and film production to Northern Ireland is a vital component of growing the local film industry. At the end of March, I met senior vice-president of the Walt Disney Company, Mr Jerry Ketcham, to discuss the potential for his organisation to film in Northern Ireland for the first time. Mr Ketcham was in Northern Ireland with his executive vice-president, Mr Tony To, on an official visit organised by Northern Ireland Screen. I am advised by officials that the visit went very well and that the company is keen to work in Northern Ireland in the near future.

You will also be aware that my ministerial colleagues met Mike Lombardo and his team at HBO during their recent visit to the United States. We are confident that HBO will shortly announce that series five of 'Game of Thrones' is to go ahead again at Belfast's Titanic Studios. Growing the independent production sector is critical to the future success of the local industry. I recently met the respective production teams from the BBC's 'Blandings' and the film 'Miss Julie'. I was impressed by how well filming had gone for them in Northern Ireland and the support that they had received from Northern Ireland Screen.

**Mr McKinney:** I welcome the news of DETI's recent announcement of more than £40 million for the industry. Typically, the industry accumulates pots of money towards an end product. Has the Minister had discussions with the British and Irish Governments about promoting the industry and supporting it across the island?

**Mrs Foster:** Our Government — the UK Government — have taken great steps forward with tax credits. One of the things that we talked about with Walt Disney was the fact that this has become a very good place in which to invest in production. It is one of the reasons why Northern Ireland Screen is looking to increase what it does. As he will recognise, taxation is very important for such productions. Of course, if there are opportunities to work with the Republic of Ireland's Government, we will do that as well.

The screen industry here has developed strongly over the past three to four years in large-scale and other areas of production with which, I am sure, the Member is more familiar than some other Members, including entertainment, factual and animation. We want to encourage others to look at Northern Ireland for the skill sets that we are developing in production and the Northern Ireland Screen work that is being done. It is a very good news story. We will seek to grow it even further.

**Mr Weir:** I will try to be suitably animated in my supplementary. The Minister made reference to the discussions with HBO. Can she provide us with an update on the agreement between HBO and Tourism Ireland and tell us what the implications of that agreement will be?

**Mrs Foster:** That, again, is very good news. It is the very first time that HBO has engaged in such an agreement with partners such as ourselves and Tourism Ireland. Essentially, Tourism Ireland and HBO will capitalise on the worldwide success of 'Game of Thrones'. After six months of detailed negotiations, we will now be able to access all their Facebook and Twitter feeds to reach their fans across the world. That is a tremendous endorsement of their work in Northern Ireland. It allows Tourism Ireland to show off the areas where 'Game of Thrones' is filmed. Some Members may now realise that it happens across Northern Ireland from the Marble Arch caves, which, of course, I want to talk about, up to the north Antrim coast and down to Castleward. All those areas will be covered in this publicity. It is a good news story and one that I hope we can benefit from.

**Mr McElduff:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. I commend the Minister and the other Executive Ministers on their efforts in promoting the film industry. The Minister referred to the global success of 'Game of Thrones': has she any further thoughts on how to promote the film locations as potential tourist attractions? She made some reference to that in her last answer.

**Mrs Foster:** Obviously, the work that we are doing with HBO on 'Game of Thrones' will be very important. The Northern Ireland Tourist Board and Tourism Ireland are working with the National Trust because it was the setting for the film 'Miss Julie', which, I understand, is being considered for Cannes. If that happens, it will also be a tremendous endorsement of what has happened here. I know that everyone in the Chamber watches 'Blandings' on a Sunday evening and will have seen the fabulous views of Crom Castle. We intend also to use that to

increase our tourism potential. There has been a great uplift from the film sector helping the tourism sector, and we intend to grow that as the years go on.

**Mrs Overend:** The fourth series of 'Game of Thrones' is due to be filmed here, and there is a major increase in the budget for Northern Ireland Screen. Is the Minister content that the skills in the creative industries and the supporting roles — no pun intended — are here in Northern Ireland? What discussions has she had with the Minister for Employment and Learning to extend training in the sector?

**Mrs Foster:** I am content that we have the skills here, and that is endorsed by the fact that people have come here and invested, whether in animation or in other factual or entertainment series, such as 'The Fall' and 'Line of Duty'. All the firms involved found the skills that they needed when they came to Northern Ireland, so I am content that those skills are there. If we move up to the next level, we will need more people to get involved in the sector. Therefore, we will need to engage with the local colleges in particular. I know that the Minister for Employment and Learning will work with me to make sure that we have the appropriate skills learning. The advantage of Northern Ireland is that we can be flexible when opportunities arise. It is one of the strongest selling points for Northern Ireland, and we should look forward to the opportunities that the sector will provide for us over the coming months and years. It is a very exciting time for Northern Ireland. I know that Northern Ireland Screen has an ambition that Northern Ireland will be the largest production area in the UK and Ireland outside London. We really can achieve that, and it would be a great fillip for Northern Ireland.

## Electricity Generators

2. **Mr Hilditch** asked the Minister of Enterprise, Trade and Investment to outline the challenges facing large scale generators of electricity power located in Northern Ireland. (AQO 5977/11-15)

**Mrs Foster:** Compliance with European Commission obligations on emissions is a key issue for our large-scale generators. The Commission has also called for the coordination of trading arrangements for electricity markets across Europe. This will require the redesign of existing market arrangements and consideration of how generators will participate in and be remunerated under new structures. Work on the market redesign is progressing,

and the generators have opportunities to input into the process.

**Mr Hilditch:** I thank the Minister for her answer. Minister, how important is the North/South interconnector for long-term security of supply?

**Mrs Foster:** I am on record as saying that the North/South interconnector is critical for our long-term security of supply, and that is still my position. As I understand it, NIE has resubmitted its revised planning application and environmental impact assessment to the Department of the Environment. We are hopeful that we can now progress on the North/South interconnector to deal with the issues that we know are in front of us. It is not that we are unaware of the consequences; we know fine well that we have a pinch point in 2016 and, indeed, another in 2021. Therefore, we need to progress with the North/South interconnector.

**Mr Boylan:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. Does the Minister agree that greater cooperation across the island is needed to deliver energy? What discussions has she had with her Southern counterpart about delivering that for the future?

**Mrs Foster:** The last conversation that I had with Pat Rabbitte was about the North/South interconnector and the fact that we absolutely needed it to be put in place. He is very clear that he needs it in place, and I am very clear that we need it in place to make the single electricity market work to the benefit of everybody in Northern Ireland and the Republic of Ireland. It is a very strong story of North/South cooperation because we want the interconnector to happen.

**Mr A Maginness:** I share the view of the Minister that this is very important for the development of the electricity industry throughout Ireland. Could the Minister indicate whether a time or date is indicated — even a speculative date at this stage — for the public inquiry that would take place?

**Mrs Foster:** No, I cannot, because, as he will appreciate, that is a matter for his colleague, the Minister of the Environment. All I can do is urge him to deal with it in as timely a manner as he can, and I hope that that will be the case.

**Mr Allister:** Does the Minister acknowledge that there is a looming crisis of insufficiency in indigenously generated electricity? If she does, how does she propose to deal with that,

particularly given the stalling of the interconnector?

**Mrs Foster:** What I recognise and have already referenced is that we will have an issue in 2016. That is why the Systems Operator put out a call for additional generation, and he will have the answers to that call, as I understand it, by the end of May. If there is no interest in the market — I do not believe that will be the case — then, as he is aware, I have the powers to intervene in generation. I hope that the market will bring forward options to deal with that point in 2016, when our capacity buffer, if you like, will be 200 megawatts — at the moment, it is 600 megawatts — and, therefore, we will be able to deal with the issue in 2016.

A more pressing problem will be in 2021 if the North/South interconnector is not in place, because that will provide us with a bigger issue. Whoever is in my position in the years to come will have to keep a close eye on that and take whatever actions are necessary to make sure that we have security of supply in the short, medium and longer term.

### Common Travel Visa

3. **Mrs D Kelly** asked the Minister of Enterprise, Trade and Investment to outline any recent discussions she has had with the British and Irish Governments on the proposed short stay common travel visa. (AQO 5978/11-15)

**Mrs Foster:** The Prime Minister met Taoiseach Enda Kenny last month at the Anglo-Irish summit, where they welcomed ongoing collaboration on visas to help to strengthen the common travel area. The visa waiver scheme is an action point included in the economic pact that was developed as part of the G8 summit legacy to help Northern Ireland to build a prosperous and united community.

The Home Office continues to work with officials in the Irish Government to further secure the external common travel area border and ensure that visa reciprocation is a part of that. Subject to appropriate safeguards, the United Kingdom Government will look to pilot a scheme permitting visitors from some destinations to enter the United Kingdom from the Republic of Ireland using an Irish visit visa without the need for a UK visa.

**Mrs D Kelly:** I thank the Minister for her comprehensive answer, but, given the impending vote on Scottish independence, has the Minister had any indication of how it will

impact on the visa if the Scottish people should vote for independence?

**Mrs Foster:** I would imagine that that would be an issue for the Scottish Parliament in that very hypothetical situation. She knows that there is a common travel area between us, the Republic of Ireland, the Isle of Man and the Channel Islands. What we were trying to do, if people came from faraway places like China and India into the Republic of Ireland, was attract them up to Northern Ireland. That is the key element to this.

As I understand it, the roll-out of biometrics is a key part of this. Once the Irish Government have that in place, things will be able to progress. That will make a difference to us in Northern Ireland because we will be able to attract people up, particularly from Dublin.

**Mr I McCrea:** Can the Minister outline any new air routes that have been identified as being important to develop here in Northern Ireland?

**Mrs Foster:** Again, this is one where there are no secrets. I have been clear that I want to see a route from Canada developed. I also have key targets for European routes, principally into Germany, and I would love to see a Brussels connection from Northern Ireland. That direct connectivity would help our influence in Brussels.

In that context, I very much welcome that, in his recent Budget, the Chancellor said that he will look again at start-up aid for new routes from regional airports. That sort of air route development fund, which we have been prevented from developing in Northern Ireland, will of course be of great help to us because of our distance and the fact that we are not on the mainland but on the island of Ireland. We will want to explore that with the Department for Transport to see how that could develop and what benefit it could be to us. We will have ongoing discussions with that Department, and I think that it will assist us in getting new routes into our airports.

### 3.00 pm

**Mr Principal Deputy Speaker:** I have already drawn attention to the necessity for supplementary questions to address the original question. That was quite a long haul route and a long way from common travel visas.

**Mr Brady:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. I thank the Minister for her answers so far. I think that you have

answered my question to some extent, but what work has been done to identify the potential growth in that area when a solution is found?

**Mrs Foster:** We recognise that there has been a growth in those from faraway destinations coming to the island of Ireland through Dublin, and we want to be able to attract those people to Northern Ireland. In fact, just yesterday, I attended a meet the buyer event in Enniskillen, at which 120 tour operators from across the globe were trying to find out about our product and experiences in Northern Ireland. If we can attract air routes directly into Northern Ireland, I think that that will have a huge benefit for us. However, they were very impressed with what we have to offer and the experiences that are available. I hope that next year will be another good year for tourism in Northern Ireland.

## Tourism Strategy

4. **Mr Kinahan** asked the Minister of Enterprise, Trade and Investment what steps have been taken to finalise a tourism strategy for Northern Ireland since the consultation on the draft strategy was issued in February 2010. (AQO 5979/11-15)

**Mrs Foster:** The key strategic targets for tourism are contained in the Programme for Government (PFG) and the economic strategy.

The past couple of years have been highly successful for Northern Ireland tourism. My focus has been on delivering on the tourism product, major events and global marketing campaigns to ensure success and bring maximum economic benefit to the local economy. I am delighted with what has been achieved, and it is now an opportune time to consider future plans. A review of the Northern Ireland Tourist Board and wider tourism structures is due to be completed by the end of May 2014. When I have the recommendations from that review, I will take stock of the action that is needed to ensure that we deliver on my and the industry's aspiration to grow tourism into a £1 billion industry by 2020.

**Mr Kinahan:** I congratulate the Minister much that has been achieved, but we really were looking forward to the report. If I have gathered what she has said correctly, we will get the results based on the consultation shortly. Does she see the review as something that can really pull all of us together to help to sell Northern Ireland in particular, rather than the whole of Ireland?

**Mrs Foster:** As the Member will know, my focus is always on how we can give standout to Northern Ireland. That has always been my focus and will continue to be my focus.

Frankly, we have moved on from the tourism strategy. I remind the Member that it was his party leader who said that we needed to move away from strategies and into action. Anyone who has been looking at what has happened in tourism over the past number of years will have seen a lot of action with the product that we now have available, the events that we have been able to bring to Northern Ireland and, indeed, a whole uplifting of the skills in the hospitality and tourism industry. I think that a lot has been achieved. We should take pleasure from that, but should also plan for the future. That is why the review of the Northern Ireland Tourist Board comes at an opportune time. I look forward to receiving that review at the end of May.

**Mr Douglas:** I have just come from a meeting of the all-party group on tourism, at which there was a major presentation on the Giro d'Italia and the tremendous opportunities that it presents to Northern Ireland. Will the Minister indicate whether the tourism targets in the Programme for Government have been met to date?

**Mrs Foster:** I was very pleased that Stephen Roche was able to be with you at the all-party group on tourism. The Giro is almost upon us, there is a lot happening, and the world is looking at Northern Ireland. I hope that everybody is ready to wear pink, because it is hugely important that we are all in the pink for May.

All PFG tourism commitment targets have been met to date, including key milestones for visitor numbers and tourism revenue in 2012, with 3.2 million visitors spending £539 million up to September 2013. We are well on our way to meeting our Programme for Government targets of 4.1 million visitors and £637 million of revenue. I pay tribute to the Tourist Board, Tourism Ireland and all in the industry for the way in which they have come together and played it very well with one team and one voice. I am very pleased with the industry.

**Mr Sheehan:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. Gabhaim buíochas leis an Aire as ucht a freagra. I thank the Minister for her answers thus far. Does she accept that her inability to deal with such matters as VAT on tourism products and air passenger duty actually hampers our efforts to

attract the maximum number of visitors to these shores?

**Mrs Foster:** No, I do not accept that. Indeed, when we asked the Chancellor to intervene on air passenger duty, he did so. He gave us the power to reduce the band B to zero, and that allowed us to have a very strong tool when we go out to look for new flights of an international status, and allowed us to keep the flight to Newark. VAT, of course, is a reserved matter for the Parliament in Westminster. I look forward to the day that his party members take their seats and perhaps put forward an argument on VAT.

**Mr Dallat:** I thank the Minister for her answers and, indeed, for her endeavours to develop tourism in Northern Ireland in these more peaceful times. Given that international tourists in particular do not recognise political borders and tend to migrate North and South, has she had any input to the tourism policy review that was announced in Dublin?

**Mrs Foster:** I was made aware of the policy review by the Minister when he launched it. However, I have not been involved in any policy development, and I do not believe any of my officials have either, but I stand to be corrected on that issue. He is looking at his policy, whereas I am looking at the structures of the Tourist Board, so the two are slightly different, but we certainly have a good working relationship and we always endeavour to work together when it is to benefit both parts of the island, as the Member will know through the Rugby World Cup, which we are working on together with the Minister of Culture, Arts and Leisure.

## Investment: North-west

5. **Mr Ó hOisín** asked the Minister of Enterprise, Trade and Investment what are the reasons behind the lack of Invest NI investment in the north-west. (AQO 5980/11-15)

**Mrs Foster:** Invest Northern Ireland support and engagement with north-west stakeholders and businesses in the past three full financial years should by no means be viewed as a lack of investment. Between 2010-11 and 2012-13, Invest NI offered £27 million of assistance towards viable projects in the north-west region, contributing towards a total planned investment in the area of £136 million over the same three-year period. That support promoted 2,404 new jobs and safeguarded 160 existing jobs. Start-up assistance was also provided to 1,298 indigenous businesses through the enterprise

development programme or regional start initiative.

For Invest NI to be able to offer support, it is reliant on businesses approaching it with viable business plans to increase their competitiveness or gain a larger share of local and international markets. I therefore encourage the Member to recommend businesses he is in contact with to engage with Invest Northern Ireland to see what help can be offered.

Invest NI is often criticised for not directing foreign investors to the north-west. This is a point that I have repeatedly clarified, but I will do so again: Invest NI cannot direct investment to specific geographical areas. It is the investor that chooses the location that best meets their needs.

**Mr Ó hOisín:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. Gabhaim buíochas leis an Aire as ucht an fheagra sin. Does the Minister recognise the disparity that exists even within the north-west area between the constituencies? Much help goes to the Foyle constituency and less to the West Tyrone and East Derry constituencies.

**Mrs Foster:** I think, when he talks about the north-west, it is Strabane, Londonderry and Limavady that are taken into consideration in the figures. If there are divergences, we rely on the local councils to work with us to work up plans to deal with those issues.

There are some very good plans. I think of the Inspire programme for one, which Strabane District Council has developed with Omagh District Council through the local economic development programme. There are other very good programmes worked up alongside the councils as well. Therefore, it is a question of working together and not waiting for someone to come along and offer a solution. This is about collaborative working, and I hope that the Member is up for that collaborative working.

**Mr Principal Deputy Speaker:** Before we go to supplementaries, I remind Members that there is a very specific reference in the question to investment in the north-west.

**Mr Cree:** I wonder whether the Minister envisages that pilots such as the pop-up Invest NI office, which I understand is going to Limavady, could stimulate the sort of business activity that some elected representatives complain about the lack of?

**Mrs Foster:** The pop-up shop from Invest Northern Ireland visited Queen Street in Belfast. It then went to the Erneside shopping centre in Enniskillen, and it is going to Limavady as well. Invest Northern Ireland is making the effort to make people aware of the help, assistance and programmes that are available. I have not had the full feedback from Enniskillen. However, there was very good engagement for the visit to Queen Street — I think that it was in Queen's Arcade in Belfast — with people coming in through the doors and learning for the very first time about Invest Northern Ireland and what it was doing. I can see us doing more of that, because sometimes the message about what Invest gets involved in does not seem to be getting out there. I am very keen to make sure that everybody is aware of what is available.

**Mr G Robinson:** How important is the One Plan in growing the north-west economy?

**Mrs Foster:** The One Plan has been developed by a number of stakeholders in the Derry City Council region. It is something that we have been involved in, from an Invest Northern Ireland perspective, and the Executive have endorsed it as well. Therefore, it is a very important plan, and it is a very good example of a holistic approach to how things can be achieved and moved on. It is a very positive way to look at development in an area, because you are actually taking in a whole range of factors, and not just dealing with factors on their own at a particular point in time. I think that the One Plan is a good example, and it is one example of how to deal with things. Another example is what the Fermanagh/Omagh region is doing with its Smart region work, and I have been heavily involved in that as well. It is an attempt to say, "This is what we envisage for the region; how can you help us to deliver it?" I think that that is a very good example of how to do things.

**Mr Eastwood:** We had the good announcement last week of around 10 jobs for a local company. With regard to the opportunities at Fort George, what work is Invest Northern Ireland doing to attract investors to that site and to any other vacant sites in the city?

**Mrs Foster:** Again, it is about being aware of what is available for inward investors and indigenous companies, so that when they ask us questions about particular needs, we know where those needs can be satisfied. Fort George is a very good site. It is very central to the city, but it has plenty of space. Of course, it has the Hibernia link into it as well, which is a

very strong selling point. Invest Northern Ireland's property division is very much aware of Fort George, and the local office in Londonderry is very much aware of it as well.

### **Gas Shortage: Larne**

6. **Mr Beggs** asked the Minister of Enterprise, Trade and Investment what role her Department plays in the licensing of current commercial proposals to store gas and compressed air in caverns within geological salt layers in the Larne area. (AQO 5981/11-15)

**Mrs Foster:** Under the Mineral Development Act (Northern Ireland) 1969, DETI has powers to grant licences for the prospecting and mining of selected minerals, including salt, in Northern Ireland. My Department has granted a mineral prospecting licence to Gaelectric Developments Limited to explore for suitable salt beds for its proposed compressed air energy storage project. Subsequent solution mining of the salt to create caverns would require a mining licence from my Department.

In addition, Islandmagee Storage Limited has a mineral prospecting licence for salt exploration on Islandmagee. However, as the Mineral Development Act applies only to onshore Northern Ireland, the company would not need a DETI mining licence for the creation of natural gas storage caverns beneath Larne lough.

**3.15 pm**

**Mr Principal Deputy Speaker:** That ends the period for oral questions. We now move on to topical questions.

### **Harland and Wolff: Jobs**

1. **Mr McNarry** asked the Minister of Enterprise, Trade and Investment to clarify whether there is a disparity in the numbers employed at Harland and Wolff outside the local unemployment/employment register, given the issue scripted by the media today as "tensions in east Belfast", with 500 imported labour jobs relative to 150 local jobs. (AQT 1011/11-15)

**Mrs Foster:** I thank the Member for his question. It is one that I thought he might raise with me when I saw his name on the list today, so I asked Harland and Wolff some questions before I came to the House. As I understand it, Harland and Wolff was awarded the contract for the dry docking of the rig by an international oil group, Dolphin Drilling, in August 2013. It is a very big contract. Initially, it was only a 60-day

contract. It had a very short turnaround and required a very swift response from Harland and Wolff to secure the work into the shipyard. It had to react very quickly to secure and provide the necessary workshops and short-term contracts. Although I acknowledge that it has gone beyond 60 days, those contracts are short term. In many ways, the wider economy in Belfast has benefited from the fact that the contract has gone on longer than 60 days. Indeed, I know that a lot of the hospitality industry, for example, has really benefited from the fact that those workers are here.

I am told that Harland and Wolff has brought in 600 temporary workers to complete the renewal, upgrade and maintenance work on time. Those are estimated figures. Mr McNarry might have different figures. I am told that there are 200 workers from the Northern Ireland labour pool and 200 from the Scotland and north-east of England labour pool. The balance is made up from European countries.

We should ask why that is the case. It is the case that there was a shortage of skilled steel workers and welders in Northern Ireland following the decline of the shipbuilding industry. That raises the question of whether we should be doing something about the skills of people in that area and generally in Northern Ireland. I am certainly happy to have a conversation with the Employment and Learning Minister about that.

**Mr McNarry:** I thank the Minister. I appreciate her comprehensive answer and diligence in sourcing at least some indication of what that contract is about. I will not argue with her, but I think that there is more to be told about it. In future, when the Minister announces news of job creation, which will be welcome, will she mean jobs to reduce our unemployment figures or those of other countries?

**Mrs Foster:** Well, of course, the Member knows that I did not announce those jobs. If he would care to go back and look —

**Mr McNarry:** I did not ask about those jobs; I asked about future jobs.

**Mrs Foster:** Well, you made the point about whether, if I make job announcements, I will ensure that they are jobs for Northern Ireland people. I did not, of course, announce those jobs because I was very aware at the time that it was a short-term contract and they would be short-term jobs for whoever would fill them. They would not be permanent jobs. The Member should look at that point in particular.

Of course, we are very aware that when companies come to Northern Ireland — I am talking now from a foreign-direct-investment point of view — they will, on occasion, bring people with them to embed the new company in Northern Ireland. It is wrong for us to say that we want jobs in Northern Ireland only for Northern Ireland people. We want people to come to Northern Ireland and share their skills and experiences with us here in order to build up our workforce so that we can be competitive and global. It is wrong to say that we are interested only in jobs here for people from Northern Ireland.

## Agri-food Loan Scheme

2. **Mrs Cochrane** asked the Minister of Enterprise, Trade and Investment to update the House on the agri-food loan scheme and to detail which banks are participating. (AQT 1012/11-15)

**Mrs Foster:** I am very pleased to say that the first broiler phase of the scheme is now open for business. It took a little longer than some of us would have liked, but it is now open for business.

The first loan under the scheme has been approved by the First Trust Bank, so it gets a gold star. The participating banks are the Bank of Ireland, Barclays, Danske Bank, the First Trust Bank and the Ulster Bank.

**Mrs Cochrane:** I thank the Minister for her answer. Are there any plans to roll out that type of scheme to any other sectors?

**Mrs Foster:** Yes, there are. That was really a pilot scheme. We recognised that there was a need in the poultry sector, given its growth and the fact that a lot of farmers did not have the requisite security needed to access money from traditional loans and banks. Therefore, we came in with this innovative scheme and ensured that we got the participation of the banks that I listed. That meant that the banks are now more engaged than ever with the industry. The broiler sector was the first to benefit, but I hope that the scheme will be used more widely in the poultry sector, the pork sector and other agri-sectors.

## Giro d'Italia

3. **Mr Clarke** asked the Minister of Enterprise, Trade and Investment to outline the value of the Giro d'Italia to Northern Ireland, given that

some people would rather focus on the negatives. (AQT 1013/11-15)

I congratulate the Minister on her work for tourism in Northern Ireland, particularly given the announcements in the past couple of weeks about the Irish Open, which is coming to Northern Ireland in two future years, and the Giro, which is coming much sooner than the Irish Open.

**Mrs Foster:** I thank the Member for his comments about the events that we have been able to announce recently. It is tremendous to welcome the Irish Open back to Northern Ireland in 2015 to Royal County Down and in 2017 to the Lough Erne golf resort in Enniskillen.

We also launched the Circuit of Ireland, which takes place over the Easter weekend. That is another strong race that has taken on a new emphasis because Eurosport is involved, and it is now part of a European network. We launched the North West 200 as well, which is being upped to a festival. We very much look forward to that event, which is happening over a week in May.

A lot of things are happening in May, not least, as I said, the Giro d'Italia. We have been working hard with the team in Shadtree Sports and the organisers RCS to make sure that we get the greatest benefit out of the Giro d'Italia. The working groups are working hard with local councils to try to make sure that they can capitalise on the Giro and the opportunities that it brings to local areas. We have a full branding campaign that will run along the course for the whole event. We have promoted the event to our key consumer markets in Northern Ireland, the Republic of Ireland and across Europe. It will be a tremendous event for us, and I look forward to it very much.

**Mr Clarke:** I thank the Minister for that answer. Given the success in bringing the Irish Open back to Northern Ireland, would it be possible to bring the Giro d'Italia, which is coming here next month, back in the future, given the excitement among many people in our constituencies about seeing it for the first time in Northern Ireland? If it did come back, would it be possible to open up roads in other parts of the Province so that people could see and enjoy what we have over here?

**Mrs Foster:** I thank the Member for his question. He is right to talk about what will happen after the race and its legacy. The Giro d'Italia has a very strong legacy programme,

and I have had representations from people in south Down about the Gran Fondo, as it is called, which runs races in the following years that get the community involved in the Giro brand and keep cycling alive. I have met cycling groups from across Northern Ireland, and the number of people who are involved in cycling across Northern Ireland is quite amazing. This is a great event for them and for our tourists, whom we look forward to welcoming in May.

## **Economic Data: Gaps**

4. **Mr Maskey** asked the Minister of Enterprise, Trade and Investment for an appraisal of the recent NICVA commentary on significant gaps in economic data to allow for planning for a recovery. (AQT 1014/11-15)

**Mrs Foster:** We hope to provide some answers to that, although I do not believe that there are gaps. However, some clarity will be provided about what the Executive plan to do over the next period of time. There are a lot of figures, some of them very misleading. All I know is that we are now down £13 million in terms of — or £15 million — in terms of our budget, £13 million in terms of our budget for the Northern Ireland Executive. That is gone. That is gone. Therefore we have to look at our Budget in the years to come, which will be a huge challenge, particularly for high-spending Departments in the Executive, to deal with. However, when those figures are before people, I hope that they realise that the money has gone and that we need to start planning for the future of Northern Ireland. We are told that we have been living in a period of austerity. Frankly, if we go on as we have been with welfare reform, we ain't seen nothing yet.

**Mr Maskey:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. I cannot thank the Minister for that response, because it was just silly posturing; it does not at all address the question. I would have expected the Minister to tell the House that she is committed to making sure that we have all the necessary information at our disposal to plan for an economic recovery. Will the Minister, even at this point, leave aside the stupid posturing and try to assure the House that she might understand the need —

**Mr Clarke:** Kettle, pot, black.

**Mr Maskey:** — to have a full framework for data? It might help to address that.



**Mrs Foster:** Oh well, it takes one to know one. *[Interruption.]* The Member obviously did not listen to the answer that I gave. I do not know why that might have been a problem for him. I said that the Executive — on which, as far as I recall, his party has Ministers — have agreed to look at the figures on welfare reform and the difficulties involved. If he thinks that that is "silly posturing" —

**Mr Maskey:** What about the economic data, never mind welfare reform?

**Mr Principal Deputy Speaker:** OK, let the Minister answer.

**Mr Maskey:** She has not tried to answer it yet.

**Mrs Foster:** If he thinks that planning for the future is "silly posturing" when we are down £13 million, let him speak of his economic illiteracy to the people of Northern Ireland.

## Economic Development

6. **Mr Cree** asked the Minister of Enterprise, Trade and Investment, given that Invest Northern Ireland has held, for a long time now, a land bank at Balloo in Bangor, with nothing happening with it, whether she would think favourably about allowing local authorities to become involved so that assets such as that could be utilised for economic development. (AQT 1016/11-15)

**Mrs Foster:** When the Member looks at the transfer of powers after local government reform, he will find that part of it is local economic development. I would welcome engagement with local councils about land banks, because local people know where the land is and what is needed for indigenous companies. So, I make the commitment to him that I will do that, and I am happy to have a discussion with him on that issue around Balloo if he feels that doing so early would be good.

**Mr Cree:** I knocked my main and supplementary questions into one, but I am pleased with the response from the Minister.

## Munster Simms Engineering Ltd

7. **Mr Easton** asked the Minister of Enterprise, Trade and Investment what will be the impact of the new Munster Simms premises that she opened in Bangor. (AQT 1017/11-15)

**Mrs Foster:** I was pleased to be in Bangor again with Munster Simms to see the ongoing development there. He will know that Munster Simms was a management buy-out a couple of years ago. At what was perhaps a difficult time for the economy, a team there decided to grow the business, and it has done so impressively. I congratulate the management team at Munster Simms for its new factory, which I was privileged to open recently, and pay tribute to the staff. I know that management will want me to pay tribute to the staff because they have a good working relationship. Indeed, Munster Simms was named a 'Sunday Times' employer of the year for, I think, five years, which is something to be proud of. The fact that one of our companies in your constituency, Mr Easton, is on that list should be something that you are proud of.

**Mr Principal Deputy Speaker:** Thank you, Minister. Question Time is up. I propose that the House take its ease while we change the top Table.

3.30 pm

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

## Executive Committee Business

### Legal Aid and Coroners' Courts Bill: Second Stage

**Mr Ford (The Minister of Justice):** I beg to move

*That the Second Stage of the Legal Aid and Coroners' Courts Bill [NIA 33/11-15] be agreed.*

I remind the House that, when I was elected Justice Minister, I said that my goal was to create a better justice system for everyone: the victims of crime; those involved in seeking redress through the civil law or who need the assistance of the legal system to resolve disputes; people called to give evidence; and those facing prosecution as defendants.

To help to inform my thinking about how to achieve that goal, I commissioned a review of access to justice in Northern Ireland, including criminal and civil legal aid. The final report of that review was published in September 2011. It recommended that the Northern Ireland Legal Services Commission become an executive agency of the Department of Justice and that the chief executive be a statutory appointment

and responsible for decisions on civil legal aid applications, without any involvement on the part of the Minister or staff in the core of the Department.

Following a public consultation on the report, I announced my response to the House on 2 July 2012. Along with my response, I published a departmental action plan setting out 38 projects to take forward the recommendations of the review, one of which was tasked with examining the future structure for the delivery of legal aid. That included a detailed analysis of the consequences of delivering the administration of civil legal aid through an agency, taking cognisance of the three strategic objectives that I had set out in the departmental action plan: improving access to justice, bringing legal aid within budget and improving governance and accountability.

A number of options were considered as part of the analysis. Based on a quantitative and qualitative analysis, the findings endorsed the recommendation in the access to justice review that the delivery body for legal aid be an agency. Before accepting the findings, I wanted to be sure that appropriate safeguards could be put in place to protect the independence of decision-making in the granting of civil legal aid. As a result, safeguards were developed, and I carried out a public consultation on their appropriateness.

As a result of responses to the consultation, I took steps to further strengthen the safeguards, and these are reflected in the approach that I have adopted. I am satisfied that the proposed new arrangements will be protected from external influence and, in particular, be free from political or sectional interest.

Individual decisions will be taken on the merits of the case and not influenced by political or budgetary considerations. Although I will legislate and issue guidance on legal aid matters, I will not play any part in decision-making on individual cases.

The main purpose of the Bill is to dissolve the Northern Ireland Legal Services Commission and transfer its functions and staff to an executive agency, which is to be established in the Department of Justice. It will also set in statute safeguards to protect the independence of individual decisions on the granting of civil legal aid.

There are several key safeguards. The first is the designation of a civil servant as the director of legal aid casework, who will be responsible for individual decisions in the awarding of public

funding in civil cases. In taking those decisions, the director will act independently of the Department and the Minister. They may issue guidance and directions on how the director carries out his functions, and any guidance and directions must be published. However, the Bill expressly provides that the Department and Minister are prohibited from issuing guidance on or direction in individual decisions. The Bill imposes a duty on the Department to ensure that the director acts independently of the Department when applying any general guidance or direction to an individual case.

Secondly, the Bill contains a regulation-making power to enable the appointment of an independent appeals panel to hear appeals against the decisions taken by the director. That will help to ensure that there is an opportunity to challenge the decisions of the director to refuse to award funding, or indeed further funding, in an individual case. The regulations must require an appeal panel to provide written reasons for its decisions on appeal. I will support that with robust administrative procedures to ensure that a reasoned explanation is given for the refusal to award funding.

The Bill makes provision for the transfer of staff from the commission to employment in the Northern Ireland Civil Service and, in doing so, protects their terms and conditions of service. I can advise that we have just received DFP approval to align the commission's pay scales to the Northern Ireland Civil Service pay scales in advance of the move to agency status. That increase will be backdated to devolution, and it is our intention to pay the increase, together with the back pay, subject to negotiations with the trade union, in April salaries.

The main statutory provisions governing legal aid are the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 and the Access to Justice (Northern Ireland) Order 2003. The 2003 order will ultimately replace the 1981 order, but large parts of it remain uncommenced. That has been a complicating factor in bringing forward the Bill, as it is necessary to make amendments to both orders to reflect the transfer of responsibilities away from the commission either to the Department or to the director of legal aid casework. Those amendments are reflected in the lengthy schedules to the Bill.

The Bill, therefore, makes changes to both orders to reflect the transfer of responsibilities and to support my wider legal aid reform programme. Let me make very clear that the amendments to the existing legislation do not

have any impact on access to justice or in any way restrict eligibility for legal aid. To support my legal aid reform programme, the provisions in articles 10 to 14 and articles 17 to 20 of the 2003 order regarding civil legal services will be commenced on the same date that the commission is dissolved and the agency created.

Articles 15 and 16 relate to the funding code, which I do not propose to proceed with. The funding code was originally intended to set out the criteria for determining whether civil legal services should be provided in a specific case and what service is appropriate. Following extensive work and research, and taking on board experience elsewhere, we have concluded that the funding code is an unnecessarily elaborate approach that would not best serve the needs of individual legal aid clients. Consequently, the existing arrangements for merits tests will remain.

The benefit of commencing civil legal services under the 2003 order is that it will provide greater flexibility around the people eligible to receive public funding in civil cases and how that funding is delivered than is currently provided in the 1981 order. For example, it would allow regulations to prescribe that certain proceedings may be funded without reference to an individual's financial resources. Regulations could also delegate decision-making on financial eligibility to a solicitor or other provider. It allows for non-court-based solutions, such as mediation or telephone advice, and enables better use of the private or voluntary sector to provide services; for example, through law centres or advice services.

All those provisions were already on the statute book in the 2003 order but have not yet been brought into force. For civil legal services to be commenced, a suite of subordinate legislation is required. The subordinate legislation will be subject to further scrutiny by the Assembly. Some of the legislation will involve the Assembly's affirmative resolution procedure. This is an important point: all further reforms to the legal aid system will be brought before the House before they can come into force. Pending the commencement of the provisions in articles 21 to 31 of the 2003 order regarding criminal defence services, representation in criminal cases will continue to be provided under Part III of the 1981 order. Accordingly, as an interim measure, the Bill will amend Part III of the 1981 order to replicate some provisions of the 2003 order regarding the assignment of solicitors and counsel, to provide for a registration scheme, and to place

restrictions on the disclosure of information about criminal legal aid applications.

The Coroners' Courts part of the Bill will make the Lord Chief Justice the president of the Coroners' Courts and require him to appoint a presiding coroner. That will formalise the Lord Chief Justice's responsibilities for the Coroners' Courts, in line with existing arrangements for the other court tiers in Northern Ireland, and is intended to assist in the better administration and case management of inquests and the Coroners' Courts generally. These changes flow from a recommendation in the review of the criminal justice system in Northern Ireland in 2000 that the Lord Chief Justice should have a clearly defined position as head of the judiciary.

The review also considered that having a president or chief judge at each tier of the courts might be beneficial. Those recommendations were initially implemented in the Justice (Northern Ireland) Act 2002, which made the Lord Chief Justice the president of all the courts except the Coroners' Courts. It is not clear why they were excluded at that time. It may have been an oversight, or it may have been considered appropriate to await the outcome of other reviews concerned with the inquest process that were ongoing. In any event, the Lord Chief Justice raised this with me in December 2012, and this Bill provides the first opportunity to take these amendments forward since then.

To sum up, the purpose of the Bill is to improve the administration of the legal aid system in Northern Ireland and to introduce more effective case management in the Coroners' Courts. I am satisfied that these reforms are timely and necessary. I commend the Legal Aid and Coroners' Courts Bill to the House.

**Mr Givan (The Chairperson of the Committee for Justice):** I apologise for missing the Minister's opening remarks, but I thank him for outlining the general principles of the Legal Aid and Coroners' Courts Bill and I am pleased to speak in this debate today on behalf of the Committee for Justice.

The Bill is a key part of the wider programme to reform the legal aid system in Northern Ireland and, as such, is supported by the Committee for Justice. The Committee has spent a considerable amount of time scrutinising specific proposals for reform of criminal and civil legal aid, largely through subordinate legislation, over the past number of years. As Members will be aware, there have been ongoing issues in relation to inaccurate financial

modeling and forecasting, lack of accountability and significant budget overspends. It is imperative that these issues are addressed.

The change of status of the Legal Services Commission from a non-departmental public body to an executive agency of the Department of Justice provides the opportunity to improve the governance arrangements, and the Committee will expect to see increased transparency, accountability and efficiency.

The Committee first considered the proposals for a public consultation on these changes in February 2013. We noted that the proposals resulted from a recommendation in the access to justice review that had attracted general support. The Committee agreed that the consultation should take place and that it would consider the issue further when the results of the consultation were available.

Departmental officials subsequently briefed the Committee on the results of that consultation in June 2013, and a range of issues were discussed. These included the need for assurance that there would be independence in decision-making on granting of civil legal aid; the likely savings that would result from the change of status of the Northern Ireland Legal Services Commission; the position regarding the Northern Ireland Legal Services Commission's accounts, which Members will know have been qualified by the Northern Ireland Audit Office for a considerable number of years, and what effect this would have following the change in status; and the mechanism to deal with appeals where legal aid is refused. Following the briefing, the Committee agreed that it was content for the Minister to bring forward a Bill to make the necessary legislative changes.

More recently, the Committee received a briefing from departmental officials on the principles of the Bill, during which they highlighted that it now includes a provision, as the Minister has outlined, to make the Lord Chief Justice the president of the Coroners' Courts and to require him to appoint a presiding coroner, thus formalising his responsibilities in relation to the coroners and the Coroners' Courts. Given that this provision arises from a recommendation in the review of the criminal justice system in Northern Ireland, which was completed in 2000, the Committee questioned the delay in bringing forward this change and has requested further information on the reasons for this from the Department. Maybe the Minister can go a little bit further: he has indicated that it may have been just an oversight, and maybe that is all the information

that we know of, but it would be useful if we could know a little bit more about that.

The Committee noted the key safeguards in the Bill to protect the independence of individual decisions on the granting of civil legal aid, which include the director of legal aid casework being responsible for individual decisions independently of the Department and the establishment of an independent appeals panel. Officials also confirmed that the amendments to the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 and the Access to Justice (Northern Ireland) Order 2003 do not have any impact whatsoever on the parameters of those who are eligible for legal aid. Following the briefing, the Committee agreed on 13 March 2014 that it was content to support the principles of the Bill at Second Stage.

### 3.45 pm

On a number of occasions, the Minister of Justice has discussed with the Deputy Chairperson and myself the possibility of the Committee keeping the Committee Stage of the Bill as short as possible to enable it to receive Royal Assent in the autumn, allowing the agency to be formed shortly thereafter. Given that the Bill is largely technical in nature — there were few substantial issues raised during the Department's consultation — and that supporting subordinate legislation will also be required, some of which will involve the affirmative resolution procedure, thereby providing further scrutiny opportunities, the Committee has agreed in principle to a 10-week Committee Stage. We will, however, wish to give further consideration to the feasibility of that once we have analysed the written evidence received on the Bill.

If we can make this process move as quickly as possible while still doing our job, as we are mandated to do, the Committee is up for trying to facilitate the Department in getting the Bill through the relevant stages. At times, less can be more, and Committees here sometimes unnecessarily lengthen their scrutiny stages. If we can do this, doing proper justice to the work that we have to do, it is appropriate that the Committee should try to work to that. If we can do it, that is for the betterment of the legislation and what it is trying to achieve.

The Attorney General for Northern Ireland has also asked the Committee to consider a potential amendment to the Bill. The Attorney General has the power under section 14(1) of the Coroners Act (Northern Ireland) 1959 to direct an inquest where he considers it advisable to do so, but has no powers to obtain

papers or information that may be relevant to the exercise of that power. He has experienced some difficulty in recent years in securing access to documents that he has needed, and the proposed amendment to the 1959 Act would confer a power on the Attorney General to obtain papers and provide a clear statutory basis for disclosure. He has indicated that the principal focus of his concern is deaths that occur in hospital or where there is otherwise a suggestion that medical error may have occurred.

The Committee will consider the Attorney General's proposed amendment at Committee Stage and intends to seek the views of relevant stakeholders to inform its consideration of that. An oral evidence event planned for May will also provide an opportunity for Committee members to explore any other issues relating to the Bill. As Chairperson of the Committee for Justice, I support the principles of the Bill and I look forward to getting into the scrutiny stage.

I will briefly speak as an individual MLA. The Attorney General's request will need some scrutiny. If it is, as suggested, related purely to deaths that occur because of some medical issues, I will want to see exactly how the amendment will ensure that that is indeed the area that it is covering. Other Committee members may be of the view that the amendment should have a much wider scope. Members will have an interest in that issue. Certainly, I want to try to assist, given some of the tragic deaths that have occurred in our health service. Those inquests can be helpful and disclosure is obviously important, so I want to give the proposal proper consideration.

The House has considered the issue of legal aid for a number of years. The accounts have been qualified; one of the reasons for that being that the potential for fraud could not be ruled out. I know that all Members of the House are concerned that that may well have happened, particularly given that we are talking about the legal profession and, obviously, the concerns that arise from that. We need to get to a system where a clear framework is in place for the administration of legal aid. The days of people being able to put in bills without ever backing up the work that they claim for should be over. There needs to be transparency and accountability when it comes to spending of taxpayers' money. The legal profession is not immune from that, and change is on the way.

I think that change will come to how civil legal aid is structured.

We will get into the debate on what an appropriate level of remuneration should be and ensuring that the citizens of this state have access to justice. Those are important considerations. The days of old cannot be allowed to continue and will need to change, and bringing the agency into the Department should assist in that. Then, the criticisms that have been made can hopefully be ameliorated, because the commission has often forecasted spend on legal aid and has not been accurate. Nevertheless, I have some sympathy, given the system that they have to operate under, where you are not able to accurately forecast the expenditure on legal aid. Some elements are outside their control as well, such as when additional judges are appointed and the process of dealing with cases has accelerated. That can have an impact as well. There has been some criticism from the legal profession, some of which I think is justified, and the changes will hopefully address that.

We will want to explore the Lord Chief Justice's request. I appreciate that it was in the report back in 2000, but one does have to ask this question: is the efficiency with which the Coroners' Court operates really just about the personnel? There does not seem to be any great structural change through this; rather it is a change in personnel as to who ultimately has authority over the Coroners' Court. I want to tease out what will be different structurally to deal with some of the issues that arise in the Coroners' Court. The Lord Chief Justice is a powerful individual, not only because he is president of the courts — now there is the further request to deal with the Coroners' Court — but because he is also chairman of the Northern Ireland Judicial Appointments Commission, which has attracted considerable debate of late in the context of, to use the phrase that the Attorney General coined, judges appointing judges. There is some concern, and we need to look at whether any conflicts result from being president of all and chairman of the body that appoints. That is another piece of work that the Committee is looking at.

I look forward to getting into the detailed scrutiny work that the Justice Committee has always proven itself very adept at getting into. I look forward, as usual, to working with the Minister and his officials, who have always been very obliging to the Committee.

**Mr McCartney:** Go raibh maith agat, a LeasCheann Comhairle. Like the Chair, I apologise to the Minister for being late. I was just running late in doing something.

As outlined by the Chair, we, as a party, were supportive of the principles of the Bill in Committee. Indeed, we are broadly in support of the process that the Minister laid out on the intended changes and consequences, and the process of scrutinising it as laid out by the Chair. We look forward to trying to assist the Minister in doing this as quickly as possible and in an efficient way, while ensuring, as outlined by the Chair, that proper scrutiny is carried out.

For us, the idea and concept of the Legal Services Commission becoming the agency as outlined is a good thing. As the Minister and the officials outlined at the Committee and, indeed, as the explanatory memorandum outlines, it is about trying to increase transparency, accountability and efficiency. When you are trying to achieve that, we will certainly want to assist.

As the Chair mentioned, the idea of the financial modelling and the inability sometimes to forecast the budget has featured on a number of occasions. That has been mentioned by the Committee to officials, and the Chair alluded to some of the problems that existed. Hopefully, this will help to regularise that, and forecasting will become better in the limited circumstances.

Similarly, the idea of the chief executive becoming a statutory office holder is a good thing. It removes any responsibility. That is not to say that there was any responsibility in the past either on departmental officials or the Minister so that they could, in some way, interfere or have any sort of say over and above what they are entitled to on legal aid. That is also to be welcomed. We also welcome the safeguards outlined in the Bill. The Minister alluded to the fact that this is not about changing aspects of legal aid in respect of access, provision or its core ethos, which is to provide assistance to people seeking justice who have not got the means. That is well protected.

The second aspect of the Bill is the idea of the Lord Chief Justice becoming the president of the Coroners' Court. From our understanding, we are broadly in support of that. The Chair has brought things to the table that will be scrutinised — rightly so — but, for us, it is about efficiency. The rationale is that there will be better case management and better use of resources, and we have seen that in terms of faster, fairer justice. Where there is better case management, there is better output, which means that people's access to justice is served well.

We broadly support the amendment put forward by the Attorney General. The Chair has indicated that there will be a degree of scrutiny required. People might want to broaden the scope of the papers that he is entitled to, but where the Attorney General has found a particular gap for his work, it is worth examining, and we will come at it with that in mind.

We look forward to scrutinising this through the Committee. We know that it is an ambitious timeline, but, from our party's perspective, we want to give this as much attention as is required and to assist the Minister in bringing it through the procedures as quickly as possible. We broadly support the principles of the Bill.

**Mr A Maginness:** On behalf of the SDLP, I welcome the Bill and give it our general support. We have some concerns about aspects of the Bill, but, in general terms, we are supportive of it.

The Legal Services Commission has had a fairly sad history in respect of its efficiency and its ability to forecast and to deliver as a public body. It has reached the end of its tenure. Criminal Justice Inspection, in its report of November 2013, concluded as follows, and I quote from Mr McGuigan, the chief inspector of criminal justice in Northern Ireland:

*"However our overall conclusion is that the legal aid arrangements in Northern Ireland are not fit for purpose and are in need of radical reform."*

As the body tasked with looking after legal aid and legal aid disbursements, the commission, sadly, has not reached the standard that we in the Assembly or the public at large would have wanted. I do not blame the commission; it was probably not properly resourced. I think that it had a difficult task. Legal aid is a demand-driven area, and it is difficult to keep track of and to control. However, I do not think that the commission was given the wherewithal to deal effectively and efficiently with legal aid. I will go back to the report that I mentioned to you:

*"Part of the problem has been the shortcomings in the effectiveness and efficiency of the NILSC. There has been a succession of reports in recent years critical of its management, and the DoJ now plans to legislate to change it to an executive agency."*

It goes on to say that the inspectorate supports that move. The report adds:

*"Systems are over-complicated and are managed inefficiently, with little use of modern technology. Half of all applications from solicitors have to be returned to them because the forms are not completed properly, and there are frequent challenges to the decisions made about funding because the criteria are not clearly set out.*

*Staff morale is poor and performance management has not been properly implemented. The IT systems do not allow targets to be set and monitored in a meaningful way. The business of the NILSC needs to be properly analysed and modelled so that new structures and performance targets can be put in place supported by state of the art IT. If this were done, there could be significant savings in administration costs (with corresponding benefits to the legal profession) and improvements in the timeliness of decisions and payments."*

When I was a practising barrister, the timeliness of payments was one of the most difficult things that you had to deal with, because you simply did not know when the commission would pay or whether it would ever pay. I remember receiving payments years after a case had been completed; in fact, payments came when one had forgotten that one had done the case. However, that is a personal reminiscence of my encounter with the commission.

#### **4.00 pm**

I want to make one important point. The commission will now be transformed into an agency, which I welcome. That is important because this body was not equipped to deal with the work that it was given. However, the Minister must assure the House that the agency will be given the wherewithal to deal with legal aid efficiently and effectively. If it is not given the technology and the resources that are required to deliver an efficient service, what we are doing today is a waste of time.

I also seek an assurance from the Minister about the costs of the commission, which are very high. They are approximately £8 million a year, and perhaps the Minister can give us a more accurate figure. That is a very high demand on the public purse. We properly talk about the difficulties with legal aid and the fact that the budget overruns and so forth, but we must ensure that the body that administers legal aid does so in a cost-efficient manner.

I have a further point about staff. The Criminal Justice Inspection report refers to staff being demoralised. From personal knowledge, I know

that staff were demoralised, and one effect of the change might be to give staff a greater sense of purpose. It may improve morale, and it will certainly improve pay, which has been a vexed subject over a prolonged period. I welcome what the Minister said about members of staff being paid in accordance with Northern Ireland Civil Service rates. Staff will, quite naturally, welcome that, and it may also improve the service that is being delivered by the staff who will be transferred.

I make one general point. It is accepted by all in the House, not least myself, that legal aid must be brought into budget. It is important that that happen, and the Minister has made strides on it. However, I stress this: in so doing, it is important that access to justice is not in any way impeded. You can make all the cuts you want to a service, but, if you make excessive cuts, you diminish the service that you deliver to the public. That is a very important point to stress. It seems obvious, but I am not certain that the Department fully appreciates it. The Department has made very significant cuts and will make further cuts that, I believe, will be significant. We are on the edge of making cuts that could create a crisis in the delivery of the service that we are talking about. I know that the Bill does not directly affect that; nonetheless, it is important that Members take that into consideration. I make those points and hope that they will be taken on board by the Minister.

In answer to questions in the House yesterday, the Minister said that savings of £20 million had already been made in criminal legal aid and that, in addition to that, he hoped to make annual savings of about £18 million. With further changes to Crown Court fees for criminal work, he estimated that there would be other savings, to the tune of £5.5 million. That is £23.5 million in addition to the £20 million already saved. That is a very substantial saving indeed. I am in favour of such savings if, at the same time, we can preserve the service that the public are entitled to. However, if those savings go beyond the point where the service cannot be delivered, that is a backward step.

I further say to the Minister that I take on board what he said about the appointment of a director of legal aid casework and that he or she would exercise their office separately and distinctly from the Department. That is a very important distinction to make in respect of individual cases. In addition, the Minister preserves the merits test, which is an important safeguard, in relation to the grant of legal aid. When the Minister's officials came to the Justice

Committee, they indicated that there would be panels of at least three people dealing with appeals against the rejection of legal aid. That is an appropriate step and safeguard. However, it was further indicated that at least one of the panel would be a lawyer and that, possibly, that person would take a presiding role on the panel. I do not see that in the Bill. It may well be that the Minister intends to put that into regulations, but it does not appear to be in the Bill. Perhaps I am wrong in that, but I emphasise the importance of making sure that legal representatives are involved in the appeals. I say that not because I think that they will be self-serving but because they are in a position to make the determination on merits. They are practitioners, and I believe that they will do so in a bona fide and independent manner. Involving lawyers in appeals does not mean that they will simply decide to do a good turn for this solicitor or that solicitor. It is important that professionals who know what cases are about and know the nature of these appeals should be there to determine them. They will, I believe, give good service.

I know that the current panel that deals with civil legal aid does so in an independent spirit of mind and does so on the merits. I have no fear that that would be prejudiced in any way. I would prefer the panels to be made up completely of lawyers. It is important that they have a leading role. Certainly, at the very minimum, the presiding chair should be a lawyer. As I said, I do not see that in the Bill. If I am wrong about that, perhaps the Minister will direct me.

In any democratic society, it is very important that there be a distinction — a separation of power — between the judiciary, the executive and the legislature. That is taken for granted by everyone in a democratic society, but the independence of the legal profession is important in any democracy. It should be free and independent because it provides a real safeguard against the power of the state, and it is very important that that be preserved. What I see in the Bill — I hope that I am wrong about this — is an attempt to impose inappropriate regulations on the legal profession. Article 36B(1)(a), set out in schedule 2, which concerns the register of solicitors and counsel eligible to be assigned, states:

*"make provision for the registration by the Department of counsel and solicitors who are eligible to be assigned in pursuance of criminal aid certificates".*

It goes on, but I will not go into the detail. The registration of counsel and solicitors is an

unnecessary step. It is an elaborate approach to the assignment of professionals to legal aid. I make the point very seriously that the Department should look at that. I am not certain that it is the right direction in which to go. I go back to my original point: there should be an independent legal profession in any democratic society. Once you start to register solicitors and barristers, you start to erode that independence.

I warn the House that I do not believe that that is the right road to go down.

#### 4.15 pm

I hear what the Chair of the Committee has said regarding the Lord Chief Justice and the Coroners' Court. I think that this is probably more of a formality than anything else. I do not think that it means an awful lot of change to the operation of the Coroners' Court. The Lord Chief Justice has an important judicial role, but he also has an important administrative role in the judicial system. If he requires a legislative basis to do that, he is entitled to receive that.

I will conclude simply by reiterating the point that I made at the very beginning, which is that we welcome the Bill but there are points of concern that need to be addressed. I hope that, during the course of this legislation, we will be able to address those in a forthright manner that will get the right result.

**Mr Elliott:** I note that a level of agreement is almost breaking out between parties here. I am sure that the Minister will be pleased to hear that.

Mr Maginness gave us a story of how slow some payments came through when he was involved in the legal profession. I am sure that he will have some sympathy, and even empathy, for some of the farmers in our community who have to wait quite a long time for single farm payments. Maybe our friend from north Belfast can now realise their difficulties.

To be fair, there is broad agreement in the Committee. I take the Committee Chair's point about trying to progress the Bill with a reasonable amount of speed and, while certainly trying to carry out proper scrutiny, to do that in as short a timescale as possible. However, this has come from a review that was carried out in 2000, which was 14 years ago. I think, from our briefing, that it has been on the books since 2004, which is 10 years ago. Why the delay until now? I asked that at the



Committee, and there was an intention to come back with some information. Maybe the Minister can give us information today on why it has taken so long to come forward.

As many others indicated, this is to replace the Legal Services Commission. That body has not endeared itself to the wider public or, indeed, Members of the Assembly in recent years, particularly around its management or how we see its management. It may be much different if you are on the inside looking out, but, from my perspective, the management processes appear to have been quite difficult.

I also note that the briefing indicates that this legislation will build in safeguards and independence. I have a number of queries for the Minister at this stage of the legislation. Seemingly, the people who are likely to be employed in the new agency will just be transferred from the Legal Services Commission. The Minister needs to explain if this is just a rearranging of the deckchairs or if it is a genuine change from the Legal Services Commission to an agency. We need to be confident of that, and, certainly, the wider public need that confidence; they need to hear that. I note that there was an indication that there may be a change to the terms and conditions of the staff who transfer. Maybe the Minister will elaborate on that aspect as well.

I note that Mr Maginness highlighted that the Legal Services Commission costs £8 million to manage and operate. The briefing that we got at Committee said £7 million, and, from the perspective of the wider public, I wonder whether there can be significant efficiencies from the new agency and what those efficiencies will be. If it is going to be significant, I would like to hear how that will be put in place. If it is just some sort of token, there will be questions arising as to the real reasons for the change.

I also note that the Attorney General has asked for an amendment, and I think that it needs some scrutiny. The Attorney General has indicated that he needs more powers to obtain papers and information, and, by and large, I do not think that we object to the principle of that. However, I think that the reasoning behind it and, indeed, the management of it need a level of scrutiny. We would like to hear more about that before we can approve it. Without delaying the process, we are broadly in favour in principle, but I note that there is some scrutiny to be carried out in the Committee and, indeed, when we come back here for further stages.

**Mr McCarthy:** Go raibh maith agat, a LeasCheann Comhairle. As the previous Member to speak, Mr Elliott, remarked, it is good to see general support all around the House this afternoon for the Bill. The Minister must be very pleased with what he is hearing.

Like others, I support the Bill at its Second Reading. I do so on behalf of the Alliance Party and in place of my colleague Mr Stewart Dickson, who serves on the Justice Committee but who, unfortunately, has taken ill and, therefore, cannot be present today. My brief remarks reflect Mr Dickson's views and the views of the Alliance Party, which are, of course, naturally, supportive of the Minister's Bill and of his ambitious programme of reforms across the justice system. We could not do otherwise, could we?

**Mr A Maginness:** Yes, you could.

**Mr McCarthy:** No, we could not.

This legislation represents another step in those much-needed reforms, and thank God for a local Justice Minister who is prepared to make progress on these much-needed reforms at this time. As the Minister said, one of the recommendations arising from the review of access to justice was that the NILSC become an executive agency of the Department of Justice and that safeguards be put in place, such as making the chief executive a statutory appointment responsible for decisions on civil legal aid applications without any involvement on the part of the Minister, any political institution or staff in the core of the DOJ.

The Bill provides a number of welcome safeguards to protect the independence of decision-making in the granting of legal aid. Decisions on individual cases will be taken by a statutory office holder, the director of legal aid casework. There will be a requirement to publish general guidance and direction on legal aid policy provided by Ministers. Ministers will be specifically prevented from issuing guidance or directions about the discharge of the statutory office holder's functions in relation to individual cases. A robust and independent appeals mechanism will be established to consider appeals against individual decisions.

These measures represent a significant step forward as, under the current arrangements, reasons are not provided when an application for civil legal aid is refused. The Bar Council and the Law Society nominate the appeal panel members, and they also do not provide reasons for their decisions. I welcome the fact that the Department listened and acted on concerns

raised during the public consultation and amended proposals relating to the appeals mechanism so that appeals will be heard by a panel of three, with at least one practising lawyer.

In conclusion, the proposals that are set out in the Bill will protect the independence of decision-making and should also bring resource benefit. It is a positive step forward in our efforts to create a better justice system for everyone in Northern Ireland. I fully support this important Bill.

**Mr Wells:** Mr Deputy Speaker, first of all, could I fall on my sword and apologise for my non-attendance during questions to the Regional Development Minister? It never ceases to amaze me how quickly Ministers can get through questions. I did not expect mine to be called, and I called that wrongly.

Secondly, overall, I support the proposal of the Minister because something has gone seriously wrong with legal aid in Northern Ireland and something serious needs to be done about it. I welcome the fact that the Department will now have more control over the disbursement of legal aid in Northern Ireland. The closer we can bring this to government the better, because we, as an Assembly, can scrutinise what has been a very sorry mess.

I will recount some of the serious problems that have occurred with both the Law Society and the Legal Services Commission over the past few years. We are talking about a body whose accounts have been qualified every year since 2003. It is a totally unacceptable situation that accountants and auditors could not sign off on the accounts of a body spending over £100 million a year. Of course, much of this happened under direct rule, and I shudder to think what was happening during that period. One thing is certain: under direct rule, vast quantities of taxpayers' money from London was poured into the back pockets of barristers and solicitors in Northern Ireland to a degree that was totally unaccountable and unacceptable.

When we had the devolution of policing and justice, we were able to open up the coffins, as it were, and look in and see what was going on inside. It was a far from pretty situation. I would have appreciated it if Mr Maginness had declared his interest in this because he, at one stage, was partaking of the services of the Law Society and the Legal Services Commission. There may be others in the Chamber this afternoon who wish to declare a very substantial interest indeed in this issue.

The cats, as it were, amongst the barristers, were not fat; they were obese. Huge amounts of money were being poured in, and what we discovered was going on did not make for pretty reading. First, we discovered that a very high proportion of cases in Northern Ireland were known as very high cost cases. No one could work out who made the decision as to whether a case did or did not deserve that designation but, obviously, the barristers and solicitors were extremely content with that situation.

Once a case was declared very high cost, it lived up to its billing. The costs were, indeed, very high, and some were quite shocking. In many cases in Northern Ireland, there seemed to be both junior and senior counsel appointed for an inordinately high number of cases. I, for my sins, representing various constituents, have to sit in court, often waiting to see when the case is going to be called. I sit in and watch some of those cases and I really do wonder at times what the junior counsel does, apart from passing the occasional note to the senior counsel. However, obviously, that person is receiving a very significant payment for doing that. It is interesting that, in Northern Ireland, we seem to draw upon senior and junior counsel in far more cases than elsewhere in the United Kingdom.

There are then the inordinately long delays in cases. Solicitors and barristers were very quick to accept adjournments because, no doubt, they were being paid while the case was adjourned, and they could nip off and do other cases, again invoking the services of the Legal Services Commission and getting vast amounts of money.

We had one of the most iniquitous practices, which was discovered in Dungannon Court, of some solicitors who put in their fee bill based on the full case running its entire 15 or 20 days, when they had a very good idea all along that their client was going to plead, and plead early. Of course, they said, "We deserve the full fee because we had to prepare the case on the basis that this was going to go the full term." However, when they had private discussions with their client, it was pretty obvious that he was going to plead. He did, and the case lasted maybe a couple of hours, but the solicitors and barristers still got their full legal aid entitlement, which could be very significant. The judge in Dungannon put his pen down one day and said, "I am absolutely fed up with this going on with this particular firm of solicitors. You knew this was going to happen all along."

So, when devolution occurred, we looked at the situation. For instance, in 2013-14, the budget

was overspent by £40 million. However, thanks to the Assembly, we are able to ask the Minister questions for written answer about the fees that are being paid to individual solicitors and barristers in Northern Ireland simply on legal aid.

#### 4.30 pm

Some of those figures are quite shocking. For instance, in 2012, there were — and I will have to quote them accurately — three barristers who earned over £500,000, including one lady who earned £800,000. I made that point when I was down in the court one day, and I was accosted by a series of QCs — not a pretty sight I can assure you — who resented my comments. Indeed, it was almost unsafe for me to go into the court. One of them came up to me with great fervour and said, "Ach, Mr Wells, you are wrong. You said that I earned £800,000, but of course that was only in one year." What happened, as Mr Allister and Mr Maginness would explain, was that the fees she had put in for previous years had all stacked up in one year. So, I asked Mr Ford what that person earned in the previous five years and the average was £800,000.

I am told by barristers and QCs that the reason why they need paid £800,000 a year is that they need to be incentivised to produce the best possible case for their clients. I would be incentivised for £300,000 a year. I do not need £800,000 to put my best case. Of course, I am doing it for £48,000. Why do we need to pay such extraordinary amounts of money to the QCs and the solicitors of this world to incentivise them? Can they not live on a measly half a million pounds a year? Now, remember, this is only what they are earning on their legal aid work, and they supplement that meagre salary with the really lucrative work in their private practices. No wonder the QCs, barristers and solicitors did not want us to hear what was going on.

Sixteen of those barristers were getting by on a quarter of a million pounds a year in legal aid work and, between them, the top 20 earned £8 million. One firm of solicitors, Kevin R Winters and Company, earned £2.5 million, and Madden and Finucane was not far behind.

We then discovered how those fees were assessed. We have learned gentlemen here; men of the cloth — I do not think that they are men of the cloth, but they are learned anyhow. They are here today and maybe they can correct me. Am I not right in thinking that the learned QCs decided the size of their fees? They did their court cases and thought to

themselves, "Well, I did a pretty good case for that gentlemen, therefore I am worth £34,000 for that case." The next week they might say to themselves, "Oh, I was not too hot in that one, I will simply charge £28,000 for it." They put their bills into the Legal Services Commission, which tugged their forelocks and said, "Thank you very much" and paid out. What did the Legal Service Commission raise as a concern? Not the fees, but the travel expenses and the luncheon vouchers. You cannot expect someone on a measly half a million pounds a year to travel the whole way from Belfast to Dungannon and back and pay for it out of their own pocket. No. They had to claim travel expenses and luncheon vouchers from the Legal Services Commission. Correct me if I am wrong, gentlemen, but that is my reading of the report.

**Mr Givan:** I thank the Member for giving way. Progress has been made on trying to deal with some of those aspects. The Committee and the Member will know that we touched on the issue of when the taxing master took his decision and then, obviously, those who put in the claims, the QCs and barristers, would be allowed to appeal that decision. However, once the Legal Services Commission got the power to challenge those appeals, and requested evidence to be produced, interestingly, quite a large number of the initial appeals were no longer pursued, because evidence was being sought to justify the claims that were being made by the legal profession.

The other change that the Assembly made is on having two counsels for a case and the requests for additional representation. The judges who take those decisions now need to provide an explanation. Once those judges were required to provide an explanation, rather than the immediate, "Your honour, as this is a complicated case, I think I need additional legal assistance" and the judge saying, "granted" — it was as quick as that — there was a dramatic reduction in the number of cases that have been allocated two counsels. Some progress has been made, but I agree with the Member that much more needs to be done.

**Mr Wells:** I thank the Chair of the Committee for his helpful intervention.

I was just coming to Mr Ford. I disagree with the vast majority of what Mr Ford says, and I am glad to say that the Committee disagreed with him today on the Human Trafficking Bill and passed its recommendations on that. We will come to a clash of two forces when that comes up. However, he was absolutely right to

take on the Law Society in the early years of his ministry — I hope that he does not use that against me in subsequent elections. He was absolutely right, but he was not brave enough. He faced down the Law Society and said that he was standing his ground. He invoked changes in criminal legal aid and had the full support of the Committee, apart from Mr Maginness, who was perhaps slightly worried about his future career.

He then turned his attention to civil legal aid, and, absolutely right, he has cut down on that as well, but he needs to be braver. He needs to make the fundamental decision that legal cases in Northern Ireland should not cost more than in the rest of the United Kingdom. If someone can get adequate representation in Buckingham or in Basingstoke for a certain fee, that should be the fee that applies in Belfast, because, when you take out the serious cases, which are often terrorist-related, a bank robbery in Belfast is exactly the same as a bank robbery in Basingstoke and should be treated as such.

I believe that cases in Northern Ireland are still 20% more expensive than in the rest of the UK. The question is why. Why in Northern Ireland do we spend more per head in legal aid than almost any part of Europe? Having identified that the system is seriously flawed, why do we not take the courage in our hands, actually go at it root and branch and bring costs down to a reasonable level, which would remunerate the learned friends in this Chamber and elsewhere, but would mean that they may have to get by on £200,000 a year — my heart bleeds for them in the recession — but would still ensure that people in Northern Ireland who have a genuine need of legal aid get good representation?

I believe, Minister, that there is still an awful lot of fat left in the system, and I am asking you, with the support of the Assembly, to take the courage of your convictions and do more about it to bring us down to the UK average. I have, to some extent, been relatively light-hearted up to now, but this is serious, because the Public Accounts Committee and the Audit Office issued reports with serious reservations about what is going on.

Year after year, the Department of Justice has to come back cap in hand in the monitoring round and ask for more money to make up the deficit in the legal aid budget. In one year recently, it was £41 million. I think that, last year, it was £19 million. That may be small beer in the eyes of the Department of Justice — it would certainly be small beer if I was a QC — but that is the equivalent of a new grammar school or a new secondary school every year.

It is the equivalent of several hundred nurses. We are taking that money and putting it into the pockets of people who are quite wealthy already. I read the 'Belfast Telegraph' with great interest on a Friday night. You do not often see a QC or barrister in 'Stubbs'. You do not often see them going bankrupt. There are a lot of people at a senior level who are doing very well.

I have some sympathy, I have to say, for younger, recently qualified barristers and solicitors, who are finding it difficult. Some of them cannot get pupillages and many of them come nowhere near the level of earnings that I quoted earlier. However, there are many hundreds out there who are doing very well under the system. They have had it good for many years — indeed, many decades — and now it is time to draw a line under that and say, "You have had your days in the sunshine. Now here's the economic reality". Remember that, while the rest of society, over the past five years, has been suffering under recession, it seems to have bypassed the law courts completely. There does not seem to be any indication of people being made redundant at the high level. Even after Mr Ford's cuts, when we got the most recent indications of legal aid payments, they showed that the top people were still earning. This year, one of them, a Mr Berry, earned £1 million in one year. That is an extraordinary amount of money from the taxpayer, and he will no doubt supplement it with some real-paying private work.

I support entirely what Mr Ford is doing, but it will take the Committee and Assembly to give him the backbone that he needs to stand up, really crack the issue and bring some form of sense to legal aid payments so that we can take the money and put it into our health service or into education, which is really necessary, rather than simply lining the pockets.

I have probably lost the friendship of Mr Allister for life for saying this. I have no doubt that he will stand up and make a very strong, supportive case, as he would as a QC, but I will be very interested if he, Mr Maginness or any of the barristers on the opposite side can debunk some of the comments I have made.

I believe that the public are with you on this, Minister. I believe that the public will back you, even in south Antrim. They will support you in what you are doing. They want to see barristers, lawyers and solicitors getting a fair return for their labours, but not one that is so excessive that is an embarrassment to you, to our Committee and to the Legal Services

Commission. I welcome the legislation and hope that it gives you the teeth to deal with a very important issue.

**Mr Allister:** Mr Deputy Speaker, in aid of Mr Wells's blood pressure, I will declare that, in my former professional life, I would, from time to time, have been the recipient of legal aid funding for work that I did. I trust that that satisfies Mr Wells.

In order not to disappoint Mr Wells, I will pick up on a few of the issues that he raised. I know that he has some experience of the courts, and, on one or two occasions, I had the opportunity to represent him. I do not recall whether he had the benefit of legal aid on any of those occasions — maybe not. No doubt, he can tell us if he had.

**Mr Wells:** Will the Member give way?

**Mr Allister:** Yes.

**Mr Wells:** On those occasions, I got excellent representation from you. I paid for every penny of it out of my own pocket, so it is not relevant to the debate because I would never have qualified for legal aid and, indeed, would never have applied.

**Mr Allister:** I am sure that he enjoyed the discounted rate that he doubtless got. *[Laughter.]* I will deal with a couple of the straw men that were set up. I would be very surprised if anyone in the category of the large earnings that the Member mentioned from the criminal legal aid fund was also involved in what he called "private practice" — it is all private practice — or in commercial cases, civil cases or anything other than criminal work. My experience is that the top-earning criminal practitioners were exactly that: criminal practitioners in the criminal courts who were not supplementing their income very much, if at all, from elsewhere. That would undoubtedly be the case.

The Member expressed some concern, as well one might, for newcomers to the legal profession — junior barristers — many of whom struggle hugely to find their feet, and some of whom, from necessity, are recipients of welfare benefits because they cannot make ends meet. So this rosy picture that the Bar and the legal profession is a gravy train unending is so wrong, particularly for junior members of the Bar, many of whom have to drop out of the profession because of pecuniary pressures. Mr Wells expressed sympathy for them, but, in the same breath, denounced the practice of having

a junior barrister in a case along with a senior barrister. How else do junior barristers progress through the profession but by that consensual component of the route? I do not think that you can seriously express concern for the hard times that many junior barristers experience and, at the same time, denounce the two-counsel practice in the system. One is essential to resolving the problem of the other's difficulties.

I very much welcome something that the Minister said. It is not in the Bill, but when he introduced the Bill, he told us that there had finally been DFP approval for the financial settlement for the staff of the Legal Services Commission. The Minister will know that I pressed that matter on him many times in questions for the past couple of years. I am pleased for those staff that, before any new agency is established, the matter has been resolved. I very much regret the feet dragging that there was for many years on the issue, and its handling has reflected very poorly on the Legal Services Commission.

However, as I say, I am pleased that it has now been resolved. I trust that it will not leave too much of a bad taste with those who were so badly treated in that regard as they move forward.

#### 4.45 pm

Few will lament the passing of the Legal Services Commission; it did not cover itself in glory. The delays were notorious. I should say, first of all, that before we had the Legal Services Commission, legal aid was administered by the Law Society. It did that on a shoestring, but it did it efficiently. Then we had the commission, which, I think, for many people, proved, in many respects, a disappointment.

Mr Maginness referred to delays. Delays in the paying of fees could be notorious. I do not suggest that it is at all typical, but, in 2001, I received a fee for civil legal aid. I could not recall the case, but, when I checked, I discovered that I had done it in 1979. Twenty-two years later, I was paid. Regrettably, however, I was paid at 1979 rates; I was not paid at 2001 rates. Nonetheless, I was glad to be paid. Although that is exceptional, it was common practice under criminal legal aid for there to be inordinate delays in the payment of fees. Indeed, some of my former colleagues got quite excited at the publication of figures in 2004 and 2005, wrongly assuming that they were earnings for 2004 and 2005 and not

realising that they were, of course, because of the time lag, earnings due from many years previously. Therefore, under the Legal Services Commission, lawyers also had difficulties with delays in the payment system. It was, on many occasions, quite appalling.

**Mr A Maginness:** I thank the Member for giving way. Although he may be aware of it, I would like to put to him and other Members that, as far as family work was concerned — of course, it is under discussion at present because the Department wants to cut representation, fees and so forth for family work, which is essential for society — many practitioners at the family bar were not paid for work over a period of two years. Not one penny did they receive for two years. Many of those practitioners were young women who were unable to pursue their careers at the bar because of a lack of timely and appropriate payment.

Moreover, when you make your tax return, you give it on the basis of fees marked. In other words, if you mark fees for £10,000, £20,000, or whatever it might be for that year, you pay tax on it whether you have received the money or not. That adds to the burden of any sole practitioner at the bar.

**Mr Allister:** Yes. I am aware of the issues that practitioners in the family law division suffered for a very protracted period. They and criminal law practitioners were particularly exercised about that, and with good cause. Of course, we all know that there will never be a public uprising in support of lawyers. They are just one of those classes of individuals whom people enjoy having a go at, and I think that we saw some illustration of that today, but, fair enough — we all have to be tough-skinned in that regard.

I am concerned by some of the import of clause 3. The Minister tells us that there will be no ministerial interference. He says that it will be a wholly independent arrangement and very much at arm's length, even though it is an agency in the Department. However, clause 3, which relates to the exercise of functions by the director, tells us that he or she must:

*"comply with directions given by the Department about the carrying out of the Director's functions".*

So it is a mandatory requirement.

Secondly, the director must:

*"have regard to guidance given by the Department about the carrying out of those functions".*

I can understand the necessity to put in the requirement to have regard to guidance from the Department, but, in the context of the arm's-length transparency that the Minister suggested, I rather struggle with the notion that the director must be under a statutory obligation to comply with directions given by the Department about the carrying out of his functions. That seems to be rather overreaching and overbearing.

I do not wish to hide behind the issue. Part of my concern is that the Department, for which we can, effectively, read "the Minister", involves, in this instance, a Minister who has shown quite a vindictive aversion to the legal profession. I do not know what experience the Minister had in his former life as a social worker; whether he had some bad experiences at the hands of pugnacious counsel. Certainly, I think that the Minister does little to hide his contempt for the legal profession and for his —

**Mr Wells:** What has he done wrong?

**Mr Allister:** What has he done wrong? There were one or two occasions when Mr Wells was happy not to ask that question in respect of his own situation.

The Minister proudly wears that badge of hostility to the legal profession and has total disdain for and lack of interest in the fact that many country solicitors' firms are being driven to the point of extinction by the cuts that he has imposed. I am concerned that a Minister with that pedigree is, in this legislation, the person given the statutory opportunity to compel the director to comply with directions that he might give about how the director might exercise his functions.

I know that it goes on to say that the Department:

*"must not give a direction or guidance about the carrying out of those functions in relation to an individual case".*

Fair enough, but what about a class of cases? We do, from time to time, have classes of cases, such as those involving deafness claims. There have been a number of those. If a number of cases can be classed together, will the Minister be able to give a direction not about the individual cases that make up that class but about that class of cases? Is that the

sort of thing that we might anticipate? It is because we have experienced, seen and heard the Minister's mind on these matters that I have those particular concerns.

**Mr Wells:** Will the member give way?

**Mr Allister:** Yes.

**Mr Wells:** The Member has raised a very suitable example: the recent deafness cases of the PSNI. I understand that the figure is something like £120 million, and over half of that was paid for legal representation. Is that not the very subject that the Minister should be involved in to try to get those ridiculous fees down and get the money to the people who really matter: those who suffered the injury?

**Mr Allister:** Yes, but the problem in the deafness cases was not the absence of direction, perhaps, in regard to legal aid. The problem in the deafness cases was the absence of direction in how they would be processed, which is not a power that the Minister would have. How they would be processed in the court, how they would be listed, how sample cases would be taken etc — none of which falls within these powers — is where the problem lay in the deafness cases, as I understand it.

I agree very much on the issue of civil legal appeal panels. It is imperative that there is significant legal representation on those. Let me dispel the myth that those civil legal aid panels are some sort of rollover opportunity for the profession. I remember very well, as a young barrister, spending many a Friday afternoon, as it often turned out to be, going before the legal aid appeal panel in the Law Society. In those days, the panel was comprised entirely of lawyers, and the grilling that one got while seeking to make out where there was merit in a case was quite considerable. It was no pushover; you really had to do your stuff to persuade that panel, and I never saw anything but a consciousness, as there should be, of the public purse.

There are two issues to address in applying for legal aid in a civil case. The first is that the person reaches the financial threshold or falls within the financial ambit of those who should be supported. It does not need a lawyer to work that out. That is an administrative function, really, of applying various thresholds and guidelines. However, the second issue is that, even if you qualify financially, you must still qualify by showing that your case is meritorious. With all due respect to civil servants, laypeople

or whomever, I do not think you can properly do justice to an applicant for civil legal aid and assess whether their case has merit by putting it before people without the knowledge, expertise and experience to know whether it has merit in law. In that case, the adjudicators have to be lawyers, and any diluting of that would be a backward step. So, I very much agree that that needs to continue in the arrangement.

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

I also agree with Mr Maginness on schedule 2 to the Bill when it comes to this notion that you could have a register of certified or eligible counsel — those who are registered and approved by the Department is the inference — under clause 36B that would be inserted. The idea that only those registered by the Department as:

*"eligible to be assigned in pursuance of criminal aid certificates"*

is quite preposterous. Very often, individuals exercise the right that they have to say, through their solicitor, "I would like counsel A to do my case". Why should they not ask for counsel A rather than be presented with a Department-approved list of those who are registered? I very much resist the idea that the individual should be denied the right to choose his counsel. Just as Mr Wells, on occasion, had the right to choose his counsel, so any individual should and must have that right.

**5.00 pm**

**Mr Wells:** Will the Member give way?

**Mr Allister:** Yes.

**Mr Wells:** I had the option of choosing the best counsel, and I got it, at solicitor level and QC level. I paid for every cent of it from my own pocket, and I got good value. I am not complaining one iota. If the taxpayer is paying the bill, that is a different issue.

Early in my contribution, I quoted some figures about legal costs. The bill for the RUC/PSNI hearing damages was £135 million, and the legal costs were £65 million, which is a totally unacceptable amount. I hope that the Member will confirm that.

I was hoping he would address in his comments why like-for-like cases in Northern Ireland are almost 20% more expensive to deal with than in the rest of the United Kingdom. Is a burglary in

Basingstoke inherently less expensive to deal with than a burglary in Belfast? I cannot see the reason for that.

Also, can he or Mr Maginness defend their profession when it comes to the little ruse of putting in a bill based on a case running its entire length, when they know full well that there is going to be a plea and that they are going to get by with a couple of hours' work. Little issues like that, which have emerged as a result of the devolution of justice, are what the profession needs to defend or at least explain. Maybe there is no explanation for it because it was just a little ruse to increase the level of legal aid payments.

**Mr Allister:** The Member raises so many issues that I might forget one or two of them. No doubt, he will remind me.

On the point about the deafness cases, the culmination of the legal fees was because all those cases were allowed to run individually, rather than a coordinating of the process whereby there was a test case, and matters flowed from that and the Department fell into line with that and settled the cases on the foot of it. The fact is that each case was treated separately and individually. That is why that bill became astronomical, as I understand it.

The Member's point about — I have already forgotten some of the points he made.

**Mr Wells:** We have more expensive cases than in England.

**Mr Allister:** The Member made a point about the practice of people marking a fee in anticipation of a four-week case, which turns out to be a two-hour case. Of course, it is utterly wrong to claim for something in circumstances where it is not justified. However, there are many cases where one might make a commitment, and turn away other work on the basis of that commitment, for a client who is absolutely adamant until the last possible moment that they are contesting the case. Then they take cold feet or whatever, and they resile from that. If they resile from that, you cannot assess that case on the basis that it was over in two hours if there was a genuine commitment to the fact that it was likely to have lasted a week.

One did have clients who were charged with something like dangerous driving, causing GBH or whatever, who turned up determined to fight the case, and then the prosecution decided to reduce the charge to something lesser. A plea

is made, and the case is over. You cannot say that that case was not prepared on the basis that it would run for two or three days. If a case has been genuinely prepared on that basis, there is an argument for the fee to reflect that to some degree.

The notion that the Member seems to have that barristers just wrote down a figure, and the Legal Services Commission just paid it, is utterly fatuous. I can think of few occasions when counsel actually got the fee that they marked in cases. More often than not, those cases, having been assessed, were returned at a lower level, so the idea that the Legal Services Commission simply rolled over and paid whatever it was asked is simply wrong.

**Mr Givan:** Does the Member not make the point that the system allowed the legal profession to make what ultimately sound like bids? When the fee was assessed at a lower level, they did not get what was asked for. That indicates that there was something not quite right with the system.

**Mr Allister:** Let us remember that it was not the lawyers, the practitioners, who wrote the system. The Legal Services Commission set the arrangements. The lawyers were asked to mark a fee, and they did so. They were entitled to do that; what else were they to do? You could not send in an invoice and say, "Pay me whatever you think." That is not how it worked. The system worked on the basis that the lawyer marked a fee and the Legal Services Commission, the taxing master, or whoever, assessed and evaluated it. In that sense, I do not think that you can blame the lawyers for the excesses of that scheme. There were safety nets and checks through the taxing master and other things. It was not unheard of for the taxing master to have actually increased fees because he thought that the initial fee had been marked too low.

That is all part of the operation of a process in which you have private practitioners. If you want to move to a system where you have state prosecutors and state defenders, then move there, Soviet-like, but if you are going to operate in a system where you have individual lawyers in private practice doing private work, some of which is paid for from the public purse, you have to have a system that evaluates the fees. Either you move to a Soviet-style system or you have to allow the market to govern some of these things.

**Mr Wells:** I thank the Member for giving way. Can I advocate that we move to a British-style



system? The Member still has not explained why an identical case in Basingstoke cost 20% less than a similar case in Belfast. Somebody somewhere is making a considerable profit in Northern Ireland because there is nothing inherently different between those cases.

**Mr Deputy Speaker:** Can I draw Members back to the Bill, please?

**Mr Allister:** I do not have the facts required to know whether what the Member tells me is right or wrong but, assuming he is right, I can only assume that it comes from the history of Northern Ireland. At the height of the Troubles, being a practitioner in some of our criminal courts did not come without risk. There was the risk of a simplistic assumption being made that, if someone was willing to defend a person of a certain perceived character, they themselves were of a similar outlook. In reflection of that, legal aid authorities, back at the height of the Troubles, gave what might be called a Northern Ireland uplift in criminal cases. If that has survived, perhaps with decreasing justification, that might be the historical reason, but I think that it was understandable in its origin.

I will avoid further distraction if I can and move on. The final point that I wanted to make was about the coroners' powers. I was interested that the Attorney General is looking for some direction. I will watch that with interest. Since this Bill opens the door to dealing with the organisation of Coroners' Courts, I ask the Minister whether there is an opportunity in the Bill to address other issues pertaining to the Coroners' Courts. For example, in GB, there are coroner officers who assist coroners. We do not have that in Northern Ireland, but some case has been made for it. Is that something that might now be explored within the ambit of the Bill, and is there any good reason why it should not? Perhaps the Minister should consider that because it is a matter that was recommended some time ago and has never been acted on. I am sure there are other improvements to the Coroners' Courts that might be possible. I trust that the Minister might be open-minded on that particular issue.

**Mr Ford:** I welcome the general level of support for the Bill that was expressed by nearly all Members who spoke today, starting with the Chairperson and Deputy Chairperson of the Committee for Justice, both of whom indicated the work that the Committee has done and its broad support for the measures. I very much appreciate their support at this stage and, indeed, the work they have already done in preparing for Committee Stage. I also

appreciate, dare I say it, the Chairperson's offer to ensure a speedy Committee Stage. That is, possibly, unique in the history of the Assembly but it is certainly welcome for all that.

It has been a wide-ranging debate and it has, perhaps, even at times been interesting. I am not sure that the entire debate has been directly relevant to the topic of the Bill, but I shall try to stay reasonably close to the guidelines established by other Members and I shall attempt to deal with some of the points that have been raised generally.

I will look first at some of the general issues and then deal with some of the specific points. There is no doubt that there is a question as to what will really change by changing the status of the Legal Services Commission to an agency of the DOJ. I believe that there is a real opportunity for change and a real need for change and that the creation of the agency will help improve the governance of public spending in this particular area. There is no doubt that almost every Member who spoke emphasised the issues of overspending, ensuring that we get accurate modelling and ensuring that we can facilitate the delivery of legal aid reform by getting those factors right.

Some Members also raised the wider issue of ensuring that we maximise the benefits of greater integration in the Northern Ireland Civil Service as a whole. Of course, those benefits also apply specifically to staff; a point that was made in general. The agency will have ready — indeed, readier — access to a wide range of skills and there will be better development opportunities for existing staff. As Mr Elliott pointed out, I certainly expect there to be movement in and out of the agency and a sharing of expertise in a way that has been more difficult under the commission's current status. It will also provide opportunities to provide shared services and to make the efficiencies that we so badly need. That point, was made by Mr Maginness in particular. There is no doubt that we need to ensure a better IT system, and, through the integration of back-office services, we can create the kind of efficiencies that are needed there.

The fact that I was able to announce today the movement forward on salaries and conditions being put on to full Civil Service terms will help to improve morale. The opportunities for development presented by integration with the Civil Service will also do that. I reject any suggestion that there has been foot-dragging on the part of my Department. The issue is now being addressed in a way that was not being addressed, and I am very pleased that

we will be able to backdate those changes in pay and conditions to the point of devolution.

In summing up, I also need to repeat the point that I made earlier but with particular reference to a point made by Raymond McCartney. The changes to the legislation that we have proposed, and that are before the House today, do not impact on access to justice, nor do they restrict the eligibility for legal aid in any way. They merely ensure that we provide the service in a more efficient way.

I will deal with some of the specific points made by Members. Mr Givan started off by querying the issue of the delay in making the changes to the Coroners Courts, giving the powers to the Lord Chief Justice, and the institution of the presiding judge. Perhaps the kindest explanation I can give as to why there might have been a delay is that, when this legislation was being proposed, there were a couple of inquiries under way in England and Wales, particularly arising out of the case of Dr Harold Shipman, which led to various work being done around the provision of coroners' services. That may or may not have been the reason why progress was not made, but members of the Committee in particular will be aware of the fact that I make it a point not to explain the actions of the Northern Ireland Office before devolution. I am happy to make that same point again this afternoon.

### 5.15 pm

The issue of cost was raised by a number of Members, and we had different figures for the current costs of running the agency. Both £7 million and £8 million were suggested. The answer is that both are correct. The current expenditure on running the commission is around £7.2 million per annum. On the basis of the improved terms and conditions for staff, it will rise to approximately £8 million per annum.

Mr Allister and other Members raised the issue of the Attorney General's concerns and, in particular, some other coroners' issues. My understanding is that such changes may well not fall within the current scope of the Bill, but that is an issue to be determined by Mr Speaker in light of any amendments that may be put forward for consideration. It is not for me to advise the House on the precise scope of the Bill as it stands.

References were made to the issue of the transparency of the process and, in particular, the appeals process. Kieran McCarthy most emphasised the issue of, for a change, reasons being given for why decisions were taken on

the granting or otherwise of legal aid. I believe that that will help in ensuring greater efficiency. If people are aware of the reasons, they are perhaps less likely to appeal. However, in response to both our barristers — Mr Maginness and Mr Allister — I say that paragraph 6(22) of schedule 2 sets out the broad outline of the appeals mechanism to be determined by secondary legislation. At this stage, it is certainly my intention that, when those regulations are put before the House — Committee members will have the opportunity to comment in detail — they will institute a panel of three to hear appeals that will be chaired by a legally qualified member. That perhaps goes some way to addressing the concerns expressed by Mr Maginness and Mr Allister.

**Mr A Maginness:** Will the Minister give way?

**Mr Ford:** I will give way.

**Mr A Maginness:** I accept the Minister's assurance that this will be brought forward in subordinate legislation. Is there any reason why that could not be included in the Bill today or in the near future?

**Mr Ford:** I could have been pedantic and said that it could not be included in the Bill today, but Mr Maginness corrected it to "the near future". Frankly, I will leave the members of the Committee to consider whether they want that level of detail in the Bill or are content to accept it on a secondary basis. I have no doubt that that will produce one of the more interesting debates in the Committee's consideration.

On the issue of what Mr Allister and Mr Maginness described as the regulation of the profession, I am afraid that I disagree with the points that they make. If the Government or the Department of Justice — however one wishes to term it — are paying for legal services on behalf of our constituents — the citizens of Northern Ireland — it is entirely right that we should have the power to regulate those to whom those payments will be made as services are provided. It is not an entirely private matter, as Mr Wells stated so eloquently on a number of occasions in the context of court cases that he had been involved in.

**Mr A Maginness:** Will the Minister give way on that point?

**Mr Ford:** I will give way.

**Mr A Maginness:** The National Health Service is a public service, as you well know. If I want

to go to a doctor or join a doctor's panel, I go along and join the doctor's panel. If there is a space available, I get that space. I make that decision as an individual citizen. Why can the individual citizen not make the decision in a similar fashion on legal aid?

**Mr Ford:** It is my understanding that, if I wish to choose a GP, I choose a GP who is registered as one with what, I think, is now called Business Services Organisation rather than directly with DHSSPS. I stand to be corrected on the precise details, but it is my understanding that anyone who wishes to set up as a GP and offer medical services has to be formally registered to provide those services in a particular area. That is where the same issue would potentially apply, but —

**Mr Allister:** Will the Minister give way?

**Mr Ford:** — that is doubtless an issue that the Committee will wish to explore. I give way to Mr Allister.

**Mr Allister:** Surely the parallel does exist. To be a practising barrister, you have to hold a practising certificate. To be a practising solicitor, you have to hold a practising certificate. The registration already exists. Why does the Minister need more than article 36A(2) and (3) would give him? It states:

*"A solicitor shall not be assigned in pursuance of a criminal aid certificate if the solicitor is for the time being prohibited from being so assigned by an order ... of the Solicitors (Northern Ireland) Order".*

With a barrister, it is by reason of a determination by the Bar Council. If miscreant solicitors or barristers have been held to be inappropriate for the work that they want to do, protection already exists under the Solicitors Order and under arrangements with the Bar Council. Why do you need to superimpose your system of registration?

**Mr Ford:** I will continue the medical analogy, which is where Mr Allister started his comment. It is my understanding that a GP has to be specifically registered as a GP to carry out services in an area and not merely registered as a doctor with the GMC. We may or may not need to stretch that analogy further, but I believe that it is perfectly legitimate, if the public purse is paying for a service, that there should be an appropriate measure of regulation. I am not looking for what is reported as being intended for England and Wales, which is a small number of firms getting very large

contracts for substantial regions of England and Wales. However, it is an entirely legitimate aspiration to ensure that those who carry out services are guaranteed to do so properly.

**Mr A Maginness:** I thank the Minister for giving way. I am interested in what he said. Is he assuring the House that he does not intend to introduce contracts to firms of solicitors?

**Mr Ford:** There is a significant difference between regulation and registration and setting up the kind of contracts that have been suggested for England and Wales, which, as they have been reported to me, appear to be detrimental to access to justice.

**Mr Wells:** Will the Member give way?

**Mr Ford:** Yes.

**Mr Wells:** Surely the other argument is that it is clear from all that we have seen since 2003 that firms of solicitors and barristers have been abusing the system. Registration means that there is a deterrent, and, if they continue their practices and overclaim, they could be struck off, as it were. It not only provides a deterrent but ensures quality of service.

**Mr Ford:** Having given way to the Member, I should now go to my usual position of defending lawyers against Jim Wells before Mr Maginness and Mr Allister feel obliged to do that on their own behalf, as has happened in the Chamber and in Committee. I suspect that the Committee will wish to go into the regulation of the profession in some depth.

Mr Wells spoke at some length about the costs of the legal aid system and the remuneration to lawyers. It was, as ever, a fascinating and interesting rant. I hope that he takes the word "rant" as a compliment; I am sure that it was intended to be a rant. I remind him again that, on a previous occasion, he talked about whether a lawyer on £800,000 a year could survive on £600,000 a year. I had to point out to him that that also meant that a lawyer on £24,000 a year would have to manage on £18,000 a year. There are clearly remuneration issues for those in the early stages of a legal career, although we have significantly more lawyers per head of population in Northern Ireland than, for example, in Scotland, and that may be part of the issue. However, that, frankly, was somewhat beyond the scope of the Bill, as I understand it.

That leads me to a point that Mr Allister made in the final contribution, in which he referred to my

contempt for lawyers. I am not sure where he gets the notion that I have contempt for lawyers. I have concerns about the public purse about which I have made no secret. I am afraid that I cannot agree with Mr Wells when he suggests that money taken off legal aid could easily be transferred to the health service or to education in the context in which the DOJ budget is ring-fenced. I can assure him that many other aspects of DOJ work also require expenditure. I give way.

**Mr Wells:** Correct me if I am wrong, but, if at the end of the June quarter the DOJ found itself in surplus, does it not have the power to transfer that money back to DFP for distribution to more worthy causes?

**Mr Ford:** I can think of no more worthy cause than the DOJ. In the CSR period, we are ring-fenced. Allocating funds in the best way to meet the needs of this society is valid, whether or not we suggest that they should go outside the justice family.

I repeat: I am not sure on what basis Mr Allister accuses me of contempt for lawyers. I can think of occasions when, during the first round of cuts to criminal legal aid, an e-mail emerged suggesting that a prominent solicitor had significant contempt for me, in the dirty tricks that he was suggesting, but that appears to be somebody looking in a mirror and seeing something rather differently from the way it is.

In the context of the point that Mr Allister made, I believe that it is appropriate that there should be a general power of direction from the Department and the Minister to the director of casework, because that is a general power and not a power relating to the management of individual cases. I do not believe that, in my four years as Minister, my actions have shown contempt for lawyers or have suggested that I would abuse such a power. Of course, there is no suggestion that I will be Minister of Justice in perpetuity. It appears to be part of Mr Allister's fear that nobody else will ever get the opportunity to issue such a direction.

**Mr Givan:** I thank the Minister for giving way. He touched on the first round of cuts. Maybe you can indicate how many millions were reduced through criminal legal aid. When those e-mails were circulating, one senior legal practitioner talked about yellow pack justice being delivered if the cuts went through. There were threats of withdrawing from work, and it was said that this would have a devastating impact on the legal profession. I think that it saved upwards of £20 million, and I am not

aware of its having had a devastating impact on the legal profession, particularly those involved in criminal legal aid, where the initial cuts were directed. If anyone is being held in contempt, it is those who seek to defend the indefensible system that has gone on for too long and those who cried wolf around the original cuts that were rightly put through by the Assembly.

**Mr Ford:** It is always a pleasure to agree with the Chair of my Committee. Twenty million pounds was taken from criminal legal aid, mostly by dealing with very high cost cases (VHCCs). There was an extraordinarily large proportion of cases certified as VHCCs in Northern Ireland, compared with England and Wales. I am not aware that the justice system or criminal defence work have fallen apart in the two years since that became fully operational.

**Mr Wells:** Will the Minister give way?

**Mr Ford:** I will give way to a further member of my fan club.

**Mr Wells:** No, just on this issue, I assure you, Minister; on many other issues, we will totally disagree. Having commented on Mr Givan's intervention — I agree with him — will the Minister now assure us that he will take the next step and bring legal costs in Northern Ireland directly into line with those in the rest of the United Kingdom and save more money without affecting the quality of service?

**Mr Deputy Speaker:** I remind Members that we are dealing with the Bill that is before the House.

**Mr Ford:** In that case, Mr Deputy Speaker, I assure the Member that I am seeking to ensure that the costs of legal aid are brought within budget in a way that continues to provide access to justice for the people of Northern Ireland, whether in criminal or civil matters. I trust that I have not intruded too far on your generosity in making that comment.

We have had a very useful discussion. Points were raised that, I suspect, will provide the Committee with an interesting time in the coming months. With the assurance that it looks as if we may get this stage of the Bill passed, may I commend the Bill for the approval of the House and wish the Committee all the best as it carries forward its process in the coming weeks?

*Question put and agreed to.*

*Resolved:*

*That the Second Stage of the Legal Aid and Coroners' Courts Bill [NIA 33/11-15] be agreed.*

## **Local Government Bill: Final Stage**

**Mr Deputy Speaker:** Before I call the Minister of the Environment to move the Final Stage of the Local Government Bill, I would like to inform the House that a provision in the Local Government Bill triggers a requirement for a recommendation from the Minister of Finance and Personnel under section 63 of the Northern Ireland Act 1998. The Speaker received a letter today from the Minister of Finance and Personnel signifying his recommendation of the Local Government Bill, as required by section 63. I am sure that the Minister of the Environment will wish to signify the Minister of Finance's recommendation to the Assembly as part of his contribution to the debate.

**Mr Durkan (The Minister of the Environment):** I beg to move

*That the Local Government Bill [NIA 28/11-15] do now pass.*

Members will be relieved to note, after the lengthy and constructive debates that have taken place on the provisions of the Bill, that I do not intend to rehearse them in detail this evening. I would, however, like to draw attention to the main purposes of the Bill, which are to introduce strong, modern statutory governance arrangements that will provide protections for the interests of minority communities through a number of new approaches and improve transparency in the operation of councils and their business; to establish an ethical standards regime, including a mandatory code of conduct for councillors and others appointed to take part in council business; and to place councils at the heart of delivering improved services and outcomes for everyone living and working in their district through the operation of community planning, a new performance improvement framework and the use of the general power of competence. The new approach to partnership working will be supported by the establishment of a formal relationship between elected representatives of councils and Ministers in the form of the Partnership Panel for Northern Ireland.

**5.30 pm**

The Bill also puts in place the provisions necessary for the effective reorganisation of local government in respect of the transfer of assets and staff from the current councils to the

new councils that will be established following the elections on 22 May and of the transfer of staff and assets connected with the functions and powers moving from Departments to the new councils. Provision is also made to support the restructuring of the local government audit function within the Northern Ireland Audit Office. Although these represent technical amendments to the 2005 Order and do not place an additional charge on the Consolidated Fund, they nevertheless trigger a requirement under section 63 of the Northern Ireland Act 1998 for a recommendation of the Bill from the Minister of Finance and Personnel before the Assembly can pass the Bill today. I confirm, as you have done already, Mr Deputy Speaker, that the Minister of Finance and Personnel has made such a recommendation, and I take the opportunity to signify that to the Assembly on his behalf — again, as required by the Act.

I do not make a habit of quoting Otto von Bismarck, but he is once said to have declared that "Laws are like sausages" — I do not think that he was implying that Mr Wells does not like them — "It is better not to see them being made". Having brought the Bill through its Assembly stages, I can see where he is coming from. Of course, the making of this law has been a long-drawn-out process. Along the way, there have been a number of head chefs, much debate on which recipe to use, several stoppages during the manufacturing process and a few unexpected ingredients thrown in at the last minute, but I believe that what we are now serving up to local government is a well-balanced dish. We also had a Member, fittingly from Mid Ulster, add a bit of sizzle to the debate last week.

The Assembly has risen to the challenge that I identified at Second Stage on 1 October last year. At 130 clauses and 10 schedules, the Bill is the largest that the Assembly has seen during this mandate. Its passage has been no mean feat, and, after over 36 hours of debate, it is an achievement of which everyone involved can be immensely proud.

At this point, I place on record my thanks to everyone involved in getting us to this stage and acknowledge my predecessors in the Department of the Environment. Before I took up my responsibility, a number of previous Environment Ministers initiated and led the policy development, consultation and processes before the Bill's introduction. I would like to take the opportunity to thank the Chair and members of the Committee for the Environment for their diligent scrutiny. The Committee's report was completed on 20 February, and I am

glad to say that I was able to take most of its recommendations forward as amendments at Consideration Stage. I also thank all Members for their detailed consideration of the provisions, the amendments that they tabled at Consideration Stage and Further Consideration Stage and the mostly constructive contributions that they made during those debates.

I also place on record my thanks to the civil servants across a number of Departments but especially my own and Assembly staff, the Office of the Legislative Counsel, the Departmental Solicitor's Office, my Executive colleagues and other contributors who created the Bill and nursed it through the process. I also thank the elected representatives and others who were involved in the strategic leadership board and its policy development panels and the many councils, organisations, individuals and other stakeholders who commented on the proposals. Their contributions ensured that we have before the House this evening a Bill that has garnered widespread support.

The Bill provides a balanced framework for councils to take on the challenges and opportunities of the 21st century. It ensures that all councillors, irrespective of their political allegiances, can play a full part in the operation and business of a council. It also ensures that those councillors can be held to account on the standards of behaviour that everyone should expect from public representatives through the introduction of a mandatory code of conduct, with supporting mechanisms for investigation, adjudication and appeals. The public have a right to expect high standards from any elected representative. The framework will assist our councillors in maintaining those high standards. Three amendments agreed at Consideration Stage make provision for an appeal process to the High Court as part of the ethical framework. As I informed the House, that will impact on the constitutional position of the commissioner. Therefore, I intend to bring before the Executive proposals for a further Bill to address the issue. Do not worry: it will be a much smaller Bill.

Although this stage represents a significant step in the delivery of reshaped local government, there is still much to do. As I have stated on a number of occasions, a major programme of subordinate legislation and guidance will be brought forward by my Department to underpin the operation of the Bill's provisions. I have no doubt that the positive working relationship and spirit of cooperation that exists between my Department and the Environment Committee will continue during the very important next phase of the programme.

A lot of good work has been done in central and local government to prepare for the major changes to come on 1 April next year, but preparations will have to step up another gear. The new councils will have to take significant decisions around their structure and governance, service and systems convergence, and priorities, budgets and rates for 2015 and beyond. The Departments passing responsibility to councils for the delivery of functions and services will need to ensure that they honour the Executive commitment to be fit for purpose and rates-neutral at the point of transfer. And, of course, staff will need to be supported throughout this time of change, as none of it can be done without them.

It is a mammoth task, but I have no doubt that the end result will be worth the effort. At the end of the process, local government will be stronger, more flexible and more accountable. I commend the Local Government Bill to the House.

**Mrs Cameron (The Deputy Chairperson of the Committee for the Environment):** You will excuse my confusion, Mr Deputy Speaker; for a few moments, I was not sure whether we were in the back of a butcher's shop or the Northern Ireland Assembly.

On behalf of the Environment Committee, I welcome the Final Stage of the Local Government Bill. I thank the departmental officials and the Minister for the close working relationship we maintained throughout the passage of the Bill. That helped to ensure that the Committee scrutinised the Bill thoroughly and was able to come to agreement with the Department on the amendments. I also thank the Committee staff, who worked so hard on facilitating our scrutiny of the legislation in a relatively short time. I will not go into much detail today, as the Committee's views on the Bill have been outlined at previous stages. However, I will briefly outline a few of the issues that we discussed.

The Committee was content that the House saw fit to agree with its amendments. I thank Members for that support, particularly in relation to the amendment to allow for an appeals mechanism against a decision by the Northern Ireland Commissioner for Complaints. It is only right and just that anyone who has been subject to an investigation has the right of appeal against a decision. Although the Minister has indicated that he intends to bring forward another Bill to allow for the establishment of an adjudication panel, it was through the Committee's perseverance that the issue was thoroughly addressed. The Committee was

also pleased that its amendment to allow the Commissioner for Complaints to refer minor complaints back to a council was accepted.

During Committee Stage, members agreed that the chair or mayor and deputy chair or mayor needed to be fully aware of the rationale behind any decisions taken by the council, as they are held publicly accountable by ratepayers and need to be able to comment authoritatively on those decisions. Although the Minister was not minded to make an amendment to reflect that, the Committee tabled its own amendment. I welcome the support that the amendment received from the House at Consideration Stage.

The only other amendment that I wish to touch on is the Committee amendment to ensure that the formula for appointment to committees should be run for all committee positions at once for the duration of the council term on the basis of the number of seats that each party has immediately after the election. The amendment enables a fairer allocation of seats on committees for smaller parties and independent councillors who otherwise may be excluded by use of the quota greatest remainder process for each individual committee on an annual basis only.

On behalf of the Committee, I am pleased to support the Bill. I welcome the significant interest and scrutiny of Members throughout its passage in the Assembly. It is a Bill that will reshape the face of local government, and Members ensured that it got the close scrutiny that it deserved.

**Mr Boylan:** Go raibh maith agat, a LeasCheann Comhairle. Cuirim fáilte roimh an phíosa dheireannach seo den Bhille. I welcome the opportunity to speak on the last piece of this Bill.

I want to acknowledge the work of the Bill Office in supporting the Committee throughout Committee Stage, Consideration Stage and Further Consideration Stage and individually supporting us in the party. I want to put on record my thanks to the Bill Office. I also want to put on record my thanks for the outstanding work of the Committee and the Committee staff throughout the process. It is a big piece of legislation, and it has been a big piece of work for us. Finally, I want to thank the Minister and his departmental officials for the professional way in which they have conducted themselves throughout the process. I want to recognise that and put it on the record.

I want to say just a few words on the Bill itself. Clearly, any legislation that we hand to any authority needs to be implemented reasonably. The scrutiny of the Bill on the long days that we have sat here in the last period will enable that to happen. That is vital and has to be recognised.

I want to pick up a couple of points in relation to the Bill, in particular the community planning element. It is a device and a tool that will help to give communities an opportunity to, along with public bodies, play their part in delivering and building for their communities. That is important. The Committee recently visited Scotland to see some of the community planning models of practice over there. Those ideas should be passed on to local authorities to ensure that they can use that detail to build on community planning.

The other issue is that the general power is a good tool. It will help deliver for local communities, but the power needs to be used properly. The checks and balances need to be there. The Department needs to give guidance to support and protect not only councils but ratepayers in the use of that.

The final issue that I want to bring up is the subordinate legislation and statutory guidance following on from this.

Throughout Committee Stage, we talked a lot about tackling deprivation and prejudice and promoting understanding on a lot of issues that raised their head. We were given an assurance that a number of these things will be dealt with through statutory guidance. They need to be in statute to ensure that councils have the opportunity to deliver for communities. This Bill is about empowering not only councils but local communities, and I hope that the Minister will take those remarks on board. Maybe he will give us an indication as to when that statutory guidance will be issued and also when the secondary legislation that will follow on from this will come about.

#### 5.45 pm

I support the Final Stage of the Bill, and I commend all the Members who spoke. There were good debates at Consideration Stage and Further Consideration Stage. A lot of Members have contributed, and it will certainly go on record as a major piece of legislation and a good contribution.

**Mr Eastwood:** I am very glad to have reached this stage of the Bill. I think that everyone in the

Chamber is probably glad that we have finally got here. It has been a long process. However, I think that it has been a very useful process, and I would be very surprised if there were any issues left that we have not debated at great length either at Committee or here. I put on record my thanks to the Minister. It is a massive and very important piece of legislation. I also thank his predecessor, Mr Attwood. This legislation lay on the shelf for a long number of years. Finally, we are at the stage where we can see some implementation.

Of course, we need to thank the departmental staff, who are here today, long suffering as they are. They were at the Committee many times, and they have been here for all the debates. I know the work that they have put in. They, along with the Minister, responded to any requests from the Committee, and they have responded to any amendments that people have asked for. There has been a good working relationship and a good toing and froing between the Department and the Committee. Of course, the Bill staff and our Committee staff have been very helpful to members of the Committee. I thank all of them for helping to bring about what is a once-in-a-generation reform to local government.

Councillors and councils have a great opportunity to bring greater accountability and better service delivery to ratepayers. We have now enshrined good relations and equality in the legislation that governs local councils. That is very important. Communities, local businesses and everyone are now able to play their full part in developing and delivering community plans. I think that that is a very important development, and one that will bear fruit for our local communities.

At that, I will leave it. I wish all the councils well, when elected, with this new legislation. I hope that they use it to its full potential, because it has the power to change how we do local government. We still have reservations around the number of councils. That argument is well worn, but we were committed to ensuring that this was delivered in time for the elections. Thankfully, it has been.

**Mr Elliott:** Obviously, we are all pleased to get to this stage of the Bill. Like others, I put on record my thanks to the Committee staff in particular. They did a lot of work with the Committee. I also thank the departmental staff, even though I did not always agree with some of their sentiments or some of the policy aspects that came forward. They always dealt with us in a very professional manner. The Bill staff as well were always helpful and always

there to give assistance. And, of course, thanks to the Minister, and his predecessor, who were always open to discussions. Even though I may not have agreed with all the policy coming forward, the Minister was always courteous.

I want to touch on a number of aspects. The first is community planning. This is going to be pretty new for us in Northern Ireland. I believe it will be quite difficult. There will be massive challenges for councils, especially given the remit and size of the councils we will have. Once you move from 26 to 11 councils, the overall challenge is how you get local community planning. I still believe that that is a major issue that we will find to be a difficult process.

With the introduction of planning powers to local government, I am sure that many councillors and prospective candidates for next month's council elections are wondering what exactly that power will hold for them. Some will be questioning the potential of being surcharged if they challenge a planning official's decision and overturn it. That needs further consideration and is a matter that the Minister and his Department will have to look at in more detail because it has the potential for major problems for individual councillors and their consciences.

There will be fresh challenges over the qualified majority and call-in mechanisms. Those have the potential to create gridlock in councils and result in decisions not being taken. I dare to say that we had a flavour of that in Committee, and that is it will be a lawyers' paradise. We had debates on certain aspects between Mr Weir and other eminent lawyers and solicitors. When you had that even in Committee, I do know what it is going to be like when those challenges get to a full council.

I am not a great lover of the potential for having executive committees but it has gone through in the Bill. I believe that it is fraught with dangers and could result in a very small number of people running councils.

I raised this concern in Committee back at the end of January when I asked whether we could be furnished with or have sight of the regulations that are coming forward. That is one area that I am disappointed that the Department did not deliver on. We were told at that meeting on 30 January that we could get sight of a briefing of the regulations and, indeed, a summary of them. However, that was now a couple of months ago and we still have not had sight of them. I would have liked a copy of those regulations, or at least a



summary, to establish where exactly some of this legislation is going.

One major aspect that people will not be surprised to hear me comment on concerns the finances of councils and the delivery of services through those finances. Irrespective of what the Finance Minister indicated yesterday, people will see a rates hike. There is no doubt that the £30 million convergence fund will help, but I would have liked to have seen that guaranteed for a number of years. Our amendment on that was defeated but I am disappointed that we could not have given a guarantee because I believe that the ratepayers are going to suffer out of the entirety.

I agreed with the former Minister of the Environment, Minister Poots, when he announced in 2010 that the Bill would not proceed. The words of Mr Poots at that time were that the cost of the reforms would have:

*"exceeded the financial benefits that would've been derived".*

It is, therefore, important that we re-identify where cost savings can be made so that we are not sacking teachers and nurses to pay for local government reform. My understanding is that no assessments have been carried out since the PwC report in 2009. That was 2010, and we have not had any review of those costings since. So, that is why I have major concerns around the finances of councils and that the ratepayers are the people who will suffer.

Finally, I want to raise the issue of the flags. We tabled amendments to try to have a consistent approach and regularise the situation with flags across councils. I believe that that opportunity was badly missed. We could have had a common process throughout the councils, and I believe that that will be lost. I think that there will be debates, discussions and arguments in councils over flags issues in the coming months and years. That will not be helpful for those councils, and it will not be conducive to good community relations or good relations in the councils. I believe we could have dealt with that through legislation. It was a red line in the sand, and I feel that parties did not take that opportunity. They have missed it, and I think that they should reject the Bill on that basis. They will have lost that opportunity forever.

**Mr Eastwood:** Will the Member give way?

**Mr Elliott:** I am happy to give way.

**Mr Eastwood:** For clarification, is the Member saying that we should reject the Bill only on the basis of the flags issue?

**Mr Elliott:** No, absolutely not. I am not saying that at all. I believe that there are a number of issues, and this is an important one that, I feel, will damage community relations throughout councils. It could have and should have been dealt with in the Assembly to allow councils to get on with the real work of delivering for the ratepayers. At that, I will leave it.

**Mrs Cochrane:** First, I join other Members in thanking the Minister, the Committee and all the relevant staff for their work on the Bill.

The Alliance Party is committed to the passing of the Bill. Not only will it ensure that councils can operate across a range of functions and deliver more coherent services but it is estimated that the reform of local government could deliver projected savings of up to £438 million over a 25-year period. At a time of reduced public expenditure that could be vital.

There are several parts of the Bill that, we believe, will especially benefit the new councils. First, we are pleased that proportionality and power sharing will be embedded in the new councils and that as many voices of minority groups will be heard as possible. In a modern and inclusive Northern Ireland, that is an essential part of ensuring that we develop a reasonable local government structure.

Secondly, Alliance is a strong proponent of the community planning responsibility that is being given to councils, as they are best placed to identify local needs and coordinate with other bodies. At its heart, community planning must extend from simply identifying needs and actions to the joint delivery of goods, facilities and services. Therefore, other agencies of government must engage fully with the process. We were disappointed, however, that the SDLP and Sinn Féin did not support the opportunity to put good relations and equality on an equal footing and to embed that concept in the community planning process.

The third element that I am pleased with is the power of well-being. That will allow councils to address all local issues that are specifically excluded by statute, rather than only fulfilling those discrete functions that are prescribed by law. That, for example, could be helpful in addressing problems that result from severe winter weather.

Finally, I am pleased that the Bill now includes a strengthened section on transparency and

accountability. My party has ensured that the Bill will include protections for the public, such as audio recording and online publication of full council meetings, permitting the use of social media by councillors, journalists and the public and requiring the online publication of background papers. Our ratepayers have the right to scrutinise our decision-making in a timely manner, and the inclusion of those aspects in the Bill will help to make that a reality.

In closing, I too am disappointed that we have not used the Bill to settle the issue of flags once and for all. Northern Ireland is part of the United Kingdom, and the Union flag is the constitutionally recognised flag of our country. It should be flown with respect on designated days on all council headquarters with no exceptions, as that best balances the constitutional situation and the need for equality among all parts of our community. Perhaps our newly elected councillors will be able to show the leadership that we, as MLAs, have failed to show, in order to move the issue on and allow them to focus on the substantive issues relating to regeneration, the environment, leisure etc.

Despite some shortcomings, the Bill is still a step forward for local government in Northern Ireland, and Alliance will support it.

## 6.00 pm

**Mr McCallister:** As the Minister and colleagues said, I think that we have had good lengthy debates. Many amendments were tabled, and there were long debates on them. When time limits and restrictions that we are used to in the House on ordinary motions are removed, debates come alive, with Members intervening and a much higher quality of debate.

It is no great secret that neither I nor my party colleague in NI21 are huge supporters of the 11-council model that we have opted for. It is probably fair to say that neither is the Minister, but he has to legislate to suit that option. It is also fair to say that we have huge concerns over certain issues and some powers that are being devolved. That is certainly the case with planning, and we are worried about how the new councils will be able to cope with and accommodate that.

We entered the debate, and, at Further Consideration Stage, supported amendments from others, including an Alliance Party amendment on audio recording, and tabled our own amendments on scrutiny committees and the separation of powers and responsibilities if there is an executive cabinet-style of local

government. That has added to the Bill and fits in nicely with the standards that we should all expect, not only in the House but in local councils, with the complete separation of powers and responsibilities. Who is making the rules, and who is scrutinising? Those should be separate and should not cross over. The Minister was not very enthusiastic about accepting some of those changes, but it is important that the House insisted on them.

In amendments, Mr Elliott raised some issues about rates convergence. The Finance Minister made a statement about that yesterday. Those are hugely important issues. I agree with Mr Elliott about the financial implications. Some of the projected savings are very far down the track. We would all accept that, when you get into those financial projections and are looking so far into the future, you are starting to get into crystal ball territory. That is why it was important that, during the passage of the Bill, we put something in it to help to protect ratepayers and at least to have a review mechanism. Rates convergence is vital because ratepayers could be very exposed in certain areas, with some being much harder hit than others.

There is talk about the delivery of projected savings. The Environment Minister or the Finance Minister has to impose those on councils. Will councils keep on behaving recklessly and not face up to financial discipline, or will powers be devolved to councils, giving them the power and responsibility to deal with something but not always giving them the money? Those are the reasons why our party has serious concerns over embarking on this project.

The legislation is being brought at a very late stage. This is the Final Stage of the Bill. It is only six weeks and two days until we elect members to shadow councils, which is not a long time.

My colleague, Mr McCrea, will deal with some of his concerns, as he spoke about the eligibility criteria in several debates. While we have had good debates and have improved the Bill with many amendments, including our contribution, I still have huge concerns about some of the forecasting, the modelling, the financial implications and the rates issues.

Given that the previous two Members touched on the flags issue —

**Mr Elliott:** I thank the Member for giving way before he goes on to that issue. I have a question on the rates modelling and the finance

modelling. Does he acknowledge that there is no modelling that I am aware of, apart from or since the PwC report in 2009?

**Mr McCallister:** As the Member rightly points out, that is five years out of date, which is a huge worry. I certainly agree with him, and that is why we supported his amendment on rates convergence. It will apply not only to what will become his new council area, but, yesterday, Mrs Cochrane said that she had worries about rates convergence in the area that she lives in. Not enough work has been done — not even on whether councils can make the savings that they are projected to make. What support will there be to help them to do that? Those are important issues, and that is why we supported Mr Elliott's amendments.

While we have probably been at one with Mr Elliott on the rates convergence issues, we might have some slight difference of opinion on flags. When he was leader of the Ulster Unionist Party, and for a long number of years before that, the flag-flying policy was designated days. It was designated days in this Building and in many council areas that the Ulster Unionist Party had control of. It was hugely regrettable that, in the face of the flags protests in Belfast, it reverted from that position. The flag should be flown on designated days. That is the policy. When the Union flag is flying, it recognises the constitutional reality that Northern Ireland is part of the United Kingdom. That is why, if we had had the chance to sort out the flags issue in the House, that is what the policy should have been.

All Members in all parties should have coalesced around the agreement that, since we do it in the House and in the Building, we should do it in other parts of Northern Ireland. We should have respected that. I agree with Mrs Cochrane: it should be all councils — unionist-controlled, nationalist-controlled or whatever — without exception. It is not how I like to do it, but it should have reflected constitutional reality. It was a missed opportunity not to have that policy. I regret that Mr Elliott tabled amendments to fly the flag every day, as I felt that they were not helpful to the debate. That is why we spoke strongly against them. Designated days were the acceptable policy, and we should have been doing that if that was the —

**Mr Deputy Speaker:** Can I draw the Member back to the Bill, please?

**Mr McCallister:** It was part of the debate on the Bill at Consideration Stage and Further

Consideration Stage. When we are looking at that in the context of the Local Government Bill, we should have adopted the policy of designated days. Thank you, Deputy Speaker.

**Mr Deputy Speaker:** I call Basil McCrea.

**Mr B McCrea:** Ha ha, you slightly surprised me, Deputy Speaker. I thought that Mr Allister was going to say a few words. However, I would like to mention a few points.

We have some reservations about the Bill, although not through any fault of the current Minister, who, I think, has battled valiantly to try to overcome the difficulties presented. In his opening remarks, he talked about a veritable feast of ingredients. I feel that the Bill is like a paella, but with all the good bits taken out. We have removed the prawns and anything that you might think a bit tasty.

The Minister will be aware of my and my colleague's concern that we have not dealt adequately with how we encourage people to participate, not only in voting for local government but in adopting representative politics. I am concerned that we have not been able to deal properly with the blanket ban. The Minister will be aware of my position on that. I look forward to some reassurance about the working group and issues that he suggested he would bring forward.

It is worth commenting on a number of issues. Here we are at the last plenary sitting before the Easter recess. It is past the witching hour. There are not too many in the Chamber and perhaps not too much interest from the media. However, I think that one of the real successes of this legislation is that there was some very high-quality debate from a number of people. Mr Elliott spoke, Mr Allister spoke and my colleague Mr McCallister spoke. On a number of issues, though not necessarily those that got complete agreement around the House, it was real legislation in the making. It is unfortunate that elements of the media did not see fit to look at the debates as they developed, because we have to show the people of Northern Ireland that this is a legislative Assembly and this is us legislating and trying to deal with issues.

There are a number of notable things. I think that Mr Allister's proposal to ensure that we included the House of Lords in the exemptions was a correct and worthwhile exercise. I suspect that the Alliance Party, although it tried to claim the credit all for itself, will agree that it required the votes of others to deal with audio recording in councils, which I think was a good move. I am disappointed that we did not get to

extend that to subcommittees, but maybe individual councillors will pick up on that.

I also agree with my colleague on the point that Mr Elliott raised about flags. I give credit to Mr Elliott for his measured tone in saying that there was a missed opportunity for us to deal with the issue. I think that it will be one of the areas that we will come to regret. Certainly, as Mr McCallister outlined, we would have been in favour of designated days for all public council buildings. I find it incredible that we can all sit here in the Chamber and agree that designated days is the right way forward for the Assembly, yet we appear to think that either Belfast City Hall is different from Parliament Buildings or that we should have different rules for east and west of the Bann. To me, that does not seem to be the right way forward. A generosity of spirit that acknowledged the constitutional position expressed by the will of the people in 1998 would have gone a long way when looking for reciprocation in other areas.

Perhaps, in retrospect, it would have been better to spend more time dealing with those issues. Time was not with us on the Bill, and we had accelerated passage in a number of areas. I think that we will look back in a few years' time and regret that we did not take more time to deal with some of the issues. Proper discussion and debate, the quality of which was very good in many instances —

**Mr Elliott:** Will the Member give way?

**Mr B McCrea:** I will indeed, yes.

6.15 pm

**Mr Elliott:** Although he said that we did not have the time, would the Member accept that a lot of time was given to that particular debate on that evening but maybe not enough quality time was given to the detail of the debate, maybe at Committee Stage or other places?

**Mr B McCrea:** I am grateful to the Member for coming forward, and that is exactly the point that I wanted to make. I share his view that preparatory work — where you might have explored various options on the way forward where there would have been some consensus — should, perhaps, have been done at Committee Stage. There should perhaps have been a bit of real politicking, just to see what —

**Mr Weir:** I thank the Member for giving way. At Consideration Stage, in particular, there was a fairly lengthy debate about various propositions regarding the flag situation. It is unfair to

suggest that there was not detailed scrutiny of a lot of the other detail of the Bill, both at Committee Stage and in the length of time that we took in the House. Also, many aspects of this did not simply come out of the ether or, indeed, out of the Department. I appreciate that this may not necessarily have included NI21 — it predated NI21 — but a lot of the aspects of the Bill were thrashed out in many sessions by the five largest parties through the strategic leadership board and policy development panels over a number of years. In that regard, they did not just appear. So, to characterise this as something that has simply been thrown together in a hurry does not necessarily convey a proper picture of what the position was.

**Mr B McCrea:** I thank the Member for his intervention, but, unlike with Mr Elliott's contribution, I am afraid that I cannot agree with his points. Certainly, when it came to Consideration Stage, I think that Mr Elliott raised the issue that we were not given much time to bring forward amendments. The way that the timescale reached us was certainly one of the reasons why we were not able to bring forward amendments.

We had to do a fair amount of work at Further Consideration Stage, which is far from ideal when we were talking about some major issues. I heard Mr Eastwood say that the Bill had been on the shelf for quite a long time, had to be dusted down and various people came back and so on. I think that it has taken us 14 years to get to this point. You have 14 years then accelerated passage, and people are not objecting to the fact —

**Mr Weir:** Will the Member give way?

**Mr B McCrea:** I have not finished my point just yet, but I will give way in a moment.

What I was saying was not intended as unwarranted criticism. It is just that I think that, on reflection, when we look at where we are in maybe two or three years, we will regret that we did not really get into dealing with some issues that might properly have been dealt with.

**Mr Weir:** I thank the Member for giving way. Again, talking about accelerated passage gives a wrong impression. The normal timescales and procedures were employed at Second Stage, Consideration Stage and Further Consideration Stage. The only difference in timescale is that Final Stage, at which no amendments can be put, is slightly earlier than it would have been. It is wrong to give the impression that the Bill has been rushed

through by way of accelerated passage. The only difference in timing on this is that it is being debated this week as opposed to the first week back after Easter recess, which would have been the case had the change in Standing Orders not been agreed last week. However, at this stage, no amendments can be put, so it gives the wrong impression to suggest that the passage of the Bill has in some way been accelerated.

**Mr B McCrea:** I thank the Member for his intervention, but I think that it was he who brought to the Minister's attention the fact that one of the issues that we would not be able to deal with in the Bill was that of the blanket ban on council employees, because, even had the Bill gone through on this timescale, Royal Assent would not have been granted in time for us to deal with that. I am sure that, as a learned member of the legal profession, the Member will be aware of the Supreme Court's ruling on the issue and will regret the fact that we were not able to deal with this important issue.

I am certainly aware that when the Minister spoke he was disappointed that he had received late legal advice, which caused him to have to withdraw large sections of the Bill at the last minute. I am sure that the Member will agree that that is far from ideal.

We have been left in a position where we have not been able to deal with this issue satisfactorily. That is a source of great disappointment, and I am looking to the Minister for some comfort that this very important issue will be dealt with, or, at least, some road map as to the way forward.

There are a number of issues to do with good relations, for example, which a number of people tried to go and define and could not. That is the type of issue, along with the issue of flags, that is germane to what we are going to be going through in local government. We have not resolved those issues, and we have not been able to give any direction. Therefore, I suspect that there will be some quite significant discussions about them on each council.

Nevertheless, the Minister, when he was moving the Final Stage, said that this was a very significant piece of legislation and that there had been contributions by people. The debate on many of the issues was helpful to the House's consideration. For those people who wonder whether an opposition is required in a fully functioning democratic Chamber, the need for one was demonstrated by this piece of legislation. There were a number of parties that

tabled very significant amendments and really did the scrutiny. They did not win every single vote — that is democracy, so fair enough — but the scrutiny element was the right thing to do. We should be able to accept challenge and defend a particular argument, and legislation is the better for that.

Perhaps when the Business Committee is considering things in the future — I know that people look at the time on these things, and my colleague Mr McCallister made the point — it will consider that where the Speaker is able to allow proper debate, that is helpful, and we should not necessarily constrain ourselves in other things except for legislation. We should give ourselves more time for debate. That is what politics is all about, and it will engender a better appreciation of the work that we do. I would like those who are on the Business Committee and those who sit in the Speaker's Chair to reflect on the successful parts of the prosecution of this Bill. I conclude my remarks there.

**Mr Allister:** This Bill is the outworking of a deal, of course, between the DUP and Sinn Féin, which was made at a time when those two parties found it easier to make deals than they do today. It dates back to the sordid arrangement that was made when Mrs Foster, as Environment Minister, sold out on 15 councils and agreed and rolled over to 11.

I am sorry that the debate has just been extended, because Mr Weir has just added his name to seek to answer some of the points that I am going to make.

**Mr Weir:** Is that not democracy?

**Mr Allister:** Indeed. It is interesting that his interest in speaking was only dependent on whether I made a contribution, but there we are.

**Mr Weir:** Will the Member give way?

**Mr Allister:** Certainly.

**Mr Weir:** As the Member may well be aware, I have been involved with this process for a number of years and have spoken on pretty much every group of amendments and at every stage of the Bill, so the suggestion that my interest in this subject is in some way provoked simply by the Member's intervention shows that the Member's ego is running away with itself.

**Mr A Maginness:** Methinks he doth protest too much.

**Mr Allister:** Yes, indeed. I recognise that he is much interested in this matter. His fingerprints are over much of it. I recognise that entirely. The point that I was making was that, for all his interest, his desire to speak in this debate was conditional, and I fulfilled the condition.

So, what we are dealing with is something that dates back to that sordid arrangement whereby the DUP sold out on 15 councils, made the deal on 11 and abandoned Belfast effectively to its fate, instead of holding out for boundaries that would have secured the situation otherwise.

Fundamentally, my biggest regret about this Bill is that it is a missed opportunity to deal with the vexed issue that has perplexed and, to an extent, blighted local government for some years, namely the failure to deal with the flags issue. We all know the discord that that has caused in recent years, inside and outside councils. There was an opportunity to deal with it in a conclusive fashion in this Bill, but, sadly, the pan-nationalist front in this House — Sinn Féin, the SDLP and the Alliance Party — resolved, in a triumphalist approach, that it would not be resolved. The pan-nationalist front determined that they would exercise whatever veto they could, and some of them made recourse to the pernicious petition of concern to make sure that they overrode what just might have been a majority view in this House. They were quite happy to relish and accept majority opinion in the City Hall but were determined to extinguish it in this House if it had manifested itself in regard to this issue. Of course —

**Mrs Cochrane:** Will the Member give way?

**Mr Allister:** Yes.

**Mrs Cochrane:** I thank the Member for giving way. I would just like him to make it clear whether, when he refers to the "pan-nationalist front" and includes me as a member of the Alliance Party, he heard what I stated about Northern Ireland being part of the United Kingdom and about a constitutionally recognised flag? Will he also confirm whether the Alliance Party signed any petition of concern?

**Mr Allister:** No, I did not allege that the Alliance Party signed a petition of concern, but I am very happy to give way to the Member for East Belfast if she wants to now put on record her belief in and support for the union between Northern Ireland and the United Kingdom. If she wants to declare herself a unionist and support the union between Northern Ireland and

the United Kingdom, I am very happy to give way.

**Mr Deputy Speaker:** Can I draw the Member back to the Bill, please?

**Mrs Cochrane:** Will the Member give way?

**Mr Allister:** I am in the Speaker's hands, but the Member has asked me to give way and I am very willing to give way.

**Mrs Cochrane:** I can make it very clear that I am committed to the United Kingdom and to Northern Ireland being part of the United Kingdom as it currently stands until the point where the majority of people who live in Northern Ireland do not wish that to be the case. That is my personal view at the moment, and that is where I stand on the issue.

**Mr Allister:** In so far as that takes the Member down the road of being classified as a unionist — I am not sure that it does entirely — I welcome that. I think that it is still, as one would expect, a bit of fence-sitting, and certainly not as clear as Ms Lo, who declared her aspiration as being that of a nationalist, but that, I suppose, is what one expects of the Alliance Party.

The point that I was making was that there was a golden opportunity in this Bill to deal with the flags issue. Instead of being willing to do that, the pan-nationalist front made sure that they vetoed any attempt to do that. They put themselves in the position of refusing to accept the constitutional reality of Northern Ireland, which the flying of the flag, on any occasion, is but a manifestation of. They sought to muddy the waters by contending that it was an identity issue. It is not an identity issue. It is an issue about the constitutional reality, and it really was an insight into the small-mindedness of the pan-nationalist front. I am not surprised by some elements, but I am disappointed by the small-mindedness of others in that they could not reach the point of acknowledging that the flying of the flag is simply a recognition of the constitutional reality of Northern Ireland as part of the United Kingdom. They insist on flying in the face of that, despite the fact that they are the very people who lecture the rest of us about all the good things they tell us about in the Belfast Agreement, they themselves refusing to accept the constitutional reality that that agreement is supposed to have recognised. In doing so, they put their small-minded nationalism above the resolution of this issue, and that is disappointing.

*(Mr Speaker in the Chair)*

**6.30 pm**

Faced with that reality, that then served the ball back to the other side of the House, bearing in mind that the Bill is the only opportunity to deal with the matter. By not dealing with it, we are going to bequeath to the new councils the same agenda of discord over the issue. We are going to guarantee that in each and all those councils, there will now be the argument about whether the flag flies, what days it flies on and all that. The matter could and should have been resolved on a designated-plus basis in this Chamber, but for the fact that the pan-nationalist front would not entertain any compromise such as they demand of everyone else every other day of the week. That is sad and unfortunate. Had it been dealt with in that way, recognising the special place of Belfast City Hall, you would have had a deal but you turned your back on it. Now, you bequeath to us the ongoing discord in the new councils and the wrangling about this matter for years to come.

Faced with that, the challenge I issued at Further Consideration Stage to the main unionist party in the House was that, if it was serious about dealing with the flags issue and resolving the matter, why allow the Bill to complete its passage before the issue was addressed? I am saddened that it did not take the opportunity to force the issue and block the Bill until it was addressed. There are other parties in the House who have been blocking legislation for years now and ensuring that their will is enforced on others. Here was an opportunity, if the flag issue matters to unionist parties in the House, to ensure that it was addressed by blocking the further progress of the Bill until it was addressed. The fact that that opportunity is not being taken is confirmation to me that all the talk about the flag was just that — talk. There was nothing of substance, depth or determination to allow the matter to be addressed, just as in this Building there has been no determination or substance to the attempts to address the issue. That is most unfortunate, and we know where the responsibility for that lies.

We are now going forward into local government reform on the basis of financial data that seems to be highly dated. We do not really know at this moment whether the supposed savings are going to manifest themselves or what the up-to-date costs of local government reform are. There is a dearth of up-to-date information, yet there is this headlong rush to pass the legislation

nonetheless, to import into local government some of the tangible features of failure in this House and for some local governments, perhaps, to introduce a tiny ruling cabal, which will generate great unease, I fear, among the public that, although they elect, perhaps, 40 councillors, essentially a tiny handful of councillors will control and decide all issues. I do not think that is progress. I think that is regression. I will not support the Bill tonight.

**Mr Weir:** Having heard the first salvos in Mr Allister's election campaign, let me try to look at the Bill itself. It would be remiss of me not to place on record my thanks, as someone who has been involved with the Bill, particularly through the Committee Stage, to the staff of the Committee and the staff of the Department. As some have indicated, our scrutiny of the Bill has been extensive. To be fair to the Department, there has been a genuine discourse throughout the passage of the Bill and, indeed, a number of the issues that became the subject of departmental amendments were flagged up by the Committee. I think that we found a good working relationship. Within that, there was a range of issues, and the appeal mechanism has been mentioned. The Committee and the Department did not necessarily see eye to eye completely on every issue, and, as was indicated by the number of amendments from various parties, there was a range of views on a wide range of issues.

Some Bills in the House have had more clauses to them, and I remember particularly, in the last Assembly, the planning legislation, which, I think, ran to around 230 clauses. This Bill has fewer clauses but a high level of complexity. At Consideration Stage and Further Consideration Stage, the number of amendments totalled somewhere in the region of 149. I cannot think of a Bill — I stand to be corrected — that generated that number of amendments. That is a sign of its complexity. As was indicated, the various amendments from different sources got a mixed response from the House. It is perhaps unique that virtually every party in the House can point to amendments, either in their own name, through the Department or that they pushed through the Committee, to show where they have been successful in changing the legislation. Similarly, there were a number of amendments on all sides, as indicated by Mr McCrea, that various parties supported but were unsuccessful. Like others, I regret that some of those failed to be passed.

I acknowledge that we spent effectively a day debating the flag issue, and I will return to that a little bit later. That was a missed opportunity. It was perhaps disappointing but not surprising

that there was not consensus in the Assembly on that issue. However, across the board, although there have been missed opportunities, there have also been successes in the legislation.

There is a degree of unfair criticism of the process. A lot of the issues are not things that have dropped out of the skies. In many cases, they have been worked on for quite a number of years, and there have been good attempts in the current and previous Administrations to find broad consensus on a range of issues, particularly on a lot of the governance aspects. Although there was an issue at the Business Committee around broad elements of scheduling the Bill, we should remember its initial publication and that the Second Stage debate took place last autumn. All parties had the opportunity to seek amendments. In that sense, it has not been passed any differently from any other form of legislation, and, as indicated, the only element of accelerated passage — even then it is tenuous to describe it as such — was the proposal by the Minister last week to allow the Final Stage, when the Bill is unamendable anyway, to come to the Floor, from a parliamentary point of view, a week ahead of when it was due.

Those criticisms do not hold water. There is a contradiction in Mr McCrea's position. He berates the Bill for being rushed through, yet he complains that it will not be through in time to allow those who wish to stand as candidates but belong to a council or are under certain restrictions. In one sense, the criticism seems to be that it is both too fast and too slow, which are mutually exclusive positions.

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

**Mr Weir:** Yes.

**Mr B McCrea:** I am at a loss as to the Member's logic. You can be both rushed and say that more time is needed. Others put forward the argument that this process has been 14 years in the making and that surely we could have dealt with some of the big issues at an earlier stage. I would like to have seen the issues that have been brought up. The issue that the Member raised is not inconsistent at all. It is a failure to address issues in the proper time.

**Mr Weir:** Being too fast and too slow is a contradictory argument.

What is being put in place is a belt-and-braces approach. Although one legal case has been

quoted, there is no indication that, if applied in Northern Ireland, it would result in a particular verdict. The Department has rightly exercised caution. That has been ongoing —

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

**Mr Weir:** I will give way in a moment. That relates to a ban that has effectively been in place since the early 1970s, so it has been in gestation for a long time.

**Mr B McCrea:** I refer the Member to the Committee minutes of proceedings when the departmental officials admitted on the record that the Ahmed and Others case, which was the Supreme Court judgement about article 10 of the European Convention on Human Rights, found conclusively, and the Department intended to deal with it. I am not sure that the Member is correct in saying that it is still up in the air as to what will come out. I am quite sure that, if an individual who is a member of a council at a low level wished to take a case against the Department or the Government, they would win the case.

**Mr Weir:** I do not want to start dancing on the head of a pin because that was not purely what Ahmed was about. The changes in the legislation were to cover all eventualities. There is no doubt that, on a range of issues, not everything has been done as perfectly as it should have been, and I agree that there were missed opportunities. However, we have something that can shape local government in a positive way.

I am a bit perturbed that, when some Members see light at the end of the tunnel for potential progress in local government, their immediate reaction is to build more tunnel. That seems to be an unduly negative attitude. I agree with one of Mr Allister's points, although it may be questionable how relevant it is to the debate. He accused the DUP of having reached a situation where we agreed an 11-council model. To be fair to Mr Allister, if we had taken his advice at that stage, the House would not be faced with an 11-council model, which I readily acknowledge. If we had taken Mr Allister's advice, we would have a seven-council model because he would not have set up devolution in the first place.

**Mr Allister:** Will the Member give way?

**Mr Weir:** Briefly.

**Mr Allister:** The Member should not misrepresent my position and then not give



way. Let us be very clear: I have always advocated and believed in workable devolution. My problem is the unworkable system of the Belfast Agreement, which, every day that passes, proves my point. I am all for workable devolution. *[Interruption.]*

**Mr Speaker:** Order. We are at the Final Stage of the Bill, and we should be discussing what is now in the Bill rather than Members indicating what they wish was in the Bill. We really need to get back. It is the Final Stage of the Bill, so we should discuss only what is in the Bill, not what we hoped might be in the Bill.

**6.45 pm**

**Mr Weir:** I thank the Speaker and will abide by his ruling, so I will not indulge in the fantasy land that Mr Allister wishes for.

**Mr B McCrea:** You started it.

**Mr Weir:** Well, Mr Allister made reference to the 11-council model. This is the grand stand that Mr Allister takes against the Bill: the 11-council model is not conditional on the Bill. If we were to follow Mr Allister's advice on the Bill and block it, would the 11-council model go ahead? Yes, it would. Would it block the elections to the new council? No, it would not. Would it prevent the transfer of power to the new councils? No, it would not.

I agree with the Member that there was a missed opportunity in the Bill, and, most pertinently, he has raised the issue of the flag. It received some debate; in fact, I think that it constituted about a day's worth of debate. If we were to block the Bill, will the number of days on which the flag of this nation flies on any council building increase? No, it will not. Blocking the Bill will not result in the flag going up one more day, which is the litmus test. He accuses others of not caring about the issue. Unlike Mr Allister, I was there on the night on which the decision was taken. I was inside City Hall. I was there observing the decision and there to support my unionist colleagues. I did not see Mr Allister there on that night.

The contribution by Mr Allister in particular and his party on the issues that have come up on local government has been woefully lacking. Throughout the process, Mr Allister has had an opportunity to influence the wider situation in respect of the Bill and the wider issue of RPA. It also has to be said that Mr Allister or one of his representatives had the opportunity to attend the political reference group that the previous Minister set up, but so pertinent is the

issue to Mr Allister that he has not attended a single meeting of that group. Of course, he throws up straw men in relation to the Bill. He tells us that we should take a stand to save the flag. Are we seriously suggesting that the SDLP and Sinn Féin are so keen to get this legislation through — legislation that does not prevent the elections or have any impact on the transfer of power, the establishment of the new councils or, indeed, the councils taking full effect — that they will simply roll over and say, "To be honest, to get this through, we'll give you the flag 365"?

**Mr Allister:** Will the Member give way?

**Mr Weir:** No, I have heard enough fantasy from Mr Allister. He is producing straw men on the Bill — *[Interruption.]*

**Mr Speaker:** Order. The Member has the Floor.

**Mr Weir:** Blocking the Bill will not prevent any of the things that Mr Allister wants to see stopped or enable a single thing that he wants to see happen. That is the fantasy politics of the TUV.

Mr Allister's position on the main issues becomes not only largely irrelevant but counterproductive. Mr Allister has seemed keen in various protestations to spread his wings and to look after the entire unionist population. The reality is that the checks and balances in the proposals would mean that we would simply have councils with a majority of a nationalist disposition simply being able to do absolutely anything that they wanted. The same argument could be used from a nationalist perspective on the other side. Mr Allister is perfectly happy to abandon unionists in the west and south of the Province to whatever the nationalist councils want. I am sure that the same argument could be used on the opposite side. He is not only creating a situation —

**Mr Allister:** Will the Member give way?

**Mr Weir:** I will give way briefly.

**Mr Allister:** The Member says that not passing the Bill would make no difference and that local government would carry on. The Member knows full well that, for the new councils to ultimately operate, they need the Bill. If he is right that not passing the Bill would make no difference, what is the point of the Bill? Of course it is an opportunity to use leverage.

**Mr Weir:** The Bill will make improvements and ensure that we have good governance, and it will deal with issues relating to planning and community planning. Could the new councils carry on without the Bill? Yes, they could. That is the empty threat that the leader of the TUV poses. He makes —

**Mr Allister:** You ran away.

**Mr Weir:** The Member accuses me of running away. I did not disappear from politics for 17 years; I have been in it since I was 18. If you are going to throw allegations about anybody running away, you should look a little bit closer in your own mirror, Mr Allister, before you start lecturing others.

**Mr Allister:** Is that the best you can offer?

**Mr Speaker:** Order.

**Mr Weir:** I am sorry that the best I can offer, Mr Allister, is the truth. *[Interruption.]*

**Mr Speaker:** Order.

**Mr Weir:** You know, Mr Allister, you should perhaps listen to the truth occasionally.

This is a good Bill. It is not all that it could have been, and I regret some of the missed opportunities. However, we have an opportunity to advance local government and to protect minorities on all sides. The unionist minorities in the west and south of the Province, whom he is so keen to abandon, should be of particular concern to Mr Allister. *[Interruption.]*

**Mr Speaker:** Order.

**Mr Weir:** With respect, I believe that we have had a good process. We have had occasional cross words but a good debate. The Bill that we are left with, though not perfect, is one that advances local government. There is an opportunity for local government to operate to provide more efficient delivery and good governance for all our citizens. That is what we should be focused on rather than attempting to create straw men and false election battles, as Mr Allister and others did tonight. I therefore commend the Bill to the House.

**Mr Durkan:** I thank Members for their contributions to the debate this evening and throughout the process. Tonight, I would particularly like to thank the Deputy Chair of the Committee and all others who contributed.

Some Members raised specific issues or questions, which I will now address.

Mr Boylan sought some detail on the forthcoming secondary legislation. To give full effect to the Bill, subordinate legislation, together with guidance, will be issued. My Department will make three sets of regulations soon after the Bill receives Royal Assent: one will provide for the arrangements for the transition from the current councils to the new councils, and the remaining two will set out the executive arrangements and standing orders of the new councils. After the Bill receives Royal Assent, my Department will also lay a draft code of conduct for councillors for the approval of the Assembly. The Department will shortly issue six guidance documents relating to positions of responsibility; model standing orders; model constitutions; executive arrangements; executive procedures; and overview and scrutiny arrangements. The Department will also issue a document directing councils on matters that must be included in a council's constitution.

**Mr Elliott:** Will the Minister give way?

**Mr Durkan:** This will be the one and only intervention that I will accept.

**Mr Elliott:** I appreciate the privilege, Minister; I had better make use of it. I have just one quick question on that point. Would it not have been helpful if we had been given a summary of some of those regulations when we were going through the Bill? That is what we asked for, that is what we assumed we were getting, and it would have been helpful to us in our consideration of the Bill.

**Mr Durkan:** I thank the Member for his intervention and apologise if he feels that his and the Committee's consideration of the Bill was hampered by the absence of the detail of the regulations. However, I am sure that he, like other members of the Committee, is very much looking forward to an opportunity to scrutinise them when they come.

Later this year, my Department will also make regulations that will prescribe any office or employment made by a council that will disqualify its holder from being a councillor. Before April next year, subordinate legislation on community planning partnerships, performance indicators and performance standards will also be put in place.

Mr Elliott raised the issue of community planning and anticipated difficulties in its

establishment within and across the councils. It would be naive of any of us, and especially of all of us, to expect a seamless transition. That is why I am holding back on the high fives here this evening. It is vital that statutory agencies, as well as communities, play their full part in the success of this important and exciting tool. Mr Elliott outlined his concerns about the creation of a lawyers' paradise, but, given the previous debate, I think that they would be very glad to hear about that.

Mr Elliott and a couple of others raised the issue of flags. Mr Elliott was of the view that we could have dealt with it in this legislation. We could also have dealt with it through the Haass talks. The Bill is too important to get bogged down in arguments around flags. As I said to a colleague of Mr Elliott's at a previous Question Time, I am interested in raising standards, not raising flags. The Member, however, has a valid concern about new councils being dogged from day 1 by these very arguments. That is why I will ensure that community relations is a core and mandatory element of capacity building for the new councils.

Mrs Cochrane gave her views on the Union flag. If her colleague Ms Lo had been here, the view given by the Alliance Party might have been a different one. I know that Ms Lo very much regrets not being able to be here this evening, and I place on record my appreciation of her chairmanship of the Committee throughout the process.

Mr McCallister stressed that it was vital that ratepayers were protected from the cost of reform. I agree entirely, which is why we sought and got £30 million for rates convergence, as reaffirmed by the Finance Minister yesterday. DFP will consult on the structure of the rate relief scheme within the next month. Support will be there for new councils, and monitoring of the new councils will be there as well.

Mr McCrea reiterated his party's concerns. I appreciate his concern around the existing blanket ban and the inability, I suppose, to deal with it at this juncture. However, the Bill lifts the blanket ban, just not in time for Mr McCrea. Like Mr McCrea, I lament the lack of media interest in the positive aspects of the legislation. The old adage is that no news is good news; this shows that good news is no news at all. The progress of the Bill to this stage shows that this place can legislate.

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

**Mr Durkan:** One more.

**Mr B McCrea:** I know that I am sneaking in on behalf of Tom Elliott, but I am going to say something nice. The Minister deserves credit for the way in which he has brought the Bill through. Many positive issues were contested and debated. We mentioned earlier that the way in which the debate was allowed to flow is a credit to you, Mr Speaker, and your colleagues. This is only to the good, and it enhances representative democracy.

**Mr Durkan:** I might take another intervention if it is in the same vein as that one. *[Laughter.]* I concur with Mr Weir's assertion that the Bill has received a good degree of scrutiny. Mr Allister described this as a missed opportunity to deal with flags, but he did not miss an opportunity — he never misses an opportunity — to wave the TUV flag.

When Mrs Foster, the then Minister of the Environment, announced on 31 March 2008 the Executive's decisions on the future shape of local government, she quoted Sir Winston Churchill:

*"Now this is not the end. It is not even the beginning of the end. But it is, perhaps, the end of the beginning." — [Official Report, Bound Volume 29, p6, col 2].*

If Mrs Foster's statement signalled the end of the beginning, today is certainly not the end of the reform process; rather, it is the beginning of a brand new chapter for local government. The Bill before us today is sound and effective legislation for the operation of local government. The challenge will now be for the newly elected councils to use their new powers to good effect and for the benefit of all their citizens.

*Question put.*

*The Assembly divided:*

*Ayes 55; Noes 14.*

## **AYES**

*Mr Anderson, Mr Boylan, Mr D Bradley, Ms P Bradley, Mr Brady, Mr Buchanan, Mr Byrne, Mrs Cameron, Mr Clarke, Mrs Cochrane, Mr Craig, Mr Douglas, Mr Durkan, Mr Easton, Mr Eastwood, Ms Fearon, Mr Ford, Mrs Foster, Mr Girvan, Mr Givan, Mr Hazzard, Mr Hilditch, Mr Humphrey, Mr Irwin, Mrs D Kelly, Mr G Kelly, Mr McAleer, Ms J McCann, Mr McCartney, Ms McCorley, Mr I McCrea, Mr McElduff, Ms McGahan, Mr D McIlveen, Miss M McIlveen, Mr McKay, Mrs McKeivitt, Mr McKinney, Ms Maeve*

*McLaughlin, Mr McQuillan, Mr A Maginness, Mr Milne, Mr Moutray, Mr Newton, Mr Ó hOisín, Mr O'Dowd, Mrs O'Neill, Mr Poots, Mr P Ramsey, Mr G Robinson, Mr Rogers, Mr Ross, Mr Storey, Mr Weir, Mr Wells.*

*Tellers for the Ayes: Mr Eastwood and Mr A Maginness*

**NOES**

*Mr Agnew, Mr Allister, Mr Copeland, Mr Cree, Mrs Dobson, Mr Elliott, Mr Hussey, Mr Kennedy, Mr Kinahan, Mr McCallister, Mr B McCrea, Mr Nesbitt, Mrs Overend, Mr Swann.*

*Tellers for the Noes: Mr Elliott and Mrs Overend*

*Question accordingly agreed to.*

*Resolved:*

*That the Local Government Bill [NIA 28/11-15] do now pass.*

*Adjourned at 7.11 pm.*





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