



Northern Ireland  
Assembly

# OFFICIAL REPORT

(Hansard)

Volume 18

(9 September 2002 to 28 April 2003)

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# Volume 18

9 September 2002 to 28 April 2003

The Assembly was suspended at midnight on 15 October 2002, by virtue of the Northern Ireland Act 2000 (Suspension of Devolved Government) Order 2002. As a result, although it continued to exist, it could neither meet nor pass any Act.

The Assembly was then dissolved on 28th April 2003, by virtue of section 31(2) of the Northern Ireland Act 1998, amended, as it was at that time, by section 1(2) of the Northern Ireland Assembly Elections Act 2003.



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## ASSEMBLY MEMBERS

(A = Alliance Party; IU = Independent Unionist, NIWC = Northern Ireland Women's Coalition; PUP = Progressive Unionist Party; SDLP = Social Democratic and Labour Party; SF = Sinn Féin; DUP = Ulster Democratic Unionist Party; UKUP = United Kingdom Unionist Party; UUP = Ulster Unionist Party; UUAP = United Unionist Assembly Party; NIUP = Northern Ireland Unionist Party)

Adams, Gerry (SF) (West Belfast)  
Adamson, Dr Ian (UUP) (East Belfast)  
Agnew, Fraser (UUAP) (North Belfast)  
Alderdice, The Lord (Speaker)  
Armitage, Ms Pauline (IU) (East Londonderry)  
Armstrong, Billy (UUP) (Mid Ulster)  
Attwood, Alex (SDLP) (West Belfast)  
Beggs, Roy (UUP) (East Antrim)  
Bell, Billy (UUP) (Lagan Valley)  
Bell, Mrs Eileen (A) (North Down)  
Berry, Paul (DUP) (Newry and Armagh)  
Birnie, Dr Esmond (UUP) (South Belfast)  
Boyd, Norman (NIUP) (South Antrim)  
Bradley, P J (SDLP) (South Down)  
Byrne, Joe (SDLP) (West Tyrone)  
Campbell, Gregory (DUP) (East Londonderry)  
Carrick, Mervyn (DUP) (Upper Bann)  
Carson, Mrs Joan (UUP) (Fermanagh and South Tyrone)  
Close, Seamus (A) (Lagan Valley)  
Clyde, Wilson (DUP) (South Antrim)  
Cobain, Fred (UUP) (North Belfast)  
Coulter, Rev Robert (UUP) (North Antrim)  
Courtney, Mrs Annie (SDLP) (Foyle)  
Coyle, Michael (SDLP) (East Londonderry)  
Dallat, John (SDLP) (East Londonderry)  
Dalton, Duncan Shipley (UUP) (South Antrim)  
Davis, Ivan (UUP) (Lagan Valley)  
de Brún, Ms Bairbre (SF) (West Belfast)  
Dodds, Nigel (DUP) (North Belfast)  
Doherty, Pat (SF) (West Tyrone)  
Douglas, Boyd (UUAP) (East Londonderry)  
Durkan, Mark (SDLP) (Foyle)  
Empey, Sir Reg (UUP) (East Belfast)  
Ervine, David (PUP) (East Belfast)  
Farren, Dr Seán (SDLP) (North Antrim)  
Fee, John (SDLP) (Newry and Armagh)  
Ford, David (A) (South Antrim)  
Foster, Sam (UUP) (Fermanagh and South Tyrone)  
Gallagher, Tommy (SDLP) (Fermanagh and South Tyrone)  
Gibson, Oliver (DUP) (West Tyrone)  
Gildernew, Ms Michelle (SF) (Fermanagh and South Tyrone)  
Gorman, Sir John (UUP) (North Down)  
Hamilton, Tom (UUP) (Strangford)  
Hanna, Ms Carmel (SDLP) (South Belfast)  
Haughey, Denis (SDLP) (Mid Ulster)  
Hay, William (DUP) (Foyle)  
Hendron, Dr Joe (SDLP) (West Belfast)  
Hilditch, David (DUP) (East Antrim)  
Hussey, Derek (UUP) (West Tyrone)  
Hutchinson, Billy (PUP) (North Belfast)  
Hutchinson, Roger (IU) (East Antrim)  
Kane, Gardiner (DUP) (North Antrim)  
Kelly, Gerry (SF) (North Belfast)  
Kelly, John (SF) (Mid Ulster)  
Kennedy, Danny (UUP) (Newry and Armagh)  
Leslie, James (UUP) (North Antrim)

Lewsley, Ms Patricia (SDLP) (Lagan Valley)  
McCarthy, Kieran (A) (Strangford)  
McCartney, Robert (UKUP) (North Down)  
McClarty, David (UUP) (East Londonderry)  
McClelland, Donovan (SDLP) (South Antrim)  
McCrea, Rev Dr William (DUP) (Mid Ulster)  
McDonnell, Dr Alasdair (SDLP) (South Belfast)  
McElduff, Barry (SF) (West Tyrone)  
McFarland, Alan (UUP) (North Down)  
McGimpsey, Michael (UUP) (South Belfast)  
McGrady, Eddie (SDLP) (South Down)  
McGuinness, Martin (SF) (Mid Ulster)  
McHugh, Gerry (SF) (Fermanagh and South Tyrone)  
McLaughlin, Mitchel (SF) (Foyle)  
McMenamin, Eugene (SDLP) (West Tyrone)  
McNamee, Pat (SF) (Newry and Armagh)  
McWilliams, Ms Monica (NIWC) (South Belfast)  
Maginness, Alban (SDLP) (North Belfast)  
Mallon, Séamus (SDLP) (Newry and Armagh)  
Maskey, Alex (SF) (West Belfast)  
Molloy, Francie (SF) (Mid Ulster)  
Morrice, Ms Jane (NIWC) (North Down)  
Morrow, Maurice (DUP) (Fermanagh and South Tyrone)  
Murphy, Conor (SF) (Newry and Armagh)  
Murphy, Mick (SF) (South Down)  
Neeson, Sean (A) (East Antrim)  
Nelis, Mrs Mary (SF) (Foyle)  
Nesbitt, Dermot (UUP) (South Down)  
O'Connor, Danny (SDLP) (East Antrim)  
O'Hagan, Dr Dara (SF) (Upper Bann)  
ONEill, Eamonn (SDLP) (South Down)  
Paisley, Rev Dr Ian (DUP) (North Antrim)  
Paisley, Ian Jnr (DUP) (North Antrim)  
Poots, Edwin (DUP) (Lagan Valley)  
Ramsey, Ms Sue (SF) (West Belfast)  
Robinson, Mrs Iris (DUP) (Strangford)  
Robinson, Ken (UUP) (East Antrim)  
Robinson, Mark (DUP) (South Belfast)  
Robinson, Peter (DUP) (East Belfast)  
Roche, Patrick (NIUP) (Lagan Valley)  
Rodgers, Ms Brid (SDLP) (Upper Bann)  
Savage, George (UUP) (Upper Bann)  
Shannon, Jim (DUP) (Strangford)  
Taylor, Rt Hon John (UUP) (Strangford)  
Tierney, John (SDLP) (Foyle)  
Trimble, Rt Hon David (UUP) (Upper Bann)  
Watson, Denis (UUAP) (Upper Bann)  
Weir, Peter (DUP) (North Down)  
Wells, Jim (DUP) (South Down)  
Wilson, Cedric (NIUP) (Strangford)  
Wilson, Jim (UUP) (South Antrim)  
Wilson, Sammy (DUP) (East Belfast)

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## THE EXECUTIVE COMMITTEE OF THE ASSEMBLY

<i>First Minister</i>	The Rt Hon David Trimble
<i>Deputy First Minister</i>	Mark Durkan
<i>Minister of Agriculture and Rural Development</i>	Ms Bríd Rodgers
<i>Minister of Culture, Arts and Leisure</i>	Michael McGimpsey
<i>Minister of Education</i>	Martin McGuinness
<i>Minister of Enterprise, Trade and Investment</i>	Sir Reg Empey
<i>Minister of the Environment</i>	Dermot Nesbitt
<i>Minister of Finance and Personnel</i>	Dr Seán Farren
<i>Minister of Health, Social Services and Public Safety</i>	Ms Bairbre de Brún
<i>Minister for Employment and Learning</i>	Ms Carmel Hanna
<i>Minister for Regional Development</i>	Peter Robinson ( <i>Resigned 11 October 2002</i> )
<i>Minister for Social Development</i>	Nigel Dodds ( <i>Resigned 11 October 2002</i> )

## JUNIOR MINISTERS OF THE ASSEMBLY

Office of the First Minister and the Deputy First Minister	Denis Haughey James Leslie
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## PRINCIPAL OFFICERS AND OFFICIALS OF THE ASSEMBLY

<i>Speaker</i>	The Lord Alderdice
<i>Deputy Speakers</i>	Donovan McClelland Ms Jane Morrice Jim Wilson
<i>Office of the Speaker</i>	
<i>Private Secretary</i>	Ms Georgina Campbell
<i>Special Adviser</i>	Richard Good
<i>Counsel</i>	Nicolas Hanna QC
<i>Clerk to the Assembly</i>	Arthur Moir
<i>Deputy Clerk to the Assembly</i>	Joe Reynolds
<i>Deputy Chief Executive</i>	Tom Evans
<i>Director of Legal Services</i>	Clare McGivern
<i>Examiner of Statutory Rules</i>	Gordon Nabney
<i>Editor of Debates</i>	Simon Burrowes
<i>Clerk Assistant</i>	Nuala Dunwoody
<i>Keeper of the House</i>	Agnes Peacocke
<i>Director of Research and Information</i>	Allan Black
<i>Clerk to the Assembly Commission</i>	Tony Logue
<i>Principal Clerks</i>	Alan Patterson Mrs Debbie Pritchard Alan Rogers John Torney Martin Wilson
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<i>Legal Adviser</i>	Hugh Widdis
<i>Head of Personnel</i>	Evan Hobson
<i>Head of Finance</i>	Fiona Hamill
<i>Head of Research</i>	John Power
<i>Head of Security</i>	Gerald Colan-O’Leary
<i>Head of Information</i>	Mairead Mageean

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## NORTHERN IRELAND ASSEMBLY

Monday 9 September 2002

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

*Members observed two minutes' silence.*

### NEW ASSEMBLY MEMBER

**Mr Speaker:** I have been advised by the Chief Electoral Officer that Mr Michael Coyle has been returned as a Member of the Assembly for the East Londonderry constituency, filling the vacancy left by the resignation of Mr Arthur Doherty. I invite Mr Coyle to take his seat by signing the Roll of Members.

*The following Member signed the Roll: Mr Michael Coyle.*

**Mr Speaker:** I am satisfied that the Member has signed the Roll and confirmed his designation.

### ROYAL ASSENT

**Mr Speaker:** I wish to inform the House that the Budget (No.2) Bill has received Royal Assent. The Budget (No.2) Act (Northern Ireland) 2002 became law on 12 August 2002. Royal Assent has also been received for the Railway Safety Bill. The Railway Safety Act (Northern Ireland) 2002 became law on 13 August 2002.

### RE-DESIGNATION LETTERS

**Mr Speaker:** I wish to advise the House that on 4 September 2002 I received separate correspondence from Ms Monica McWilliams and Ms Jane Morrice advising that, in accordance with Standing Order 3(8), they wish to change their respective designations to "Other". I remind the House that a change in designation notified in writing to the Speaker takes immediate effect.

**Mr Paisley Jnr:** On a point of order, Mr Speaker, it would be helpful if you would inform the House what the Members' designation is now. Are they Unionists, Nationalists, Others, or just rescuers of whatever party is in trouble?

**Mr Speaker:** I have already advised the House that those Members wish to change their respective designations to "Other".

### PUBLIC PETITION

#### Traffic Problems at Tardree Grove, Ballymena

**Mr Speaker:** Mr Ian Paisley Jnr has begged leave to present a public petition in accordance with Standing Order 22.

**Mr Paisley Jnr:** I beg leave to present to the Assembly a petition signed by 38 people who are residents of Tardree Grove in my constituency. The petition states that

"residents fail to comprehend how widening the road will alleviate the volume of speeding traffic which uses the route as a shortcut to the dual carriageway and call for the installation of speed restriction ramps as a more permanent solution to this on-going problem."

*Mr Paisley Jnr moved forward and laid the petition on the Table.*

**Mr Speaker:** I will forward the petition to the Minister for Regional Development and a copy to the Chairperson of the Committee for Regional Development.

## NORTH/SOUTH MINISTERIAL COUNCIL

### Trade and Business Development

**Mr Speaker:** I have received notice that the Minister of Enterprise, Trade and Investment wishes to make a statement on the North/South Ministerial Council sectoral meeting on trade, held on 26 June 2002 in Belfast.

**The Minister of Enterprise, Trade and Investment (Sir Reg Empey):** With your permission, Mr Speaker, I wish to make a statement on the seventh meeting of the North/South Ministerial Council in its Trade and Business Development sectoral format, which took place in the Europa Hotel, Belfast on Wednesday 26 June 2002.

Ms Carmel Hanna and I represented the Northern Ireland Administration. The Irish Government were represented by Ms Mary Harney, TD, Tánaiste and Minister for Enterprise, Trade and Employment. This report has been approved by Ms Hanna and is also made on her behalf.

The Council considered a 'Digital Island' discussion paper, covering information and communications technologies and discussed a policy structure to determine the priorities necessary to exploit the potential that digital technologies can offer in support of increased trade and business development. The Council approved the establishment of a steering group to take the work forward and asked that a progress report be prepared for its next meeting.

The Council considered and noted the work currently being undertaken by InterTradeIreland in the field of science and technology and acknowledged the importance of that work for increasing job creation and economic development. The Council considered the European Union dimension to extended collaboration in this area and discussed the potential for enhanced North/South co-operation in science and technology through a variety of EU programmes such as the science, technology and innovation awareness programme, the European Space Agency and EUREKA — a pan-European network for market-orientated industrial research and development.

The Council asked InterTradeIreland, in conjunction with Departments and agencies, to examine the feasibility of further North/South co-operation and, jointly with Departments, to provide a report for the next meeting on the potential of specific co-operation opportunities.

The Council considered and approved a framework operating plan 2003 for InterTradeIreland. The main activities outlined in the plan included business and economic research, promotion of North/South science and technology research, ICT and e-commerce initiatives, the promotion of North/South institution and business alliances, the development of an all-island business model, knowledge transfer and the promotion of private equity.

The Council asked InterTradeIreland to develop this framework plan and produce a final operating plan for 2003 for Council approval.

The Council considered and approved InterTradeIreland's proposals for the introduction and operation of a performance appraisal system for its employees. The system will introduce modern public sector human resources policy to InterTradeIreland by linking the role and performance of employees to the broader objectives of the body as outlined in its operating plan.

The Council approved the publication of InterTradeIreland's annual report and accounts for the year ended 31 December 2001. Copies of that report will be laid before the Houses of the Northern Ireland Assembly and the Irish Parliament.

The Council received a verbal report from the chief executive of InterTradeIreland on the progress made on implementing the body's work programme. The chief executive updated the Council on recent achievements, such as the equity network programme, which arranged several equity workshops around the island, and a major private equity conference in Belfast in April. Business forums were held in numerous venues around the island, which raised awareness of important issues, including taxation, employment law and the support available from public sector development agencies. The Council will meet again in this sectoral format in Dublin on 1 November 2002.

*(Mr Deputy Speaker [Mr J Wilson] in the Chair)*

**The Deputy Chairperson of the Committee for Enterprise, Trade and Investment (Mr Neeson):** I thank the Minister for the statement and congratulate him on the successful outcome of last week's Washington conference. Will he elaborate on the details of the draft operating plan for 2003 for InterTradeIreland and particularly on the development of an all-Ireland business model, knowledge transfer and the promotion of private equity?

**Sir Reg Empey:** This is an outline of the main elements that are likely to be included in the draft operating plan, which will come before the autumn meeting of the North/South Ministerial Council (NSMC) for consideration and approval. Other agencies and Departments will be consulted fully to ensure that the proposals do not duplicate what is already available. There is little point in programmes in the different jurisdictions duplicating one another. The key focus of the body is to promote trade and business. I have drawn Members' attention to the huge potential for companies in each jurisdiction to benefit from public procurement. There are public procurement contracts worth between £7.5 billion and £10 billion on the island, and only a comparatively small percentage of that trade is won by companies in Northern Ireland. Our companies should have full access to public procurement in the Republic and vice versa.

The operating plan must take account of the way in which we are able to make progress with these concepts and implement them, because the objective is to enable trade to grow. We also wish to develop e-business so that companies, and small companies in particular, that are located in border areas are able to grow. We wish to encourage that policy throughout Northern Ireland, but it has a particular cross-border dimension.

We wish to deal with a range of issues, but I stress that the Assembly will be able to debate the full operating plan. It must be subject to approval, and I hope that as the company matures, we will be better placed to measure the increased trade and business development that it achieves.

**Dr Birnie:** I thank the Minister for his statement. I note his comments about exploiting the potential of digital technologies to promote trade. Has the NSMC in this sectoral format considered evidence on the percentage of companies in Northern Ireland and the Republic of Ireland that have constructed web sites as a marketing tool?

**Sir Reg Empey:** Yes. One of the Council's proposals is to develop portals where people can have access to information, and we must be aware that, under the auspices of the British-Irish Council, work is being done to improve communication and co-operation for building the knowledge economy. What is happening here is entirely consistent with, and complementary to, that approach. The improvement and extension of e-business and e-government is a Programme for Government commitment; we must set an example. There is the opportunity to promote the development of all-island trade via e-business, and the digital island programme would include proposals from either jurisdiction which could achieve that. I support the concept that the Member has suggested.

12.15 pm

**Dr McDonnell:** I congratulate the Minister and my Colleague, Carmel Hanna, the Minister for Employment and Learning, for the significant reduction in unemployment that has taken place over the past few years. I have no doubt that cross-border activity significantly contributes to job creation and has increased — *[Interruption]*.

**Mr Roche:** Absolute nonsense.

**Mr Deputy Speaker:** Order.

**Dr McDonnell:** Mr Deputy Speaker, I hear a noise in the wilderness. Can he be removed from the wilderness, or can the wilderness be removed from him?

**Mr Deputy Speaker:** Order. If the call had been from the wilderness I would not have called a point of order. The call was from the House, which makes it a point of order. The Member is entitled to be heard.

**Dr McDonnell:** Before I was so rudely interrupted I wanted to say that I am aware that much bureaucracy and inhibitory factors have to be dealt with and negotiated

before we can get full benefit from the North/South negotiations.

I am concerned about the digital island issue. We talk a great deal about e-government — much more so within Northern Ireland Departments — but as the 'Digital Island' discussion paper suggests, e-government affects the North/South dimension. I am frustrated by the inability of our Departments to get to grips with, and exploit, modern communication technology.

**Mr Deputy Speaker:** Order. Is there a question?

**Dr McDonnell:** Will the 'Digital Island' discussion paper do anything more than pay lip-service and, if so, what tangible results will we see within three years?

**Sir Reg Empey:** We have asked a working group to produce specific proposals, and its report will be available to us at our next meeting. In response to an earlier question I said that we are trying to promote the development of trade by e-business. It is not rocket science: it is a perfectly sensible thing to be doing, and it has potential. However, we must ensure that we are operating in an environment that is not going to separate us further from the wider market. Consequently, the British-Irish Council has taken up the matter also. Work is ongoing on a North/South and east-west basis, which is entirely appropriate.

We will be reviewing the report of the working group in the next few months. My next report to the House on the matter will give the Member an opportunity to judge whether there is simply more bureaucracy or whether the specific proposals will achieve something within three years. If the Member would hold his fire until he sees the report after the next meeting, he should be better able to make a judgement then.

**Mr Wells:** My Colleague, Mr Neeson, referred to the Washington summit, and I assume that there will be a statement to the House or the Committee on the outcome of that important meeting.

As regards digital technology, there is one issue that the Minister has not yet been able to come to grips with. Roaming charges might seem to be a small issue, but it gets up the noses of many people in south Down. If the North/South Ministerial Council is serious about dealing with the problems of digital technology, can the Minister understand the anger of someone living in Rostrevor or Warrenpoint who regularly finds that Republic of Ireland telephone companies are deliberately beaming strong signals into south Down? Mobile phone users are being forced to use their network to make and, even worse, receive telephone calls, and they are then faced with huge telephone bills at the end of the month. While travelling from Kilkeel to Newry, I regularly receive two or three text messages welcoming me to the Irish Republic when I have not even set foot inside it. *[Interruption]*. Recently, one of my Colleagues received a bill for £1.50 for three text messages that welcomed him to the Irish Republic



— and he had not even left Kilkeel. When will the Minister's Department get together with its counterpart in the Irish Republic to tell it to stop beaming these signals into Northern Ireland so that we can avoid incurring roaming charges?

**Sir Reg Empey:** Despite the hilarity in the Chamber, there is a serious point in Mr Wells's comments — if one can only find it. Telecommunications is a reserved matter and is the responsibility of the Department of Trade and Industry in London and its counterpart in the Republic.

The issue of roaming charges was raised at the last meeting of the British-Irish Council, when we pointed out that it is a double-edged sword. Signals are also beamed in the opposite direction — from Wales into the Republic, for example. Signals have a habit of crossing all sorts of borders. I am happy to take the Member's advice, and I will consult further with my Colleague across the border on how these matters may be addressed.

**Dr O'Hagan:** Go raibh maith agat, a LeasCheann Comhairle. There is an argument for all-Ireland harmonisation of mobile phone networks. That would do away with the problem, given that it is the same country.

How far advanced and how formalised are InterTradeIreland's contacts with all economic development agencies on the island of Ireland, including Invest Northern Ireland (INI), the Industrial Development Agency (IDA), Enterprise Ireland and a range of smaller, less well-known economic agencies?

**Sir Reg Empey:** InterTradeIreland has arranged and facilitated several meetings. Some organisations had never met before. However, these are free-standing organisations, and it is up to them to determine how often and with whom they meet. We cannot dictate. Several organisations identified the advantages of receiving supplies from companies located a few miles down the road. Previously, they had had no knowledge of the products that those companies sold. The potential also exists for import substitution. If businesses can shorten their supply lines, they can reduce stocks and become more efficient. Anything that can be done in rural areas to ensure that people start to build trade between one another is to our benefit.

The bulk of our trade is with Great Britain, and the other largest markets are the United States and the Irish Republic. Anything that can be done to boost trade and relationships is to be welcomed. As Mr Wells stated, I was in Washington last week, and I will consider how I might best inform Colleagues about that visit.

InterTradeIreland has run a series of roadshows. It meets regularly with the agencies, but it recognises that the agencies are free-standing and have their own remit. InterTradeIreland acts as a facilitator to raise awareness of the economic and social benefits of doing business with companies that are close at hand. One of InterTradeIreland's

tasks is to encourage and boost that trade, thereby creating and securing jobs close to home. That function is at the core of InterTradeIreland's existence. However, it cannot dictate how people should conduct their business. It can only facilitate and encourage businesses, and it is doing so effectively.

**Ms Morrice:** I was interested in the Minister's response to the previous question about how to boost trade on this island. He will not be surprised by my question. If InterTradeIreland is focusing on the promotion of trade and business, why was the euro not mentioned in the deliberations? Surely the introduction of the euro here would be the best and only way to boost trade. What are the practical outworkings of the currency differential for InterTradeIreland? The Minister said that we will be submitting joint bids to the European Union for the EUREKA programme, et cetera. Will those bids be in euros or sterling, and, on a practical level, are InterTradeIreland staff paid in euros or pounds?

**Sir Reg Empey:** I would never have guessed that the Member would raise that issue. Ms Morrice knows my views on the euro; I have repeated them several times in the House, and I am happy to do so again. I am working on the assumption that sterling will remain the currency of this country for the foreseeable future. I do not believe that the people of the United Kingdom wish to vote themselves into the single currency, so I do not envisage that happening in the immediate future.

However, the issue is not as simple as the Member says it is. Some businesses benefit from having sterling as their currency. Businesses using sterling to buy raw materials in the euro zone, or those that buy with a strong currency in international markets and sell into the dollar zone — as many of our businesses do — do better than those trading in euros.

If 12, 15 or 20 nations are brought together under a single currency, as proposed, not all of their economies will be compatible within a broader macroeconomy. They will not work at the same speed, nor will they have the same degree of development. It is not necessarily acceptable that the blunt instrument of a single interest rate should be used to control the money supply in those economies. Recently, for instance, the German economy would have benefited from a lower interest rate, but the Irish economy should have had a higher interest rate. The result is inflation.

It is horses for courses: some of our companies would benefit from being in the euro zone because the differential would no longer exist. The value of the euro has improved. However, the problem is not that sterling is overvalued; the euro is undervalued because it was created for political reasons. Some of the countries admitted into the single currency should not have been permitted to join. Some have already broken the rules, including Germany, one of the major economies, which

cannot meet its targets on budget deficits. Despite that, nothing will happen; the issue will be fudged around. That is why the euro is undervalued; people do not trust that it will be treated equally for economic reasons.

The staff of InterTradeIreland are paid in sterling. I stand to be corrected, but I understand that any European bids submitted to Brussels, including those to the peace and reconciliation fund, are converted into euros.

**Mr McMenemy:** I thank the Minister for his statement, and I look forward to the publication of the 'Digital Island' discussion paper. Recent research shows that a major digital divide exists in Northern Ireland: 53% of citizens aged 16 and over do not have access to the Internet. I call on the Minister and his Department to address that by providing financial aid for the areas of most need, especially west Tyrone.

12.30 pm

**Sir Reg Empey:** Oh dear. Team west Tyrone strikes again. I am conscious of the serious point that the Member has made. There is a digital divide, and we are aware of it. My Department is running several schemes to try to ensure that businesses, including those in west Tyrone, do not suffer from geographic isolation. We are running a scheme under which small businesses can apply for grant aid to get broadband Internet access via satellite. That is a way of ensuring an alternative for businesses that are too far away to have a cable service. We hope to connect 200 businesses in the current round, and I will be happy to let the Member know how many have been connected and how many are in his constituency. It is important to note that people must apply for that grant.

Furthermore, my Department has five advisers who go around the client base of Invest Northern Ireland, talk to businesses and draw their attention to the benefits that can be gained from broadband. In Invest Northern Ireland's Lisburn office, all the technologies are on display. People can go to see them at work and receive advice on them.

The Department is technology-neutral. We do not say that one technology is good or that another technology is not good. It is a question of providing people with examples and showing them how they work. There is a great deal of traffic in that office, and we are trying to promote it.

The Member's question goes beyond pure business. As a community, we must take the wider social issue seriously. Some countries, such as the Republic and America, have been more successful than others at increasing the number of people involved. There is a pilot project in inner-city Belfast that plans to connect several people in this way, because there are wider issues. However, our priority has been to get businesses connected, and the Department is running several schemes designed to encourage that.

**Mr Paisley Jnr:** The Minister referred to the 'Digital Island' discussion paper. Before we get to that point, Members remain to be convinced about digital Northern Ireland. The Minister knows that broadband and Bluetooth technologies are essential for the future development of Northern Ireland. Will he consider extending the availability of those services to rural communities in my constituency, such as Cullybackey, Ahoghill, Dervock and Stranocum, which are currently denied access to that network and are, therefore, denied any new incentive for employment? Will the Minister focus on the resolution of that issue before spending money on the bigger picture, which is less important than resolving Northern Ireland's own difficulties?

**Sir Reg Empey:** There is no question of people being denied access. A variety of technologies is available for broadband. I have just told Mr McMenemy that we are running a scheme under which people can apply for a grant of up to £1,500 or 50% of the cost of installation of a satellite-based broadband facility. The grant also includes a contribution to the first year's running costs.

Any business in any of the areas that the Member mentioned can apply to the Department. It will be visited by a departmental official and its suitability assessed, and a grant can be paid. Anyone in business in the Member's constituency has access to a scheme to enable the provision of broadband. This is specifically aimed at the type of rural situation to which Mr Paisley Jnr referred, where there is no reasonably priced access to cable.

One of the biggest encouragements for the companies to roll out their cabling and other facilities is "aggregation of demand". If the Member can encourage clusters of those involved in district councils, hospitals or schools — areas where there is a potential demand for broadband — to aggregate their demand to one of the companies, the company will then have the incentive to put the infrastructure in place. The Department is trying to do that locally through working with all the district councils.

That point also has cross-border application. In rural areas, particularly around the border, there may not be enough demand on one side, but if the demand on both sides were added together, both sides would benefit. That is the rationale for aggregating the demand and encouraging the cross-border element. That can help Northern Ireland because, on its own, its rural areas will not generate sufficient demand to stimulate the companies to put in the infrastructure.

Another development is the possibility of a wireless-based technology where a cluster can be established. There is £1.5 million available for that from the Department of Enterprise, Trade and Industry in London. Mr Paisley Jnr is correct; it is a key issue, but it is being addressed. The facilities and the understanding are there. The key driver is not the supply of wireless-based technology, but the demand for it. It may cost British Telecom between £100,000 and £200,000 to convert an

exchange such as ADSL only to find that it has just half a dozen customers. That is of no use to British Telecom, so demand for an exchange must be stimulated, and anything that the Member can do in that regard would be appreciated.

**Mr Molloy:** Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister for his statement and for his detailed answers. What progress has been made on the creation of the all-Ireland trade directory in which InterTradeIreland is involved? The Minister said that the North/South Ministerial Council received a verbal report from the chief executive of InterTradeIreland, but surely in 'Digital Island' a report of a different type could have been made available through modern technology.

**Sir Reg Empey:** The all-Ireland trade directory is not covered in this report. Work on the directory is ongoing, and I will write to Mr Molloy with details.

Inevitably, the Council will receive verbal reports, because the meetings take place up to several weeks after the relevant paperwork goes out. Also, there are other matters on which the Council must be updated, and it will want to question the chief executive of InterTradeIreland when he is there. Not everything can be done in writing, but I accept Mr Molloy's point. However, I think that there will always be a verbal report, and it is appropriate that the chief executive, to be accountable, be available for the Council to question face to face.

## NORTH/SOUTH MINISTERIAL COUNCIL

### Food Safety and Health

**Mr Deputy Speaker:** I have received notice from the Minister of Health, Social Services and Public Safety that she wishes to make a statement.

**The Minister of Health, Social Services and Public Safety (Ms de Brún):** Go raibh maith agat, a LeasCheann Comhairle. Is mian liom tuairisc a thabhairt don Tionól ar chruinniú den Chomhairle Aireachta Thuaidh/Theas a tionóladh i bhformáid earnáileach in Ard Mhacha Dé hAoine 28 Meitheamh 2002. Ag an chruinniú seo breithníodh ábhair a bhaineann leis an Bhord um Chur Chun Cinn Sábháilteachta Bia agus le comhoibriú ar shaincheisteanna sláinte.

Arna ainmniú ag an Chéad-Aire agus ag an LeasChéad-Aire, d'fhreastail an tUasal James Leslie, Aire in Oifig an Chéad-Aire agus an LeasChéad-Aire, agus mé féin ar an chúigiú cruinniú den Chomhairle san earnáil sábháilteachta bia agus in earnáil na sláinte. Ba é an tUasal Mícheál Martin, an tAire a bhfuil cúram na Roinne Sláinte agus Leanaí air, a rinne ionadaíocht thar ceann Rialtas na hÉireann.

Tá an ráiteas seo, a cheadaigh an tUasal James Leslie, á thabhairt ar a shon chomh maith.

Fuair an Chomhairle tuairisc ar an dul chun cinn a rinneadh ar riarachán agus ar obair an Bhoird um Chur Chun Cinn Sábháilteachta Bia. Bhí cur síos sa tuairisc ar an dul chun cinn a rinneadh ar chomhoibriú eolaíoch agus ar chomhnaisc shaotharlainne agus ar mhalartuithe foirne; an fhorbairt atá á déanamh ar fhóram bia agus cothaithe uile-oileáin; an cur chun cinn atá a dhéanamh ar fhaireachán trasteorann ar ghalair bhia-iompraithe; agus feachtas ilmheáin arb aidhm dó a chinntiú go ngéillimid do reachtaíocht sláinteachtais.

D'fháiltigh an Chomhairle roimh an dul chun cinn a rinne an Bord um Chur Chun Cinn Sábháilteachta Bia agus é ag cur a chlár oibre i gcrích.

Rinne an Chomhairle straitéis chorporáideach 2002-04 an bhoird a bhreithniú agus a cheadú. Déanfar athbhreithniú ar an phlean gach bliain sa phleanáil bhliantúil gnó nuair is féidir spriocanna a uasdhátú más gá. Cuirfear an phlean bliantúil faoi bhráid na Comhairle Aireachta Thuaidh/Theas gach bliain.

Cheadaigh an Chomhairle dréachtplean ag aimsiú riachtanas sóisialta nua an bhoird, a leasaíodh i ndiaidh comhairliúcháin phoiblí, agus scéim chomhionannais leasaithe an bhoird atá le cur faoi bhráid an Choimisiúin um Chomhionannas lena cheadú.

Fuair an Chomhairle cur i láthair ar ghníomhaíochtaí an tionscnaimh comhoibriú agus ag obair i gcomhar.



Maidir le saincheistanna na hearnála sláinte, fuair an Chomhairle tuairisc ar an dul chun cinn a rinneadh ar an chlár oibre a comhaontaíodh ag cruinnithe cheana. Ar na tosaíochtaí a aimsíodh le haghaidh comhoibriú tá seirbhísí taismí agus éigeandálaí, pleanáil le haghaidh olléigeandálaí, comhoibriú ar threalamh ardteicneolaíochta, taighde ar ailse, agus cur chun cinn sláinte.

Chuala an Chomhairle faoin dul chun cinn atáthar a dhéanamh maidir le comhoibriú trasteorann i seirbhísí otharlainne atá faoi cheannas an Ghrúpa Thuaidh/Theas um Seirbhísí Otharlann Réigiúnach. Sa tuairisc seo bhí cur síos ar chúrsaí maidir le nódú orgán sa Deisceart agus conas a b'fhéidir na seirbhísí seo a leathnú ar bhonn uile-oileáin.

Thacaigh an Chomhairle leis an dul chun cinn a rinne meithleacha oibre ar phleanáil le haghaidh éigeandála. Cuireadh an Chomhairle ar an eolas faoi phleananna maidir le comhoibriú agus ag obair i gcomhar ról bainistíochta a ghlacadh chuige féin ag forbairt pleanála le haghaidh éigeandála agus cúram réamh-ospidéal.

Cuireadh in iúl don Chomhairle gur ceapadh sainchomhairleoirí le staidéar féidearthachta a thionscnamh ar na costais agus na sochair a bhaineann le seirbhís míochaine éigeandála ingearáin a chur ar fáil. Fuair an Chomhairle tuairiscí ar an dul chun cinn a rinneadh ar chomhoiliúint seirbhísí dóiteáin thuaidh/theas ar thaismí tráchta bóthair.

Thug an Chomhairle dá haire go bhfuil obair á déanamh i gcónaí in ábhair ina bhféadfaí comhoibriú trasteorann a thionscnamh, lena n-áirítear taighde breise agus anailís le meas cad é mar a rachadh teicneolaíocht tomagrafaíochta astaithe positron ar bhonn uile-oileáin chun sochair don tsláinte.

Hinseadh don Chomhairle go bhfuiltear ag déanamh taighde le fáil amach arbh fhéidir comhoibriú a dhéanamh ar bhonn uile-oileáin ar sholáthar seirbhísí agus ar oiliúint oibríochtúil i seirbhísí taca riachtanacha san earnáil géarmhíochaine.

Thug an Chomhairle dá haire go bhfuil comhoibriú ar siúl sa Chuibhreannas Ailse ar Thaighde Ailse. Thug an Chomhairle dá haire gur fógraíodh maoiniú suntasach breise le haghaidh taighde teiripe ailse agus forbairtí i gcomhordú trialacha cliniciúla ar bhonn uile-oileáin.

Thug an Chomhairle dá haire an dul chun cinn a rinneadh go dtí seo i dtionscnamh chur chun cinn sláinte, lena n-áirítear na torthaí spreagúla ón mheasúnú a rinneadh ar an fheachtas aigéid fhólaigh.

D'aontaigh an Chomhairle gur sa Deisceart i nDeireadh Fómhair 2002 a bheadh an chéad chruinniú eile sna hearnálacha seo.

D'aontaigh an Chomhairle ar théacs na teachtaireachta a eisíodh i ndiaidh an chruinnithe. Cuireadh cóip den teachtaireacht sa Leabharlann.

I wish to report to the Assembly on the meeting of the North/South Ministerial Council held in sectoral format in Armagh on Friday 28 June 2002. The meeting considered matters relating to the Food Safety Promotion Board and co-operation on health issues.

12.45 pm

Following nomination by the First and Deputy First Ministers, Mr James Leslie, junior Minister in the Office of the First Minister and the Deputy First Minister, and I attended the fifth meeting of the Council in its Food Safety and Health sectoral format. Mr Micheál Martin, the Minister with responsibility for the Department of Health and Children, represented the Irish Government. This statement has been approved by Mr Leslie and is also made on his behalf.

The Council received a progress report on the administration and work of the Food Safety Promotion Board, which included details of progress on scientific co-operation; laboratory link and staff exchanges; the development of an all-island food and nutrition forum; the promotion of cross-border surveillance of food-borne diseases; and a multi-media campaign aimed at improving compliance with hygiene legislation.

The Council welcomed the progress made by the Food Safety Promotion Board on advancing its programme of work. The Council considered and approved the board's corporate strategy for 2002-04. The plan will be reassessed annually in the context of the annual business planning process, during which targets can be updated as necessary, and it will be submitted to the North/South Ministerial Council annually. The Council approved the board's draft New TSN plan, which was amended after public consultation, and the board's amended equality scheme for submission to the Equality Commission.

The Council received a presentation on the current activities of the co-operation and working together initiative (CAWT).

The Council received progress reports on the programme of work on health sectoral matters that it had agreed at previous meetings. The priorities identified for co-operation include accident and emergency services; planning for major emergencies; co-operation on high-technology equipment; cancer research and health promotion.

The Council heard progress reports on the continuing cross-border co-operation in hospital services overseen by the North/South Regional Hospital Services Group (NSRHSG), which included the current position on organ transplantation in the South and the possibility of developing the services on an all-island basis.

The Council endorsed the progress made by emergency planning working groups. It was informed of plans for CAWT to undertake a project management role in developing emergency planning and pre-hospital care initiatives.

The Council was also advised of the appointment of consultants to undertake a feasibility study on the costs and benefits associated with the introduction of an all-island helicopter emergency medical service. It also received progress reports on joint North/South fire-service training for road-traffic accidents.

In addition, the Council noted that work is continuing in several areas that have potential for cross-border co-operation, including further research and analysis to gauge the potential health gain from positron emission tomography (PET) technology on an all-island basis. The Council was also informed that the potential for all-island co-operation on procurement and operational training in essential support services in the acute sector is being researched.

The Council acknowledged the continuing co-operation on cancer research within the cancer consortium. It also noted the announcement of further significant funding for cancer therapy research and the developments to date in the co-ordination of all-island clinical trials.

The Council recognised progress on several health promotion initiatives, including the encouraging results from the evaluation of the folic acid campaign.

The Council agreed that its next meeting in these sectoral formats would take place in the South in October 2002. It approved the text of the communiqué that was issued after the meeting, a copy of which has been placed in the Library.

**The Chairperson of the Committee for Health, Social Services and Public Safety (Dr Hendron):** I welcome the Minister's report. I am aware of the good work that the Food Safety Promotion Board does across the island of Ireland. The board spoke to the Committee in May about its current programme.

First, as child-protection issues are dear to all our hearts, I would appreciate it if the Minister could expand on the co-ordination of child-protection issues on the island of Ireland, North and South.

Secondly, I welcome the development of emergency planning and the exploration of initiatives such as the helicopter emergency medical service. However, can the Minister comment on the feasibility study that is examining the introduction of an all-Ireland service and on the fact that the Royal Group of Hospitals, which provides key regional services, does not have its own helipad?

My final point is about positron emission tomography (PET), an issue that the Minister has led over the past couple of years. As Members will know, PET technology goes far beyond MRI scanning. Although it is available at Blackrock in Dublin, and now at the Royal Hospital for the people of Northern Ireland, can the Minister comment on the work that has been carried out with regard to that technology on an all-Ireland basis?

**Ms de Brún:** I welcome the fact that as a result of a significant charitable donation we now have an initial PET scanner at the Royal Group of Hospitals in Belfast. A framework for evaluating the benefits of that new technology will be in place once the facility begins proper operation.

With regard to the North/South Ministerial Council, so far the joint co-operation work has focused on building a framework for the shared learning of the clinical benefits of PET. The development of a PET clinical scanning service would be an appropriate area for North/South co-operation.

The work on child-protection issues is progressing. The lead on that is within the education sector, but I have clearly taken an interest in that too. My officials are members of the working group, and I am delighted with the progress it has made. With regard to the work that I undertook, individuals applying for paid and unpaid work with children are checked through the Pre-Employment Consultancy Service (PECS), which is operated by the Department. As well as checks carried out against criminal records, checks are also carried out against the PECS register. Similar lists held by the Department of Education here, the Department for Education and Skills and the Department of Health in England and Wales are also checked. The criminal records of individuals moving here from England, Scotland, Wales or the South are also examined, including information on convictions, cautions and bind overs.

As reported, work is ongoing with regard to the helicopter emergency medical service. The consultants have not come back yet with any detail on the options for the locations of such a service and, therefore, have not commented on the specifics of what is available in each hospital.

**Mrs I Robinson:** Can the Minister confirm that we will be the driving force in any new helicopter emergency medical service and that it will be based in Northern Ireland? Has there been any discussion with her counterparts in the west of Scotland, who would also benefit from the service owing to the close proximity of Scotland's coast?

**Ms de Brún:** Before looking at the matter on an all-Ireland basis, we investigated journey times from Scotland, and the fastest times were still well outside what is needed here. I mentioned the options for the locations of such a service in terms of the all-Ireland study, which has now been commissioned, because we are not necessarily looking at one single location for such a service, and the group's terms of reference allow it to look at several options.

**Ms Ramsey:** Can the Minister detail the progress that has been made on health promotion initiatives? I congratulate the North/South Ministerial Council on the successful folic acid campaign. Can the Minister copy the encouraging results of that campaign to Members?

**Ms de Brún:** I welcome recognition of the success of the folic acid campaign. The North/South Ministerial Council welcomed the televised public information campaigns on folic acid and on physical activity. The Council was also informed about collaboration on smoking issues, about discussions on the introduction of an all-Ireland Healthy Eating Circle awards scheme and on the feasibility of the development of an all-Ireland food and nutrition strategy. An all-Ireland conference on physical activity has been arranged for 27 and 28 November 2002 in the Canal Court Hotel in Newry. The results of lifestyle surveys that compare information on general health and lifestyle throughout the islands will be published towards the end of the year. I have previously reported to the Assembly that consideration was being given to the appointment of dedicated programme managers. A programme manager will soon be appointed by the Health Promotion Agency to help to develop and co-ordinate a strategically planned joint health-promotion programme.

**Ms McWilliams:** The Minister referred to an all-Ireland physical activity conference — rather than an all-Ireland physical activity and exercise evaluation — which MLAs might be asked to attend.

I have given some thought to a recent case in south Belfast that has some bearing on improving compliance with hygiene legislation. The current legislation is weak, so it would not be much to ask that compliance with that legislation be encouraged. The case involved a bakery that supplied food to local hospitals. It had broken nine food hygiene orders and was prosecuted. The magistrate allowed the case to be adjourned on three occasions, so perhaps consideration should be given to training the judiciary. The bakery continued to do business even though nine prosecution orders had been served. The maximum fine for breaking legislation is only £500, which is minimal for a business that can cause illness. That issue must be dealt with if there is to be compliance.

What is the maximum fine in the Republic of Ireland? Are fines much higher there than in Northern Ireland? If fines were higher, it would make more sense to ask for compliance. Businesses pay little attention to hygiene orders because the fines are not high enough.

I am heartened that research into cancer therapy is being undertaken —

**Mr Deputy Speaker:** Order. The Member is taking a long time to get to the question. I believe that you are about to preface a question.

**Ms McWilliams:** I assure you, Mr Deputy Speaker, that the question is short. I welcome all-Ireland clinical trial activity, because it lends itself well to cancer research. Will the significant funding for cancer therapy research come from the block grant? What is the level of that funding?

**Ms de Brún:** I am unsure about the precise range of activities in the field of cancer research on which the Member seeks information.

Following a review, funding of 1.9 million euros for clinical trials was announced in November 2002. Six awards were made, including two planning grants. Additional funding of 0.7 million euros was made available by the Department of Health and Children to support the next phase of the initiative in 2002, the call for proposals. A second call to hospitals was issued in February 2002.

1.00 pm

The objective for the appropriate model for the development of clinical trials infrastructure in Ireland is to fund several centres to carry out high-quality clinical research trials to a level similar to that already achieved in Belfast City Hospital and to fund an all-Ireland clinical trials group to co-ordinate the trial activity of funded hospitals.

Regulation and compliance with hygiene legislation is a matter for the Food Standards Agency. I will raise that matter with the agency.

**Mr McFarland:** The Minister will be aware of concern about cross-border hospitals. In her progress report on continuing co-operation, was there any more enlightenment on where the cross-border development plan for the Cavan, Sligo and Erne hospitals, which has left Tyrone completely bereft of any hospital support, is going? Was that discussed at the meeting?

Dr Hayes's study contained a substantial body of information, especially from America, concerning helicopter transport in medical situations. I understand that helicopter transport has been extensively tested in America. The advice given to Dr Hayes was that light aircraft use was fine, but that helicopters were extremely dangerous in medical cases because of their unreliability in the air. Was that discussed at the meeting? Will she speak to Dr Hayes?

**Ms de Brún:** The study that has been commissioned is on the feasibility, as well as the costs, of a helicopter emergency medical service. Members will be aware that successive North/South Ministerial Council meetings have discussed that issue and that the Ministers who have attended those meetings have endorsed it. There is, of course, cross-party representation from the Assembly at those meetings. We have decided to commission the feasibility study, including options for the locations of such a service. The study will consider all matters impinging on the feasibility of such a service.

On the question of developing better services, I do not agree with the Member's wording of his question, as frequently happens. I come to it with a slightly different outlook. However, I informed the North/South Ministerial Council health sector meeting that I had, in the plenary session of the Council that morning, referred to my



announcement on 12 June of proposals for modernising hospital services and restructuring health and social services and that the strategy was tabled for discussion at the last meeting of the North/South regional hospital service group.

The Member will be aware that the permanent secretary of my Department and the secretary general of the Department of Health and Children have had specific discussions on the potential use of hospitals in the South by people from the Fermanagh and Tyrone areas. Minister Martin and I have also spoken about my proposals for modernising services and have agreed to meet for further discussion on those matters. It is important to note the report that was made at that meeting. As regards the ongoing work, a further meeting with Minister Martin is planned, as I have said.

The North/South Regional Hospital Services Group, which was established to consider the opportunities for developing partnerships, covers the wider regional and supraregional services, as that work is more localised. Minister Martin and I have agreed that the resources required for an examination of the specific use of hospitals in that area can best be taken forward by officials. A small team of my officials will visit hospitals in Monaghan, Cavan, Sligo and Letterkenny to discuss with clinicians and officers of the North Eastern and North Western Health Boards services that those hospitals might provide for people in Fermanagh and Tyrone. I expect the first stage of the work to be completed by the end of September.

**Mr Molloy:** Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister for her statement and the details about the conference. Does the Council recognise the considerable achievements of co-operation and working together (CAWT) with the GP out-of-hours services and its overall work on cross-border initiatives? In terms of the interlinking of hospital services, it is important that the review takes into account not just Cavan and Monaghan, but other counties in Ireland. Under the new proposals, which county in Ireland, other than Tyrone, will not have babies born in it? Will the Minister consider those matters?

**Ms de Brún:** Given the range of different maternity services that are being proposed, I do not know if it is possible to say that, in future, there will be any counties in which no babies are born. Notwithstanding that, my overall responsibility is to ensure that the best possible services are delivered to the population of a given area. Thus, my proposals offer the best possible configuration of services for the people of Fermanagh and Tyrone and for the entire population.

The Council received a report from CAWT and welcomes its work. A feasibility study commissioned by CAWT on the GP out-of-hours services has been undertaken by the University of Ulster and the National

University of Ireland, Galway. The study found that approximately 70,000 people, North and South, are closer to out-of-hours services across the border. Furthermore, up to 70% of that population live in areas that can be classed as socially deprived. A number of detailed legislative, financial and practical issues have been addressed in the feasibility study, and the CAWT management board is considering a proposal to provide further support under INTERREG III for two pilot projects to test the concept of establishing cross-border arrangements to allow people easier access to GP out-of-hours services wherever they live.

**Mr Savage:** I also welcome the Minister's statement. One of the issues that concerns me is organ transplantation. Will those services be expanded in Northern Ireland?

**Ms de Brún:** We are examining that area closely. Not only does working together in this way make sense, it also allows us to do things that would otherwise not be possible. I have great hopes for that area.

## FAMILY LAW (DIVORCE ETC) BILL

### First Stage

**The Minister of Finance and Personnel (Dr Farren):** I beg leave to lay before the Assembly a Bill [NIA 1/02] to make provision for certain general principles in the exercise of functions under the Matrimonial Causes (Northern Ireland) Order 1978; to amend Article 3 of that Order and Article 3 of the Domestic Proceedings (Northern Ireland) Order 1980; to provide for mediation in proceedings under those Orders; and to make provision for the equal treatment of husband and wife in certain cases.

*Bill passed First Stage and ordered to be printed.*

**Mr Deputy Speaker:** The Bill will be put on the list of pending business until a date for its Second Stage has been determined.

## AREAS OF SPECIAL SCIENTIFIC INTEREST BILL

### First Stage

**The Minister of the Environment (Mr Nesbitt):** I beg leave to lay before the Assembly a Bill [NIA 2/02] to make new provision with respect to areas of special scientific interest.

*Bill passed First Stage and ordered to be printed.*

**Mr Deputy Speaker:** The Bill will be put on the list of pending business until a date for its Second Stage has been determined.

## SOCIAL SECURITY BILL

### First Stage

**The Minister for Social Development (Mr Dodds):** I beg leave to lay before the Assembly a Bill [NIA 3/02] to amend the law relating to statutory maternity pay; to amend the law relating to maternity allowance; to make provision for work-focused interviews for partners of benefit claimants; to make provision about the use of information for, or relating to, employment and training; to amend the Deregulation and Contracting Out (Northern Ireland) Order 1996; and for connected purposes.

*Bill passed First Stage and ordered to be printed.*

**Mr Deputy Speaker:** The Bill will be put on the list of pending business until a date for its Second Stage has been determined.

## HEALTH AND PERSONAL SOCIAL SERVICES BILL

### Final Stage

**The Minister of Health, Social Services and Public Safety (Ms de Brún):** Molaim go ritear an Bille Sláinte agus Seirbhísí Sóisialta agus Pearsanta anois.

I beg to move

That the Health and Personal Social Services Bill (NIA 6/01) do now pass.

**The Chairperson of the Committee for Health, Social Services and Public Safety (Dr Hendron):** The Committee for Health, Social Services and Public Safety supports this important Bill and is pleased that it has reached its Final Stage. I have nothing to add to what I said at earlier stages.

*Question put and agreed to.*

*Resolved:*

That the Health and Personal Social Services Bill (NIA 6/01) do now pass.

## SOCIAL SECURITY BILL

### Accelerated Passage

**The Minister for Social Development (Mr Dodds):** I beg to move

That, in accordance with Standing Order 40(4), this Assembly grants accelerated passage to the Social Security Bill (NIA 3/02).

The Bill is an important piece of legislation, as it makes provisions for Northern Ireland that correspond to the social security provisions that are contained in the Employment Act 2002. The Bill also amends article 17 of the Deregulation and Contracting Out (Northern Ireland) Order 1996 to ensure proper control by the Assembly of Orders that are made under that article.

There is a long-standing principle of parity between Great Britain and Northern Ireland in the fields of social security, pensions and child support. Given that people in Northern Ireland pay the same rate of income tax and National Insurance contributions as those in Great Britain, they are entitled to expect changes in the legislation in Great Britain to apply in Northern Ireland with minimal delay.

*1.15 pm*

The Employment Act 2002 received Royal Assent on 8 July, and the Department for Work and Pensions is introducing several of its substantive provisions, especially those relating to the use of information and to maternity pay, as a matter of urgency.

In addition, clause 7 of the Bill seeks to amend article 17 of the Deregulation and Contracting Out (Northern Ireland) Order 1996 to allow for Assembly control of a proposed carers Order to deal with the deregulation of carers' allowance.

The carers Order will allow carers aged 65 and over to claim invalid care allowance for the first time; it will extend entitlement to invalid care allowance for up to eight weeks after the death of a disabled person; and, to make it clearer that the benefit is for carers and their needs, it will change the name of the benefit to "carers' allowance" from April 2003.

The removal of the upper age limit for claims to invalid care allowance means that carers aged 65 and over without a retirement pension, or with a reduced rate of retirement pension, will be able to receive the benefit, thus increasing their income by up to £42.45 per week. It will also give carers who receive the minimum income guarantee access to the carer premium, which is £24.80 per week.

The provision for carers aged 65 and over to claim for the first time and the extension of entitlement for up to eight weeks after the death of a disabled person are

scheduled to come into operation across the country on 28 October 2002. It is, therefore, vital that the Bill be granted accelerated passage so that carers aged 65 and over can enjoy the benefits of invalid care allowance from the same date as their counterparts elsewhere in the country. To do otherwise would be to disadvantage our carers aged 65 and over.

Although the statutory maternity pay changes are not due to come into operation until 6 April 2003, the changes to the period of notice to be given to an employer and the safeguarding of statutory maternity pay from the fifteenth week before the expected week of confinement will apply to women with an expected date of confinement of 6 April or later. For that reason, clause 3 of the Bill must be introduced early to allow regulations coming into operation in November 2002 to be made.

I am, therefore, asking that the Bill proceed under the accelerated passage procedure outlined in Standing Order 40(4) so that we can bring Northern Ireland law on such matters into line with that in Great Britain with the minimum of delay. The use of the accelerated passage procedure means that there will not be a formal Committee Stage. However, I met the Committee for Social Development recently to discuss the provisions of the Bill, including the reasons for seeking accelerated passage. There will be opportunities for Members to make their views known during the Second Stage, Consideration Stage and Further Consideration Stage.

**The Chairperson of the Committee for Social Development (Mr Cobain):** The Minister notified the Committee of his intention to seek accelerated passage at the beginning of August, and he agreed to attend a specially convened meeting on 29 August to explain the reasons behind that request. At that meeting, the Minister said that the Bill is a parity measure because it replicates social security provisions contained in the Employment Act 2002 — legislation that has been enacted in Westminster. The Minister also said that he felt it necessary to make minor amendments to the Deregulation and Contracting Out (Northern Ireland) Order 1996.

We listened carefully to what the Minister said. The Committee welcomed the Minister's assurances that the provisions in this Bill are beneficial. We are satisfied that that is the case. The Committee also accepted the Minister's contention that it is important to ensure that people in Northern Ireland benefit from these changes at the same time as they are introduced in Great Britain.

In the light of the Minister's assurances, the Committee agreed not to object to his request that the Bill be granted accelerated passage.

**Mr O'Neill:** As the Chairperson and the Minister have said, the legislation is important. The Committee supports the use of accelerated passage because, on examining the Bill, it is clear that recipients would be disadvantaged by delay.

However, as you are aware, Mr Deputy Speaker, there is always concern about the use of accelerated passage. At the Committee meeting that the Chairperson has just mentioned, I suggested to the Minister that he bring early notification of any changes to Statutory Rules to the Committee for scrutiny, and the Minister was agreeable to that idea. Clearly, his Department will be in touch with its counterpart in Westminster about the legislative process. If some early correspondence could be given to us — not necessarily for this Bill, but for other procedures — the Committee could have an opportunity to scrutinise Bills at an earlier stage.

**Ms McWilliams:** I too was concerned when I heard that accelerated passage was being proposed for this Bill, but having heard the Minister I understand the reason for it, which is that no one should lose out as a result of late payments.

I am heartened by Mr O'Neill's comments that the Committee will be able to scrutinise Statutory Rules as they proceed. I am not a member of the Committee for Social Development, but I made it my business to ask a member about the range of benefits that the Bill covers. The Minister mentioned the carers' allowance. We took that legislation through the Committee for Health, Social Services and Public Safety.

I heard the Minister say that this will be a devolved matter, and, therefore, I assume that the Minister will produce the rules and regulations himself. Simply put, will parity have the same effect as it does for many other benefits? In other words, will they be paid at the same rates, or will there be discretion in Northern Ireland for variation in the carers' allowance?

**Mr Dodds:** I am grateful to the Chairperson of the Committee and to Mr O'Neill for their remarks. I was grateful for the opportunity to explain to the Committee why the Department was seeking accelerated passage for this Bill. I would prefer to avoid that process where possible, but we must treat each of these parity measures on their merits, and we will have to return to the issue. The underlying principle must be that because people in Northern Ireland pay the same rates of tax, National Insurance and pension contributions as their counterparts elsewhere in the country, they are entitled to the same rates of benefits at the same time and on the same conditions.

Therefore, I am grateful that there will be no objection to accelerated passage in this case, but at the Second Stage and further stages there will be an opportunity to go into more detail on the substance of the Bill.

In answer to Ms McWilliams, clause 7 has been inserted in the Bill to give the Assembly control over the carers' Order. Social security is ultimately a devolved matter, although under the terms of the Northern Ireland Act 1998, there is for the first time a statutory provision that requires the Minister for Social Development and the Secretary of State for Work and Pensions to agree to

implement a single system of social security and to implement parity.

The Northern Ireland Assembly can alter the rates of various benefits. However, whether those benefits are demand-led or paid directly by Treasury, the necessary extra money would have to be found from the Northern Ireland block. In Northern Ireland, the complex social security systems are so intimately tied in with the system throughout the rest of the UK that we would have to fund the costs of separating the computer systems in order to deliver that sort of benefit change. The cost would be severe, and the underlying principle of parity between Northern Ireland and the rest of the UK, which has been to our advantage over the years, would be breached.

I ask Members to support the granting of accelerated passage to the Social Security Bill.

**Mr Deputy Speaker:** I remind Members that the motion requires cross-community support.

*Question put and agreed to.*

*Resolved (with cross-community support):*

That, in accordance with Standing Order 40(4), this Assembly grants accelerated passage to the Social Security Bill (NIA 3/02).

**Mr Deputy Speaker:** The Bill will receive its Second Stage on 10 September 2002.

## SPEAKER'S BUSINESS

**Mr Deputy Speaker:** In the course of the debate on the Final Stage of the Health and Personal Social Services Bill, I neglected to call Mr McCarthy to speak: I did not spot his name on the list of Members wishing to speak. I apologise to the House and to Mr McCarthy for that omission.

**Mr McCarthy:** I accept your apology, Mr Deputy Speaker. I was disappointed that I did not get the opportunity to speak. As Members will recall, I introduced a number of important amendments to the Bill in June relating to free personal care.

## STRATEGIC PLANNING BILL

### Committee Stage (Period Extension)

**The Chairperson of the Committee for Regional Development (Mr A Maginness):** I beg to move

That, in accordance with Standing Order 31(5), the period referred to in Standing Order 31(3) be extended to 25 November 2002, in relation to the Committee Stage of the Strategic Planning Bill (NIA 17/01).

The Strategic Planning Bill received its Second Stage on 25 June and was referred to the Committee for Regional Development on 26 June. Although the Bill is primarily technical in nature, it is, nevertheless, an important piece of legislation.

The Committee is, therefore, anxious to ensure that it carries out its responsibilities and conducts a rigorous scrutiny of the Bill. To that end, the Committee wishes to call several witnesses, and it is important that sufficient time be allocated to allow the Committee to consider the evidence. Other Committee work pressures are building up, which will add to difficulties in considering the Bill within the limit of the prescribed 30 days. Therefore, on behalf of the Committee, I seek an extension to 25 November 2002 to allow sufficient time for the Committee to consider the Bill and report its findings. I ask Members for their support.

*Question put and agreed to.*

*Resolved:*

That, in accordance with Standing Order 31(5), the period referred to in Standing Order 31(3) be extended to 25 November 2002, in relation to the Committee Stage of the Strategic Planning Bill (NIA 17/01).

## AD HOC COMMITTEE ON DRAFT FIREARMS (NORTHERN IRELAND) ORDER 2002

*Resolved:*

That, pursuant to Standing Order 48(7), this Assembly appoints an Ad Hoc Committee to consider –

The proposal for a draft Firearms (Northern Ireland) Order 2002 referred by the Secretary of State and to submit a report to the Assembly by 17 December 2002.

Composition:	UUP	2
	SDLP	2
	DUP	2
	SF	2
	Other parties	3

Quorum: The quorum shall be five.

Procedure: The procedures of the Committee shall be such as the Committee shall determine. — [*Ms McWilliams.*]

*The sitting was suspended at 1.30 pm.*



2.30 pm

*On resuming (Mr Speaker in the Chair) —*

## Oral Answers to Questions

### FIRST MINISTER AND DEPUTY FIRST MINISTER

**Mr Speaker:** I wish to inform Members that question 10 in the name of Mrs Courtney has been withdrawn and will receive a written answer.

#### World Summit

1. **Mr McCarthy** asked the Office of the First Minister and the Deputy First Minister to make a statement on the Executive response to the World Summit on Sustainable Development. (AQO 31/02)

12. **Mr Davis** asked the Office of the First Minister and the Deputy First Minister to give details of the First Minister's recent visit to South Africa; and to make a statement. (AQO 17/02)

**The First Minister (Mr Trimble):** I went to South Africa to represent Northern Ireland as part of the United Kingdom delegation at the World Summit on Sustainable Development. The Deputy First Minister had intended to attend also but, sadly, was unable to do so because of his mother's terminal illness. I am sure that the Assembly will join me in extending to him sincere sympathies on her death.

The summit drew up an important international programme for sustainable development. It agreed on actions for, among other things, sanitation; water supplies; the conservation of fish stocks and other natural resources; and the further development of renewable energy. The Executive had begun to tackle those and related issues before the summit. As Members know, sustainable development is a key cross-cutting theme that underpins the work and priorities set out in the Programme for Government. In the coming months, the Executive will consider the summit's implications for us. We shall combine those findings with the outcome of our consultations on the Northern Ireland sustainable development strategy. The Executive have also recently published the Northern Ireland biodiversity strategy.

While I was at the summit, I took the opportunity to develop a sustainable homes project at a township called Ivory Park, near Johannesburg. I also looked at three community development projects near Cape Town. I met the Premier of the Western Cape Province and several of his ministerial colleagues to discuss those and related matters. I also met the Canadian Prime Minister, the Israeli

Foreign Minister, the Vice-President of Colombia and a senior representative of the Movement for Democratic Change in Zimbabwe. I also met Cyril Ramaphosa, members of the South African Human Rights Commission and several other interesting personalities.

**Mr McCarthy:** On behalf of my party, I offer my sympathy to the Deputy First Minister Mark Durkan on the sad loss of his mother last week.

I hope that the First Minister's trip to South Africa was inspirational and that, after meeting so many important people, he has brought home fresh ideas. Does he intend to introduce a statutory duty for sustainable development along the lines of that introduced for the National Assembly for Wales in the Government of Wales Act 1998? If not, what plans does he have? Does he envisage committing this Assembly to the principles of sustainable development by putting it at the heart of our decisions, programmes, policies and ways of working?

**The First Minister:** I am sorry to say that I am not familiar with the Welsh legislation, but we shall consider it and the Member's proposal.

We shall also consider the implications of the UN summit. We face challenges in several areas, particularly with regard to renewable energy. The agreements reached in Johannesburg on water and related matters are very important for the Third World. They put in place standards that do not exceed those that apply to us under European Directives. As the Member knows, we have much work to do to ensure that the water supply and water services in Northern Ireland meet the standards set by the European Directives, which are higher than the UN-sponsored standards set in Johannesburg. We shall consider the ongoing strategies and responses to consultation papers to establish whether we should take more general action in response to need.

**Mr Davis:** Can the First Minister comment on development being the main means by which poverty will be tackled in developing countries?

**The First Minister:** I was particularly struck by the position in some of the townships around Johannesburg and Cape Town. Of course, while one wants development to be sustainable, the key need in the Third World is for actual development. To achieve effective development, there must be a clear opportunity for people to participate in the economy and, indeed, a stable legal order for that to happen. We are conscious of huge opportunities in development. Although we have no direct responsibility for that and it is not something that we can directly assist, Members will want to see the ideas from the UN summit being carried forward.

**Mr R Hutchinson:** Bearing in mind that the Office of the First Minister and the Deputy First Minister has no direct responsibility in such matters, was this the best use of your Department's resources — especially when

there is such public concern about the number of people it takes to run your Department and the cost involved?

**The First Minister:** The Member misses the point. We were invited to join the UK delegation, along with representatives from the devolved Administrations in Wales and Scotland, simply because whatever came out of the Johannesburg summit would have to be implemented by those responsible for economic and environmental matters. In so far as that would affect England, the UK Government would be responsible: for Wales, Scotland and Northern Ireland the devolved Administrations would be responsible.

The UK Government took the view that it was important to include the devolved Administrations as a way of demonstrating their commitment to implement whatever comes from the summit. Regarding economic and environmental matters, being at the summit gave us the opportunity to indicate our commitment to see that standards set out in the UN summit, and, indeed, European Directives, are achieved. That is important, and attending the summit was very valuable for this Administration.

### Countering Sectarianism

2. **Mr Ford** asked the Office of the First Minister and the Deputy First Minister to make a statement on action being taken by the Executive to counter sectarianism.  
(AQO 30/02)

### Interface Violence

8. **Mr Cobain** asked the Office of the First Minister and the Deputy First Minister to make a statement on the recent interface violence within Northern Ireland.  
(AQO 13/02)

**The Deputy First Minister (Mr Durkan):** With permission, I will take questions 2 and 8 together. We deplore interface violence and all manifestations of sectarianism. Such antisocial behaviour is harmful not only to the well-being of local communities but to Northern Ireland as a whole. It destroys the local environment; ruins businesses and employment prospects; drives away new investment; and presents an unattractive picture to the world. We must all support the police in any good efforts to maintain law and order as well as stepping up our own efforts to deal with the underlying causes of sectarianism.

The Executive have committed themselves, in the Programme for Government, to putting a cross-departmental strategy and framework in place for promoting community relations and to ensure that there is an effective and co-ordinated approach to sectarian intimidation. A consultation paper is at an advanced stage of drafting, and it is anticipated that it will be submitted to the Executive for consideration in the near future. Following Executive approval, the consultation paper will be published.

Respondents will have two months to communicate their views.

We intend to ensure that consultation is as broad as possible. For that reason we intend to convene meetings of political parties and social partners, including the churches and community organisations. The specific actions that should be taken to improve community relations will be discussed at those meetings.

The Executive stand ready to support any local initiative aimed at assisting local communities to resolve their differences peacefully. Our office has provided support through the Community Relations Council for a considerable number of groups and projects aimed at improving community relations.

**Mr Ford:** I thank the Minister for his reply: unfortunately, coming when it does, it is not terribly credible. On 11 December 2001 I was told that a consultative document on community relations would be issued to interested bodies in April 2002. In April I was told it was imminent. I have just been told, yet again, that it is imminent. When are they actually going to do something about producing this document as opposed to talking about it?

In the meantime, the Executive have collectively failed to take any action on illegal flags and graffiti, action that was supported unanimously in the Assembly. The excuse for doing nothing about those issues was that they were being dealt with as part of the community relations review, which has run completely into the sand. Since then, we have all the difficulties that arose during the summer, followed by Ministers making separate personal visits to either side of the peace line.

**Mr Speaker:** I must ask the Member to come to the question.

**Mr Ford:** When are they going to do something collectively?

**The Deputy First Minister:** As I indicated in my answer, we hope that the draft consultation paper will go to the Executive shortly. It will then be issued for consultation. However, we do not want to rely on merely going through the standard consultation mechanisms, given the seriousness of the issue. Thus, the First Minister and I have decided that we will convene meetings of the political parties and of the social partners to discuss all the implications. We are trying to focus on this in ways that are helpful and that will involve as many people of different perspectives as possible. The issue will not simply be in any one Department's control, and it will certainly not be controlled by the Office of the First Minister and the Deputy First Minister.

We have responded in different ways to problems in several areas. We have worked with other Departments to try to ensure that the devolved Administration is able

to respond constructively where it can to some of the issues and difficulties that arise. That work is ongoing.

Mr Ford made an inference about people making separate visits to different sides of the peace line. I had planned to be in east Belfast last Wednesday, on both sides of the peace line, but my mother's death meant that those plans had to change.

**Mr Cobain:** Does the Deputy First Minister agree with the statement by the Assistant Chief Constable for Belfast, Alan McQuillan, linking mainstream paramilitaries with the orchestration of interface violence? Can he confirm the current status of the road realignment project promised to the people of Glenbryn?

**The Deputy First Minister:** The Assistant Chief Constable gave an assessment of the involvement of paramilitary organisations in the violence. We all have reason to believe that different paramilitary organisations have been active in different ways and at different levels in much of the violence that we have seen. I am in no doubt that, in many instances, Loyalist paramilitaries are the sole aggressor; in other instances, they are the primary aggressor. In other instances and areas there are Loyalist and Republicans involved actively in fermenting and continuing the violence. We want all paramilitaries to desist from orchestrating violence or responding in a violent way.

The Member asked about what he referred to as the road realignment project. Members may be aware that the First Minister and I appointed arbitrators to look at how best to deal with the outstanding issues in relation to community safety matters and community dialogue. Those were the two main issues that we still had to address and make progress on, based on the letter that the First Minister and I issued last November.

There was not sufficient consensus or acceptance of any of the proposals that the First Minister and I had been working on. We referred it to arbitrators, and they have made their report. We received and accepted recommendations. They have been the subject of further feedback, and we now have a further report from the arbitrators. The Member will be aware that there does not seem to be any wider or more enthusiastic acceptance of the arbitrators' recommendations from the community interests than for any of the previous proposals that the First Minister and I worked on.

**Mr A Maginness:** My point arises out of Mr Ford's question about a counter-sectarianism strategy. Does the Deputy First Minister not agree that there is a duty on us all — the political parties and civil society — and not just on the Executive or on the First Minister and the Deputy First Minister to counteract sectarianism, in whatever form?

2.45 pm

I come from north Belfast and represent North Belfast, and we have seen the worst examples of sectarianism.

On Saturday night and Sunday night there were further attacks in the Skegoneill area, so I have some knowledge of the situation. Does the Deputy First Minister agree that the only way to tackle sectarianism is to mobilise society, including the political parties?

**The Deputy First Minister:** I agree with the Member, and that is why the First Minister and I decided to convene meetings with the political parties as well as meetings with social partners. This needs community-wide mobilisation. It is not enough simply to deplore sectarian violence where it happens: we must confront, challenge and eradicate sectarianism from society. It is not enough for us to be working in shared institutions: we must ensure that we build a truly shared society. We must ensure that people in all walks of life in all parts of this city, and elsewhere, can live in safety and harmony with their neighbours. That is a huge challenge for us all. We can all be good at pointing out sectarianism in others. Let us confront prejudice in all its forms. That will be a significant challenge for us all — not just for the political parties.

**Mr McElduff:** Go raibh maith agat, a Cheann Comhairle. I offer my sympathy, and that of my party, to the Deputy First Minister on the passing of his mother, comhbhrón ónár gcroí.

Will the Deputy First Minister comment on the recent initiative taken by the Belfast Lord Mayor, Alex Maskey, as part of his contribution towards the campaign to counter sectarianism?

**The Deputy First Minister:** I thank Mr McElduff and take this opportunity to thank all Members who have expressed condolences to me and other family members on the death of my mother. That thanks extends to staff and officials in the Assembly and to journalists.

I attended the anti-sectarianism rally convened by the Lord Mayor of Belfast and Belfast City Council. I said then, and have said since, that it was a commendable initiative. In the past such measures have been led by the trade union movement, and it continues to be positively and proactively involved. It was right and proper for the council and the Lord Mayor to step forward as they did. I hope that their work for good relations bears fruit, and I hope that that happens in all council chambers. Sectarianism and sectarian attacks have not been confined to Belfast. Although sectarianism has a profile and concentration in the Belfast area, sectarianism has reigned havoc in the lives of innocent people in Larne, Coleraine and elsewhere.

**Mr McCartney:** I join other Members in extending my sympathy, and that of my party, to the Deputy First Minister on the death of this mother.

In addressing the issue of sectarianism, and the steps needed to combat it, the Deputy First Minister talked about community involvement. But are not the essential



community leaders the leaders of the political parties and elected representatives in the Assembly? The deputy chief constable and other members of the security forces acknowledge that paramilitaries are behind the increasing escalation of violence and confrontation in Belfast and other areas and that those paramilitaries are fronted by political parties in the Assembly among others. Bearing that in mind, is it not time that the Executive and the Assembly brought collective and political pressure to bear on those parties representing the organisations that are fermenting and escalating the violence that we wish to combat?

**The Deputy First Minister:** In previous answers I expressed my belief that all political parties share a real responsibility to challenge sectarianism and ongoing paramilitary violence. We must be universal, and as unequivocal as possible, in our condemnation of all paramilitary activity. In the past, unfortunately, there has been an element of “whataboutery”, whereby people have tried to excuse or explain one form of paramilitary activity on the back of other forms of it. We must move beyond that, because the whole community wants to know that those who call themselves democrats repudiate paramilitarism in any form and see no justification for it. In a united way, we must make it clear to paramilitaries that they have no right to attack anyone in this society, nor any right to purport to defend anyone.

### Discussions with Prime Minister or Taoiseach

3. **Dr Birnie** asked the Office of the First Minister and the Deputy First Minister to detail any recent discussions with (a) the Prime Minister or (b) the Taoiseach.  
(AQO 14/02)

**The First Minister :** The last joint meeting that the Deputy First Minister and I had with the Prime Minister and with the Taoiseach was at the British-Irish Council meeting in Jersey on 14 June. In addition to the joint meeting there have been several individual meetings.

**Dr Birnie:** During any such meetings, did the subject of the implications of the 11 September atrocity arise and hence, by implication, what best Northern Ireland can do to play its part in combating international terrorism?

**The First Minister:** We approach the first anniversary of the terrible atrocity of 11 September, which crystallised for everyone the tremendous threat that international terrorism has posed for the world. In our own way, I am sure that we are committed to opposing the continuance of terrorism in any form. All the parties that endorsed the agreement affirmed, in its initial paragraphs, their absolute commitment to “peaceful means” and their opposition to the

“use or threat of force ... whether in regard to this agreement or otherwise.”

The phrase “or otherwise” is not qualified. If a party here or an organisation in Northern Ireland has been

involved in assisting terrorist organisations elsewhere, as has the Republican movement, it is in breach of its undertakings in the agreement. One would want to know whether all such actions in support of terrorism outside Northern Ireland have ceased and whether the party in question has maintained its connections with ETA and the now illegal Herri Batasuna party. It would, of course, be contrary to the agreement for that party to maintain those connections.

**Mr Roche:** Does the First Minister agree that, in the context of Northern Ireland, the only way to deal authentically with the involvement of terrorists is to make sure that the representatives and leaders of an organisation such as the IRA, which is now operating at the heart of international terrorism, do not continue to participate in the Government of Northern Ireland. Mr Trimble’s responsibility is, if needs be, to end that involvement by collapsing the Executive.

**The First Minister:** It is open to Mr Roche, if he finds it uncomfortable in the Chamber, to leave it.

### Maze Site

4. **Mr Poots** asked the Office of the First Minister and the Deputy First Minister what discussions have taken place with the Ministry of Defence regarding the removal of contaminated materials from the Maze site.  
(AQO 35/02)

**The Deputy First Minister:** We understand that diesel contamination was found at the Ministry of Defence site at Long Kesh, adjacent to Maze Prison. Remedial work has now been completed, and levels are below those prescribed. A six-month monitoring has recently begun to ensure that the levels remain within the required limits.

The Northern Ireland Office is not aware of any contamination on the Maze prison site.

**Mr Poots:** I thank the Deputy First Minister for his response. Will he further ascertain whether other contamination has taken place? I have heard allegations that toxic materials were disposed of at the Maze site during the 1970s. I have also been informed that asbestos may have been dumped there. It would be difficult to develop the site unless some form of decontamination took place. I ask that it be fully investigated to ascertain whether there are any materials that might be dangerous to the public if the site were developed.

**The Deputy First Minister:** I am not aware of the contamination that the Member has referred to or has heard allegations of, but since he has brought the matter to the OFMDFM’s attention, it will be pursued to enable us to be fully aware of what material is on the site and what the condition of the site is.

**Mr Attwood:** The Deputy First Minister appreciates that one of Belfast’s great natural assets is its hills —

Castlereagh, Cavehill, Black Mountain and Divis Mountain. Mindful that the Black Mountain has been ravaged by quarrying — more for private profit than to meet public need — has the Deputy First Minister raised the issue of the Ministry of Defence's disposal of land at Divis Mountain? What steps can be taken to ensure that public access to that land continues and develops?

**Mr Speaker:** If the Minister can see a connection with the question he is a better man than I am — but then he is a better man than I am.

**The Deputy First Minister:** The connection, I assume, is the disposal of Ministry of Defence land. The Office of the First Minister and the Deputy First Minister is aware of the community's strong interest in the future use of the land at Divis Mountain, and it knows that there have been discussions involving the Ministry of Defence, the National Trust and the Heritage Lottery Fund. We support the objective of making land at Divis Mountain accessible in the future. The Department of the Environment has been keeping in touch with those issues. The land was not included in the reinvestment and reform initiative on the basis that the Ministry of Defence believed that the future of the land had been settled through negotiations with the National Trust.

### Funding of Women's Groups

5. **Ms McWilliams** asked the Office of the First Minister and the Deputy First Minister to make a statement on its current and proposed policy regarding the funding of women's groups. (AQO 22/02)

**The First Minister:** Women's groups are an integral part of the community and voluntary sector. A recent position paper on the funding of women's organisations concluded that there was a need to identify an interim measure to support the work of women's organisations. An interdepartmental working group, jointly chaired by the Office of the First Minister and the Deputy First Minister and the Department for Social Development, commissioned and considered research by the women's support network on potential and actual job and service losses, and it also explored options to secure funding for this measure.

The working group concluded that the most effective way forward was to make an Executive programme fund bid for a share of the £6 million announced in July by the Executive. The purpose of the bid is to maintain important voluntary community sector services that are facing short-term financial difficulties. The Office of the First Minister and the Deputy First Minister and the Department for Social Development have worked together on behalf of the working group to produce a cross-departmental bid to sustain many services, including those delivered by women's organisations. That bid is supported by several other Departments.

**Ms McWilliams:** On behalf of the Women's Coalition, I extend my condolences to the Deputy First Minister on the death of his mother.

I am slightly reassured by the First Minister's answer, but nonetheless I am concerned about the delay and the length of time it has taken. Will the First Minister confirm how many meetings have taken place about this urgent issue? Last week, Members may have received, as I did, faxes from a women's centre explaining that it had received a large capital grant to build a brand new building, which opened recently, only to discover last Friday that it was closing its doors. An urgent meeting of the management had been called to tell everyone that they were shutting up shop. Windsor Women's Centre in the Village area, the Shankill women's centre and many others are having the same crisis. We can no longer wait for decisions that take such a long time. When will the money be delivered at ground level? All of the centres could be faced with closure.

3.00 pm

**The First Minister:** The bid to the Executive programme funds for a share of the £6 million will come before the Executive later this month, so something may develop from that. I understand the general point that the Member makes because of the reduction in the amount —

**Mr Speaker:** I must interrupt the First Minister because the time for questions to the First Minister and the Deputy First Minister is up. Perhaps the First Minister will give the balance of his answer to the Member in writing.

### REGIONAL DEVELOPMENT

**Mr Speaker:** I wish to inform the House that question 17, standing in the name of Mrs Annie Courtney, has been withdrawn and will receive a written answer.

### Car Theft

1. **Dr Birnie** asked the Minister for Regional Development what discussions he has had with PSNI regarding the incidence of car theft from on-street car parking in Belfast. (AQO 19/02)

**The Minister for Regional Development (Mr P Robinson):** Car theft from on-street car parking is a law and order issue and, as such, my Department has not been advised or approached by the Police Service. It may be of little interest to the Member, but a record is kept of the incidences of car theft from off-street car parks in the eastern division. Those records show that three cars have been stolen in the past six months.

**Dr Birnie:** I have been informed by other sources that many cars stolen in the Belfast city area are from unattended on-street car parking areas and are principally left by commuters during office hours. What is the Minister doing, or what does he intend to do, to promote public transport and/or move towards residents car parking schemes to reduce the number of cars parked on-street, which are particularly vulnerable to theft?

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

**Mr P Robinson:** As I said, I have no ministerial responsibility in that area. However, the hon Member will be interested to know that I voted against the organisational changes in the Police Service that have left it with a shortfall in finance, manpower and organisation.

**Mr Morrow:** Dr Birnie touched on the subject of my supplementary question. What plans does the Minister have to introduce residents parking schemes in Northern Ireland?

**Mr P Robinson:** The Department for Regional Development has the statutory power under the Road Traffic Regulation (Northern Ireland) Order 1997 to introduce residents parking schemes. While the Department has identified some pilot residents parking schemes to test the necessary administrative enforcement procedures, the Assembly will be aware and will appreciate that those schemes will benefit local residents only if they are effectively enforced. In Northern Ireland, unlike the rest of the UK, that is solely a matter for the police or, in some cases, traffic wardens.

Regrettably, during discussions on the issue, the police have stated that they would be unable to undertake the necessary enforcement work in relation to such schemes. It, therefore, seems unlikely that the Roads Service will be able to progress the matter in the short term, and enforcement of residents parking schemes may have to await primary legislation for the decriminalisation of parking enforcement.

### Sewerage Infrastructure

2. **Mr Poots** asked the Minister for Regional Development to detail any forward plans for capital development of the sewerage infrastructure in the Lagan Valley constituency for each of the next four years. (AQO 36/02)

**Mr P Robinson:** Over the next four years, the Water Service proposes to invest £8 million on upgrading the sewerage infrastructure in the Lagan Valley constituency. That comprises £1.7 million in 2002-03, £3 million in 2003-04, £1.7 million in 2004-05 and a further £1.6 million in 2005-06. The upgrading work includes the construction of 10 new wastewater treatment works at locations including Aghalee, Dromore, Glenavy and Annahilt. In the longer term, the Water Service proposes to refurbish sewerage networks across the constituency at a cost of £12 million. In view of available funding and other priorities, it is likely to be 2007 before the work can commence.

**Mr Poots:** The basis for my question was the announcement by the Minister of the Environment of a moratorium on development that has not received outline permission. Will the Minister for Regional Development assure us that the matter will be addressed, and that urgently needed development will not be hindered as a result of

the Minister of the Environment's statement on the Environment and Heritage Service?

**Mr P Robinson:** The Minister of the Environment and I met to discuss issues relating to the Environment and Heritage Service, the Water Service and the assessed hot-spot areas. I plan to meet Mr Nesbitt again this Wednesday further to our having jointly tasked our officials to examine the issues involved and to propose appropriate action.

Northern Ireland's infrastructure has been seriously underfunded for many years, and there is a significant backlog in the provision of water and sewerage services. Consequently, we must spend about £3 billion in the next 20 years. That means that an additional £50 million a year beyond the present expenditure estimates will be required. Therefore, it will take a long time and considerable expenditure to solve all the problems.

Programmes have already been scheduled to deal with the hot spots in the Member's constituency of Lagan Valley. Given that there is a programme to deal with issues of concern, it is not unreasonable for the planners to allow development to proceed.

**Mr Davis:** I welcome the Minister's answer. Is he satisfied that the problem that I raised about sewerage provision in the Glenmore area of Hilden has been resolved?

**Mr P Robinson:** As I recall, that was an odour problem. The Water Service commissioned a survey, the publication of which is imminent. As soon as the results become available, I will let Mr Davis know the outcome and what action my Department will take.

**Mr Close:** I thank the Minister for his replies, particularly those concerning forward plans and the areas marked for investment. Did the Minister mention the Fort Road area of the Lagan Valley constituency, where pipes leak constantly and there is no main sewer? If that area is not on the list, will the Minister examine the matter and reply in writing, if necessary?

**Mr P Robinson:** I am not familiar with the geography of that area, and to tell me that there are leaking pipes there does not help to define the case, because there are so many leaking pipes in Northern Ireland. I will ask my Department for the details of that site, and I will contact Mr Close about it.

### Water and Sewerage Systems

3. **Ms Lewsley** asked the Minister for Regional Development when he will bring forward proposals to the Executive and the Assembly to address the problems in the water and sewerage systems. (AQO 47/02)

**Mr P Robinson:** The Water Service must invest an additional £500 million over the next 10 years to comply with European Directives on water quality, to respond to increasing demand and to upgrade ageing infrastructure.



I inherited a legacy of more than 30 years of under-investment in water and sewerage services when I took up the regional development portfolio in November 1999. Since then, I have vigorously pursued all possible options to address that historic funding shortfall and to ensure the delivery of efficient and effective water and sewerage services to customers.

The Water Service's total capital investment in the next 20 years amounts to approximately £3 billion. Currently, the Water Service is finalising a comprehensive review of the condition and investment requirements of all surface and underground water and sewerage infrastructure. That exercise takes account of the increasingly stringent European standards for water quality and wastewater treatment that the Water Service must meet.

The data are being used to prepare an asset management plan (NIAMP 2), which will define the level of capital investment required for the next 20 years, together with the associated operational requirements for the next 10 years and how and where that investment should be targeted. NIAMP 2 will be finalised towards the end of 2002. I will present the plan to the Assembly next year, when I will also present my options for funding the strategy. Those options will comprise a combination of continued public expenditure funding, the use of public-private partnerships, alternative funding proposals such as developer contributions and the investment potential offered under the reinvestment and reform initiative's new borrowing powers. I await with interest the outcome of the consultation on the review of rating policy and its consideration of the future funding options for the Water Service.

**Ms Lewsley:** I thank the Minister for his comprehensive answer. Considering Mr Poots's question, there are many more questions that I would have liked to ask. How dependable is the time frame, and how quickly does the Minister hope to bring it before the Assembly?

**Mr P Robinson:** We are on schedule to meet the timetable that has been set out. The time restrictions that are of greatest concern are those that have been set down by the European Union. Under European regulations, Northern Ireland is in default of a number of Directives, and the majority of infraction proceedings against the United Kingdom from Europe relate to Northern Ireland. The outcome could be a massive imposition on the funding of the Northern Ireland block. It is reckoned that the United Kingdom could face fines amounting to tens of millions of pounds if the infractions are not dealt with.

I want the Water Service to spend its money on improving the quality of its network, not on paying fines, because I suspect that the Treasury would not bear the cost of any infraction proceedings and would be likely to pass it off by way of a penalty on the Northern Ireland block. Therefore, at the very time when we needed more money to deal with the causes of infractions, we would have to spend money on paying fines. We have

already passed some of the deadlines without being able to remedy the causes.

**Mrs I Robinson:** The Minister has touched on some of the difficulties leading to hold-ups in planning permission. Is the Water Service responsible for the refusals?

**Mr P Robinson:** Ultimately, any development decision is a planning issue, and the decision will have to be taken by the Planning Service. In doing so, it will have to take into account the views of the agencies it consults with. Among those agencies are the Water Service and the Environment and Heritage Service. To the best of my knowledge, in the Member's constituency of Strangford, the Water Service is not objecting to any development on the basis of incapacity in its sewerage network. However, there are serious issues. The House supports the Environment and Heritage Service, as we do not want substandard wastewater treatment, and we do not want effluent on our beaches and around the coast.

3.15 pm

Clearly, it is a concern that must be dealt with. The pragmatic approach has to be whether the Water Service has proposals that will, in time, deal with the problem. If there is under-capacity in a wastewater treatment works, and there is a proposal to deal with that under-capacity, the sensible approach would be to allow development to take place providing it does not cause a great problem before improvement is made.

If that sensible approach is taken it will resolve the problem of an overwhelming number of hot spots. It is to be hoped that later this week the Minister of the Environment and I will be able to resolve some of the problems on the basis of a useful meeting that we have already had and the work that has been carried out with officials since then.

**Ms McWilliams:** The Minister told the House that responsibility for the Water Service lies with him, and him alone. Would he, therefore, explain why he chose not to visit the lower Ormeau Road at the time of severe flooding — when people were traumatised after sewage came into their homes for the third time? Perhaps he would have seen for himself the urgency of fitting pumps that work. In that case there were modern pumps, but they completely failed. Would he assure the community of River Terrace that he will come out and talk to them?

**Mr P Robinson:** Members are aware that many properties across the Province were flooded. If the Minister were expected to call at every house that is flooded, he would not have the opportunity to remedy the situation. My Colleague, during his time in office, visited the Ormeau Road area. There is no reason to believe that, if time were available, I would not do the same.

As a constituency Member I have seen flooding in many circumstances. I understand the serious concerns that people have when flooding occurs and the upheaval

that it causes. I want to resolve those problems. My time is best used doing that, rather than meeting people for public relations purposes. However, I am happy to meet people if the Member wants to bring them to me, or wants to make an arrangement with me. I have no aversion to visiting the Ormeau Road. I am happy to speak to people and to hear their concerns.

### Light Rail Services

4. **Mr Neeson** asked the Minister for Regional Development to make a statement on the development of light rail services in the Greater Belfast area. (AQO 48/02)

**Mr P Robinson:** The regional transportation strategy for Northern Ireland 2002-12 includes £100 million for the commencement of a rapid transit network for Belfast. The development of that network will be taken forward against the backdrop of the Belfast metropolitan transport plan, which is currently being prepared. I regard that initiative as extremely important. Over the next few weeks I will set up a dedicated project team to begin detailed preparatory work. Part of that work will examine a range of possible options for such a network, including light rail.

**Mr Neeson:** I welcome the Minister's answer. Although I appreciate that contracts have been signed for new train sets, I must point out to the Minister that extended and improved park-and-ride facilities on the Larne line have been successful. Bearing that in mind, would he agree that the real potential for improving public transport lies with the development of a light rail system in the Greater Belfast area?

**Mr P Robinson:** With regard to the Greater Belfast area, I believe that the prospects of getting people out of their cars would be vastly improved if there were a rapid transport system. The Member keeps talking about light rail. However, there are several options — guided buses; a tram system of hybrid vehicles that can go on rails and on the road at certain points, and light rail. I am not making up my mind on the options at this time. However, a dedicated project team will be set up to consider which route is appropriate for a pilot scheme — many people have assumed it will be the E-way — to establish the best vehicle for the scheme and, perhaps, leave open the option of upgrading if that seems to be appropriate.

It would clearly be in the interests of the overall project if, along the route of such a rapid transit scheme, there were appropriate park-and-ride facilities. That kind of modern and speedy transport system would be more likely to catch the imagination of people in the Greater Belfast area and, therefore, more likely to get them out of their cars and onto public transport. However, that only deals with the Greater Belfast area, and only part of it at that. We are considering other proposals, such as quality bus corridors, which would go along other routes to assist in encouraging public transport use by providing a more reliable and faster way into the city

centre. Therefore, one should not rule out the prospect of more quality bus corridors. The regional transportation strategy draws attention to their potential.

**Mr K Robinson:** Will the Minister undertake to ensure that proper infrastructural links are in place to facilitate the use of any projected Belfast light railway by those living in the Greater Belfast travel-to-work area? I refer specifically to those who live in east Antrim, who must currently struggle with an inadequate road system, epitomised by the A2 between Newtownabbey and Carrickfergus, and antiquated rail provision, and where the opportunity for a quality bus service does not currently exist.

**Mr P Robinson:** The regional transportation strategy, even though it only goes up to 2012, showed that in the longer term, within the 25 years of the regional development strategy, there was the potential, not simply to have a rapid transit route, but to have a rapid transit network. One of the illustrative drawings in the regional transportation strategy showed an east-west route and a north-south route. If successful, there might even be an orbital route as well.

If there were east-west and north-south routes, having routes from the outlying areas to feed in to those networks would make good sense and ensure that the full potential was reached. The more customers for those kinds of routes, the better the service can be. The better the service, the more likely customers are to use it.

**Mr Shannon:** Ards Borough Council and the Strangford constituency are interested in the light rail service. Is the Minister prepared to consider extending any rapid transit system to Comber and Newtownards?

**Mr P Robinson:** It is intended to run a pilot rapid transit system under the regional transportation strategy, from which we will learn much about the potential for that form of transport, whether it is tram or light rail, to attract the normal road user onto public transport. The more successful the pilot scheme, the greater the opportunity for extending it will be.

The Member's question is along the same lines as that of the Member for East Antrim, Mr Ken Robinson. Even if the rapid transit corridor were not to be extended into Comber and Newtownards, those areas would be ideal for bringing vehicles onto it, if the corridor from Dundonald into Belfast was being used. Whether it would be buses or another form of public transport, it would bring those areas into the rapid transit network, and they would gain from the faster journey times into Belfast from that point.

### Unadopted Roads

5. **Mr Molloy** asked the Minister for Regional Development to detail the number of unadopted roads rejected by the Department in each of the last five years on the



grounds that they had not been brought up to the required standard. (AQO 65/02)

**Mr P Robinson:** I take it that the Member's question relates to long-standing unadopted roads rather than to roads in new housing developments. There are many such private roads and laneways across Northern Ireland that have not been adopted into the public road network. As they are private roads, the Roads Service does not have exact details, but it is estimated that there are about 62 km throughout Northern Ireland.

Over the years, there have been many requests for private roads to be adopted, although details are not tabulated. Unfortunately, very few of them are fit for adoption. To bring all private roads in Northern Ireland up to the necessary standard for adoption would cost approximately £14 million, excluding the cost of land, service alterations and accommodation works, which would substantially increase the sum.

**Mr Molloy:** The infrastructure of long-standing roads has been neglected for many years in several district council areas. Does the Minister have any plans to bring some of those roads into the circle and improve their infrastructure for the benefit of residents?

**Mr P Robinson:** I am reluctant to get a reputation for ginning about my inheritance in the Department for Regional Development. However, in addition to the problems with the Water Service, there were also problems with roads and transportation. The regional transportation strategy recognised that considerable work was necessary, which would involve a considerable sum of money. In order to meet the priorities that had been set out for the next 10 years, it was necessary to increase the public expenditure extrapolated over the 10-year period by about £1.3 billion or £1.4 billion. The Assembly would probably recognise that it is better to deal with those priorities, which were unanimously agreed on, before taking on more responsibilities. There would be a local advantage in having some of the unadopted roads adopted. To do so requires them to be brought up to standard. I understand that Dungannon and South Tyrone Borough Council in the Member's constituency had considered the possibility of using ratepayers' funds to make some impact in that area, although I suspect that the Minister of the Environment would not greatly encourage that. In the meantime, I can give no solace about unadopted roads. Our priority must be the programme that the Assembly agreed under the regional transportation strategy.

**Mr Beggs:** Does the Minister acknowledge that some developers continue to be slow about bringing roads and sewerage systems up to departmental standards and that the Department needs to use increased vigour to force those developers to bring roads, footpaths and sewers up to standard so that the residents do not have to endure inferior utilities? Does he agree that the Department

must also ensure that the bonds that are put up by developers are drawn down more readily so that the public are not inconvenienced?

**Mr P Robinson:** That is a fair point. When completion of roads to adoption standard by developers does not occur within a reasonable period from the date of the occupation of houses, the Private Streets (Northern Ireland) Order 1980, as amended, enables the Roads Service to complete the necessary work at the expense of developers. Such action is normally initiated only after efforts to persuade the developers to meet their obligations have proved unsuccessful, and each case is considered on its merits. My Department has no plan to introduce any further legislation, because it believes that the current legislation is appropriate. If developers have not carried out their responsibilities, the Department usually takes action approximately one year after the date of occupation. If the Member wishes, the Department can examine the appropriateness of that time period and consider whether it can be brought forward.

### Belfast to Bangor Railway Line

6. **Mr McFarland** asked the Minister for Regional Development what progress has been made in relaying the Belfast to Bangor railway line. (AQO 20/02)

**Mr P Robinson:** Translink has advised me that the relay work between Bangor and Belfast is complete and that full, scheduled services are now in operation.

**Mr McFarland:** The Minister kindly wrote to me in August setting out details of the project management chaos and the additional costs associated with the relaying of the Bangor to Belfast line, which he has already spoken about in the House. What lessons have been learned from that? What are the implications for future line relaying, particularly the Whitehead line, and is such work likely to incur additional costs?

3.30 pm

**Mr P Robinson:** Northern Ireland Railways outsourced the project management on that stretch of the line. Last November, it dispensed with the services of the project management team and took over the work itself. It has meant a considerable delay in the initial timescale, and the Member is right to draw attention to the indication that project costs will have been exceeded. I do not yet have a final figure for the cost of the work; it was originally in the region of £9.5 million. It was then determined, however, that a more enhanced scheme should be adopted, and that was estimated at £14.7 million.

The estimates are now rumoured to be considerably in excess of that figure. However, Northern Ireland Railways is considering the possibility of legal action arising from contractual issues, which, if successful, will significantly reduce the amount of the excess.

**Mr R Hutchinson:** Although I welcome the laying of new track throughout the Northern Ireland network and not only on the Bangor-Belfast line, can the Minister tell us when we shall have new trains?

**Mr Deputy Speaker:** Perhaps the Minister would be brief.

**Mr P Robinson:** We shall take possession of the first train in December 2003. That train will be used to commission further trains, and others will follow fairly shortly. I cannot say which line the first train will run on: that is an operational decision.

**Mr Deputy Speaker:** Unfortunately, time is up. I am sure that the Minister will give Mr Hutchinson a written answer.

## THE ENVIRONMENT

### Mobile Telecommunications Masts

1. **Mr J Kelly** asked the Minister of the Environment to detail the number of planning applications for mobile telecommunications masts that were (a) submitted; (b) refused; (c) granted; and (d) withdrawn (i) in the six months prior to the introduction of new departmental guidelines, Planning Policy Statement 10 (PPS 10); and (ii) since the introduction of the new guidelines.

(AQO 67/02)

**The Minister of the Environment (Mr Nesbitt):** A total of 271 full planning and prior approval applications was received in respect of telecommunication development in the six months prior to the introduction of the new guidelines, under Planning Policy Statement 10, from 11 April 2002. Of those, 37 were refused, 183 were granted and 51 were withdrawn. A total of 185 full planning and prior approval applications has been received since the introduction of the new guidelines. Of these, 18 were refused, 127 were granted and 20 were withdrawn. The remaining 20 applications remain under consideration.

The Planning (General Development) (Amendment) Order (Northern Ireland) 2002 came into operation on 21 June 2002. That legislation removes existing permitted development rights from telecommunications code system operators and requires full planning permission for new telecommunications development, including masts.

**Mr J Kelly:** I thank the Minister for his full reply. Given the public's perception of the health implications of masts, as well as their unsightliness, will the guidelines curtail their installation throughout the North?

**Mr Nesbitt:** My aim is for sustainable development; namely, that Northern Ireland will have a modern telecommunication industry, which industry needs, and that we will protect the environment. With regard to perceptions about the effects of telecommunications masts on health, I

remind Mr Kelly that it is his Minister, Minister de Brún, who gives me advice on that aspect. I act on that advice. I am not responsible for health matters, nor have I knowledge of them. I take guidance from others.

**Mr Davis:** Will the Minister explain what monitoring of emissions from mobile masts has been undertaken? What are the results?

**Mr Nesbitt:** The Stewart Report, published two years ago, advised that an independent, random audit should be carried out, especially on those masts situated in sensitive areas such as school premises. Last year, masts in the grounds of 100 schools were randomly tested, and the emissions recorded were many thousands of times below the levels recommended by health authorities. This year, tests are also being conducted on masts in the grounds of hospitals. I advise Members who want more information to visit [www.radio.gov.uk](http://www.radio.gov.uk).

**Mr Shannon:** The Minister will agree that many people's concerns about telecommunications masts have not decreased. Has the new legislation introduced by the Minister addressed those concerns?

**Mr Nesbitt:** Residents are mainly concerned with their health — one current application has generated 200 objections, all of which are based on possible health risks. Mr Shannon will recall that when he last spoke on the subject, his mobile phone rang in the Chamber. He will also know that a Colleague of his, Mr Wells, has told the Assembly that he owned a mobile phone and had used it to rescue someone when walking in the Mourne. We live in a society where mobile phones exist, and I must deal with residents' concerns in a pragmatic and balanced manner.

### Moratorium on Planning Approvals

2. **Ms Morrice** asked the Minister of the Environment to outline (a) his position regarding the moratorium on planning approvals due to pressures on the sewerage infrastructure and (b) the specific areas affected in Northern Ireland.

(AQO 121/02)

### Planning Applications

3. **Mr M Murphy** asked the Minister of the Environment to detail, by district council area, the number of planning applications affected by the moratorium resulting from objections regarding the discharge of wastewater that does not meet EC standards for water quality; and to make a statement.

(AQO 66/02)

**Mr Nesbitt:** There is no moratorium on planning approvals in Northern Ireland. The Department has a statutory duty to promote the conservation and cleanliness of water resources. It must also take account of the requirements of EU Directives that safeguard water quality.

In recent months, the Environment and Heritage Service (EHS) has highlighted concerns over the quality of discharges and risk of water pollution from sewage treatment plants and sewerage networks at several locations in Northern Ireland. This has raised complex legal, environmental and operational issues. While urgent discussions are held between my Department and the Department for Regional Development, which is responsible for wastewater treatment, decisions on planning applications in the affected areas are on hold as a precautionary measure.

Planning Service and EHS are consulting on 588 planning applications in Northern Ireland, a breakdown of which by Planning Service division is: Downpatrick 257; Ballymena 166; Omagh 95; Belfast 52; Londonderry 9; Enniskillen 4; Coleraine 3; and Craigavon 2. I will write to Ms Morrice when a breakdown by district council area is available. That information will also be placed in the Assembly Library. Planning applications that do not require connection to the sewerage network, such as extensions to houses or garages, continue to be processed to conclusion by the Planning Service.

I am acutely aware of the concerns that the development industry and public representatives have about this precautionary step. I announced recently that the Planning Service would now process to decision stage those development proposals that have received outline planning approval but are being held back as a precaution. I met the Minister for Regional Development, and we tasked our officials to formulate recommendations to resolve the difficulties by mid-September. Those recommendations will specify locations where the sewage pollution problems dictate that particular attention must be paid to water quality issues when planning decisions are being made.

I am determined to achieve an early, balanced and pragmatic resolution that will meet Northern Ireland's development needs while simultaneously protecting the environment, and I plan to make an early statement to the Assembly to that effect.

**Ms Morrice:** I listened with interest to the Minister's response. It seems that there is a lot of confusion. We appreciate that a resolution is necessary because more and more untreated sewage is flowing into places such as Belfast Lough and, particularly, Ballyholme Bay, and that is disgraceful. I should like confirmation from the Minister that planning approvals have not been blocked anywhere in north Down. I did not hear any specific reference to north Down in his list. I want clarification on that, because the sewerage system cannot be overloaded in places such as Briggs Rock.

I also want to know exactly what discussions are taking place with the Minister for Regional Development, because it seems from a reply that Mr P Robinson gave that the failings of the sewerage systems mean that planning applications are not proceeding is not equally appreciated in both Departments.

**Mr Nesbitt:** I am sorry that Ms Morrice is confused, although this is not the first time that she has been confused when she has spoken in the Assembly. The Planning Service in Northern Ireland is split into divisions. I told her that there are 257 planning applications in Downpatrick. We learnt in a debate in May that the treatment works in the Downpatrick division are all right again or will be, so I am clear about what I have said. I have also suggested that the breakdown by district council area, which I hope will help Ms Morrice, will be available in the Library and will be sent to her.

Ms Morrice's second point was that the Minister for Regional Development said something different to what I did. I know what he said, and I welcome it. He made it clear at the outset that there has been a difficulty with sewage since direct rule. He talked about £3 billion being needed over the next 20 years, which is £50 million a year. He also said that he wants to support the Environment and Heritage Service. He said that he and I had had a very good meeting, and Hansard will show that. Let us not have people trying to pull the Minister for Regional Development and me apart: we and our officials are working together to try to resolve a problem, and the Assembly is about working together to provide solutions for the people of Northern Ireland.

Let me emphasise this: I concur with the Minister for Regional Development that there is a problem with sewage treatment works in Northern Ireland — only 57 % of them are up to national standard. In Great Britain, 95 % are up to national standard. However, from the EC Urban Waste Water Treatment Directive, it appears that only 35 % of sewage treatment works are up to standard, so there is a problem: money is needed, and we are trying to approach that difficulty pragmatically and realistically.

**Mr Deputy Speaker:** Before I call the next Member, I wish to remind the House of the importance of brevity in questions and answers.

**Mr M Murphy:** The Minister is probably aware that Members are being strongly lobbied on this. I understood that a previous moratorium had been lifted, but the Minister has told the House that a precautionary measure has been implemented. Is the Minister aware that many jobs are at stake while that precautionary measure exists?

I brought the matter to the Minister's attention before when Newcastle lost its blue flag status over the sewage works. What has been done as a precaution to get that status reinstated in Newcastle?

**Mr Nesbitt:** I am glad that the word "moratorium" has been mentioned again. The precise wording that went to the divisional planning offices was as follows:

"no applications are taken to Council with opinions to refuse on the basis of waste management unit (WМУ) advice for the present."

We were trying to facilitate development. If we had acted upon the Environment and Heritage Service's



recommendation, refusals would have been made to the council. Our advice was to wait until a further, detailed examination had been carried out. When a planning application is made, further detail is often sought before a decision is made. Therefore, a moratorium has not been imposed; rather a waste management precaution has been introduced. There is no problem with extensions to houses.

3.45 pm

I am conscious of the jobs aspect and have met the Construction Employers Federation and, for example, Derry City Council to explain the situation. Those bodies appreciate the problem and our efforts to resolve the difficulty of inadequate infrastructure while protecting the environment. There are strong needs, and we want to provide solutions.

**Mr J Wilson:** The Minister is aware of my concern about the matter. His attention was first drawn to it when I highlighted the serious situation in Ballyclare, in my constituency, where identifiable household bathroom waste had been entering the Sixmilewater River for years because the local sewage treatment works was working at 60% overload. When I first brought a deputation to the Minister, he was shocked by the news.

Will the Minister take into account the Department for Regional Development's future capital build programme? A balance should be achieved between the need for environmental protection and the need for development. More importantly, will the Minister inform district councils, when they are being consulted by the Planning Service, if the Environment and Heritage Service and the Department for Regional Development have advised that infrastructure — principally, sewage treatment, but also roads — would not support development? It is at that stage that the public can express its views about local circumstances.

**Mr Nesbitt:** Mr Wilson did bring the Ballyclare case to my attention. The Department must strike a pragmatic balance between dealing with developers' concerns and preventing pollution.

The Department of the Environment will take into account the Department for Regional Development's future capital build programme, identifying how much capital there is, the level of pollution that might result from development, and for how long development should be held back, taking into account when capital will be available. The Department must marry the capital throughput to the Department for Regional Development with the position as regards infrastructure and the need for more capital.

The second part of Mr Wilson's questions concerned infrastructure not supporting development and informing district councils. I have no problem signing up to that. This is open Government, and I want the problems to be

known. Only when district councils and residents know the problems will we be able to address the solutions and progress together.

## Contracts

4. **Mr Attwood** asked the Minister of the Environment to outline (a) how many contracts, to what value, and in what departmental areas, have been forwarded to the public procurement board for consideration and inclusion in the pilot studies for procurement policy; (b) what measures are being undertaken to assess each departmental contract for inclusion in the pilot studies; and to make a statement. (AQO 59/02)

**Mr Nesbitt:** Further to the procurement board's decision on 3 July 2002 to undertake a pilot study on the use of public procurement contracts to help the unemployed back to work, my Department examined all contracts to be advertised over the next six to nine months. A service contract in the Environment and Heritage Service has been identified as meeting the criteria set out in the pilot study by the procurement board.

The contract is for the recruitment of tour guides to work at various locations throughout Northern Ireland. It is valued at £300,000 and involves the recruitment of permanent and temporary staff. The start date for the contract is expected to be November this year. The relevant details will be passed to the public procurement board later this week.

**Mr Attwood:** I acknowledge that the Department of the Environment is one of only four Departments that have forwarded possible contracts to the public procurement board. The Minister's answer is helpful, but it is hardly reassuring that, despite the efforts of his Department, only one contract at a total value of £300,000 has been identified as suitable for inclusion in the pilot scheme. Given that 20 such schemes are proposed under the policy, is the Minister satisfied that there are not other areas in the Department of the Environment where contracts of greater worth might be identified for inclusion in the scheme?

**Mr Nesbitt:** I thank Mr Attwood for recognising that the Department of the Environment is one of only four Departments to submit projects. However, I remind him that there is a financial limitation on contracts. In the construction industry the contracts must be worth between £1 million and £3.86 million, and for projects in the service industry the contracts must be worth between £250,000 and £500,000. That is not an inconsequential amount of money, particularly given that the Department of the Environment is primarily a regulatory body and that, as such, its expenditure is dominated by staff costs and support to counsel. I also remind Mr Attwood that the Department of the Environment's budget amounts to about £118 million a year. Given the magnitude of those figures and that my Department is one of the four

Departments to respond, Mr Attwood should say “Well done” and stop at that.

### Wake Up To Waste Campaign

5. **Ms Lewsley** asked the Minister of the Environment to give an update on the Wake Up to Waste campaign. (AQO 46/02)

**Mr Nesbitt:** Phase 1 of the Wake up to Waste campaign generated an excellent response. Several district councils and contractors reported increases of up to 30% in recyclable materials collected. People want to participate and to have the opportunity to take action to enhance their environment. I am pleased with the approach.

Phase 2 of the campaign starts in October. It will provide guidance on the practical steps members of the public can take in their everyday activities to reduce waste. It will focus on the things that we can all do to reduce, reuse and recycle, such as reusing plastic carrier bags. We are establishing a retail partnership to communicate that message to consumers and to promote sustainable waste management practices.

During the summer the Environment and Heritage Service also completed a pilot education programme, which was delivered to two schools in each of the 26 council areas.

**Ms Lewsley:** I welcome phase 2 of the campaign, as I know that phase 1 was successful. Some £500,000 was invested in phase 1. How much will be invested in the second phase? Given the amount of paper that many Members are gathering, will the Minister’s Department take the lead in using recycled paper?

**Mr Nesbitt:** I like the second part of the question — we lead by example. A total of £1.5 million over three years has been committed to the public awareness aspect of the campaign. One would think therefore that £500,000 is available to be spent each year. However, I am very conscious that the public must be made aware of the problem. Ten per cent of households in Northern Ireland responded to the questionnaire. Those who responded clearly want to play their part, and we must therefore provide a solution for them.

We will continue to educate the people of Northern Ireland further on that.

Regarding recyclable paper and public procurement in general, I agree that this Administration should lead by example in a whole raft of ways. It is difficult for us in the Administration to ask others to do things that we are not prepared to do. I sympathise and empathise with the second part of the question.

**Mr Hamilton:** Will the Minister give assurances that his Department will ensure that community-based initiatives, as opposed to just individual ones, will play a major part in this programme?

**Mr Nesbitt:** Individuals make up the community, and the community is very important. Commencing in October, and building on what we did last year, we will have regular meetings with the regional communication co-ordinators and the local authority recycling officers, who are the people with links to the community. We will continue to work with the community, and we plan to produce a community guide to waste management, aimed at community groups, which will contain practical information on how to reduce, reuse and recycle.

**Mrs Nelis:** Go raibh maith agat, a LeasCheann Comhairle. I am delighted to hear the Minister being so enthusiastic about the issue of waste paper. You need look no further than the Assembly to see the amount of waste paper going through our offices. In phase 2 will the Minister address the issue of introducing disposable paper bags and doing away with the plastic bags that clutter our environment and cost so much money to clear — a scheme which has been introduced successfully in the South of Ireland?

**Mr Nesbitt:** I am tempted, but I will not say anything about the waste paper caused by the number of languages we use. The Minister of Health, Social Services and Public Safety is here, so I shall refrain from making any reference to that and to the paper it may or may not use — and I say that with a smile to the Minister.

Regarding the central point about the success of disposable paper bags in the South, as I indicated in my first answer, we are working with the retail industry and anticipate bringing forward an aspect of that after various meetings over the summer. I plan to announce this in a number of weeks. Views are split on whether or not we can tax plastic bags, as happens in the South. The best legal advice at present is that we cannot say that we cannot do it. However, even if we can, there is a certain gestation period, and it could not be done in the life of this Assembly. In the autumn I plan to do something with plastic bags in conjunction with retailers and others. The community has wakened up to waste — we have to build on that and deliver something.

### Ring of Gullion

6. **Mr Fee** asked the Minister of the Environment what progress has been made in implementing the recommendations made in the designation guide booklet for the Ring of Gullion area of outstanding natural beauty. (AQO 58/02)

**Mr Nesbitt:** The implementation of the recommendations in the guide to designation falls to several public bodies and community groups, including my Department. Progress has been greatly helped by the appointment of a liaison officer funded by the Environment and Heritage Service in my Department, Newry and Mourne District Council and the Regeneration of South Armagh Trust. Among the steps taken are the establishment of a Ring

of Gullion waymarked trail and the development of interpretative panels and published guides on historic and traditional buildings in the area. Several improvements to the agricultural landscape have also been achieved through the environmentally sensitive area scheme, administered by the Department of Agriculture and Rural Development.

**Mr Fee:** I thank the Minister for the work done by his Department and other agencies over recent years to promote a very beautiful part of Northern Ireland — south Armagh.

Will the Minister specifically address the issues raised about military installations in relation to part of the designation guide, because one of the policy objectives is to diminish the impact of the military installations on public enjoyment of the rural amenities in south Armagh and the Ring of Gullion?

I ask him to redouble his efforts to ensure that that impact is eradicated completely.

4.00 pm

**Mr Nesbitt:** I shall be brief in my answer to this question. I want to see the day come rapidly when the military installations to which Mr Fee refers are not here — namely, when we have peace, stability and a normal society in Northern Ireland.

**Mr Foster:** Having had an interest in areas of outstanding natural beauty both as a councillor and as a Minister, I would like to know what progress has been made in considering the need to designate national parks in Northern Ireland?

**Mr Nesbitt:** That has been pressed upon me by various quarters. I am conscious that two national parks have been created recently in Scotland and that there are national parks in the South of Ireland, England and Wales. I have commissioned Europac, an independent agency, to advance principles by which we consider national parks in Northern Ireland. It will report to me within the next few days, and I will make a statement on the way forward before the end of the month. However, I remind Mr Foster and others that anything we wish to do needs money, and money requires commitment. National parks could make a significant contribution to tourism and to Northern Ireland's economy. Therefore, we should find some money for that if we discover that that is the way forward.

### Consultation Process

8. **Mr Paisley Jnr** asked the Minister of the Environment to outline the consultation process his Department engaged in with the Construction Employers Federation before imposing a moratorium on planning permissions.  
(AQO 5/02)

**Mr Nesbitt:** I have already stated that a moratorium has not been imposed on planning permissions. As a precautionary measure, decisions on planning applications in several areas affected by concerns over the risks of water pollution from sewage treatment plants and sewerage networks have not been taken pending the outcome of discussions between my Department and the Department for Regional Development. Those discussions involve the consideration of complex legal, environmental and operational factors.

I am acutely aware of the concerns of the construction industry and others about the precautionary steps that my Department has taken in those areas where the risk of water pollution is significant. My officials have had regular contact with the Construction Employers Federation, both on specific applications and on the generality of the issue. I also met with senior representatives of the Construction Employers Federation to hear their concerns at first hand on 22 August 2002. I repeat the commitment that I gave them to seek a balanced and pragmatic solution with sustainable development as the guiding principle. The federation accepts that principle.

## FIREFIGHTERS' PAY

**Mr Deputy Speaker:** I wish to advise Members on how I propose to conduct the debate, which has been allocated two hours by the Business Committee. Three amendments have been selected and published on the Marshalled List. Speaking times will be as follows: the mover of the substantive motion will have 10 minutes to propose and five minutes to wind; the mover of each of the amendments will have seven minutes to propose and five minutes to wind; the Minister will have 20 minutes to respond to the debate; and all other Members who wish to speak will have five minutes each. The amendments will be proposed in the order in which they appear on the Marshalled List. When the debate is concluded, I shall put the Question on amendment No 1. If amendment No 1 is made, amendments Nos 2 and 3 will fall. If amendment No 1 falls, I shall put the Question on amendment No 2 and so forth. If that is clear, we shall proceed.

**Mr Paisley Jnr:** I beg to move

That this Assembly recognises the valuable and courageous work undertaken by the Fire Service and calls for an immediate review of pay and conditions for firefighters to ensure that these accurately reflect the highly skilled and professional role undertaken by firefighters and fire control staff.

I welcome the opportunity to bring this most important matter before the House. It is a reflection of the professionalism of the firefighters of Northern Ireland and of the high regard in which they are held by the public that the House has agreed to make the subject of the first debate of the new term the pay and conditions that we ask these professionals to labour under. The number of amendments also indicates the great interest in the issue.

*(Madam Deputy Speaker [Ms Morrice] in the Chair)*

It should not go unnoticed by the men and women of the Fire Service — and some of its representatives are in the Public Gallery today — who put their lives on the line every day they put on a uniform that we consider their efforts so important that we wish to debate this matter of urgent public concern.

My first duty as an elected Member of this House was a very sad and deeply distressing visit to the Glebe housing estate in my North Antrim constituency. A horrendous house fire had been started deliberately and had taken the lives of three little children. The local fire service, assisted by another unit, worked for hours and put their lives at risk trying to rescue those little boys. I remember standing in the burnt-out surroundings of that housing estate with firemen, police officers, residents and politicians silenced by the tragedy and weeping. I remember thinking of the grim and awful task that we ask those brave men and women of the Fire Service to do for us.

We call those officers brave, but if we look at how we pay them, it is as if their bravery is cheap. The House must send out a message that firefighters and the control staff who guide them deserve, and have earned, better pay. The Assembly has already acknowledged the role of the firefighters by awarding the Fire Service its own official recognition. We must take that forward by demanding that the Government get real in their negotiations with the Fire Fighters' Union and come up with a pay formula that will satisfy and reward fairly the work of those people.

For that reason I am prepared to accept the amendment to my motion tabled in the name of the Rev Robert Coulter and Mr Tom Hamilton as it adds to the substance of the motion. I am rejecting the amendment tabled by Mr Ervine, the Member for East Belfast, because stating an actual amount will tie the hands of those engaged in negotiations. The motion is not prescriptive. It allows for the necessary flexibility to enable employees' representatives and employers to agree a pay and conditions formula that will work.

The Sinn Féin/IRA amendment adds nothing of substance to the motion. Rather, it reflects its earlier failure to get a motion similar to mine debated today. I hope that it will not use this debate to try to pose as champions of the Fire Service but will withdraw its amendment to my motion.

Given the history of the last 30 years, perhaps Members sitting under that Gallery could tell us about the actions of the IRA that put the lives of firefighters at risk and resulted in nine members of the Fire Service being killed while on duty. I hope that it is not the intention of Sinn Féin/IRA to sully and sour today's debate with a trite amendment — I hope that it will be withdrawn.

We read in the press daily about the bravery and professionalism of firefighters. While I was preparing for this debate last week, the 'News Letter' reported an injury sustained by a firefighter at a fire at Yolande's farming service yard at Wellington Road, Enniskillen. He was injured when he was hit by pieces of an exploding corrugated sheet of asbestos. We cannot get away from the routine of a firefighter's job, which is to risk his or her life on behalf of this society.

It is important that I take time to outline the negotiations on pay. They have been taking place between the national union and the national employers since June this year. The Fire Brigades Union was informed that it was the intention of the employers to make a substantive offer on pay and a new formula as far back as 9 July. It has proof that it was planned to offer the fighters an increase in pay from £21,500 to £25,000 for a trained officer with four years' service. However, it is believed that an intervention by a senior Government Minister meant that that offer was never formally tabled. Instead the Government started talking about making a substantial



pay increase of 4% and proposed an independent inquiry into the entire service.

On 2 September the employers' spokesman, Phil White, conceded that there was a real case for a pay increase above the Government's so-called substantial 4% increase but argued that central Government funding was required. The Assembly must avoid being sucked into the Government speak of agreeing to a "substantial" pay increase that in real terms means 4%. The union has correctly rejected that as insulting and derisory. A typical firefighter, after four years of training, has a take-home pay of £280 a week. The hourly rate for part-timers, for whom the dangers are no different, is £6.20 before tax. Some 11% of their salary goes towards the occupational pension. That pay formula dates back to 1977, when firefighters' pay was linked to low-skilled manual workers. It is outdated and inappropriate.

By its actions today, the Assembly must determine that it believes firefighters to be highly skilled professionals. Therefore, the Assembly must endorse the call to give them professional levels of pay and conditions and a formula to reach those conditions. The motion is not about special treatment; it is about fair treatment for those professional officers.

Tony Blair's deceitful comments must also be highlighted. He claimed that an increase in pay and conditions would hurt the economy. That must be challenged and nailed as a lie. The total UK claim to increase pay to acceptable levels would amount to around £459 million. That is the equivalent of around 41p for each household every week. Surely that is not an unreasonable cost for the remarkable job that those officers do. I hope that the House unites behind the motion and accepts the amendment that I have advised.

**Madam Deputy Speaker:** I call Mr David Irvine to propose the first amendment on the Marshalled List.

*The following amendment stood on the Marshalled List:*

Amendment No 1: In line 2 delete

"and calls for an immediate review of pay and conditions for fire fighter to ensure that these"

and insert

"and supports the Fire Brigades Union in its call for a professional wage of £30,000 to". [Mr Irvine]

**Mr Irvine:** I offer the amendment for a simple reason. The Fire Brigades Union itself decreed that a reasonable figure for firefighters to earn was £30,000 a year. I cannot imagine how, by including that figure in the amendment, I stultify the negotiators' position, when it was the union that introduced the figure of £30,000 to the negotiating table. That dismisses any foolish comment that my proposed amendment is flawed.

Ian Paisley Jnr has hit the nail on the head, but he has not been as definitive as we must be on what is happening. We are talking about a process of negotiation on pay and conditions that was stymied, not by those in management, but by the Government. We can see that there is clear political manipulation in trying to peg the wages and conditions of firefighters — people whom we value.

This year alone, the Fire Service has rescued 110 people from road traffic accidents. In many cases, those people's lives were saved. Some 147 people have been rescued from house fires, and more than 100 other rescues have taken place. We should think about that when we drive home, or when we turn out the lights and go to bed at night. We should think about who is at the end of the telephone, offering us help in our time of need. We should be aware that, in our society, those same people not only run a grave risk by having to speed to assist us, but they are attacked by recreational idiots as they do so. The Fire Service and the security services have had to put up with the nightmare that is the interfaces. It is not an easy job.

Would any of us easily come to terms with the rest of our working day, the rest of our working week or, indeed, the rest of our working life, if we had to carry a child of two, three or four years of age with lovely flowing hair, without a mark on her, who had asphyxiated in a fire? How would we live with that trauma when we went home?

What do we do to recognise the suffering of those who rush to the aid of victims? What would we do were we to face a road traffic accident that involved a decapitation and then had to go home to be offered a meal? What goes through firefighters' minds?

This is not only about the physical abilities that they undoubtedly show in their professionalism and training — they pay an unbelievable psychological price. If they are fathers, mothers or members of a family, they must relate to others after going through such difficulty. That is the job that we ask them to do, and then we pay them, in relative terms, a pittance for doing it.

4.15 pm

Then we find out that we have a "Socialist" Government who try to control the management in order to make sure that it pegs the levels of pay to the workers. It used to be the other way round. Socialist Governments used to try to encourage management to look at the best interests of the workers and to look at the circumstances in which they might create a greater income rather than a lesser one. We live in a strange world.

My amendment is definitive and clear and would consolidate the concept of political support in our small society to stand as a bulwark against the Westminster Government. It is fair to say that neither the motion nor the amendments contain any opposition to a better deal



for firefighters. Why not make it simple and clear and support the level of pay that the Fire Brigades Union is asking for? I did not pluck my figure out of the air. It is the figure that the Fire Brigades Union has tabled to management. In accepting and supporting that figure, Members would be saying that the shameful behaviour that has taken place in the six negotiations to date must end. In the words of my Colleague Mr Paisley Jnr, the Government must "get real" about dealing with this issue.

I was once a negotiator in the trade union movement. It is not unreasonable to ask for the sun, the moon and the stars. On the level playing surface that can be created in the negotiating process, one expects that a compromise will be found. I fear that what has happened to the Fire Brigades Union is nefarious. The involvement of the Government has created the conditions that not only polluted the negotiations that have taken place but potentially pollute the negotiations that the other amendments and the motion call for in the future. Would it not be better for the House to say — clearly and simply — that the firefighters say they are worth £600 per week and that, because of the behaviour of management and the Government, Members determine that that is what they should have. That would allow the firefighters to go into a proper negotiation with at least some sense of political support, as opposed to what they consider to be the manipulation by politicians in the background.

*The following amendment stood on the Marshalled List:*

Amendment No 2: In line 2 delete

"an immediate review of pay and conditions for"

and insert

"a significant increase in the salaries of" —[*Ms Ramsey*] [*Mr Kelly*]

**Mr J Kelly:** Go raibh maith agat, a LeasCheann Comhairle. On behalf of the firemen's union, I must say that the comments of Paisley Jnr do not help the Assembly to have a unified approach to trying to put a sympathetic face on what the firemen's union is looking for. My Colleague Sue Ramsey and I have met the firemen's union on a number of occasions and have a fruitful and constructive relationship with it. It is out of place for the proposer of the motion to indulge in a diatribe against those in the Assembly who are attempting to support the firemen's union. [*Interruption*].

You may snigger and laugh, you are good at that; that is all you are good at.

Nick Raynsford said:

"We all greatly value the contribution that Fire Service staff make to public safety".

He also said that the new formula worked out by the Government equated the firemen with the top 50% of manual workers.

I am not deriding manual workers, but can anyone tell me how you can evaluate the work of the Fire Service on the criteria of manual workers? From the very outset, the Government have done the Fire Service a disservice. I speak as an Assembly Member and as a longstanding and current member of the AMICUS trade union, which was the old engineering and boilermakers' union. Therefore, I have some knowledge of trade unions and negotiations and how we evaluate the work of trade unions in the workplace and in society. Those who have never had to put their hand to manual work perhaps do not understand what it is to work in the workplace and do not understand what it is to attempt to earn their crust of bread there. You have got your money from the backs of an electorate that you have seduced for the past 50 years.

**Madam Deputy Speaker:** Will the Member address his remarks through the Chair?

**Mr J Kelly:** Madam Deputy Speaker, if you would exert some influence over the rabble here on the left —

**Madam Deputy Speaker:** Order. Will the Member address his remarks through the Chair?

**Mr J Kelly:** I will, yes — [*Interruption*].

**Madam Deputy Speaker:** Order.

**Mr J Kelly:** Again we see the hypocrisy of a group that introduces a motion for firemen and tries to disrupt the debate on that motion: it is a disgrace. They talk about withdrawing — they should withdraw their motion and leave it to the rest of us to consider how we approach this serious matter — [*Interruption*].

**Madam Deputy Speaker:** Order.

**Mr J Kelly:** The Secretary of State said that it is nothing short of a disgrace that people such as firemen who come into public service and the protection of life — the mouse Morrow is indulging in his squeaks — are subjected to an increasing number of attacks as they try to carry out their jobs. He goes on to say that we should all be proud of emergency workers such as firefighters who put their lives on the line to save others.

As Davy Ervine said, it is a Socialist Government. However, the Secretary of State cannot stand up and say that he supports the claim of the firefighters. He cannot say that he supports this trade union as a member of a party that comes from a trade unionist background — a party that the trade unions keep in office by their contributions. The Government are treating the representatives of that union, and their attempts to achieve a decent wage comparable to the professionalism that their members bring to the job, in a shabby manner.

I support the firefighters, my party supports the firefighters and my Colleague Sue Ramsey, who is a member of the Committee for Health, Social Services and Public safety, supports the firefighters in their attempts to achieve their just rewards and recognition not through fine

words but through take-home pay. That is what counts at the end of the day, week, month and year — that is what puts the bread on their tables. In order to have unified support, I will not be moving our amendment.

*Amendment No 2 not moved.*

**Rev Robert Coulter:** I beg to move amendment No 3:

In line 2 delete

“an immediate review of pay and conditions”

and insert

“the introduction of a new pay formula together with a commensurate level of pay”.

In proposing the amendment my intention is to make the motion being debated before the Assembly today more specific as to the real problem and the remedy required for the firefighters' situation. The heart of the problem lies within the present pay formula for firefighters. Only two substantive grades exist in current pay scales for ordinary firefighters — that of firefighter and that of leading firefighter.

The second grade relates to those who have over 15 years' service. In short, the pay scales provide no real possibility for promotion, except for the few firefighters promoted to management grades. The pay scales should contain promotion possibilities for ordinary firefighters, which recognise skill and experience as well as experience, but which do not reserve pay and promotion for purely managerial functions.

There is deserved, widespread public support for the firefighters. I support them too. They deserve a decent pay scale and expressions of public support. We should not be niggardly in that matter. We should be open and generous to those brave people who regularly risk their lives.

No one could fail to be moved by the scenes of last 11 September in New York, when 350 firefighters lost their lives while trying to evacuate the twin towers of the World Trade Centre. The whole world admired the courage and heroism of the firefighters of that great city.

Our firefighters are no less courageous. They are in the same league, because, during the 30 years of the troubles, they were at their posts in impossible and horrendous situations, and many people owe their lives to them. Let the House record our deep appreciation to them in this debate.

A recent poll showed that 82% of all voters believe that ordinary firefighters should be paid in excess of £25,000 a year, as opposed to the existing maximum of only £20,694, which can only be achieved after 15 years' service. The same poll showed that 47% of all voters support a national Fire Service strike over pay.

The Prime Minister's statement that giving the firefighters what they are asking for will somehow put

up mortgages is totally unacceptable. The link between the two issues escapes me entirely.

It is a shame that brave people have been reduced to taking strike action. It is an indictment of our society that they need to go on strike after having done so much for that society. We know that it goes against the grain of their profession. I want to sound a note of warning to Her Majesty's Government; their treatment of the firefighters should be fair and generous, not penny-pinching.

The pay of part-time firemen must also be mentioned. They are no less at risk in perilous situations, but their rates of pay are worse than those of the full-time firefighters, and that situation must be properly addressed also.

For all those reasons, I deliberately worded the amendment to include a pay formula, as opposed to simply calling for a pay increase. The Fire Service, with all its skill and expertise, needs a proper pay structure that adequately reflects the high level of training, skill and expertise required of ordinary firefighters. I welcome the fact that the Members who proposed the motion have accepted my amendment. That alone reflects the widespread community support for the firefighters.

**The Chairperson of the Committee for Health, Social Services and Public Safety (Dr Hendron):** Having spent many years at the political front line in west Belfast, I have the most profound admiration for the courage and professionalism of the Fire Service in Belfast and beyond.

4.30 pm

The Committee for Health, Social Services and Public Safety has a direct interest in the motion because of the Health Minister's responsibility for public safety and the Northern Ireland Fire Service. The motion is an opportunity for everyone to acknowledge the outstanding work of firefighters. The Committee has always recognised their valuable and courageous service, and we all agree that the Fire Service is a vital asset to the community.

The events of 11 September last year, and the sacrifices made by the Fire Department of New York, emphasise that firefighters everywhere put their lives in danger daily to save the lives of ordinary people. We can be proud that our Fire Service is manned by some of the most professional and dedicated firefighters, officers and staff to be found anywhere. The Committee visited the Fire Control Centre in Lisburn and saw how the Fire Service responds to the needs of ordinary people 24 hours a day, 365 days a year. We talked to the men and women who man the fire appliances about the skills and expertise they need to do their jobs properly. We have also heard from the Fire Brigades Union about the personal dangers that firefighters face daily when responding to emergency calls.

Members of the Health Committee raised the issue of the firefighters' pay dispute in a Committee meeting last

week, and it was agreed that firefighters' pay should adequately reflect the skills and expertise needed to carry out their jobs effectively. As with other essential public service workers, firefighters should receive a level of pay that reflects the nature of their job. If they are currently underpaid and require a substantial pay increase to bring pay into line with the proper rate for doing a difficult job, that is what should happen — and they are grossly underpaid.

Pay constitutes the biggest cost to the Health Service and consumes 70% of its budget, which is already overstretched. Some of my Colleagues may be sympathetic to the call for a review of the pay and conditions of firefighters to establish what they should be paid. However, as other Members have pointed out, I understand why firefighters are opposed to the general review called for by the Prime Minister and the Deputy Prime Minister.

It is a national dispute, and we have limited influence over its outcome. However, in supporting the call for a substantial increase, the public needs to know that it is justified, and I am sure that the Minister can make that point strongly.

Nick Raynsford has appointed Sir George Bain to conduct the review, a man for whom we all have great respect. However, I appreciate the points made by the Fire Brigades Union. The Health Committee will keep a close watch on the situation in the days and weeks to come, and I have sought an urgent briefing from the Department about the current position and the progress of the national pay negotiations.

I appreciate Sinn Féin's withdrawal of its amendment. I understand the point David Ervine is making in his amendment and the reason for a professional wage of £30,000. However, it is not for the Assembly to name a figure in negotiations other than to say that they deserve a substantial rise, and I am pleased that Mr Paisley Jnr has accepted Mr Coulter's amendment.

**Mrs E Bell:** I support the motion. I am glad that the proposers have accepted the Ulster Unionist amendment, which I also support. I support Mr Ervine's amendment; however, Alliance will abstain from the vote for two reasons. The Fire Brigades Union has proposed a sum of £30,000, but the Government and the Prime Minister have not listened, and I doubt whether they will listen to us at this stage.

Unfortunately, I missed the start of the debate. However, I believe the proposer of the motion said that there might be a problem in putting down an amount. By creating a ceiling of £30,000, we may prejudice any future pay formula that would recommend a higher salary. I applaud the withdrawal of the Sinn Féin amendment. Members should stand up to speak for the firefighters, and only for the firefighters.

Last year, the Assembly presented Northern Ireland's firefighters with an award and a plaque in recognition of their bravery over the years, from the Blitz until the present day. I was shocked to learn that the salaries of those brave men and women have not been negotiated since 1977. An unacceptable number of firefighters with young families have to apply for income support or "do the double". I know someone who has been a firefighter for 22 years. His 27-year-old son earns much more than he. That is also unacceptable. As Rev Robert Coulter said, the whole structure must be examined.

Firefighters have saved countless lives, have prevented many incidents from becoming more serious and have put their lives on the line every time that they "go out on a shout". Television programmes do not convey the tension and fear that have been described to me by firefighters and which are present every time they go out. Members are aware of the recent upsurge in attacks on firefighters reporting to fires or other incidents.

Modern firefighters must tackle not only the flames but fumes from drugs and explosives; yet their salaries have not been examined for over 20 years. That is why my party feels that rather than start another review, talks on the introduction of a new pay formula and structure that reflects the arduous nature of the job should commence as soon as possible, despite what the Government and the Prime Minister say.

I have written to the Prime Minister about the pay dispute and have been told that the Government are considering a review. I am afraid that my reply may not be accepted; however, I asked what the point of another review would be and whether it was necessary when it is clear that firefighters' salary levels — apart from anything else — are outdated and do not in any way reflect the true nature of the job.

The firefighters of Northern Ireland have never willingly turned back from any situation, however dangerous. They deserve more than the plaque that the Assembly awarded them last year. They received it gratefully. However, we must give them more practical support. I would certainly endorse a review of the Fire Authority, which clearly does not hold the confidence of the fire crews, who feel that their interests are not being best served by that body.

We remember the brave deeds of the firefighters of New York who were killed or injured on 11 September 2001. Last December, I visited survivors and families of the deceased. Their stories were harrowing. However, as Dr Hendron said, even at that time they told us about the great practical support that Northern Ireland's firefighters gave them and said that firefighters could never be paid enough for the difficult task that they are asked to do. What price do the Government put on the salaries and conditions of people who daily save lives, protect businesses and work for every citizen in the community?



Not a high price, obviously. It is up to the Assembly to ensure that they listen.

**Madam Deputy Speaker:** Can the Member draw her remarks to a close?

**Mrs E Bell:** Members have a duty to send a clear message to the Government. The whole salary and management structure must be dealt with head-on. If that is done, the £30,000 figure, or above, will become a reality. There will then be no need for firefighters to consider strike action, which they will only do as a last resort.

**Mr Boyd:** The Northern Ireland Unionist Party supports the campaign for improved pay and conditions for the Fire Service. The party believes that firefighters carry out a vital and dangerous role in Northern Ireland, and it appreciates the fact that Fire Service personnel daily put their lives at risk to preserve lives and property.

The dangers faced by fire officers in Northern Ireland are well known. They continue to play a front-line role in the face of ongoing terrorist activity, despite the denials of some in the Assembly. Members of the Fire Service have to cope with the aftermath of appalling atrocities. They continually have to deal with disgraceful attacks on vehicles and staff by thugs engaged in street violence.

The formula by which firefighters' pay is determined is outdated and no longer appropriate to deliver adequate pay and conditions for them and other emergency fire control staff. Given the level of training, the operational duties of firefighters and the circumstances in which they must work, the present level of pay — typically around £280 per week — is inadequate.

There has been a vast and dramatic increase in the workload of the Fire Service in the past 30 years as regards calls received, incidents attended and fire safety duties. There has also been an increase in the range and specialist features of equipment, technology, skills and knowledge required. Therefore, firefighters' claim for a review of pay and conditions is wholly justified.

In 1981, 15,838 calls were made to the Fire Service. Twenty years later, in 2001, the service attended 39,055 calls.

There are four aspects to the Fire Brigades Union's pay claim: a pay increase to £30,000 for full-time professional firefighters; pay parity for emergency fire control staff; pay equality for professional firefighters working the retained duty system; and a new pay formula to reflect the professionalism of firefighters and emergency fire control staff.

The Northern Ireland Unionist Party believes that the Fire Service has a very strong case for an immediate review of pay and conditions to ensure that the professional role undertaken by highly skilled firefighters and fire control staff is adequately reflected. I am sympathetic to the firefighters' claim for a significant increase in salaries

and better working conditions. It is therefore vital that their essential contribution to society be fully recognised and accordingly rewarded in order to maintain the Fire Service's high standards and professional service.

**Ms McWilliams:** It is clear from what we have heard and the information that we received from the Fire Brigades Union that there has been an enormous wage drift. I was appalled to learn from the union, when it met me, that there has not been a review of firefighters' pay formula since 1977. How did that situation arise in the first place?

Firefighters' pay can be compared to that of police officers, ambulance staff and nurses. It is clear that police officers decided a few years ago to adopt a salary scheme that included an annual increment for young constables, who could then progress to the rank of sergeant and further up the career ladder. It seems, however, that firefighters do not have that prospect. The main problem seems to be that they cannot move beyond the £21,000 mark, making their career prospects pretty bleak unless they move on to restricted categories, where numbers are quite small. Many — indeed, the vast majority — reach a ceiling after 10 or 15 years.

Everyone agrees that a review is both necessary and urgent. The absence of a review to date makes one wonder what the Fire Authority of Northern Ireland was doing and, indeed, what happened to the negotiations with the National Joint Council and the employers' bodies.

The only other group that appears to have fallen so far behind are nurses. Strangely, nurses' salaries have always been explained on the basis that the profession suffered because the majority of staff were women who entered the profession for vocational reasons, motivated by a caring responsibility rather than salary. Those days are long gone, and people ought to be paid for the skills that they put in.

Student nurses from the Royal College of Nursing who visited Parliament Buildings today told me that they receive only £5,000 per annum during their three years' training and that for many years thereafter they can expect to receive only £15,000 at the most. Therefore, like the firefighters, they end up asking one part of Government to ask another part of the Government to top up their wages. In this case, the Minister of Health, Social Services and Public Safety is responsible for firefighters, and Nigel Dodds, the Minister for Social Development, is responsible for family credit, tax and other benefits.

As we have joined-up Government, it seems reasonable to examine how firefighters can avoid depending on benefits to top up their low pay. A review of the pay formula is long overdue and should be agreed urgently. Firefighters do not need to make any further case when we consider the comparisons between ambulance staff and firefighters. Firefighters have now moved on to

professional grades, yet their salaries are still associated with that upper quartile of male manual workers. What antiquated language. I am glad that they were not equated with female manual workers — how much worse off they would have been then.

4.45 pm

We fully support pay parity for the emergency fire control staff, most of whom are women. They in turn earn even less — 92% of qualified firefighters' wages — yet the firefighters and the union tell us that they could not do their jobs without that highly skilled, professional group of workers. I also argue for pay equality for the retained fire officers, of whom there seems to be an equivalent number in Northern Ireland.

It is good that the entire Assembly is throwing its weight behind this. My only difficulty with the PUP amendment is that a starting salary of £30,000 would put firefighters' salaries clearly beyond those of police officers, ambulance staff and nurses. We do not want to move in that direction. Given how shockingly poor their starting salary is, I agree that it was right to pitch so high, knowing that that pitch will not be successful. I understand the sentiments behind that. Nonetheless, I urge everyone to throw his or her weight behind the motion today. If the PUP amendment falls — and it appears that it will — the Assembly must send out a unanimous message that this matter should be given urgent attention.

**Mrs I Robinson:** As a member of the Committee for Health, Social Services and Public Safety, I congratulate my Colleagues on bringing this timely motion to the Floor of the House. Fire Service pay is determined by a formula that has kept industrial peace since 1977. That formula was agreed following the only national strike by the British Fire Service, but it has not maintained Fire Service wages in line with those of other workers.

A professional firefighters' job has changed dramatically since the 1970s. I shall highlight how their role and responsibilities have changed by comparing statistics from 1971 with some from 2001. Last year, Northern Ireland's firefighters were called out eight-and-a-half times more than they were 30 years ago. Actual fires have increased almost 10-fold, with false alarms up by a factor of 16 to almost 13,000 last year, which is a worrying trend. In 1971, special services, which deal with road accidents and chemical spillages, were called out 85 times. The corresponding figure for 2001 was 1,615. In 1977-78, there was a national strike by firefighters over pay demands. Everything possible must be done to prevent that happening again.

Despite its high-profile public campaign, there appears to have been little effort on the part of the National Joint Council for Local Authorities' Fire Brigades and its standing subcommittee to address seriously firefighters' demands. We must be responsible about pay demands. I

want firefighters to be paid what they deserve, not to be given preferential treatment. I do not advocate overpaying firefighters but rather a pay structure that reflects the demands of a skilled and often hazardous job. We, as a society, must be careful not to allow ourselves to be put in a position where, on a whim, we can be held to ransom by strike threats because the role of some groups is so crucial to the health and safety of the public. Having said that, the Fire Brigades Union has exercised a great deal of restraint over the years. Many others, such as nurses and ambulance crews, are also underpaid; I do not want them to threaten strike action, but that does not diminish the fact that they too deserve salary increases. Firefighters do much more than put out fires. They are involved in water rescues and incidents which involve radiation, contamination and the spillage of chemicals. They cut victims free from road and train crashes, as well as doing what we all saw so graphically almost exactly a year ago. Furthermore, they assist bravely when buildings collapse or when people become trapped.

The duties of firefighters and the levels of skill demanded of them have increased. There is a greater range and specialisation of equipment and technology involved. Firefighters rightly believe that the salaries of emergency fire control staff should be raised to match their own. In addition, they want a better deal for part-time staff. Currently there are hundreds of part-time firefighters in the province. Without them, stations such as Newtownards, Carrickfergus and Portadown would not be able to function. They deserve more than the current meagre annual retainer and merit the same rate as full-time firefighters when they deal with calls.

Firefighters in Northern Ireland deal with the same dangers as their counterparts throughout Great Britain. They have the added fear of coming under attack when called out to a fire. Over the last 30 years in Northern Ireland we have never been short of mindless violence. However, the increasingly common attacks on firemen and paramedics in emergency situations here defy belief. How can it be explained to visitors to the province that emergency services, while risking their lives in order to save the lives of others, can come under attack from the very community they serve? No amount of money could adequately pay firefighters for enduring the risk of a brick coming through the windscreen, or worse.

On 4 September at the Committee for Health, Social Services and Public Safety, Members from all parties were supportive of the firefighters' demands for a pay increase. The firefighters have had my support throughout the campaign.

**Madam Deputy Speaker:** The Member will please draw her remarks to a close.

**Mrs I Robinson:** I have written to the Prime Minister, asking that he support a substantial increase in pay for firefighters throughout the country. I hope that that will



be the case, despite his unhelpful comments on 3 September at his press conference.

**Ms Ramsey:** Go raibh maith agat, a LeasCheann Comhairle. I too welcome the opportunity to discuss the serious issue of the pay of both firefighters and staff. Members have already highlighted the concerns. The Minister and Members recognise the commitment and acknowledge the courageous work of the firefighters, and there is an opportunity for the Assembly formally to highlight that and to thank them again.

Members have mentioned that the matter was discussed at the Committee for Health, Social Services and Public Safety, where it was agreed that the Chairperson should write to Tony Blair to outline our concerns and support the concerns and issues raised by the Fire Brigades Union. It will be interesting to see his response.

The Chairperson, Dr Hendron, highlighted the fact that pay is the single biggest cost to the Health Service. Something approaching 70% of the budget goes on pay. However, pay and associated costs are not negotiated locally, and that must be examined. I do not want to go over the flaws in the formula which has been in use for some 20 years. It is outdated, and there are flaws.

I agree with Ian Paisley Jnr who said that the Assembly should sing from the same hymn sheet. Perhaps he could influence his school friends and ask them to settle down, because in the interests of Assembly unity Sinn Féin agreed not to move an amendment to the motion.

Moreover, I agree with David Ervine that it is wrong that there has been political input into negotiations with senior management and the union.

Bob Coulter was absolutely right in his message to Tony Blair that the Fire Service's pay increase should be generous and not penny-pinching.

I point out again that, in the interests of Assembly unity, Members are agreed and show that they are united in support of the Fire Brigade. Our amendment was not moved for that reason.

We demand a first-class service from the Fire Service, and, therefore, it is only right that it should demand first-class salaries from us.

**Mr Foster:** I apologise for my absence earlier; I was at an important meeting.

During more than three decades of the most dangerous circumstances, often amid violence and difficulty, the Fire Service has given outstanding service to our community. Firefighters were often at the forefront of trouble, unsure whether a bomb would explode or a building would collapse on them as they went to fight a fire. The events in New York on 11 September last year highlight the great and imminent danger that firefighters face in their valiant work.

It is sad that, despite firefighters' admirable bravery in overcoming such danger, thugs in our community attack them when they attend fires during incidents of communal strife. As I read in a local daily newspaper, it is incredible that firefighters attended more than 500 civil disturbances between January and August 2002. Outrageously, 84 appliances were damaged and many firefighters were injured. What is wrong with people that they should attack firefighters, who provide our community with such an invaluable service? Do they not realise that when they injure a firefighter or damage an appliance, they increase the risk of death for someone's loved one and, if they have any, their own nearest and dearest?

The dedication and commitment of Fire Service personnel in peace and strife are admirable, and they deserve thanks and appreciation for their valued and unstinting service, often under the most undue danger and pressures. I am sure that all Members join me in commending them for their sterling work.

As I stated in July, I will support any improvement to the terms and conditions of Fire Service personnel, commensurate with their undoubted skills, value and service to our community. Over the years, the service rendered to this community has been so commendable, admirable and vital that we could not have done without it. We must be as considerate in our support for the Fire Service, as it, in recognition of its role, will be in its requirements. I fully support the motion as amended. The work of the Fire Service is outstanding, even amid such adversity. The bravery of Fire Service personnel must be rewarded and acknowledged.

**Mr A Maginness:** At this stage of the debate, little remains to be said. Despite the little frissons between Sinn Féin and the DUP, there has been a remarkable degree of consensus. However, it is the first day back at school, so Members should make allowances for that. It is remarkable — *[Interruption]*.

**Rev Dr Ian Paisley:** Would you like to join in the spirit of the first day back?

**Mr A Maginness:** Pardon?

**Madam Deputy Speaker:** Order.

**Mr A Maginness:** The consensus is impressive and reflects the respect that people have for the Fire Service. It is important that Members support firefighters, especially at such a crucial time in their discussions with the Government. The Government's review, which is under way, evades the central issue: firefighters should have a proper pay formula, as adumbrated in the amendment tabled by Rev Robert Coulter, and should receive a significant and immediate pay increase to reflect the increasing risks that they face. The risks to firefighters, especially to their health, and to firefighting equipment increase each year, and society owes the Fire Service a tremendous amount.

5.00 pm

I am baffled by the Westminster Government's penny-pinching attitude, which has been seen in many other things that they have done here. One would think that a Labour Government in particular would support the firemen's just demands, especially when that Government are about to embark on an adventure in Iraq on which they will waste millions, if not billions, of pounds in armaments. I cannot understand for the life of me why the Government do not fairly address the firemen's just and reasonable demands, and that opinion is reflected in the House.

When the motion is inevitably passed as amended, it will be a morale booster to the firemen's trade union. I hope that it will help to strengthen its position, bring the Westminster Government to their senses and avoid the disaster for the community that a firemen's strike would be. That can be avoided through negotiation and through the Government's coming to the firemen's trade union with a reasonable proposition before any sort of industrial action is either proposed or taken. I hope that that will result in part from this united motion.

Furthermore, the SDLP fully supports the emergency fire control staff and the retained firemen in their quest for equality. The central point to which I return is that industrial peace, which has existed in the public sector for so long, is the result of the establishment of a just and modern pay formula, and that formula will properly reward firemen financially. The central issue is not a mere pay increase, but the implementation of the actual formula.

**Madam Deputy Speaker:** I ask the Member to draw his remarks to a close.

**Mr Berry:** I support the motion proposed by Mr Paisley Jnr and Mr Shannon. I also support the amendment tabled in the name of the Rev Robert Coulter, and I welcome the debate.

Of all the occupations that schoolchildren want to follow, that of a firefighter probably tops the list. Their uniforms, equipment and, indeed, the professionalism that they have displayed over the past 30 years or more give charisma in children's minds. However, regrettably, maturity brings a sobering appreciation of the hazardous nature of firefighting. Tragically, in Northern Ireland that job is more hazardous than elsewhere. Unlike in New York, where firefighters are looked upon as heroes, in this country they are stoned, and their equipment is destroyed. Too often fire engines are vandalised out of action. Last year alone, over 30 firefighters were injured — not from fighting fires, but as a result of civil disturbances, which is a polite way of saying that thugs deliberately targeted them. That is, of course, unsurprising, because we have an ethical system that applauds the pursuit of power through the barrel of a gun. It is only to be expected that the drip feed of that reaches the streets and makes stoning firefighters quite rational.

The firefighters' request for a pay increase is reasonable. I subscribe to the principle that the labourer is worthy of his hire. Few would reject the sensible case that the Fire Service puts before us, and the failure to agree a mutually acceptable level of remuneration is tragic.

This matter has been on the table since April 2002. It is acknowledged that the Fire Brigade provides an essential service and that the pay formula requires modernisation. Firefighters' workloads have increased dramatically, and the current rate of pay does not reflect the nature of the job. The course of action to be taken about a pay rise must be heard. Is an inquiry necessary? We do not need an inquiry that postpones facing up to the issue. Why was an inquiry not set up before now rather than waiting until the last minute? Will setting up an inquiry be an excuse to change conditions in order to avoid giving a decent pay rise? Those questions indicate the haphazard and lax nature of the treatment of the issue. If undertakings were given, why were they not kept? These and other issues appear to be clouding the negotiations and must be dealt with immediately. Will firefighters be told that they do a wonderful job and that the risks involved are appreciated but that they have to claim state benefit if they need more money? That is unfair and unreasonable. The firefighters are asking for £30,000 a year. If that is not considered realistic, they will have to be told so and why. If £25,000 a year is affordable, it should have already been paid out without all the friction. Nothing is gained by issuing misleading press releases and causing confusion.

There has been no strike, or threat of a strike, since 1978; that is a remarkable tribute to both the firefighters and the pay formula that was worked out at that time. Surely the same can be achieved again, without the need for a strike. Why can the issue not be dealt with without firefighters becoming so frustrated and disgruntled that they consider strike action to be their only recourse?

With many others, I support the motion wholeheartedly; I also support the firefighters in their call for a pay rise. We must commend the firefighters across Northern Ireland for their professional and skilled work on behalf of both sides of the community. I support the Fire Brigades Union, commend it for its lobbying and look forward to working with its members in the future. The motion will send a clear message to the Government that enough is enough and that more needs to be done for our male and female firefighters.

**Mr Davis:** I congratulate Mr Paisley Jnr for proposing the motion and also my Colleagues for tabling an amendment that Mr Paisley Jnr has agreed has added substance to the motion. I am glad that we are united on this subject. Before the end of the debate I hope that Mr Ervine will withdraw his amendment, and then we will have total agreement.

In the aftermath of 11 September, society reflected on the dangerous but vital role of firefighters. It is terrible

that it took that tragedy in the United States to bring home the value of the Fire Service to the Northern Ireland community. As a result of the troubles, Northern Ireland firefighters have had to operate in more dangerous circumstances than their counterparts in the rest of the UK. Over the past few years, we have all been sickened by attacks on the emergency services, including the Ambulance Service and the Fire Service. Instead of appreciating the dedication and commitment of those services, a minority has attacked these workers. The attacks on the Fire Service have been well documented in Belfast and Londonderry, and the Fire Service has advised that many of the attacks were pre-planned; that is worrying.

Nevertheless, it is probable that one day the same thugs will call upon the professional services of our emergency teams. More than 800 firefighters have been injured in the past five years, and nine of their colleagues lost their lives during the troubles. Two years ago in the Chamber I mentioned that one of the first to lose his life was my friend, Mr Wesley Orr, from Lisburn. The award that the House presented to the Northern Ireland Fire Service last July in recognition of its services to all members of the community was justly deserved.

I have pleasure in supporting the merits of the motion, and I urge all Members to support the amendment. There is no doubt that the present formula is out of date; after all, it was established at the end of the nine-week strike in 1977. The formula served the Fire Service well until recently. However, due to the acceleration of the labour markets and occupational change in the workforce in recent years, the pay formula is no longer effective in providing firefighters with a salary that they deserve. A pay structure linked to their skills and experience must be implemented. There should be a differential in pay, depending on the number of years of service and the skills of the individual. It is not simply a matter of awarding a universal pay increase, but of introducing a pay structure that is focused around a firefighter's career steps.

It is important that any agreement be implemented quickly, as the matter has been in the public domain for some time. It is not in the interest of firefighters' morale to prolong the process. I support the motion and the amendment.

**Mr Hilditch:** I support the motion. I have the greatest admiration and respect for firefighters, whose highly dangerous and skilled work should command appropriate remuneration. Their work must be put in the context of their devotion to duty: they risk their lives to save others and others' property; and they respond to a variety of difficult situations, from civil strife and road accidents to saving the family pet. A firefighter's normal shift may incorporate more heroic deeds than many people achieve in a lifetime.

The Fire Service comprises several components. The first component is the whole-time firefighters who work

an average 42-hour week for a take-home pay of £21,000 a year after four years of service. That equates to approximately £9.83 an hour. Training drills and practice are incorporated into the normal working week. The staffing level in the Fire Brigade, as of 31 March 2002, recorded the number of whole-time firefighters as 869. The establishment figure for the same date was 919.

The second component is the retained firefighters, who work when required. They are committed to two hours a week for drill purposes. A retained firefighter can expect remuneration at an hourly rate for attendance at fires and a Northern Ireland allowance. Their total pay before National Insurance and income tax ranges from one hour's work at £15.17 to nine hours' work at £64.77, which equates to £6.20 an hour. The job of a retained firefighter is classed as a part-time occupation. How long can we expect people to continue to be on call 24 hours a day, seven days a week, particularly as they must often take time out from their main jobs, and, therefore, incur financial losses by fighting fires? There were 910 retained firefighters on 31 March 2002, but the establishment figure for the same date is 980. This is in addition to the whole-time service level of 869 firefighters, making this essential service totally dependent on both whole-time and retained firefighters.

The third component is the control room staff. On 31 March 2002, 55 such staff were recorded, while the establishment figure for the same date was 59. These workers are expected to operate up-to-date equipment for salary scales from yesteryear. The pay structure dates from 1977 and is linked to the old male manual workers' agreement, long since unacceptable for obvious reasons.

*5.15 pm*

Today the Fire Service is linked to associated professional and armed technical groups of workers such as the police and armed forces: that is the right category for such an essential service. The problem is that their pay scales have not been brought into line. Something must be seriously wrong when a member of the Fire Service with 32 years' service has a weekly wage of £300.

There are eight volunteer firefighters for Rathlin Island: the establishment figure is 12.

At 31 March 2002 there were 128 fewer firefighters than the established figure for the Northern Ireland Fire Service. A further 283 members of the service were in temporary positions, and a hot fire training unit at Boucher Crescent, Belfast, built in July 2001 at a cost of £56,000, was used just 28 times before being closed by Belfast City Council. Surely such resources could have been better used in resolving the pay dispute and creating better working conditions.

In my opening remarks I also referred to civil unrest. Up to 31 August 2002 the Fire Brigade, given its current circumstances, attended 500 calls, resulting in 84 appliances



being damaged and many firefighters being hurt. That is the working environment these people have to endure: it is part of their ongoing conditions and must not be allowed to go underestimated. The Fire Brigades Union has spent considerable time and effort in trying to resolve the dispute. I ask the House to support this essential service in its efforts to ensure that those who have served their communities so well get the remuneration to which they are totally justified.

**The Minister of Health, Social Services and Public Safety (Ms de Brún):** Go raibh maith agat, a LeasCheann Comhairle. Tá mé buíoch den Uasal Paisley as an cheist thábhachtach seo a ardú. Aontaím ó chroí lena bhfuil ráite faoi obair luachmhar mhisniúil na dtrodaithe dóiteáin — cuireann siad a mbeatha i mbaol ar son na sochaí, agus caithfear seo a aithint mar is cuí.

Caithfidh mé seo a shoiléiriú ar dtús: déantar idirbheartaíocht ar arduithe pá do phearsanra na Seirbhíse Dóiteáin i gcomhar idir Ceardchumann na mBriogáidí Dóiteáin agus na fostóirí a dhéanann ionadaíocht thar ceann na mbriogáidí anseo agus sa Bhreatain Mhór. Ní bhíonn baint dhíreach agamsa ná ag mo Roinn leo.

Is chun leasa cách go gcomhaontaíonn fostóirí agus Ceardchumann na mBriogáidí Dóiteáin socrú cothrom ar an éileamh pá. Tá sé tábhachtach chomh maith, áfach, go mbíonn aon ardú pá d'fhoireann na Seirbhíse Dóiteáin réasúnta, tharla an brú ar chaiteachas poiblí, agus go socraítear é i gcomhthéacs an nuachóirithe agus an fheabhsúcháin.

Creideann Ceardchumann na mBriogáidí Dóiteáin go bhfuil méadú de 40% inchosanta, agus tá na fostóirí den tuairim gur féidir dámhachtainí suntasacha pá a nascadh le sochair shoiléire bhreise don phobal, agus gur chóir an nascadh sin a dhéanamh. Mar shampla, thaispeáin tuairiscí clár oibre nuachóirithe na bhfostóirí a ba mhaith leo é a bheith nasctha le hardú pá. Ar na rudaí a ba mhaith leo iad a bheith nasctha lena leithéid de ardú tá: tuilleadh béime ar shábháilteacht pobail agus ar laghdú riosca á tabhairt chun cinn i gcomhpháirtíocht leis an phobal agus fórsaí saothair dea-fheistithe, oilte fuinniúla a léiríonn a gcomhdhéanamh an éagsúlacht.

I thank Mr Paisley Jnr for bringing this important issue to the Floor of the House. I will begin by saying that I agree wholeheartedly with all that has been said about the valuable and courageous work of the firefighters. Every day they put their lives on the line for society, and this contribution must be recognised appropriately.

Members gave many clear indications and examples of the type of work that firefighters carry out: one talked of their role in attending road traffic accidents. My parents were killed in a road traffic accident in the South some years ago, and my family paid tribute to the local fire brigade that attended the scene. I was aware then,

and I am today, of the harrowing scene that must have met them when they went to do their job.

At the outset I need to make it clear that pay rises for Fire Service personnel are negotiated jointly between the Fire Brigades Union and employers representing brigades here and in GB.

Neither my Department nor I have been involved directly. That stated, it is in everyone's interests for the employers and the Fire Brigades Union to agree a fair settlement to the pay claim. However, it is also important that any pay rise for Fire Service staff is affordable given the current pressures on public spending and is set in the context of modernisation and improvement.

The Fire Brigades Union feels that a 40% pay increase is justified, and the employers have taken the view that significant pay awards can, and should, be linked to clear additional benefits for the public. For example, reports have outlined the employers' modernising agenda that they would wish to see linked to wage increases, including an increased emphasis on community safety and risk reduction taken forward in partnership with communities and well equipped, skilful and highly motivated workforces whose compositions reflect diversity. Such aims could be furthered through greater flexibility in terms and conditions and through a pay structure that rewards Fire Service personnel on the basis of the specific additional skills, experience and competences that they have. I note here Mrs Iris Robinson's views on the issue.

Appropriate pay can, and must, be one of the outcomes of a negotiation process that looks at the full range of issues affecting the Fire Service here and the services in GB. While the issue is not solely one of pay, Members must be clear about the implications of the 40% pay claim as it stands. While it is impossible to be definitive about the impact of such a claim in advance of the settlement, it is likely that it would lead to an increase in annual public expenditure of approximately £14 million, with an immediate increase in pension liabilities of £40 million in the first year. Were such a claim to be settled, it must be understood that the additional cost would have to be found from within the Department of Health, Social Services and Public Safety's budget. I do not need to remind Members of the many competing claims for available resources, so I hope that whatever Members resolve today will be reflected, if necessary, in their contributions to the upcoming Budget debate.

John Kelly and Monica McWilliams raised the issue of public sector pay comparisons. The salary of an 18-year-old trainee school leaver who joins as a firefighter here begins at around £18,500 and goes up to £21,000 during the four years of training. When a firefighter becomes qualified, his salary rises to approximately £22,800 a year. Direct comparisons are always difficult. For example, a nurse after earning a degree starts on an annual salary of

£15,500 to £17,000. A teacher, who also requires a degree prior to entry, receives £17,600.

Firefighters' pay must recognise the fact that they put their lives on the line. Similarly, paramedics often find themselves in the most difficult and dangerous of circumstances, as demonstrated by recent attacks. After at least three years' training, a fully qualified paramedic here receives an annual salary of £19,000. Simplistic comparisons are often not appropriate, and this in no way undervalues the dangerous and important work of the Fire Service. I again remind Members that neither my Department nor I have been involved directly in the pay negotiations.

Sam Foster, David Ervine, Iris Robinson and others raised the attacks on firefighters. I want to take this opportunity to state again that these attacks on firefighters are completely unacceptable. The Fire Brigade has a working group, which includes members of the Fire Brigades Union, who are progressing their proposals through the authority's appliances and equipment and health and safety committees.

In addition, my Department, together with the Fire Authority, the Ambulance Service and youth engagement organisations, has worked up proposals for funding a community outreach initiative. I will continue to press for funding for this important initiative, and I hope that all Members will join with me in doing everything that we can together to ensure that our firefighters and other public sector workers are allowed to go about their extremely valuable work without such attacks as we have seen recently.

I hope that the pay dispute can be resolved amicably during the current negotiations. It is important that we recognise the risk to life and property that would result from industrial action. I urge employers and the union to explore every avenue to avoid industrial action, and I appeal to firefighters to stay at the conference table to try to resolve their issues through discussion.

**Madam Deputy Speaker:** I call Mr Hamilton to make a winding-up speech on amendment 3.

**Rev Dr Ian Paisley:** On a point of order, Madam Deputy Speaker. I would like you to put to the Speaker a statement made in this debate by the Sinn Féin Member for Mid Ulster in which he used the word "traduce" in accusing Members of carrying out a criminal act, traducing people for their own financial benefits. I looked up the meaning of the word in the Library; it led to the beheading of Lady Jane Grey. It is a serious word, and it was used today about Members of my party. I request that when Hansard is printed you place the statement before the Speaker so that we can have a ruling.

**Madam Deputy Speaker:** Thank you for that point of order. I will look carefully at Hansard and refer the matter to the Speaker.

**Mr Hamilton:** I thank the Minister for her contribution. Although her Department does not have overall control of this matter, I welcome her desire that the matter be resolved during the current negotiations and that it should not end in strike action. That is the view of the whole House.

Many Members contributed to the debate, and that precludes me, in the five minutes allotted, from referring to what everyone said. If I leave any Member out, it is not intentional, and it is not because I do not think his comments worthy.

I welcome the comments of Dr Hendron, the Chairperson of the Committee for Health, Social Services and Public Safety, who referred to the courage of the Fire Service over the years and the experience and problems that arose when he was MP for West Belfast. The House will welcome his commitment that the Committee will continue to monitor the situation carefully.

Mr Boyd highlighted how the degree of professionalism required in the Fire Service has changed since the last pay award, and Iris Robinson expanded on that point in her worthwhile contribution. Sam Foster questioned the mindset of those who attack firemen, and Paul Berry drew a parallel between the esteem in which firemen are held in the United States and the treatment of the Fire Brigade by some people here. I welcome the support of Ivan Davis, who referred to the number of firefighters who lost their lives or were injured during the troubles.

Unfortunately, Alban Maginness has left the Chamber; I was struck by his welcome of the degree of consensus in the Chamber on the issue. He also drew attention to the penny-pinching attitude of the Government and compared the cost of the firemen's claim to the money that could be spent in a war against Iraq.

5.30 pm

This amendment makes the substantive motion more specific and more helpful to the firefighters in their struggle for fairer and better pay and conditions. That is Members' ultimate objective. There is widespread public support for the firefighters and for what is seen as a deserving and long overdue pay review. Our amendment correctly reflects the majority of people's thinking. It is not simply a call for a specific amount of pay; it addresses the underlying problem of the absence of a proper pay structure for ordinary firefighters, whose only hope of a real pay increase is to join the management ranks.

New pay scales should be introduced that recognise not only long service, but the expertise and skill of ordinary firefighters. That would create a proper pay and career structure, anchored not only in management, but in real firefighting skills — because firefighting is a skilled job. With guidance from the Fire Brigades Union's representatives, those skills should be identified and recognised in the pay scales, which should be more diverse and



more skills-related. That is the intelligent way to sort this problem in the long term. I commend the amendment to the House.

**Mr Ervine:** It seems that everyone supports the firefighters but nobody wants them to get £30,000. It seems that we want to give them quite a bit, but not as much as £30,000. Several important issues have been raised, which are equally valid in their own way. John Kelly's suggestion, mirrored by Ivan Davis, of a unified approach by the Assembly warrants significant thought. It is important that, even if we squabble at times before reaching the same decision, that approach is valuable and sends out the right message.

Alban Maginness struck me by identifying that the same Prime Minister who worries about what a pay rise for the Fire Service will do to the economy flew out to meet Perky. Pinky and Perky have together decided to bomb Iraq. Just as a Fire Service strike hits, Iraq is likely to be attacked. That will be interesting.

We must be mindful of the support that we give today when the spin doctors begin to operate in the event of a strike by the firefighters. What are we going to do? Are we going to defend ourselves and say to our constituents that it is perfectly right for the Fire Service to be on strike, or are we going to listen to those who will say that they are putting everyone at grave risk?

Paul Berry made the point that the most recent industrial action to be taken by the Fire Service was in 1978. These are not unreasonable, overly militant people. They ask to be taken seriously; however, when they were in negotiation with management, the Government, through the back door, stymied the possibility of a relationship being formed that would result in a decent sum of money for the Fire Service. That is a terrible circumstance, and signals, for all those in negotiations with managers, the point at which the Government might interfere.

As legislators, Members must consider that. Will the Assembly be tarred by the same brush? Our Ministers will soon be beseeched by various sectors of society for pay increases. What will the Assembly do then? Will it operate the same process as Tony Blair? That is one of the many factors in the debate that Members have not thought about.

This direct political involvement in a pay negotiation smacks of the miners' dispute with Margaret Thatcher. It smacks of scrubbing the long-established circumstances in which management and trade unions could build relationships and create partnerships in the negotiations. That is being jeopardised by the British Government. Members must be mindful of that and take it on board. As the British Government screw down people's wages, the Assembly will be expected to do the same. Given that our Ministers will have opinions on many areas of

the wage sector, it is something that the Assembly must pay attention to.

It seems that there is some wisdom in the PUP's withdrawing its amendment. However, I caution with this thought — the amendment tabled in my name could avert a strike if it were listened to. The amendment tabled by the Ulster Unionists could also avert a strike, but the motion and the other amendment could not. Members should think about the inimitable words of Eileen Bell, who said that the Government will probably not listen anyway. That means that there may be strike action by the firefighters.

Last thought — when the media is hounding and vilifying the Fire Service, let us all remember who supported it in this debate.

**Madam Deputy Speaker:** Mr Ervine, will you clarify whether amendment No 1 is moved or not moved?

**Mr Ervine:** The amendment is not moved.

**Madam Deputy Speaker:** By leave of the Assembly, amendment No 1 is not moved.

**Mr Shannon:** I thank Members for their comments. An obvious recurring theme has been that the job of a firefighter is unlike any other job in the country. Over the past thirty years they have had a job unlike those in any other fire service in the United Kingdom or the rest of the world.

If we are all saying that — and we seem to be — we should be asking ourselves whether firefighters are getting an adequate wage to reflect the risks that they take every day to ensure the survival of Members, their families and the people they represent. They are not. The Assembly has not agreed the wage that the firefighters should be paid, but Members have said that there should be flexibility in the wage negotiations. We should not be tied to £25,000 or £30,000. There should be flexibility to go upwards as well as downwards. There must be flexibility in the system to ensure that the firefighters get a maximum wage for the duties and the work that they do. That is why it is important that Members are on the same wavelength.

The Fire Service is one of the three backbone services in the Province. It contributes to the operation of a modern and progressive country, and that should be recognised. Members should be examining a wage that reflects that. Even after a 42-hour week, full-time firefighters are earning £100 less per week than the country's average earnings. That must be reflected on and changed. The Assembly must ensure that firefighters get the wage that they are looking for. They have not had a wage increase since 1978.

Strike action has been mentioned. We cannot walk away from that.

The motion is not only for the benefit of the firefighters; it is for their families as well. Some firefighters are on a wage that depends on their families receiving working families' tax credit. That applies to many firefighters, and it cannot be ignored. On the bar of equality, retained firefighters deserve a realistic wage — not in a couple of years when the Government decide to bring it in as an election gimmick to win votes, but now, when they need it.

The Prime Minister and John Prescott announced that there would be a review of salaries, but as the firefighters stated, they do not need a review — they need a pay rise. They do not need a review to tell them that they need more money, and that they need it immediately. We need that commitment to the firefighters. We need to see the money coming in rather than what we are seeing — the Government playing for time. There is a very real gap between firefighters' pay scales and pay scales in the private sector. As under a previous Labour Government, the Fire Brigade, nurses and police feel that their only option is industrial action.

All the Members who have spoken today mentioned the need for the wage increase. My Colleague for Strangford, Iris Robinson MP, mentioned it, as did Tom Hamilton, Ivan Davis and Alban Maginness. David Ervine spoke very clearly about the need for a wage increase, and industrial action is something that the firefighters really have to consider.

The demonstration in Belfast was attended by firefighters from across the United Kingdom. One statement that stood out in that rally was

“A reasonable reward for a reasonable request.”

If the firefighters needed a headline, I believe that is it. Members should try their best to ensure that they get a

reasonable reward for a reasonable request. Let us not turn away from them in this time of need.

The jobs of the men and women of the Fire Service have changed greatly, and they are still the number one emergency service in many cases. As the firefighters have stated, they have stuck to an annual pay formula, which was agreed 25 years ago, and since then they have not asked for a pay increase. As the firefighters have not complained and have got on with the job in hand, they deserve the Assembly's support for their loyalty and their determination to keep the Fire Service going under the obvious manpower and funding shortages that have dogged them since the 1980s. We must support their action, and we must think about them.

How would Members feel if after 30 years of service, injury, dedication and laying their lives on the line they were taking home pay of £280 per week — think of that when you vote! I urge Members to support the motion. I know they will support it, and I believe that the Minister and her Department will fight hard for the firefighters.

*Question, That amendment No 3 be made, put and agreed to.*

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

*Resolved:*

That this Assembly recognises the valuable and courageous work undertaken by the Fire Service and calls for the introduction of a new pay formula together with a commensurate level of pay for firefighters to ensure that these accurately reflect the highly skilled and professional role undertaken by firefighters and fire control staff.

*Adjourned at 5.43 pm.*

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# NORTHERN IRELAND ASSEMBLY

Tuesday 10 September 2002

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

*Members observed two minutes' silence.*

## NORTH/SOUTH MINISTERIAL COUNCIL

### Inland Waterways

**Mr Speaker:** I have received notice from the Minister of Culture, Arts and Leisure that he wishes to make a statement on the North/South Ministerial Council sectoral meeting on inland waterways, held on 26 June 2002 in Belfast.

**The Minister of Culture, Arts and Leisure (Mr McGimpsey):** The fifth meeting of the North/South Ministerial Council in inland waterways sectoral format took place in Belfast on Wednesday 26 June 2002.

Following nomination by the First Minister and the Deputy First Minister, Ms Carmel Hanna and I represented the Northern Ireland Executive. Mr Éamon Ó Cuív TD, Minister for Community, Rural and Gaeltacht Affairs represented the Irish Government. I am making this report on behalf of myself and Ms Hanna who has approved the report.

The meeting opened with a progress report from the chief executive of Waterways Ireland, Mr John Martin. The Council noted that Waterways Ireland's budget for 2002 is £23.44 million, and that the Northern Ireland contribution is £3.92 million.

Mr Martin advised that major capital projects on the Grand Canal and the Royal Canal were progressing satisfactorily. The programme of work on the Shannon Navigation had been delayed as a result of planning appeals, but those have been resolved. Progress was also made on upgrading mooring facilities on the Lough Erne and Lower Bann Navigations.

Mr Martin reported that Waterways Ireland has had a series of meetings with user groups, including the Erne Charter Boat Association and the Irish Boat Rental Association. Consultants are currently preparing a marketing and promotions strategy for Waterways Ireland, and several

open seminars are planned to give interested parties and the public an opportunity to express their views.

The Council noted that the relevant Departments, North and South, are considering the updated feasibility study on the Ulster Canal to determine the way forward. A public meeting, organised by the Inland Waterways Association of Ireland and the Ulster Waterways Group to raise public awareness of the potential for restoring the Ulster Canal, took place in Monaghan on 12 March 2002 and was attended by more than 200 people. Those attending indicated widespread support for the project.

The Council noted the progress made on the procurement of permanent office accommodation for Waterways Ireland's headquarters in Enniskillen. Detailed proposals from developers for three separate waterside locations at Ardhowen, Sligo Road and The Brook were subjected to technical and economic appraisal, and it is hoped that the outcome will be announced shortly. Sites have also been identified for new office accommodation for the regional offices in Scariff and Carrick-on-Shannon. The Dublin office has been established at refurbished premises at Ashtowngate on the Navan Road, and staff transferred there recently.

Mr Martin updated the Council on the current position on the recruitment of staff to Waterways Ireland. To date, 236 staff have been transferred to Waterways Ireland from former departments, which include the Rivers Agency in Northern Ireland. Following open competition, four directors have been appointed for operations, finance and personnel, technical services and marketing and communications, and six other heads of functions have been recruited. Competitions are in progress for other administrative staff, and a number of professional and technical posts have been advertised. The Council was pleased by the amount of interest in the positions advertised — almost 1,500 applications were received for 47 administrative posts. However, it was appreciated that that created a lot of work for staff in Waterways Ireland who have to process the applications.

The Council approved Waterways Ireland's draft corporate and business plan for 2002-04, which sets out a comprehensive programme of work on a wide range of policy issues, systems development and the proposed works programme. In terms of organisational development, Waterways Ireland plans to set up a policy steering group, a communications unit and a steering group to implement its new targeting social need action plan. An internal audit section will also be established. The corporate plan includes proposals to review health and safety policies and procedures, an assessment of charging policies and a review of navigation by-laws for the waterways within Waterways Ireland's remit.

The Council approved Waterways Ireland's equality scheme for formal submission to the Equality Commission, and its New TSN action plan was also approved. The

Council noted Waterways Ireland's annual statement of accounts for 2000, which was examined and certified by the Comptroller and Auditor General for Northern Ireland and the Irish Comptroller and Auditor General. Those accounts will be published together with Waterways Ireland's annual report for 2000. The Council agreed to meet again in autumn 2002.

**The Deputy Chairperson of the Committee for Culture, Arts and Leisure (Mr J Kelly):** Go raibh maith agat, a Cheann Comhairle. I welcome the Minister's updating us on the work of the North/South Ministerial Council on this important issue. I am glad to know that progress has been made in several areas. However, it has been more than a year since the Minister advised the House that the updated feasibility study on the Ulster Canal was being considered by the relevant Departments in both jurisdictions. Given the level of public interest in that, can the Minister indicate the extent of the progress made?

**Mr McGimpsey:** The feasibility study has been completed. In 2000 it was estimated that it would cost £89 million to restore the Ulster Canal, and that is before taking into account any work to protect the environment and heritage aspects of the canal's course. The environmental impact statement will be made once we have made the decision to proceed, which we have not done as yet.

Our first task was the feasibility study, which showed a negative economic benefit, in so far as our Department of Finance and Personnel can test such a project. There are wider implications and wider social and economic benefits, which will all have to be considered. It is a large project, and it is actively being considered. However, I cannot say when I will be making the decision about this.

**Mr J Wilson:** No specific mention is made in the report of any progress that Waterways Ireland has made on zoning designated areas for different user groups on Northern Ireland's larger expanses of water, such as Lough Erne and Lough Neagh. I saw quite a horrific thing happen during the summer. Young children, babies and their parents were bathing in an area that was clearly identified for bathing only. Jet skis were roaring among them at great speed, turning and twirling around and creating such dangerous water movement that a local person had to restrain a jet-skier.

There are genuine user groups. I am not coming down on jet-skiers. There is a place for everyone — for cruising, for anglers, for commercial anglers and for water sports. However, they are all coming together. There is potential for a horrific accident. I hope that it does not happen. I hope that Waterways Ireland is tackling the problem. What progress has it made?

**Mr McGimpsey:** With regard to zoning and navigational controls at Lough Erne, for example, there is clearly a need to upgrade the by-laws. Waterways Ireland is actively considering that and has discussed the matter

with the chief executive of Fermanagh District Council. There has also been discussion with the various district councils along the navigational line of the Lower Bann. There is voluntary zoning on the Lower Bann, which appears to work reasonably well. However, no by-laws are in place. Waterways Ireland is aware that the matter needs to be dealt with and is seeking to do that.

Waterways Ireland's approach is to try to accommodate all responsible user groups. Mr Wilson gave the example of a dangerous situation in which bathers were in water among jet-skiers. That must be dealt with. Perhaps voluntary zoning is not always appropriate. That is why the by-laws for Lough Erne are being examined. There are no by-laws for the Lower Bann, but their introduction is being considered. That will require widespread consultation.

**Mr Bradley:** Northern Ireland's contribution to the Waterways Ireland budget is just under £4 million, whereas the Republic of Ireland's contribution is about £20 million. Can the Minister tell the Assembly how that ratio was arrived at?

**Mr McGimpsey:** The authority on the northern side of the border pays 100% of capital costs in Northern Ireland, but nothing towards capital costs in the Irish Republic, and vice versa. By agreement, the Irish Republic pays 85% of non-capital costs, and Northern Ireland pays 15%.

The Department is discussing the provision of headquarters accommodation with its counterparts across the border. After a suitable breakdown of, for example, the offices at Scarriff, Carrick-on-Shannon and Enniskillen, it has been accepted that it is inappropriate for Northern Ireland to pay 100% of headquarters capital costs at Enniskillen; nor is it appropriate for the Irish Republic to pay 100% of capital costs for the offices at Scarriff and Carrick-on-Shannon, which are regional offices that have common usage. The agreement is, therefore, that, with the exception of office accommodation, Northern Ireland pays 15% of non-capital costs and 100% of capital costs on its side of the border.

10.45 am

**Mr Shannon:** Over 200 people attended a meeting in Monaghan on 12 March. Can the Minister confirm that some of those were involved in tourism? It would be interesting to know that, because if people involved in tourism do not attend such meetings, they should. There is a tourism potential to be realised.

Secondly, 236 staff have been transferred to Waterways Ireland. Many of us feel that that is an excessive number. Can the Minister confirm the full remit, responsibility and workload that Waterways Ireland is tasked to do? Can he also confirm whether 236 staff will be the final number, or whether more staff will be employed?



**Mr McGimpsey:** As far as the meeting in Monaghan and tourism representatives are concerned, water-based tourism is very much part of the thrust of Waterways Ireland. Water-based tourism is also very much part of the *raison d'être* for replenishing old canals that have fallen out of use, and, as I have said many times in the House, it has demonstrated large economic benefits in the Irish Republic, on the mainland and in Europe, where that activity is popular among tourists. Therefore, tourism plays a key role.

Waterways Ireland has set up a section specifically for marketing and communications, under a director who is looking to sell the product at all times. Indeed, through recent consultation between the two tourist boards and the various providers, a booklet called 'Ireland's Welcoming Waterways', was produced. That is a preliminary project as they begin to sell the product. Tourism is very much a part of the picture as far as Waterways Ireland is concerned.

The anticipated complement of staff is 380; it currently stands at 300. For example, there are currently 50 staff in Enniskillen, with an anticipated complement of 70, which is the number of staff required. As far as the remit is concerned, I refer Mr Shannon to the corporate plan, the action plan and the various background documents to Waterways Ireland. However, it is essentially a navigation authority concerned with taking over navigable waters within the island and managing them for users, tourists and the local population.

Although replenishing canals in the Irish Republic is very advanced, virtually nothing has been done in Northern Ireland. Much of the work lies ahead, and I anticipate that much of it will be done in Northern Ireland, not least on the Lagan Navigation and the Ulster Canal.

**Mr McHugh:** Go raibh maith agat, a Cheann Comhairle. I take into account Jim Wilson's points about users and the safety of lakes, although I do not want any groups excluded from either the upper or lower parts of Lough Erne or confined to areas where it is uneconomical for users to travel.

The Minister said that the Council noted progress on procurement of permanent office accommodation for Waterways Ireland's headquarters in Enniskillen. What progress has been made? I would have expected a decision much sooner than now. Has real progress been made to allow a decision to be announced shortly, or is some sort of foot-dragging taking place on either side of the border?

**Mr McGimpsey:** The process of providing offices in Enniskillen has been ongoing for a couple of years. A development brief for the premises, in which there was a great deal of interest, was issued. A robust process was required to ensure that the decision was the best possible one for the taxpayer and for Waterways Ireland.

We honed it down to three possible sites: Ardhoven, Sligo Road and The Brook. We are now at the next stage

— a site has been chosen, and an economic appraisal has been completed. I am satisfied that the process has been robust. The selection has been completed, and we are clarifying the legal position. I will make an announcement when budgetary considerations can be addressed. I have to be certain that we are ready to spend the money when I make the announcement, and I anticipate being in a position to do that in the near future. It would be premature to make an announcement today. The process is completed, but we must be certain that we have the correct answer. We are now ensuring that that is the case.

**Mr A Maginness:** I compliment the Minister on his comprehensive report and on the steady and sensible progress that has been made on this. I am interested in the potential of inland waterways to attract tourists. The report says that consultants are preparing a marketing and promotion strategy for Waterways Ireland. When will those reports be ready for publication and discussion by the Assembly?

**Mr McGimpsey:** It is difficult to give a precise date by which the reports will be ready. A marketing and communication system has been set up within Waterways Ireland under the control of a director, who is specifically tasked with selling the product as a tourist attraction, and he is working closely with both tourist boards. The first brochure, 'Ireland's Welcoming Waterways', has already been published. That is the beginning of the process, but I am not sure when it will be completed. I can find out and write to the Member with details of the precise date for publication. There has been great interest in this, not least from the providers of the cruising craft and so on and from the local authorities around Lough Erne, the Lower Bann, and the canals in the Irish Republic. We consider the matter to be important and urgent and have given it priority.

**Mr Gibson:** The Minister said that the feasibility study on the Ulster Canal is being considered by the relevant Departments to determine the way forward. Is serious consideration now being given to a reconstruction project for the Ulster Canal and, if so, is there a vague timetable for its delivery?

**Mr McGimpsey:** I attempted to relay the position on the Ulster Canal in an answer to a question asked by Mr John Kelly. The matter is being considered, and a feasibility study has been completed. We know the cost of the project, based on prices in 2000. We will have to find inventive ways to fund such a large capital project. The Ulster Canal and Lagan Navigation capital projects should proceed, resources allowing. It is not simply a matter of making a case in the Assembly and then receiving the money in a cheque from the centre. That would not be possible. We must look at other sources, such as public-private partnerships and possibly the reinvestment and reform initiative.

Those matters are being considered, and we take one step at a time. Old feasibility studies on the Ulster Canal



have been examined, and environmental scoping has been brought up to date. The last scoping was carried out in 1998. I have been trying for the last couple of years to get close to a position of being able to make a proposal on the Ulster Canal, and we are coming to that point. Members will appreciate that it is a very large project and that we must step carefully.

**Mrs Carson:** I thank the Minister for his report and I welcome it, especially given the employment of 50 people in Enniskillen, which is an unemployment black spot in my constituency. I welcome the upgrading of mooring facilities on Lough Erne, which are needed by tourists and boat owners.

In his comprehensive works programme, will the Minister include an audit of the water quality of the Erne system? I am concerned that there has been a visible growth in weeds along the supposedly navigable and deeper waters. Is the increased growth of eel weed in clear water due to the infestation of zebra mussels? The Republic of Ireland's report on the water quality in its rivers shows that the headwaters of the Erne are the second most-polluted system in the Republic. Does the Minister have that report to hand?

**Mr McGimpsey:** Although water quality is very important, Waterways Ireland has no responsibility for monitoring or policing water quality. That lies with another Department.

Zebra mussels were spread by boats and became widely established in the 1990s. No biological control for them has yet been identified. With regard to such matters as the Ulster Canal, that factor must be taken into account to ensure that the mussels are not carried further into our system.

In respect of Mrs Carson's other concerns, I am not clear about the water quality of the headwaters in the Irish Republic. I can make enquiries if she wishes, but, strictly speaking, Waterways Ireland is an authority responsible for keeping waterways navigable, and water quality issues are outside its remit.

## SOCIAL SECURITY BILL

### Second Stage

**The Minister for Social Development (Mr Dodds):** I beg to move

That the Second Stage of the Social Security Bill (NIA 3/02) be agreed.

This Bill makes provisions for Northern Ireland which correspond to the social security provisions made for Great Britain by the Employment Act 2002, which received Royal Assent on 8 July 2002. The Bill is, therefore, a parity measure.

In yesterday's debate on accelerated passage for the Bill, I mentioned that there has always been parity between Great Britain and Northern Ireland in the area of social security. That is as it should be. People in Northern Ireland pay the same taxes and National Insurance contributions as people in Great Britain. They are, therefore, entitled to receive the same benefits. In addition, parity enables Northern Ireland to use the Great Britain computer systems. That is much more cost-effective than having to set up separate computer systems here, which would have to be funded from the Northern Ireland block.

Parity does not only cover the content of the legislation; it also covers the timing of its implementation. New provisions have always been introduced in Northern Ireland at the same time as they have been introduced in the rest of the United Kingdom, and that arrangement should continue.

11.00 am

Clauses 1 to 4 of the Bill cover statutory maternity pay and maternity allowance. The period for which statutory maternity pay and maternity allowance are payable is being extended from 18 to 26 weeks, and the standard rate is being increased from £75 to £100 a week, or to 90% of weekly earnings where they are less than £100 a week.

These are significant changes for working mothers. The increase in maternity benefits to £100 a week from April 2003 is the biggest in real terms since 1948. It comes on top of a substantial increase in April 2002 from £62.20 to £75 a week. Combined with the extension to the payment period, the new rate of pay means that compared with now, most women who receive statutory maternity pay will gain about £1,250.

Clause 3 introduces two important changes: it safeguards a woman's entitlement to statutory maternity pay from 15 weeks before her baby is due and increases the period of notice that a woman must give to her employer from three to four weeks before starting her paid leave. If a woman decides to leave her employer in the 15 weeks before her baby is due, for a reason unconnected with

her pregnancy, she may not receive statutory maternity pay. Clause 3 introduces changes that ensure that if an employee meets the conditions for statutory maternity pay and notifies her employer properly, she will receive maternity pay, even if, for any reason, her employment ends after that point.

Employees must provide three weeks' notice before starting paid maternity leave. The period of notice has been extended to four weeks, which will give employers a longer period over which they can arrange cover for the absence of the pregnant employee. As now, clause 3 also provides a power to modify the entitlement in notice provisions in certain cases, such as premature birth.

Clause 4 increases the standard rate of maternity allowance so that it mirrors the new standard rate of statutory maternity pay. A woman will receive the standard rate of £100 a week, or 90% of her average weekly earnings if that is less than the standard rate.

Most pregnant working women receive statutory maternity pay from their employers, but maternity allowance is aimed at those employees, such as self-employed women, women with a more variable employment record, and women who are on low earnings, who cannot receive such pay. Working women have no choice but to take time off work to prepare for and recover from childbirth, and it is important that we help as many as we can during that time.

The Welfare Reform and Pensions (Northern Ireland) Order 1999 introduced the requirement for certain benefit claimants to attend work-focused interviews. Clause 5 of the Bill extends that requirement to the partners of recipients of social security benefits that include an amount for the partner. Benefit sanctions may be applied if the partner fails, without good cause, to take part in an interview. The work-focused interview will concentrate on job potential and provide the partner with access to help and information on work benefits and services such as childcare. However, any action that a partner may choose to take, beyond taking part in the interview, will be entirely voluntary.

Clause 6 makes further provision for the exchange of information between my Department, the Department for Employment and Learning, the Department for Work and Pensions and the Housing Executive. In particular, it allows for the exchange of employment and training information.

Clause 7 of the Bill amends article 17 of the Deregulation and Contracting Out (Northern Ireland) Order 1996. The substitution of paragraph (4) arises from the need to make the proposed carers Order, which will address the deregulation of carers' allowances, correspond with an equivalent Order made in Great Britain under the Regulatory Reform Act 2001. Drafting of the carers Order highlighted a technical problem relating to the Assembly

control of Orders made under article 17, and legal advice is that Assembly control cannot commence until paragraph (4) is amended.

The carers Order is significant because it will make several changes to invalid care allowance, including changing its name to carers' allowance in April 2003. The Order will provide for carers aged 65 and over to claim the allowance for the first time and will extend the entitlement period for up to eight weeks after the death of the disabled person. In keeping with the long-standing principle of parity in social security matters, the provisions are required to be in place by 28 October so that claimants in Northern Ireland are not disadvantaged, particularly as the same provisions will apply in the rest of the country from that date.

The opportunity has also been taken to make consequential amendments to article 17(1) and 17(2) of the Deregulating and Contracting Out (Northern Ireland) Order 1996, to take account of the enactment of the Regulatory Reform Act 2001, the Social Security Fraud Act 2001 and the Child Support, Pensions and Social Security Act 2000.

Clause 8 and schedules 1 and 2 of the Bill make minor and consequential amendments and repeals that flow from the changes being made by clauses 1 to 6.

The Bill is an important step in the ongoing process of welfare reform, and I commend it to the Assembly.

**Mrs Nelis:** Go raibh maith agat, a Cheann Comhairle. I welcome those clauses of the Bill that facilitate an improvement in the provision of statutory maternity pay and maternity allowance by increasing the period of payment from 18 weeks to 26 weeks and by increasing the rate of maternity allowance. As the Minister stated, those provisions are contained in clauses 1 to 4 of the Bill. That will be good news for expectant working mothers and fathers.

However, the subsequent clauses, which the Minister has outlined, are more contentious — the potential impact of the Bill on partners could be described as the good news coming before the bad. The later clauses propose to change the Social Security Administration (Northern Ireland) Act 1992 so as to make provision for work-focused interviews for partners of benefit claimants by inserting a new section after section 2A entitled:

“Full entitlement to certain benefits conditional on work-focused interview for partners”.

The partners of claimants who receive income support, jobseeker's allowance, severe disablement allowance and invalid care allowance will be subject to that condition. Previous legislation, such as the Welfare Reform and Pensions (Northern Ireland) Order 1999, introduced a requirement for certain benefit claimants, including lone parents, to attend work-focused interviews. The provisions in this Bill propose to extend that requirement to partners

of benefit claimants. If they fail to do so, the legislation will prescribe benefit sanctions. One can argue that there may be an advantage in encouraging partners who lack confidence or who believe that their role is to stay at home as the home keeper. Women in particular might derive some stimulus from work-focused interviews especially if the latter, according to the explanatory and financial memorandum, cover

“previous employment records, capacity to undertake work, the in-house financial support available and help in areas such as childcare, housing and training.”

On the other hand, partners of claimants may feel that the requirements will eventually be enforced, and that is why they may see the Bill as contentious. They may be seeking work or taking up training even when they have family or other domestic responsibilities: there is also concern about the difficulties for claimants whose partners are claiming severe disablement allowance. The Bill does not recognise that many partners of claimants who stay at home are work-focused: work in the home requires many skills.

The other concern about these provisions is the impact that they may have on carers of children, the elderly or the sick. It needs to be made clear that such people will not be penalised by the provisions and that work-focused interviews will not be extended by subsequent legislation to include compulsory attendance at training or compulsory job seeking. The major difficulty for the Committee for Social Development is that the requirement for legislative parity means that once again there is insufficient time to fulfil a proper scrutiny role adequately.

We are not given sight of the passage of such Bills through Westminster. Are we expected to rubber-stamp those Bills which are given accelerated passage, without proper consultation or scrutiny? The Committee for Social Development and the Assembly deserve better. If we are to legislate on parity Bills, we should at least be given sight of the debate and amendments to such Bills, as they travel through Westminster.

We are not “as British as Finchley”, and our constituents have different needs. Our social situation is widely diverse, with higher levels of unemployment and deprivation and more people on income support — 68% more than in England. We have a low-wage economy and serious health problems. It is time that the issue of parity in relation to social security matters, child support, pensions and all those needs are investigated in legal and in policy terms.

**Mr Speaker:** I get a sense from what some Members have said that there is a lack of clarity about parity. There is no such legal thing as “parity legislation” — it merely describes a political decision to keep legislation here the same as in the rest of the United Kingdom. The term “parity legislation” has no legal standing whatever.

There is no description or definition of it — it is purely a political decision. The Assembly is at liberty to take whatever course of action it chooses in relation to parity. The Minister made that clear when he pointed out that there were certain economic and political reasons why he supported that stance.

I wanted to make that clear, because when the term is used there is sometimes an impression that it has a legal standing and that the Assembly is not free to make its own decision in that regard. From a procedural point of view I point out that the Assembly can do more than it might imagine.

**Mr M Robinson:** I acknowledge that the Minister has taken the time to ensure that the Committee for Social Development has been fully briefed on the legislation, in view of the fact that his Department would be asking for accelerated passage for the Social Security Bill to ensure that the principle of parity was adhered to, as the Chairman, Mr Cobain, outlined yesterday. Two weeks ago, the Committee reached the conclusion that the measures being proposed would be of benefit to many more applicants than was previously the case.

I therefore welcome the Second Stage of the Social Security Bill, which will, once fully implemented, provide benefits to some of the most needy and vulnerable in our society. In particular, I want to emphasise and, indeed, to welcome the changes made to maternity payments, which now include the provision for statutory maternity pay in relation to rate, period and entitlement. That is a major step forward in providing real and tangible assistance and benefits to working mothers.

The changes made in the invalid care allowance, including the change of its name to carers allowance, widens the scope of those who are eligible to claim, by allowing people over the age of 65 to benefit from the scheme. Once the Bill is implemented in full, more people than ever before will become eligible for this type of benefit.

The inclusion of the state pension credit Bill will ultimately benefit the most vulnerable and needy pensioners in our society. The Bill’s aim is to create a system that is easier to access and will therefore encourage pensioners to make a claim to which they are entitled. Once implemented, the changes will bring Northern Ireland into line with Great Britain and will allow pensioners in Northern Ireland to have access to the new state pension credit and thus a more generous income. This provides the opportunity for bringing more people into the realm of eligibility with regard to receiving benefits. With the passage of this Bill through the Assembly, the people of Northern Ireland will not lose out on any benefits to which they may be eligible.

11.15 am

**Mr Dodds:** I appreciate the way in which the Bill has been handled over the past two days. I listened to Members’



points, and I wish to address a couple of those. The introduction of these benefits at the same time and at the same rates as in the rest of the country is good news for the people of Northern Ireland.

Mr Speaker, you made several comments about parity legislation, and you are right to point out that it makes sense to maintain parity for several political and economic reasons. There is now some statutory relevance and provision on this issue. Before 1998, there was no statutory basis for the application of the principle of parity. Section 87 of the Northern Ireland Act 1998 gave legislative expression to aspects of that principle for the first time. It requires the Secretary of State for Work and Pensions and the Northern Ireland Minister to run single systems of social security, child support and pensions to the extent agreed between them.

It must be emphasised that parity has worked to the benefit of the people of Northern Ireland for many years. It means that people here who pay the same rates of income tax, National Insurance contributions and so on are entitled to the same benefits, at the same rates, at the same time as people elsewhere. That is right, and if it were not the case, our constituents would rightly accuse us of depriving them of something to which they are entitled.

Parity works to Northern Ireland's advantage. For example, contributory benefits such as retirement pension and incapacity benefit are funded from National Insurance contributions. The amount raised through those contributions is, and has been for a long time, insufficient to meet the demand for such benefits, and the shortfall in the Northern Ireland National Insurance fund has to be made up by a transfer from the Great Britain fund. Non-contributory benefits are financed from taxation revenue. Expenditure is demand-led and is outside the managed block grant. If we interfere with that, we must bear in mind the consequences to the expenditure that will be required from the Northern Ireland block grant, and the expenditure that will be required to manage and implement any breach of parity with regard to computer systems and other matters. Anyone who examined that option in any detail would quickly see that it is to our benefit to continue to implement parity provisions.

Members raised several points about work-focused interviews. I must make it clear that this is simply the implementation of a principle for welfare reform. If a claimant has stated that they have a partner, that partner will be called to attend an interview. All that is required is that they discuss their personal circumstances. There is no requirement to find work. It is a means of exploring with the individual their needs and circumstances, and of giving them advice, support and help. It has been found to be very helpful. Not everyone will find work, but people can explore the opportunities for fulfilling their potential. That is all that is being asked of them, and that cannot be described as bad news. The Bill is

good news for the people of Northern Ireland. It will bring benefits to those who are entitled to them.

Yesterday I said that I was grateful for the opportunity to speak to the Committee for Social Development about the Bill, and to give our reasons for seeking accelerated passage. Some time ago officials appeared before the Committee to discuss the content of the proposed legislation, and members were provided with a copy of the draft Bill. I have searched the records, and there has been no correspondence from some Members who spoke today — I refer to one Member in particular — about any aspect of the Bill. People who speak about scrutiny and consultation should take this matter seriously. If Members have points to make, they should make them, and we could then discuss those points and deal with them as we go through the Bill, rather than Members making spurious points about consultation at the end of the process when they have not bothered at any stage to make those points directly.

I am pleased with how the Bill has been debated. Mr O'Neill made a useful point in yesterday's debate, and I have made an undertaking with the Committee that officials will endeavour to keep members informed about the progress of legislation through Westminster. Members will be able to discuss issues and reflect on them, but they should remember that legislation may be changed at Westminster. It is sensible and correct that Members who are interested in issues should have the opportunity to be briefed. All Members can acquaint themselves with what is happening at Westminster. The information is in the public domain and is not a secret.

I thank the Assembly for its speedy and expeditious consideration of the Second Stage of the Social Security Bill.

*Question put and agreed to.*

*Resolved:*

That the Second Stage of the Social Security Bill (NIA 3/02) be agreed.

## **ASSEMBLY OMBUDSMAN FOR NORTHERN IRELAND (ASSEMBLY STANDARDS) BILL**

### **Second Stage**

#### **The Chairperson of the Committee on Standards and Privileges (Mr McClelland): I beg to move**

That the Second Stage of the Assembly Ombudsman for Northern Ireland (Assembly Standards) Bill (NIA 25/01) be agreed.

This is a historic piece of legislation because it is the first Committee Bill to be introduced to the Assembly.

The main purpose of the Assembly Ombudsman for Northern Ireland (Assembly Standards) Bill is to enable the Assembly Ombudsman for Northern Ireland to fulfil the role and functions of an Assembly commissioner for standards. The Committee on Standards and Privileges is responsible for the consideration of any matter that relates to the conduct of Members, including complaints about alleged breaches of the Assembly's code of conduct and the guide to the rules relating to the conduct of Members.

In September 2000 the Committee embarked on its first inquiry into the possible appointment of an Assembly commissioner for standards. The key recommendation in the Committee's report was that there should be an independent mechanism for the investigation of complaints against Members, and accordingly that an Assembly commissioner for standards should be appointed. It was envisaged that the commissioner would investigate complaints against Members and submit a report to the Committee on Standards and Privileges on any investigation undertaken. In turn, the Committee would submit a report to the Assembly on all complaints investigated, and could recommend the imposition of sanctions on Members. The Assembly, in plenary sitting, would be the final arbiter on each complaint and on the determination of sanctions.

The Assembly approved the report and its findings in April 2001.

After publication of its report, the Committee considered various methods of appointing a commissioner for standards and concluded that the Office of the Ombudsman for Northern Ireland was particularly well placed and equipped to discharge the functions of such a commissioner. The Committee was satisfied that the Ombudsman's office had all the investigative infrastructure, skills and experience to investigate complaints against Members.

In taking this approach, the Committee was keen to maintain the independence of the commissioner by ensuring that neither the appointment nor the tenure of the commissioner would come within the authority of the Committee or of the Assembly itself. Our intention was that the independence of the commissioner for

standards should be analogous to that of the Comptroller and Auditor General.

The approach developed by the Committee was also based on a belief that the independent investigation of complaints by the Assembly Ombudsman, who is appointed through the public appointments procedure, would promote additional transparency in the investigative process and thus secure greater public confidence in the work of the Committee on Standards and Privileges and the Assembly itself. For reasons of economy, efficiency and effectiveness, the Committee decided that this was the most attractive option by far.

The investigation of complaints against Members will be in addition to the Assembly Ombudsman's present functions of investigating complaints against Departments and other public authorities that are referred to him by Members.

In carrying out his function of investigating Assembly standards, the Assembly Ombudsman is not subject to the direction or control of the Assembly. However, where the complaint relates to a Member's conduct, he must have regard to any code of conduct or guidance agreed or approved by the Assembly. To give effect to the proposals to have complaints investigated by the Ombudsman, the Committee concluded that primary legislation would have to be introduced and that the most appropriate method of advancing the relevant primary legislation would be by means of a Bill sponsored by the Committee on Standards and Privileges.

The Committee went to consultation on its proposals through advertisement in the local press. No responses were received, and having to start its responsibility in this area, the Committee has taken the view that there appears to be no objection in principle to this approach. With that in mind, the Committee decided to proceed with the introduction of legislation.

As I stated at the outset, the Bill enables the Assembly Ombudsman to fulfil the roles and functions of an Assembly commissioner for standards. The primary function of the commissioner will be to carry out an investigation into matters relating to the conduct, interests and privileges of Members of the Northern Ireland Assembly at the request of the Committee and to submit a report on any investigation conducted. The commissioner will report to the Committee on his or her investigation but will not make any formal recommendation regarding the imposition of sanctions or penalties.

The Committee will subsequently report its findings on the complaint to the Assembly. The report will contain a recommendation on whether to impose sanctions on a Member. The full report, submitted by the commissioner to the Committee, will be appended to the Committee's report to the Assembly. The Committee's report may be the subject of debate in the Assembly, and the Member



or Members complained about will have the opportunity to take part in that debate. The Assembly meeting in plenary, will ultimately decide whether to accept the Committee's findings. The Assembly will also decide if any of the Committee's recommendations on the imposition of sanctions on the Member should be accepted.

The Bill is necessary to enable the Assembly Ombudsman to fulfil the role of Assembly commissioner for standards. For these reasons, I commend the Bill to the Assembly.

**Mr M Murphy:** Go raibh maith agat, a Cheann Comhairle. We welcome the introduction of investigatory powers for the Assembly Ombudsman. It is essential for the credibility of the Committee on Standards and Privileges that the investigation of Members who have allegedly breached the code of conduct be carried out by an independent person.

It is important that the Ombudsman should have adequate powers to guarantee independence and that due regard be given to his reports. Such a duty should be added to the Bill, and I look forward to seeing it passed. Go raibh maith agat.

11.30 am

**Mr McClelland:** I have no further comment. I commend the Bill to the Assembly.

*Question put and agreed to.*

*Resolved:*

That the Second Stage of the Assembly Ombudsman for Northern Ireland (Assembly Standards) Bill (NIA 25/01) be agreed.

**Mr Speaker:** The Bill now stands referred to the Committee of the Centre.

## ASPERGER'S SYNDROME

**Mr Fee:** I beg to move

That this Assembly calls on the Ministers of Education and Health, Social Services and Public Safety to instigate a comprehensive review of the services provided for people, adults and children, with Asperger's syndrome and the training of professionals specialising in the treatment of such individuals.

I am grateful for the opportunity to raise this important, complex and difficult issue. Mr Speaker, as a layman I speak with trepidation, in the full and certain knowledge that you and other Members may know infinitely more about this topic than I do. Nonetheless, this motion is more about raising awareness and keeping the matter to the fore with the relevant Ministers. I appreciate the fact that the Minister of Health, Social Services and Public Safety is in the Chamber.

This matter is to do with fair play, equality and basic human and civil rights. There are people with Asperger's syndrome and autism of different forms, and they may not be getting the support, care and attention that they deserve and are entitled to.

Some Members have eyesight disorders, and they expect to get a speedy diagnosis of their problem, access to medical care and the glasses they need readily and easily. There is an induction loop system and other aids to support people with hearing difficulties who work in or visit this Building.

There are people with Asperger's syndrome whose needs are not visible and whose condition is not easy to diagnose, and when it is diagnosed it is not always clear what the best treatment is, so we must continuously update our knowledge of that syndrome, and of autistic spectrum disorder, and use best practice in treatment and education. We must ensure that the public have an understanding and awareness of the range of problems faced by those with Asperger's syndrome and their families.

The main characteristics of the syndrome are to do with how individuals communicate, understand the world around them and relate to their environment and to the people they live and come in contact with. Many people with Asperger's syndrome are just like the rest of us; they want to make friends and interact, but they find it very difficult to communicate. Non-verbal expressions and social rules and conventions are quite often beyond them. That creates a high level of anxiety and isolation, difficulties with communication and severe learning difficulties.

In those circumstances, their needs for care and attention, one-to-one education, and precision in the use of language and how one relates to the individual are much greater than ours. Therefore, we must find the mechanisms and supports that will allow sufferers of Asperger's syndrome to live their lives and participate in society to the full. We must protect them against the

almost inevitable danger that is depression, which looms somewhere in the back of their minds and is often one of the most debilitating symptoms of the disorder.

No professional medical practitioner would disagree that there are many differences in diagnostic procedures across the education and library board and the health board areas. There does not appear to be a single professional view of what is the most effective diagnostic method. Highly skilled professionals often must choose the type of treatments that should be given. Their decision is based more on personal experience than on any empirical research or proven methods. The situation is made more difficult by the fact that there is no defining biological marker or medical test on which to base a diagnosis. Furthermore, there is no co-ordinated or standardised approach to the making of assessments or diagnoses, or how treatment can best be delivered.

The scale of the problem must be clarified. There is no accurate information about the numbers of school-children or adults who have the disorder. Figures that I have obtained from the Southern Education and Library Board show that the number of people diagnosed with Asperger's syndrome or autism almost doubled between 1999 and 2001. In 1999, 126 sufferers were diagnosed; that figure rose to 248 in 2001. Nobody in the Southern Education and Library Board or the health board was willing to stick his neck out and say that the figures were accurate. We do not know how many people have Asperger's syndrome, either because they have not been diagnosed or because the problem is not discovered until the early teenage years.

Before we go much further, we must recognise that finding a mechanism for early diagnosis and intervention is crucial in helping sufferers from Asperger's syndrome to live their lives to the full and in giving support to their families. We must have properly trained specialists from across the range of professionals in the education and health spheres who can recognise the potential of Asperger's syndrome, and the language and learning skills that are needed. Those specialists can draw in key professionals such as members of education boards, social workers and specialist teachers, and can put together the type of multidisciplinary response that will allow sufferers of Asperger's syndrome to live their lives to the full.

Several organisations work with Asperger's syndrome sufferers, and I am particularly grateful to Parents and Professionals & Autism (PAPA) for its support and for the information it has provided me with.

The report from the task group on autism, which was commissioned by the Department of Education, is well thought out and well researched, and much of what I am saying today reflects the contents of that report. However, structure and formality must be put on interdepartmental responses to autism and Asperger's syndrome. Dedicated resources must be invested in the training of professionals

and the delivery of supports to families. A common response should be developed by the Department of Health, Social Services and Public Safety and the Department of Education, and also by the Department for Employment and Learning, because an autism-specific employment programme should be established to try to help sufferers of Asperger's syndrome and other forms of autism to integrate into their environment.

Many Members wish to speak, and I appreciate the fact that the Minister of Education has arrived in the Chamber. I am grateful to the two Ministers for attending, and perhaps I will get an opportunity to make a winding-up speech at the end of the debate.

**The Chairperson of the Committee for Health, Social Services and Public Safety (Dr Hendron):** I welcome the opportunity to speak to this motion. The Committee for Health, Social Services and Public Safety is aware of the problems posed by Asperger's syndrome. Representatives of concerned parents from PAPA and other organisations have spoken to the Committee about the difficulties faced by the parents of sufferers. They have spoken eloquently about the heartache parents face in trying to discover what is wrong with their children and of the lack of understanding of the condition among professionals and Health Service managers.

I am grateful that the Minister of Education and the Minister of Health, Social Services and Public Safety are present for the debate.

As a GP with more than a few years' experience — I will not say how many — I know of the difficulty of identifying Asperger's syndrome in young people and adults. The condition was only described in the 1940s, and health professionals are still unsure about the causes of the syndrome. It is an autistic syndrome disorder and it is a lifelong condition. Many people remain undiagnosed until they are adults. Only now are professionals becoming more familiar with Asperger's syndrome and the real difficulties faced by people with the condition, especially children and young people.

It has been estimated that 36 children in 10,000 definitely have the syndrome and another 35 children in 10,000 have similar social impairments. Many of those children may have above-average intelligence, but they face difficulties with social interaction, communication, understanding, and imaginative play. People with Asperger's syndrome may suffer from severe depression, anxiety, impulsive behaviour and mood swings. Early diagnosis is therefore important.

Mr Fee has rightly said that Asperger's syndrome is a condition that requires a shared understanding and a shared approach from health and social care professionals and education professionals. The suitability of provisions in schools and at home for people with Asperger's syndrome would be much improved if there were good links between

health and education professionals. Health monitoring must be applied consistently to ensure that the disability is diagnosed early. Lack of early diagnosis will only increase problems such as lowered self-esteem and poor mental health.

The future lies in the hands of our children, and I ask the Minister of Health, Social Services and Public Safety and the Minister of Education to ensure that disorders such as autism and Asperger's syndrome are properly resourced and funded. I welcome the Health Minister's commitment, given to the Committee for Health, Social Services and Public Safety, that she will introduce a review of mental health policy and improve adolescent mental health services. The Department of Health, Social Services and Public Safety and the Social Services Inspectorate will also undertake other work that may affect children with Asperger's syndrome.

11.45 am

Examples of work to improve services, such as the new Southern Area Children's Services Plan for 2002-05, are also welcome. The plan identifies the need for a coherent and integrated approach to family support to ensure that children reach their full potential. We need a coherent and comprehensive approach throughout Northern Ireland, irrespective of administrative boundaries, to sufferers of conditions such as Asperger's syndrome. That must happen if we are to take seriously the Programme for Government, especially its focus on improving service delivery and addressing cross-cutting policy development.

As Chairperson of the Committee for Health, Social Services and Public Safety I ask the Minister of Health and the Minister of Education to instigate a co-ordinated review of the services provided for people with Asperger's syndrome and related disorders. I support the motion.

**Mr Berry:** I support the motion wholeheartedly. Mr Fee clearly outlined the concerns and problems relating to Asperger's syndrome that must be addressed. The Chairperson of the Committee for Health, Social Services and Public Safety also outlined the problems and what needs to be done. Parents and Professionals & Autism (PAPA) has lobbied very hard on this distressing matter. The motion states that a comprehensive review must be instigated as soon as possible to deal with the issue.

Parents are concerned by the perceived lack of understanding of Asperger's syndrome among health professionals and others, which results in anxiety for parents and children. The Department of Education and the Department of Health, Social Services and Public Safety must recognise the problems surrounding the illness.

Some parents discover that their children have the syndrome only when they start school. The syndrome can cause grave concern for parents and deep depression for children who are severely affected. A comprehensive

review and the training of professionals to specialise in treating such individuals are vital. We must back that wholeheartedly, and I believe that all Members will do that. However, the Department of Health, Social Services and Public Safety must also focus on early intervention and treatment. I hope that both Departments will work collectively so that the anxiety of parents and children who are affected by the illness can be eased immediately.

**Mr McHugh:** Go raibh maith agat, a Cheann Comhairle. I support the motion. This is an opportunity to increase public recognition of Asperger's syndrome and to focus on what needs to be done to address it. In 1999-2000, the Education and Training Inspectorate carried out a survey of children with Asperger's syndrome. It found that

"The area boards' figures indicate that there are approximately 160 pupils who have been officially diagnosed as having Asperger syndrome."

The figures reveal wide variations between area boards and suggest variations in the diagnostic approach to the condition. The figures generally fall into the lower end of the nationally recognised ratios, which suggests that the condition is not widely recognised in the North.

The inspection team's view is that the present numbers appear to be significantly underestimated. The task of agreeing diagnostic criteria and applying them uniformly across the boards is urgent. Only when that has been done can the Department of Education evaluate the resources required to provide appropriate education for the children concerned.

I am pleased to note that the Minister of Education and his Department have not been idle. The task forces on autism, both North and South, met and reported earlier this year. The report of the task force in the North noted that a wave of autistic spectrum disorder is rising through the school system and that, as it progresses, there will be large increases in the numbers of pupils, students and trainees diagnosed as having autistic spectrum disorder. There will also be a large increase in demand for appropriate services and educational provision.

The report recommended that significant improvement be made in three areas: access to multi-agency, multi-disciplinary diagnostic and assessment services; training for parents of, and people who work with, children and young people with autistic spectrum disorder; and school-based and home-based educational and therapeutic provision.

The treatment centre in Armagh will be a centre of excellence and an all-island facility. It will provide expert advice and access to the latest research. In order for the centre to be successful, it must harness the energies of all concerned, including health and education services, parents and academic and medical research, to deliver the best and most effective provision. The hopes of all



the families of autistic spectrum disorder and Asperger's syndrome sufferers are invested in it.

Recent developments suggest that we are on the right road, and we must continue down it to improve the situation.

**Ms Lewsley:** I thank John Fee for bringing the issue before the House. Asperger's syndrome is a form of autism that is often described as a display of odd behaviour. It affects sufferers' ability to communicate and the way in which they relate to others. As a result, they frequently cannot display appropriate social behaviour. They may be clumsy or awkward and have a lack of common sense. Many sufferers are dyslexic and have problems with mathematics, while others have language disabilities or sensory difficulties. They are often obsessive about routines, and, in order to avoid anxiety and stress, they need an extremely structured and supportive system with the minimum of change.

Sufferers frequently feel isolated because they are aware that they are different from other people. Several Members said that increasing numbers of people are being diagnosed with Asperger's syndrome. What information or education does the Department of Health, Social Services and Public Safety provide about the condition for parents, carers or the wider community? Public awareness of the condition must be raised.

Are the Minister of Health, Social Services and Public Safety and her Department communicating with the Minister of Education to ensure that teachers and healthcare professionals can be trained, so that skilled people are available to provide treatment and support for Asperger's syndrome sufferers and their carers?

The fact that this debate has come before the House proves the need for the Minister of Education to bring forward the special education needs and disability Bill as soon as possible.

Members have identified a wide range of needs that are not being met, and the situation will deteriorate unless they are addressed immediately. I suppose that inadequate funding is the main reason for the lack of action. Although Asperger's syndrome is pigeonholed under health, it is not only the responsibility of the Minister of Health, Social Services and Public Safety, but also of several other Departments, including Employment and Learning, and Social Development.

A serious issue that affects people with Asperger's syndrome is disability living allowance (DLA). Although DLA is aimed at improving the quality of life of those with disabilities, some people are wrongly denied it. Parents and carers of people with Asperger's syndrome find it increasingly difficult to access DLA because of the guidelines in force. The right to choose is vital, so people with Asperger's syndrome and their carers should have as many choices as possible. It is important that

they be facilitated to take control of their lives and to achieve a level of independence commensurate with their condition.

There is also a social aspect. Every individual is part of the community and, as such, has the right to the opportunity to develop a social network. People with Asperger's syndrome deserve those opportunities. I support the motion.

**Mrs E Bell:** I support the motion; it is good that Mr Fee moved it. Although the Assembly has debated autism, this motion raises awareness of the difficulties experienced by people with Asperger's syndrome, which is a growing problem. Members must send a clear message to the families who are directly affected by the dreadful and, at times, terrifying ordeal of having children or young people with Asperger's syndrome or autism.

During the Assembly debate on autism we agreed that it was vital that all Departments co-ordinate their approach to autism and Asperger's syndrome, which is an autistic spectrum disorder. We were delighted that the Department of Education, at the request of the Minister, set up a task group and a centre for autism sufferers. I am pleased that the Minister of Health, Social Services and Public Safety has had similar work carried out and that improvements will be made.

Autism and Asperger's syndrome affect the families of sufferers, and it is essential that there be an urgent review, initially by the two Departments continuing the work that they have started, and then incorporating other Departments.

I have been trying to convince the Minister of Education to ring-fence funds for special needs so that children, young people and adults can be given support and practical help appropriate to their situation. I hope that special-needs legislation will be introduced soon so that these changes can be made.

People with Asperger's syndrome are usually highly intelligent but have many problems with social interaction and trouble with at least two of the following: a marked impairment in the use of multiple non-verbal behaviour, such as eye-to-eye gaze, facial expression, body posture and gestures to regulate social interaction; a failure to develop peer relationships appropriate to developmental level; a lack of spontaneous desire to share enjoyment, interests or achievements with other people, which is characterised by a failure to show, bring or point out objects of interest to other people; and, most importantly, a lack of social and emotional interaction.

I am dealing with a child who suffers from Asperger's syndrome, and the whole family of that child must deal with the situation hourly. Sufferers' quality of life is impaired, so we should emphasise to the Executive that they should not be allowed to slip through the net of the system without help, treatment or support. Given the intelligence of those with the syndrome, it is often difficult



to detect it during a child's early years, and in the past children have been labelled as disruptive without any attention being paid to the causes of their behaviour. Research must be carried out to find out how best Asperger's syndrome and autism can be detected early and specific treatment given.

12.00 pm

Therapy aimed at teaching social and pragmatic skills can remedy many weaknesses. Anxiety leading to significant rigidity can be treated medically. Although it is harder for them, adults with Asperger's syndrome can have relationships, families, and happy and productive lives. Therefore the Assembly must stop the practice of passing such people from education to health; from having a learning disability to having a mental illness. Staff must be trained to deal with the problems adequately. The aim must be the development of a co-ordinated action plan and the provision of proper resources so that patients and their families can have a better chance in life.

**Ms Ramsey:** Go raibh maith agat, a Cheann Comhairle. I welcome the motion, and the opportunity to speak briefly about Asperger's syndrome and autism. I agree with Mr Fee who said that most Members probably know little about Asperger's syndrome and autism. However, the Assembly can raise awareness: it has a duty to do so.

I am heartened by the attendance of the Minister of Health, Social Services and Public Safety and the Minister of Education: it sends out a clear message that they both take Asperger's syndrome and autism seriously and that they are committed to providing appropriate services.

Some time ago, the Minister of Education announced to the Assembly the development and opening of a centre of excellence in Armagh. Mr McHugh said the centre would be an all-island facility that would provide expert advice, and the latest research, training, support and development for teachers and parents and for individuals who suffer from the disorder. However, it has been shown that in order for the centre to carry out that work, there needs to be commitment not only from Minister de Brún and Minister McGuinness but also from the Minister for Employment and Learning and from the Minister for Social Development. Ms Lewsley highlighted issues that are the responsibility of the Minister for Social Development and his Department such as disability living allowance. All such issues are interlinked.

Most Members mentioned the task group, which made comprehensive recommendations with regard to interprofessional co-operation, the need to involve parents and the need to improve school and home-based education and therapy. Its report provides a road map for the Assembly's approach to children and young adults who suffer from Asperger's syndrome and other forms of autism. I welcome the task group's report, which supports educational provision for children and young people with

autism. I hope that the report's main recommendations will be adopted as soon as possible. There have been several developments, such as the opening of the centre, that suggest to the Assembly that we are on the road to providing key services to people who suffer from the disorder. I suggest that a copy of the Official Report of this debate be passed to those Ministers who are not present, as the issue concerns them. I believe that the Assembly is on the right road and should continue down that road.

**Mr Speaker:** It has been drawn to my attention that we have a technical difficulty. I understand that the computers that run the annunciator service have frozen. I have seen quite a number of Members coming in during the debate, who may have had an interest in this subject and expected it to be a little later on. They may not have been assisted by the fact that the annunciators are frozen. Colleagues are working on this matter, but, obviously, it is not very helpful at this particular juncture.

The second problem is that relatively few Members indicated a wish to speak at the start of this time-limited, one-hour debate. No less than two Ministers are present. They are referred to in the motion and will, therefore, wish to speak. I appeal to all Members to be as brief as possible. I will try to allow everyone to speak, but I may not be able to, simply because of the difficulties that have arisen. I ask Members to be as understanding as possible.

**Rev Robert Coulter:** I apologise for not being present, owing to other responsibilities. I also apologise to Mr Fee for missing the beginning of the debate.

It is fair to say that Asperger's syndrome is not as well publicised as autism, so I congratulate Mr Fee for tabling the motion. I welcome the opportunity to debate the topic. It will, I hope, help to raise the condition's profile with the public, statutory bodies and others who may come into contact with those who suffer from it. I have already told the House that I have a personal interest in autism, having a grandson who suffers from it, and I can identify hands-on with Asperger's syndrome.

Experts will debate whether Asperger's syndrome should be classified separately from autism. The task group on autism made it clear that there is a difficulty in differentiating between the two. There are two parts to that problem, namely those who suffer from the condition and the professionals who treat it. A division must be made between the two. For instance, care is taken of young people with autism up to the age of 19, but there is absolutely no provision after that. The problem with the professionals is that very little has been done to prepare for a diagnosis of the condition.

In my meeting with PAPA, the problems in obtaining statistics about the number of people who suffer from Asperger's syndrome were explained to me. The task group report argues that the lack of training for professionals in an organised assessment and diagnostic procedure makes

it difficult to obtain data on those who have Asperger's syndrome.

The report speaks of an autism wave hitting services in Northern Ireland. Since 1999, the Southern Education and Library Board has recorded the number of children with Asperger's. The data show that there has been a recorded increase of 158%. That could be due to several factors, including greater awareness. I was interested in a recent report on the BBC programme 'Newsnight', where it was stated that in California, 3,000 new cases of autism are identified each year — a tenfold increase from the 1970s.

PAPA has made it clear that resources are not in place in the Department of Education or in the Department of Health, Social Services and Public Safety to deal adequately with the problem. The problem is not simply with Asperger's syndrome, but with all autism conditions. Through the motion, I hope that the two Departments will take the problem seriously. I welcome what has already happened. Working together gives hope to those who suffer from this terrible condition.

**Mrs I Robinson:** I apologise to Mr Fee for missing his contribution to the debate and congratulate him for bringing the motion to the Assembly Floor.

There are 30,000 diagnosed Asperger's sufferers in the UK. However, diagnosis is very subjective and is based on behavioural patterns rather than on any single test. Some Asperger's sufferers are very successful — they often excel in academia — but are regarded as eccentric, clumsy or absent-minded. They do not like transitions and prefer routine. They fail to respond to non-verbal cues or body language and struggle to make relationships with their peers. Although there is no delay in language developmental milestones, people with Asperger's syndrome may have a different way of using language. They tend to have a good vocabulary but do not appreciate the nuances of language.

They may have decreased social skills, including the avoidance of direct eye contact. Some sufferers can become very successful, with a tendency to immerse themselves in one subject. They often seem rude, but they simply have a different perspective on life and relationships. They become obsessed with complex topics in the fields of music, history or the weather, and they thrive on details that others would regard as obscure or irrelevant.

Their speech can be monotonous, repetitive and lacking in emotion and their conversations tend to revolve around themselves rather than anyone else. Many sufferers have dyslexia or have difficulty in writing. They can appear to have no common sense. In severe cases, sufferers can become depressed or aggressive.

The condition was first described by Hans Asperger, a physician from Vienna, who in the 1940s noticed marked deficiencies in social and communication skills in

several young boys with normal intelligence. The condition seemed slightly more common in males, with many children diagnosed between the ages of five and nine.

Treatments vary and no one therapy works for everyone. Ritalin has been tried by some sufferers, but its use is controversial. It is crucial that diagnosis is prompt and early and that it is followed, as quickly as possible, by intervention at home and in school. The number of children diagnosed will continue to rise rapidly, so the planning of future resources must allow for the existence of many more sufferers than we are aware of today.

Training for parents and those working with children with autism spectrum disorders will become increasingly important. Society is ill-equipped to deal with the special educational needs of those children. A task group on autism set up in the Province produced its report earlier this year, after a comprehensive information-gathering process. I am not sure whether, by tabling the motion, Mr Fee wants to start a similar process. That would not be wise; I am not sure that anything new would be revealed. Although Asperger's syndrome undoubtedly falls within the more able end of the autism spectrum, the key components in the management of all autistic children are the same. The task group report gives detailed guidelines on how to proceed. The difficult part will be the implementation of the recommendations, many of which are merely aspirational. The nuts and bolts needed to deliver those goals are crucial. All the best theories in the world are irrelevant until those with the condition and their families can recognise significant improvement in their daily lives. I support the motion.

**Dr Adamson:** I also apologise for not being present at the start of the debate. I reiterate my support for the motion, which covers the full differential diagnosis of infantile autism, including Asperger's syndrome, idiot savant, developmental dysphasia and dyslexia, and developmental right-hemisphere deficit syndrome. There is no evidence of normal development of particular functions with these conditions, which may involve partial disability. However, with other conditions there is evidence of normal pre-morbid development, for example, disintegrative psychosis, which may involve generalised disability, and childhood schizophrenia, which may involve partial disability.

Mr Speaker, I will not keep the House any longer, because you are more eloquent and well versed in this subject than I am. I support the motion.

12.15 pm

**The Minister of Health, Social Services and Public Safety (Ms de Brún):** Go raibh maith agat, a Cheann Comhairle. Gabhaim mo bhuíochas leis an Uasal Fee as deis a thabhairt dúinn riachtanais páistí agus aosach le siondróm Asperger a phlé. Thóg Comhaltaí ceisteanna agus ábhair inní tábhachtacha le linn na díospóireachta. Tá mé tiomanta dona chinntiú go mbeidh teacht ag páistí agus ag aosach a bhfuil neamhoird speictream

uathachais orthu, lena n-áirítear iad siúd le siondróm Asperger, ar na seirbhísí agus an tacaíocht atá de dhíth orthu. Cuimsíonn seo comhoibriú idir mo Roinnse agus an Roinn Oideachais.

Léiríonn na figiúirí is deireannaí a sholáthraigh iontaobhais sláinte agus seirbhísí sóisialta gur diagnósíodh 400 páiste agus 114 aosach le siondróm Asperger. Tá 159 páiste eile ag fanacht le diagnóis.

I thank Mr Fee for providing the opportunity to discuss the needs of adults and children who have Asperger's syndrome. Members raised several important concerns during the debate.

I am committed to ensuring that children and adults with autistic spectrum disorders, including those with Asperger's syndrome, have access to the necessary support and services. That includes co-operation between my Department and the Department of Education.

Several diagnostic tests for autism can be useful in particular cases. However, the absence of a test which is reliable across the spectrum of autistic disorders has caused professionals to be cautious of introducing universal screening for autism in children. The effects of Asperger's syndrome may become apparent only as children become older or in adulthood. Improving professional awareness of the condition results in earlier diagnosis of the syndrome, which can now be detected in a child's early years. The latest figures from the health and social services trusts show that 400 children and 114 adults have been diagnosed with Asperger's syndrome. A further 159 children await diagnosis.

Professional awareness helps to inform improved service provision; however, the pace of service development has been dictated by the availability of resources. Current service provision is typically met from learning disability and mental health programmes. Some £233 million was spent on those programmes in 2000-01. Although there are as yet no specific services for those with Asperger's syndrome, health and social services boards report the development of generic services for people with autistic spectrum disorders. Examples include Down Lisburn Trust's assessment and diagnostic team for autism, the establishment by Homefirst Trust of an autistic diagnostic team, autism diagnostic services at the Child Development Centre in Lurgan, and a specialist Asperger's clinic run by the child and family psychiatric team.

Community-based child and adolescent mental health services have been developed in each trust in the Southern Board area, and a model of care for children with an autistic spectrum disorder has been developed in the Western Board area, through collaboration with the Western Education and Library Board, PAPA and the Foyle and Sperrin Lakeland Trusts. That is a start, but more work is necessary.

All trusts report that professional awareness is being addressed through training, and the Department is working with PAPA on the development of further training services. Professionals in community and specialist services provide support to parents. My Department funds projects run by PAPA, and I take this opportunity to pay tribute to PAPA's work. Officials from my Department are working with their counterparts, particularly on the implications of the task group report.

In this autism awareness year it is important to pay particular tribute to PAPA's work in raising local awareness of autism in all its forms. The organisation has worked closely with health and social services in securing development and has been particularly successful in achieving the adoption of a special education programme, the treatment and education of autistic and related communication handicapped children (TEACCH), in several trust areas. At the same time, the organisation explores with healthcare professionals how awareness training might be improved.

The motion calls for a comprehensive review of services for people with Asperger's syndrome. That work is being taken forward in the following ways. The report produced by the task group on the education of young people and children with autistic spectrum disorders, launched earlier this year by the Minister of Education, sets a comprehensive agenda for our two Departments to develop services and support for these children.

My Executive Colleague, Martin McGuinness, will say more about that.

I welcome the centre of excellence, which is a significant development. I understand that detailed proposals for that project are being developed, and officials from my Department are involved in that work to ensure that the necessary healthcare support is provided.

After the publication of the task group's report, the Department asked the health and social services boards to assess its implications for health and personal social services, and to quantify the additional resources likely to be needed to develop relevant services. That work is nearing completion and mirrors work undertaken by the education and library boards. There is no doubt that a multi-agency and multi-professional approach is required to meet the holistic needs of people with Asperger's syndrome.

Significantly, the Department's Social Services Inspectorate has commenced an inspection of services for children with disabilities. The inspection will cover children with all types of disability; it will include children who have been hospitalised for three consecutive months and those who live in the community. The inspection team's report is due in spring 2003.

Officials are in discussion with PAPA about the best way in which training for professionals should be imple-



mented. Those discussions will also identify the financial support and any other support that the Department might be able to provide.

Children and adults with Asperger's syndrome should be able to access the services and support required to meet their needs. Since I became the Minister of Health, Social Services and Public Safety, the development of child and adolescent psychiatric services, learning disability services and mental health services have been high on my priorities for action. Expertise among health and social services professionals in that field is developing, and a range of specialist services are being put in place to meet the identified needs.

I shall continue to highlight the case for the necessary resources and to do all that I can, in conjunction with Executive Colleagues, to ensure that services are available as soon as possible.

**The Minister of Education (Mr M McGuinness):** I thank John Fee for highlighting the issue of services for children with Asperger's syndrome and for providing Members with the opportunity to discuss recent developments. I was interested to hear several Members articulate what Asperger's syndrome and autism are. The best example that I have witnessed was that of a 10-year-old boy called Kenneth Hall, who visited me at the Assembly. He has written a book in which he explains how autism affects him. I encourage all Members, and everyone who is interested in special educational needs, to read that book. It is a fascinating read; it has only around 100 pages and could be read in two hours, yet it gives a fantastic insight of a child who is affected by the syndrome.

As Minister of Education, I have repeatedly made clear my commitment to special educational needs. I remain committed to the development of high-quality services for children with special needs, their families and their schools. I have placed a strong emphasis on interdepartmental working to effect improvements in that area, not only between my Department and the Department of Health, Social Services and Public Safety, but between health and education Departments throughout Ireland and through collaboration with the voluntary sector.

John Fee, Paul Berry and Joe Hendron spoke about the need for a comprehensive review of the services that are available to people with Asperger's syndrome. The Department is undertaking work on educational provision for children with Asperger's syndrome in several ways. The task force on autism, which I launched earlier this year, has produced a comprehensive and hard-hitting report on the education of children and young people with autistic spectrum disorders. The report sets a challenge for those of us in the education and health sectors to work together to improve the diagnosis, assessment and educational provision for children with autism. The task force found that, in the past few years, education, health and social

services provisions for children with autistic spectrum disorders have entered a period of rapid improvement.

The report made recommendations for significant improvement in three main areas: access to multi-agency and multi-disciplinary diagnostic and assessment services; training for parents of and people who work with children and young people with autism spectrum disorder (ASD); and school- and home-based educational and therapeutic provision.

My Department is planning a major conference, which will take place in a few weeks, for relevant education and health professionals who are involved in service planning and provision and for parents and representatives of voluntary organisations. That event will provide a focal point for discussion on how best to proceed with the recommendations of the task group's report. Last year, my Department's Education and Training Inspectorate published a survey of pupils with Asperger's syndrome. Rev Robert Coulter mentioned that there is a perceived increase in levels of autism. In many ways we are satisfied that that increase can be explained by improved methods of detection. I have asked that the findings of that survey be considered in the light of the task group's recommendations.

As well as those local developments, my Department has actively engaged in cross-border work to help improve ASD provision. It is significant that my Department and the Department of Education and Science in Dublin are actively involved in the establishment of a centre of excellence for autism which will be located in Middletown, County Armagh. All of us who are interested in this field are excited about what can be done at that centre. Detailed plans for the operation of the centre are under development, and we are trying to get it up and running by the autumn of next year.

The centre will provide diagnostic support and assessment services, training and advice for parents and teachers, an individual learning centre and ASD research and information services. Among other activities, my Department has worked with the voluntary organisation, PAPA, which has been mentioned several times in the debate and with which I met last week, to produce an information video for parents of children with autism as well as an awareness-raising digital versatile disc for teachers in mainstream schools who may be encountering autism for the first time.

Rev Robert Coulter also mentioned the interesting issue of what happens to children with special educational needs when they leave the education system after the age of 19. That affects children other than those with autism or Asperger's syndrome, such as the many others who have special educational needs. I have been conscious of that, and the Minister of Health, Social Services and Public Safety, the Minister for Employment and Learning and I met last week with our officials to tackle the matter head



on. The three Departments have established a group of officials to deal with the difficulties outstanding.

I am determined that the education and library boards be equipped to deal with the issue and to enable children in the autism spectrum, including those with Asperger's syndrome, to access the educational provision that can best meet their educational needs. Special educational needs remain at the top of my agenda, and I will use my best endeavours to secure the resources that are necessary to develop those important issues.

**Mr Speaker:** I should like to indicate my appreciation, not only of Members' and Ministers' general conciseness, but in particular of the proposer who volunteered to reduce his own comments to a few brief remarks so that all other Members who wished to speak could do so.

**Mr Fee:** Thank you, Mr Speaker. I appreciate the fact that the two Ministers were here and gave such comprehensive commentary on what is going on. I should explain to Mrs I Robinson that the motion was originally tabled last October, but Members across the Chamber have accepted the spirit of the motion.

The thrust of the work of the two lead Departments, as well as the other Departments, must centre on three goals: early assessment, early diagnosis and early intervention. Everything must be subordinate to those goals. From what I have heard this morning, I am convinced that the two Ministers are heading in the right direction, and I appreciate that.

*Question put and agreed to.*

*Resolved:*

That this Assembly calls on the Ministers of Education and Health, Social Services and Public Safety to instigate a comprehensive review of the services for people, adults and children with Asperger's syndrome and of the training of professionals specialising in the treatment of such individuals.

*The sitting was suspended at 12.30 pm.*

2.00 pm

*On resuming (Mr Deputy Speaker [Mr J Wilson] in the Chair) —*

## ANTI-SECTARIANISM

**Mr Deputy Speaker:** I will advise Members as to how I propose to conduct the debate, which has been allocated two and a half hours by the Business Committee. Three amendments have been tabled and published on the Marshalled List. Speaking times will be as follows: the proposer of the motion will have 10 minutes to propose and 10 minutes to wind up; the proposers of each of the amendments will have seven minutes to propose and five minutes to wind up; and all other Members will have five minutes each.

The amendments will be proposed in the order in which they appear on the Marshalled List. When the debate has been concluded, I shall put the question on amendment 1. Whether or not amendment 1 is made, I shall put the question on amendment 2. However, amendment 3 may not be called if either of the other amendments is made. The Speaker's ruling on this matter has been explained to the Business Committee at its lunchtime meeting. If that is clear, I shall proceed.

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

In its belief that all sections of our community have the right to exist and all people have the right to live free from violence and intimidation whether at home, at school, or the workplace, this Assembly expresses its sympathy to all those who have been the victims of sectarian murder, violence and intimidation in recent times, and rejects sectarianism and commits itself to providing leadership on this issue in practical ways. That this Assembly also re-affirms its commitment to non-violence and exclusively peaceful and democratic means to resolve disputes.

Go raibh maith agat, LeasCheann Comhairle. The motion should have been easy to pass — we kept it simple, to the point, easy to agree and non-controversial. We made every effort to get cross-party support. What does the motion say? It says simply that we express our sympathy to all victims of sectarianism and that all of us reject sectarianism and commit ourselves to practical means to eradicate it. Regardless of our political differences, the motion was designed to be a united and public voice of anti-sectarianism from the Assembly.

The Lord Mayor of Belfast, Belfast City Council, the trade union movement, and the Churches have all spoken out against recent sectarianism, and there is a movement towards anti-sectarianism building momentum, which must continue and grow. It is our turn to show leadership and strengthen the message.

As we all know, sectarianism is not a new phenomenon; it has been with us all our lives. However, in the past

two years, the body of it has sat heavily on the so-called interfaces of Belfast, with its stinging tentacles reaching further afield into Larne, Derry and Antrim and to isolated families in all parts of the Six Counties. Sectarianism has been unrelenting in interface areas.

For those who may not know it, life for people in Alliance Avenue, Newington Street or in the Parkside, Clondeboy or Serpentine areas is a living hell. There is a constant expectation of a stone, petrol bomb, bullet or bomb coming through a kitchen or bedroom window. Family homes have rooms which cannot be used — beds are abandoned and kids sleep on camp beds, sofas or chairs in sitting rooms. Back or front doors are never used: nerve tablets are overused.

Sectarianism is the growing nervousness that never leaves: it is the alienating and isolating experience that is hard to comprehend, even if you live just a couple of streets away. It is living with buckets of sand and hose-pipes and not redecorating the house because it is not worth it, and it is the deep anxiety every time your child or your spouse leaves the house.

What has made the problem stand out over the past few years is that it has been concentrated 24 hours a day on the same groups of ordinary families. I have been in their homes and know that others in the Assembly have been there also. The challenge often heard being offered to visitors or observers is to spend some nights living there: “Come and live with me in these homes and see what it is like.”

That challenge is not made by people who wish to be clever or smart alics. It is made because of the frustration felt by the victims of sectarian attacks. No matter how they describe their lives, they feel that others must experience them to understand how bad the situation really is.

In the past two years, six people have been killed by Loyalist attacks — four were Catholics and two were Protestants who were unfortunately mistaken for Catholics. There have been hundreds of gun and bomb attacks and innumerable other sectarian attacks on people and property. There is documented evidence of more than 360 sectarian attacks in a single three-month period. In north Belfast, since the Loyalist Commission’s “no first strike” statement on 15 June, we have seen at least 25 gun attacks, 29 bomb attacks and more than 66 other attacks, including stabbings, petrol bomb attacks and massive damage to property in the Nationalist part of the community.

Churches and schools have been far from immune, with the Holy Cross blockade serving as a dark monument to bigotry. Other Members, Unionist and Loyalist, can supply their own horrific lists. Although I can speak of the consequences and experience of anti-Catholic sectarian attacks only, I am not blind to the suffering of many Protestants over the various walls. The majority of sectarian attacks are against Catholics and Nationalists.

However, the fact that Loyalists carry out the most significant proportion of attacks does not help Protestants who suffer from similar attacks. Therefore, we must make it crystal clear that we are against sectarianism, regardless of where it emanates from and whoever the victim may be.

The debate may turn into a dogfight. I hope that it does not, and it is certainly not the intention of the motion. People are suffering. They are watching this debate, and they want to know whether the Assembly can do anything to help them. A unified, anti-sectarian voice would go some way towards assisting them. Our parties are already meeting in a subgroup to try to find more practical ways to make progress. For example, agreeing a series of cross-community communications would be a practical step. Let us show our leadership today. Let the pro-agreement parties demonstrate their belief in dialogue as a process for resolution. We must lead by example on an issue that we can all support.

I call on the Assembly to support the motion. Go raibh maith agat, LeasCheann Comhairle.

**Dr Birnie:** I beg to move amendment No 1: In line 4 delete all after “victims of” and insert:

“terrorist murder, violence and intimidation, rejects Republican and Loyalist sectarianism and commits itself to providing leadership on this issue in practical ways. This Assembly re-affirms its commitment to non-violence and exclusively peaceful and democratic means and calls upon all parties to actively support and co-operate with the Police Service of Northern Ireland in securing evidence against those involved in violence and in default of their ceasefires.”

The UUP has tabled an amendment to Sinn Féin’s motion because that motion seems to mix pious aspiration with a complete abdication of responsibility on its part. Yes, sectarianism as it has developed in Northern Ireland is an evil. It is wrong that people’s views are warped by brutal prejudice. It is wrong that there is an inability to tolerate difference. Notice that I said “difference”, because it is inevitable that there are differences in a plural society. It is wrong that parts of this city, and indeed the Province, are cut up into a patchwork of zones, between which many fear to move.

However, the Sinn Féin motion falls prey to a fallacy, which is that, in a sense, everyone is to blame, so that therefore no one in particular is to blame. The motion, from Sinn Féin’s point of view, does not face the uncomfortable truth that paramilitaries’ activities have often been major drivers of sectarian tension. Alas, such terrorist groups are still active, and, in many respects, the Loyalist groups are often as bad as, and sometimes worse than, Republican groups. The wording of our amendment tries to reflect that point.

I am not an exponent of some notion of collective or communal guilt. However, in moving the amendment, I recognise that sometimes parts of Unionism — broadly defined — have not met its high ideals, and that they

have had a nasty underbelly in their treatment of other sections of the population.

The UUP is certainly not soft on Loyalist paramilitarism. I do not distinguish between those terrorists who are considered to be “our terrorists” and, therefore, by implication, excusable, and other terrorists — “their terrorists” — who are deemed to be inexcusable. They are all simply wrong.

The record has been dismal, and, sadly, it is not yet a history on which the book has been definitively closed. Since 1969, as is well known, almost 3,700 lives have been lost. Of these, about 59% were the responsibility of Republican terrorist groups, and a further 28% died at the hands of Loyalists. There were up to 50,000 injuries, too. If one is to be seriously anti-sectarian then one must call for a halt to all paramilitary activity, and for this to be done in transparent and verifiable ways. For example, there must be an end to the exiling of unfortunate individuals from their homes in Northern Ireland. There must be an end to torture beatings — the so-called punishment beatings. The August 2001 report titled ‘They Shoot Children Don’t They’ by Prof Liam Kennedy says that during the three years 1998 to 2000 there were 636 Loyalist shootings and 496 Republican ones — one fifth and one third of these victims, respectively, were under the age of 20.

The Sinn Féin motion, which we are attempting to amend, concludes weakly by asking the Assembly to reaffirm its commitment to peaceful politics. That is all very well, but is an evasion of responsibility on its part. The Westminster Government have responsibility for applying adequate standards for the maintenance of the rule of law. In this regard, one might contrast and compare Prime Minister Blair’s pliable approach to that of his Spanish counterpart, Mr Aznar, who has recently banned the political apologists of the Basque terrorist grouping, ETA. As we saw last autumn, international public opinion — especially American — has a crucial role in the restraint of terrorism in this part of the world, as in other parts.

Ultimately, Sinn Féin should recognise its own responsibility. Will it, as our amendment suggests, accept that the PSNI has a majority support in public opinion, and is the sole legitimate force to apply the rule of law? Finally, how does the motion, with its various pious exhortations, compare with the recent IRA apology? Will Sinn Féin now be in a position to condemn all deaths inflicted by paramilitaries since 1969, which would be a constructive step towards improving the climate for reducing sectarianism?

**Rev Dr Ian Paisley:** I beg to move amendment No 2 standing in my name and the names of my colleagues: In line 2 delete all after “intimidation” and insert:

“this Assembly expresses its sympathy to all the innocent victims of terrorist attack, murder, violence and intimidation, notes the continued participation by all paramilitary groupings in a campaign of violence

and street disorder thus confirming the breakdown of their ceasefires and therefore calls upon the community to support the Police Service of Northern Ireland as part of the battle against all types of terrorism and continuing disorder. This Assembly affirms its commitment to non-violence and exclusively peaceful and democratic means.”

At the outset it is interesting to note that neither of the Members who have spoken has made an attempt to define the word “sectarianism”, and it is here that we have to come to grips with the motion before the House today. The word “sectarian” comes from the word “sect”. I looked at the Catholic encyclopedia to find out what it had to say officially, as a Church, about this matter.

To the Catholic the distinction between Church and sect presents no difficulty. For him, any Christian denomination that has set itself up independently of his own Church is a sect. According to Catholic teaching, any Christians who banded together and refused to accept the entire doctrine, or acknowledge the supreme authority, of the Catholic Church constitute merely a religious party under human, unauthorised leadership. The Catholic Church alone is that universal society, instituted by Jesus Christ, which has a rightful claim to the allegiance of all men. It is the sole custodian of the complete teaching of Jesus Christ, which must be accepted in its entirety by all mankind. Its members do not constitute a sect, nor will they consent to be known as such. The word “sectarian” was coined in Reformation times to label those opposed to the claims of the Roman Catholic Church.

2.15 pm

When I was being brought up in the Province, Nationalist politicians labelled everything that was Protestant as sectarian. The Orange Institution, Protestant churches, the police, the old House of Commons here, and so on, were labelled as sectarian.

We see the hypocrisy of a party that represents those who have murdered and wrought mayhem through our Province; who, in their bloodlust, have slain men, women and children; and who have also laid their hands on their co-religionists because they associated in any way with Protestant people. Sinn Féin then tells us that this is a simple resolution. Of course it is — because in its interpretation, its members are not sectarian. I have heard them boast in the House that they are not sectarian. We are asked today to give them an excuse — to join with them in an absolutely meaningless resolution.

The word “sectarian” must be defined. I ran into one of the leading Protestant clergymen of the Province the other day. I did not have a confrontation with him; I met him in the British Airways lounge in London. I asked him why clergymen do not tell people what sectarianism is. He said, “Ian, it is a very convenient word; we like it.” We should not be dealing with conveniences in the House; we should be dealing with realities. It is a reality that this word, with which Nationalism and Repub-



licanism has branded Protestantism for a long time and to this day, should be set in its proper context.

I was struck recently by the contents of the report on children. I am sorry that the full report was not made available to us by our information services; part of it was omitted. However, it is interesting to note that when children were asked whether they liked the police, three-year-old Roman Catholic children were more than twice as likely to say that they hated the police as were Protestant children of that age. The seeds that IRA/Sinn Féin has sown are bearing fruit, as it has brought its people up to hate the police. Hence, there is no mention of the police or support for the police in the motion.

The Official Unionist resolution is not strong enough; it should have been far stronger. We must affirm, not reaffirm. What is the use of calling people who say they have already affirmed this resolution? There has been no real affirmation that everyone in the Assembly is committed to non-violence and exclusively peaceful and democratic means. The acts of those who proposed the motion and lead the debate today give the lie to that very effectively.

We need only to look at IRA/Sinn Féin's record. It has been updating weapons and bomb techniques in Colombia; exchanging tips with its colleagues in the Revolutionary Armed Forces of Colombia (FARC) movement; rearming from Russia and Florida; and targeting leading political, judicial, security, forensic and Loyalist figures using updated intelligence files. It has been identified as the major line of inquiry into the break-in at Special Branch headquarters in Castlereagh; has murdered dozens of individuals in Northern Ireland since the signing of the Belfast Agreement; and has been consistent in its role as judge and jury in the community to say who will be beaten, shot, murdered and intimidated. Recently, it has orchestrated terrible violence against the Belfast community. Let us throw out this hypocritical and treacherous motion.

**Mr Attwood:** I beg to move amendment No 3: In line 3 delete all after "school" to line 6 "in practical ways" and insert:

"in workplaces, in local communities and in political and policing institutions, this Assembly expresses its sympathy for all those who have been murdered in the course of the current conflict, to all those who have been subject to violence and intimidation from whatever source, rejects sectarianism and commits itself to provide leadership on the issue in practical ways, including: support for local efforts to develop opportunities for good relations; by calling on political parties to oppose any words, actions or displays of a sectarian nature; and by emphasising the importance that the police ensure that vulnerable communities are adequately protected and that those who direct or are involved in criminal or sectarian activities are prosecuted."

I will outline the SDLP's two-phased approach to the motion and the amendments. First, if the political leadership of Northern Ireland is to demonstrate its

political calibre, it should do more than simply talk; it should take practical steps to confront sectarianism, and it should begin to outline what those steps should be. The SDLP's amendment is the only one that outlines a strategic approach to deal with sectarianism and to see that it is dealt a body blow.

Secondly, the motion and the other amendments are, to a greater or lesser extent, partial or selective in the treatment of sectarianism. The Assembly should be holistic and inclusive in dealing with sectarianism. Whatever sectarianism is, we must pursue, prosecute, penalise and purge it from wherever it resides in society. We should not ignore or forget the fact that that includes the political parties and Members.

However, where there is genuine alienation and dissent, and where people are genuinely distressed or in conflict with the state, we must interpret and understand that dissent and learn from it. That balanced approach, and a ruthless confrontation of sectarianism and an understanding of what is genuinely alienating in our communities, is the prescription to deal with the problem.

The SDLP proposes a three-pronged offensive against sectarianism, part of which has already been put in place at interfaces and through the political institutions. However, it must be upgraded and fast-forwarded.

The first of those three dimensions is security, which requires that the PSNI provide adequate protection and vigorous prosecution of those involved in sectarian tensions and interface violence. It requires mechanisms at locations of tension and disorder so that people in the community, and those working in the institutions of the state who are trying to manage tensions, can deal with them better. It also requires mechanisms, probably put in place by third-party agencies, to ensure that, even though there is mistrust and differences at those interfaces, a third party can maintain communication between the communities.

The second dimension involves a community element, which would include putting mechanisms in place to manage interface and sectarian tensions better. It would also involve the creation of a community mechanism, whereby people can begin to process the issues that have given rise to their worst fears and which fuel sectarian tensions and interface violence. That is a medium-term structured approach to dealing with sectarianism and bad community relations.

The third dimension is the political element, and requires sustained dialogue not only between parties but also between parties and Government in order to understand what is happening on the ground and to begin to develop shared strategies for confronting sectarianism. In the longer term our understanding is upgraded, and economic, social and community strategies are put in place to ensure that all expressions of sectarianism are dealt a body blow.



It is the three-pronged security, community and political strategy that in the immediate, medium and long term can begin to address the issue. However, we still have a long road to travel, and that is evident in some of the content of the motion and the amendments, which are selective and partial. That ill informs this debate and ill informs our community as it struggles with the excesses of sectarianism.

Why are the motion and the amendments partial? It is because, as we might have anticipated, Unionism sees sectarianism arising from features and factors in our society other than from the past nature of the state and the past conduct of agencies of the state. That has caused people to have worst fears rather than best hopes about elements within the state and has seen them experience bad practice and conduct at the hands of the state. If we do not acknowledge that, then we are not acknowledging all of the truth.

Similarly, the Sinn Féin motion is partial because while it condemns intimidation, Sinn Féin refused to condemn the intimidation of PSNI trainees. It condemns threats and disorder, yet Sinn Féin members, in a council chamber in the North in the last 10 days, openly threatened SDLP people who are taking part in district policing partnerships. They asked if the people concerned had spoken to their families about what they were doing, whether they would be carrying firearms, whether they knew that posters of them would appear on lampposts all over Newry and if they knew who was going to pay for the damage caused to their houses while they sat on the district policing partnerships.

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

**Mr Attwood:** When it comes to intimidation, we should all be honest about what we are doing.

**Mr Close:** If we had a normal society that was based on trust and tolerance, and in which we all worked together in good faith for the benefit of all, such a motion, even as tabled by Sinn Féin, could probably be passed unanimously without debate. Yet, four years after the Good Friday Agreement, we are using such a motion and three partial amendments to demonstrate the lack of trust that exists in the House and, thus, in the wider population. Today we are exposing the tribal divides that exist in Northern Ireland.

Sectarianism is rife. The intolerance that goes with it is part of the daily diet throughout Northern Ireland. Hardly a day passes without some graphic reminder of some group or individual vomiting intolerance upon another. It is indisputable that this intolerance is primarily orchestrated by the bigotry of thugs and gangsters collectively referred to as paramilitary organisations from both Loyalist and Republican factions.

Their quest to gain and maintain control of areas and people through terror is a scourge, which can be used to

the potential gain of some who will constantly blame the other side and ignore the faults of their own. If all the elected representatives in the House were genuinely opposed to all violence and to the use or threat of force by others, I do not believe that we would be witnessing the level of intolerance that exists on our streets today. We are supposed to represent the community.

Let us look at the statistics. In 1999-2000 there were 131 shooting incidents. In 2001-02 there were 358. In 1999-2000 there were 66 bombing incidents, and in 2001-02 there were 318. Each and every one of those incidents is an example of bigoted, tribal sectarianism that underpins intolerance.

Four years ago, Members who supported the Good Friday Agreement reaffirmed their opposition to any use or threat of force by others. Is the political leadership in this House so weak that it has no impact upon the society that we are supposed to be leading — or is a blind eye being turned to violence for political reasons? Even worse, are some political parties happy to ride on the back of the terrorist monster and help to feed its insatiable appetite?

2.30 pm

It is not only security statistics that highlight bigoted sectarianism: our cities, towns, villages and estates provide colourful evidence of intolerance. There is the illegal painting of paths, kerbs and roadways with green, white and gold or red, white and blue. There are the illegal murals glorifying murderers on gable walls and depicting some murderous exploit by thugs — inviting the gullible to join illegal organisations. There are the slogans informing us that we are entering Loyalist or Republican estates; the scrawled messages that the police are not acceptable, and the flying of an assortment of flags from every possible post or pole. This is the overt evidence of intolerance and a warning to the "other side" that they are not welcome. The desecration of churches and graveyards and the burning of schools are further examples of sectarianism at its worst.

All so-called paramilitary organisations — be they the UDA, IRA, UFF, Continuity IRA, real-fat IRA or low-fat UDA — are by their nature and existence sectarian, bigoted and intolerant. They exist to instil terror and thus promote their bigoted and sectarian cause.

The motion refers to providing practical leadership on sectarianism. Let us start by supporting the PSNI. Policing cannot work effectively without the support of the entire community. If you are not part of the solution then you are part of the problem. Those who threaten the police or withhold their support from the police or who are seen to be anti-police are demonstrating bigotry in adherence to their political doctrine or intolerance: they are sectarian.

How can one claim to reject sectarianism while at the same time refuse to support a cross-community police

service whose *raison d'être* is to provide effective, good policing throughout the community — the word “hypocrisy” springs to mind.

Another example of political leadership would be to call for the immediate disbandment of all paramilitary organisations.

**Mr Roche:** Before I address the IRA/Sinn Féin motion I want to reiterate the NIUP's rejection of paramilitary violence. The Republican movement and the so-called Loyalist terror groups are mirror images of each other with a common commitment to criminality, murder and barbarity. Despite those considerations, the NIUP also rejects the motion tabled by the members of IRA/Sinn Féin because it is shot through with gross moral hypocrisy. I say that for four reasons.

First, the motion is being tabled by members of IRA/Sinn Féin, an organisation that is a murder machine that has been responsible for the murder and injury of thousands of people over many decades. Secondly, the active membership of IRA/Sinn Féin is sustained by the driving force of a political sectarianism — a denigration and hatred of fellow citizens because of their religious and political commitments. That is what drives IRA/Sinn Féin. Despite that, the motion asks Members to express sympathy to all those who have been the victims of sectarian murder. It is difficult to conceive of a more blatant example of gross moral hypocrisy.

Thirdly, the motion is being tabled by members of an organisation whose leader is an unqualified apologist for IRA murder. In the ‘Politics of Irish Freedom’ Gerry Adams states without the slightest indication of moral scruple:

“The tactic of armed struggle”,

that is, IRA/Sinn Féin terrorism,

“is of primary importance because it provides a vital cutting edge. Without it the issue of Ireland would not even be an issue.”

The Sinn Féin leader's commitment to armed struggle — that is, to IRA bombing and murder — is entirely incompatible with any genuine commitment to what the motion refers to as non-violent and exclusively peaceful and democratic means to resolve disputes.

Fourthly, the motion requiring the Assembly to express its sympathy to all those who have been the victims of sectarian murder is signed by a member of IRA/Sinn Féin who is a convicted murderer. In 1973, Gerry Kelly was convicted, along with Marian and Dolores Price, for planting four bombs in London, two of which exploded, killing one person and wounding 180 others.

**Mr G Kelly:** On a point of order, Mr Deputy Speaker. The Member is wrong. He is absolutely erroneous, and he should not be allowed to continue with the accusations that he is making. It is not the first time that he has made accusations in the House.

**Mr McCartney:** What did you do?

**Mr G Kelly:** Are you making a point of order?

**Mr Deputy Speaker:** Order. It is the convention in such circumstances to ask Members to clarify their remarks so as to remove the objections to them or to withdraw them. If he or she is not prepared to clarify or withdraw his or her remarks, further action may be unavoidable. I ask the Member to clarify.

**Mr Roche:** I am quoting directly from the explicit reference to Mr Kelly in Liam Clarke's recent book on Martin McGuinness, and if the Member has any problem with that he has access to the courts.

The UUP amendment fails to grasp the real strategic intent of the IRA/Sinn Féin motion —

**Mr Deputy Speaker:** Order. The Member who made the point of order has refuted the allegation. I ask the Member who made the allegation to clarify it again.

**Mr Roche:** The Member has not refuted the allegation. He may have denied the allegation, but he certainly has not refuted it. You need to make a distinction between a refutation and a denial.

**Mr G Kelly:** On a point of order, Mr Deputy Speaker. There has been no charge against me at any time in the past of murder, and I was not convicted of murder. It is erroneous.

**Mr Deputy Speaker:** I invite Mr Roche to withdraw his earlier remark.

**Mr Roche:** My remarks are based on a book written by a leading authority on the IRA. This gentleman has denied that, but he certainly has not refuted it, so there is no reason for me to withdraw the remark.

**Mr Deputy Speaker:** That being so, Mr Roche, I have no option but to take action under Standing Order 60(1) and ask you to withdraw immediately from the Chamber and its precincts for the remainder of today's sitting.

*The Member withdrew from the Chamber.*

**Rev Dr Ian Paisley:** On a point of order, Mr Deputy Speaker. I do not understand your ruling, Sir, and I would like clarification on it. An accusation which has been published and widely circulated and has never been challenged by the Member has been read to the House, but because the Member against whom the allegation was made denies it, you say that the Member who made the allegation must withdraw. Is it the rule of the House that anyone who makes an accusation against any Member, which that Member denies, has to leave the Assembly? Is that the effect of your ruling?

**Mr Deputy Speaker:** I was in the course of giving my ruling. I referred to guidance that was given by the Speaker on earlier occasions, and I quoted from that ruling verbatim. However, as the Member has questioned that ruling, I will consider what he said and advise him of my ruling later.

**Rev Dr Ian Paisley:** Further to that point of order, Mr Deputy Speaker. It is all very well, Sir, for you to say that. However, the sentence has been carried out. You put a Member out of the House for quoting hard evidence from a book that has never been challenged. If that is the sort of ruling we can expect in the House, we cannot expect democracy.

**Mr Deputy Speaker:** Order.

The Member who was accused refuted the accusation. I stand by my ruling. The sentence has been carried out, and I call Dr David Ervine. Sorry, Mr Ervine.

**Mr Campbell:** On a point of order, Mr Deputy Speaker. Mr Roche, Member for Lagan Valley, referred in certain terms to a Mr Kelly from north Belfast. When pressed, he elaborated upon his source material. If there is a problem with the source material and a successful appeal against it in the courts, the person who used the material may be asked to withdraw at that point — but not until then.

**Mr Deputy Speaker:** I have given my ruling.

**Mr Ervine:** I have been elevated. It seems that I am now Dr Ervine — among many doctors in this place.

We heard an academic qualification of sectarianism from Dr Paisley. I can only comment on what I understand it to be: namely the degree of brutality and irrational division that exists in this society. It is not a one-sided situation.

We should consider the fact that there are people who hate each other, yet they know not the person whom they hate. That to me seems alien to the human condition, yet we seem to be pretty comfortable with it. Having listened to the debate so far, one would think that sectarianism was happening only today for today, and that it did not lay the foundations of this society, and that we were not all generated in an atmosphere of hate and bitterness.

That was amplified by the amendment proposed by my Colleague, Esmond Birnie, which says that the House “rejects Republican and Loyalist sectarianism”. What does it say about sectarianism in the schools and on the street corners — not just that on interfaces or involving paramilitaries? There is no mention or hint of the sectarianism that is expressed in drawing rooms.

The three amendments seem to suggest that if all the bad people would just go away, Northern Ireland would be a wonderful place.

In fact, the bad people come from the womb of this society. The politics of this society influence the way in which they live their lives — the divisive, hateful politics that guarantee that the politicians will never want a single community, because they benefit so much from a divided one. There is no question that we in this Chamber luxuriate in sectarianism, because there is great merit in, and benefit to be gained from, attacking the other side.

Some people might suggest that the demise of the Alliance Party is a result of its argument that two communities should come together and function as one. Recent electoral performances suggest that the extremists on both sides benefit from the tensions and bitterness of this sectarian, divided society. We have a problem that has not been defined by the motion or the amendments: our people are sectarian.

2.45 pm

Since I have been on this earth — and my appearance belies my 49 years — I do not remember anyone, certainly no one in the political arena, trying to deal with sectarianism. All those who have been politicians for a long time — or even a short time — should look at their failure even to address the issue let alone deal with it.

There are places in Northern Ireland where there are few paramilitaries but a great deal of sectarianism. Of course, there are places where there are plenty of paramilitaries and plenty of sectarianism: it would be foolish to refute that. Our communities, which have been led by many in the Chamber, are sectarian, and one could argue that they are encouraged to be so. In many ways drawing-room sectarianism is more insidious and frightening than working-class sectarianism. At working-class level it is brutal, and we see it all the time. However, we can deal with it. Many people in the Chamber come from places where drawing-room sectarianism is at its worst, and they have luxuriated and benefited as society, divided more and more, crashes on the rocks.

**Ms Morrice:** People have said that the Assembly is out of touch when it comes to responding to sectarian trouble on our streets: we are not. We are deeply concerned about sectarian violence, and we must be deeply involved in the fight against it — a point made by David Ervine.

This debate shows that we are at least starting to face up to sectarianism, and that is why it is important. However, we are disappointed that there are so many variations of wording before the House today. What kind of message does it send to the public? This debate should not be about ownership of the fight against sectarianism — that is very important. It must be about a united front against sectarian bigotry. Through unanimity today we can show that we are ready to move forward together. It is only if we act together that we can truly fight sectarianism.

I recall the debate on the motion on firefighters' pay. The DUP supported the UUP amendment. Sinn Féin and the PUP withdrew their amendments to support the DUP motion amended by the UUP — that is called co-operation.

**A Member:** It is not the real world.

**Ms Morrice:** It may not be the real world, but it was the Assembly yesterday. Firefighters' pay is an issue we all believe in. Why can we not do the same thing as regards sectarianism? I accept that perhaps we are not ready to



co-operate to the same extent; however, we must move towards that.

We need action, not just fine words. Members should be aware of their responsibilities because just as leadership against sectarianism can calm a situation, inflammatory rhetoric can make divisions more bitter.

Alex Attwood talked about the three phases of dealing with sectarianism. In the short term, we must tackle and control the naked violence that results from sectarianism. However, in the long term, we must also tackle the drawing-room sectarianism that Mr Ervine mentioned. Therefore we propose that politicians adopt a code of conduct for dealing with interface violence; that they commit themselves to that code and do not play the blame game or seek to score points, which makes divisions worse. They must try to meet or to visit all sides in a conflict if they are to get involved.

I agree with Séamus Close that we must have support for the PSNI. If we ask the police to protect people on all sides and contain the violent clashes on our streets, they must have the support of all politicians.

Political dialogue must go beyond scribbled sectarian slogans on walls or megaphone diplomacy using loudhailers and the media. Politicians must get together in a room and look for practical steps that they can take.

The Women's Coalition welcomes the initiative of the Northern Ireland Office Minister, Des Brown, to tackle the problem and to get all parties involved. However, my party recognises that sectarianism will not disappear overnight; it would be unrealistic to expect that. Sectarianism must be challenged on all fronts — in education, the media, community relations, schools and churches, and by politicians.

The recent report produced for Barnardo's by the University of Ulster, which cites three-year-olds who use sectarian language, proves a point that I have not heard mentioned in the debate — the value of integrated education. Where is integrated education in the Assembly's long-term strategy of trying to understand one another? The integrated education model is superb for those reasons, but where is the political support for it? Where are the resources for integrated education?

Advertising campaigns and more support for community workers are required. The work of community workers in interface areas is praised, but why must they scramble for money to get the resources that they need? There have been amazing initiatives that have provided much help, but much more is needed. Experts must be gathered together in a forum so that they can tackle sectarianism together.

The Women's Coalition welcomes Sinn Féin's reaffirmation of its commitment to non-violence and to the resolution of disputes through exclusively peaceful

means. However, the motion should go further, and although my party believes that the SDLP's amendment does go further, it does not go far enough.

**Mr McCartney:** The tabling of the motion by members of IRA/Sinn Féin represents a new height in monumental, gut-wrenching hypocrisy. Mr Adams might like to tell the House what contribution he made against sectarianism when he carried the coffin of a man who murdered nine innocent people in a fish shop. The Minister of Education might like to inform the House of the part that he played in the death of Mr Gillespie at a checkpoint in Derry. Various others could make contributions about the La Mon House Hotel, Kingsmills, the Droppin' Well and countless other atrocities.

The truth is that every party in the Assembly has its own definition of sectarianism, and every party thinks that sectarianism comes from the other side. Therefore, no party has any difficulty in condemning sectarianism, as the various shades of condemnation in the motion and the three amendments demonstrate. The only dispute is about the exact form of words to be used in that condemnation.

The truth is that the Assembly is a cathedral of sectarianism. That is shown in the institutions, the communal designations of Unionist, Nationalist and Other, the d'Hondt principles for the selection of Ministers, and the ritual and dogma of the sectarianism that is practised in the Assembly. The truth is that no one wants to admit that the Assembly is founded on institutionalised sectarianism. No one should be surprised that a political system that is based and built on sectarianism encourages and magnifies that sectarianism throughout society. That is happening on the streets as the relationship between the two communities deteriorates.

The Belfast Agreement has not brought peace. It has not brought reconciliation. It has brought into being institutions that are guaranteed to increase division and community hatred, and to foment the sort of confrontation that is seen on the streets. The public is entitled to be dissatisfied with the efforts of a political class that aggravates a problem and then blames everyone else because things are getting worse. I referred to that yesterday in a question to the Deputy First Minister during Question Time.

Mr Attwood spoke about purging and prosecuting everyone, including parties and Members. What has the SDLP done about Sinn Féin? It has protected Sinn Féin on every occasion that an attempt was made to purge it.

What have the Ulster Unionists done about the PUP? They utilised their votes to have the First Minister — an Ulster Unionist — elected. The truth is that sectarianism is rife and manifest throughout all the institutions of the Assembly.

An American politician was once asked, "What is your position on sin?". He readily replied, "I am agin it."



In a similar way, all parties in the Assembly are piously queuing up to condemn sectarianism.

Mr Ervine, whose usual performance is an amalgam of Martin Luther King, Mother Teresa and the local probation officer, tells us of dreadful sectarianism in the drawing room while the organisation that he fronts is shooting, murdering, beating, exiling and intimidating its own co-religionists. Exactly the same thing is happening among the party and Members of the group represented by that other newfound member of the piety association, Gerry Kelly.

The truth is that the Assembly should be leading the way by purging those representatives in the Assembly who front the paramilitaries, who in turn benefit from the exploitation of the people on the street. That must be our first step.

**Mrs Nelis:** Go raibh maith agat, a LeasCheann Comhairle. I support the Sinn Féin motion, which simply seeks the support of Members in rejecting sectarianism and committing ourselves to provide leadership in practical ways on that issue. All three amendments seek to avoid the issue by turning the debate on sectarianism — the sickness that has afflicted the north-eastern part of Ireland for hundreds of years — into a debate on whether the RUC, or whatever name it now goes under, is acceptable.

Should we be surprised? Politicians who have refused to acknowledge their part in the sectarian violence of the past years and have abandoned any attempts to address the issue can only seek to hide behind an organisation founded on the sectarian headcount of a Protestant state for a Protestant people and a Protestant paramilitary police force, whose inbuilt allegiance was to uphold that state.

The ethos is still the same. Where else in the world would an assistant chief constable unequivocally state that an illegal organisation, the UDA, is behind the sectarian violence in north Belfast, which resulted in shots and blast bombs being fired from Tiger's Bay at the police and army, and do nothing about it? There were no house searches or arrests, and no UDA leaders were even questioned.

Can you imagine what would happen if the Assistant Chief Constable said that the IRA was responsible for throwing blast bombs at the police? Unionists would be fighting their way to John Reid and the media demanding action, and we would be picking the bodies of Nationalists off the ground.

People looking into the communal disturbances, which are the essence of the motion, may wonder at the utterances from Unionist politicians who, rather than confront sectarianism, are seeking to excuse the violent excesses of their community that Alan McQuillan talked about, and which they euphemistically describe as law-abiding citizenship.

What's new? Religious violence, sectarianism and Unionism are inextricably linked — it has been that way since 1830. If people want to understand the connection, they should read Andrew Boyd's book, 'Holy War in Belfast', which says a great deal about sects and even more about clergymen fermenting sectarianism. He attributes the rise in sectarian violence then as a reaction to the tolerant and liberal alliance between Catholics and Presbyterians in the early 1800s; an alliance that the English and the wealthy landlord class sought to destroy through the vehicles of Orangeism and class conflict.

The Orange Order generated the first religious sectarian riots in Belfast, and it still generates them.

3.00 pm

The essayist Robert Lynd once wrote that all history is but a repetition of the same story, with variations. We can trace the history of sectarianism and violence from the Sandy Row riots in 1835 to Drumcree, the Ardoyne, Tiger's Bay and all the interface violence that has inflicted so much suffering on those communities that have been on the receiving end. Sectarian murder, intimidation, threats and violence, whether against school-children, workers or community leaders, are evils that must be eradicated.

It is sad to see a new generation of Loyalist paramilitaries — many of whom are no more than young people — involved in violent sectarianism that does not even attempt to disguise itself as a political front. Why should people be surprised if the pathological nature of sectarianism, especially in the working-class Unionist population, is worked out against that small Catholic enclave in the Short Strand, Skegoneill or Holy Cross Primary School? It merely carries on the tradition of Harryville, Garvaghy Road and the burning of the little Quinn children in Ballymoney. After all, they are carrying on the tradition of the north Belfast community that spawned the Shankill Butchers. It is not surprising that the majority of sectarian violence takes place in the traditional Unionist strongholds of north and east Belfast, Coleraine and Antrim, which are areas represented by DUP Assemblymen — *[Interruption]*.

**Mr Deputy Speaker:** Order. The Member will resume her seat.

**Mr K Robinson:** I support the UUP amendment, which seeks to address the democratic view of civic society, namely that sectarianism from any quarter deserves to be rejected. The amendment affords every party and every individual who believes in the democratic process an opportunity to publicly register their rejection of sectarianism. It will also provide Members with an opportunity to expose the blatant hypocrisy of the Sinn Féin motion, which has revealed the party's true agenda, highlighted its failure to grasp the central tenets of democracy and exposed its political bankruptcy. It has shown Sinn Féin's inability to decommission that bunker mentality

that leads it to deny that those to whom it is inextricably linked are up to their necks in the orchestration of sectarian violence where and when they want it.

Perhaps the pertinent question is why they want it and, more specifically, why they want it now. Could the scandal of sectarian attacks in Cluan Place literally have provided a convenient smokescreen to divert attention from those embarrassing adventures in Castlereagh, Cuba and Colombia? Could the Sinn Féin/IRA dilemma be so serious that, not content with 200 serious attacks on Orange Halls and with preventing Orange parades passing along major thoroughfares, the only way that it can find to employ its foot soldiers is to engage them in physical attacks on Orangemen and isolated Protestant communities?

Perhaps it is a cynical attempt to divert media attention from the continuing failure of Sinn Féin/IRA to honour its commitment to decommission fully. I am sure that the mover of the motion can offer an insight into that situation. After all, he appears to have been present at more Orange parades than the Grand Master himself.

The continuing Republican pogrom against the elderly and vulnerable residents of the White City, Glenbryn and Twaddell Avenue was suddenly switched, as if by magic, to include the isolated communities of Thistle Court and Cluan Place. Why? Perhaps it was not for the reasons that I have outlined. Perhaps Republican habits die hard and the tactics that led to the expulsion of Protestants from the border areas, the west bank of the Foyle, and Churchill Park, Ballyoran Park and Garvaghy Road in Portadown are too engrained in the Republican psyche.

Perhaps they are not democrats at all, but are merely pursuing their war by other means. That is why they have such difficulty saying that the war is over. Today presents an opportunity for the mover of the motion and his Colleagues to assure the House that they totally and unequivocally reject attacks by Republicans on those besieged communities. They may also avail themselves of the opportunity provided by this debate to call for the immediate and total cessation of those attacks.

At this point I should mention that when a Catholic workman in my East Antrim constituency was murdered by Loyalists I, together with the local community, unreservedly condemned that killing. On President Clinton's second visit to this Building, I referred to that killing to illustrate the need for total decommissioning by all paramilitaries, using the following words:

"Mr President, anyone, anywhere, at any time with access to illegal weapons can commit the sort of murder that was recently perpetrated in my constituency. It must stop!"

Needless to say, President Clinton agreed to work towards the cessation of such acts.

I was under the impression that every Member was pledged to remove such violence from our streets. Sadly, it is obvious that some still cannot decommission that

mindset and are willing to pursue the "blame game" approach. They remind me of the alcoholic, whose first step towards salvation is to admit that he has a problem. Until Sinn Féin members admit that they have a problem, they are caught in their straitjacket. They blame the Loyalists, the Unionists, the Orange Order, the RUC and the PSNI. Only last night, they blamed the police ombudsman. It is no wonder that they oppose the installation of closed-circuit television cameras at interface areas, or that existing cameras are subject to sustained attack to put them out of action. Why the sudden reluctance to use the power of the media, after so many successful years of manipulating it? The video cameras and other evidence from the White City and Twaddell Avenue show a very different face of the real Republican approach to sectarian violence, and it is not a pleasant sight.

Moreover, Mr Maskey, whose name is also on the motion, has failed to grasp that the activities of his organisation over the years have led to the perception of the flag which he recently installed in his office as a sectarian symbol rather than the flag of a neighbouring European state.

**Mr Deputy Speaker:** Order.

**Mr K Robinson:** It is seen as a shameless symbol of sectarianism after decades of misuse at the hands of Sinn Féin — incidentally, a point which the Republic of Ireland has failed to grasp.

**Mr Deputy Speaker:** Order. Order.

**Mr Gibson:** The origin and definition of sectarianism have been stated clearly. Sectarianism is the creation of Roman Catholicism. In Ireland, that was always a stated doctrinal position. Some Members will remember the slogan repeated in this generation: "A Catholic school for Catholic pupils by Catholic teachers". Cardinal Connell got it right. He was stating the sectarian, domineering position that the Church always aspired to hold. That meant that, although it could be lax in its doctrine, it was always intolerant of the legitimate demands of others.

That is the hallmark of sectarianism, and it has been injected into the political life of practically every century of our history. The greatest sectarian position was taken in universities and schools. It was followed, however, by the very serious destroying, disestablishing and dismantling of anything that was considered an obstacle to the Church's domineering position.

That pursuit and that position are being repeated. Violence, intimidation and all other expedients can be accommodated as long as they assist in the pursuit of domination. That is the theological equivalent of those who moved the motion today, a political statement of a theological position. In 1904, "Ourselves alone" was the political equivalent of the theological position of the proposer's church. More recently, the term "Tiocfaidh ár lá" may have been used, but it has the same meaning and domination and is the sectarian equivalent.

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

**Mr Gibson:** No, I have only a few seconds left.

There are those who try to escape and deny their sectarian heritage. I was amazed to hear some of the statements made here today. Robert McCartney was right to say that the Belfast Agreement is institutionalised sectarianism, and Members must accept that, because it was the wish of many. Advocates of the Belfast Agreement view it as the road to their aspiration of a united Ireland, whether under the slogan “*Tiocfaidh ár lá*” or “*Ourselves alone*”, or through another sectarian creation of the church. Perhaps the greatest example of this last occurred just over two decades ago when, on the command of the Sinn Féin/IRA leadership, the hunger strikers committed suicide to order. The church could not allow such sectarian domination to be hijacked and, therefore, it provided the golden cross of absolution.

Institutional sectarianism is a part of their church, but it is also practised in their politics and enunciated in every slogan. Just as, then, I had nothing whatsoever —

**Mr J Kelly:** Did Patsy Kelly get absolution?

**Mr Gibson:** The Member should confess his sins to someone else. He will have a long list.

**Mr O'Connor:** I support the amendment in the name of Alex Attwood. I have some reservations about the motion, which addresses sectarian murder only. I would like to expand its remit to include all murder, because all murder is wrong, regardless of the circumstances in which it occurs. The words “in recent times” also cause me concern. Has a line been drawn in the sand under a time before which murder was acceptable? Murder is wrong, regardless of when it is committed or by whom.

Other Members who spoke mentioned hypocrisy, which has been plentiful. The DUP has attempted to blame the Catholic Church for everything that is wrong with society. Did the Catholic Church make the death threats that stopped Neil Lennon playing at Windsor Park? Sectarianism has been institutionalised since this state's foundation in a Protestant parliament for a Protestant people. Robert McCartney rightly said that the Assembly was founded on sectarianism, but the institutions are seeking to change that.

Mary Nelis was right about the institutionalised sectarianism of the Orange Order. When it realised that Catholics and Presbyterians could unite under the common name of an Irishman, it did what it could to divide and conquer by admitting Presbyterians for the first time.

3.15 pm

I have the greatest respect for Ken Robinson, but his speech disappointed me. He spoke about Twaddell Avenue, the White City area, Glenbryn and other Loyalist communities in north Belfast. Mr Attwood's amendment mentions the protection of vulnerable communities

everywhere. Mr K Robinson and I represent the East Antrim constituency, but he has not said one word about Greenisland, Carrickfergus or Larne. There have been hundreds of attacks against Catholic communities in those areas over the past few years. In the 1970s, over 400 Catholic children attended a school in Greenisland, but that school closed in 1992 with only 27 pupils. That is ethnic cleansing. We have seen —

**Mr Boyd:** What about White City?

**Mr O'Connor:** I do not represent that area — I am concerned about the area that I represent.

**Mr Deputy Speaker:** Order. Members should understand that in a debate of this nature it is reasonable to expect some cut and thrust across the Chamber. However, I shall only tolerate that up to a point.

**Mr O'Connor:** Thank you, Mr Deputy Speaker — my apologies to the Chair for disregarding that.

Mr Attwood's amendment seeks to protect vulnerable communities. Some of what has been cobbled together to protect vulnerable communities actually benefits those who live in ghettos. For example, the Department for Social Development, through the Northern Ireland Housing Executive, has cobbled together schemes that allow people who live on interfaces to receive £1,500 to support the security of their homes. However, minority communities living in majority areas receive nothing. I would like to see such schemes being extended to everyone to ensure that proper community support is available to all: we have a duty to promote good relations.

We must oppose sectarian displays such as those mentioned in Mr Attwood's amendment. People begin by marking the kerbstones in their colours, be they green, white and orange or red, white and blue. Then flags go up on lamp-posts and murals appear on walls to create a chill factor for the minority living in those communities. The institutions and Departments are reluctant to intervene and remove such symbols of hatred: that must be addressed.

However, the underlying issue is sectarianism. It is a cancer in our society, and it must be rooted out if we are all to move together to a more prosperous and beneficial society.

**Mr Foster:** After all that has been said today, sincerity may be a big word to consider. I must ask whether the Sinn Féin motion represents a road to Damascus conversion or is merely for the optics. It is difficult to comprehend the mindset of the Republican movement, particularly because it has been associated with so much terrorism over the years and still jumps to the defence of terrorists when the net is closing in on them. Is Sinn Féin involved in mere oratory; making deep noises from the chest sound like important messages from the brain? Take, for instance, the Colombia trio, Castlereagh, and the commemoration activity that



occasionally occurs for those who terrorised this community over the past three decades.

Terrorism occurred all over the Province, but I refer to my own constituency of Fermanagh and South Tyrone. When we talk about peace, I must ask if people who live along the border in my constituency had the right to live free from violence and intimidation whether they were at home, school or work. In Fermanagh alone, terrorists who were on a mission to put British citizens out of their homes, farms and businesses murdered 106 people. There was never a cheep about ethnic cleansing then — I wonder what Mrs Nelis has to say about that?

I could read a litany of deaths, but I do not have time to do so. However, can we ever forget the Enniskillen bomb of 8 November 1987? Twelve good people were murdered by the infidels whom members of Sinn Féin would pay tribute to for fighting a war, as they wrongly call it. Let us not forget that after 15 years nobody has been made accountable for the atrocity in Enniskillen. That is shameful and disgracefully hurtful to those in the town who lost their loved ones on that fateful day.

I also feel hurt personally, and I know that the wife and family of my cousin, Charles Johnston, are heartbroken at the murder near St Anne's Cathedral in Belfast in 1981 of a dear husband and father. To this day nothing has been seen or heard of the murdering scum who, for no reason, committed that terrible act against someone who did a decent day's work for a decent day's pay. That family, like many others in the community, never enjoyed a long life together, because terrorism roamed the streets and byways of our country, and murdered and maimed remorselessly.

Sectarianism is still being perpetuated by the continued thrust of Republicanism despite the Belfast Agreement, which committed those who accepted it to recognise Northern Ireland as part of the United Kingdom of Great Britain and Northern Ireland so long as the majority so declare through the ballot box. By hoisting the tricolour in the city hall, Alex Maskey further perpetuates sectarianism, and Alex needs to realise that there is equality and parity of esteem within the system, but not of the system. There is but one sovereignty — that of Her Majesty The Queen. There is but one sovereign flag — the Union flag. Alex should try to fulfil the agreement fully, and he should not try to claw back what he and his party have accepted, or said they accepted, in 1998 — or perhaps he is as insincere as this pretentious motion really is.

In my home town of Enniskillen, Sinn Féin, along with the SDLP, is taking down all emblems of Britishness in the town hall. That is sickening. It even extends to removing Somme and British Legion certificates, which is disgraceful. I hope that the motion is genuine, although Sinn Féin has still to convince me, because, on past and present experiences, there is no spectacle as ridiculous as Sinn Féin in one of its periodic fits of morality.

It is common knowledge that Sinn Féin, over the years, has associated itself with those who have burned our towns, doomed Northern Ireland to destruction and murdered our people. It is said that "by their fruits ye shall know them". Why does Sinn Féin not declare its intent to recognise the state of Northern Ireland, as provided for in the agreement? Regrettably, it instead continues to perpetuate division by its continued thrust against this jurisdiction, and hence sectarianism arises. Why can we not all work together peaceably so that all our citizens can enjoy better times ahead?

There are four freedoms that should apply throughout the world. The first is freedom of speech and expression. The second is freedom for everyone to worship God in their own way. The third is freedom from want, and the fourth is freedom from fear. Who wants violence? We should never think about violence or war again, no matter how necessary or justified it may seem. Some say that it is not a crime, but ask the infantry or ask the dead. Ernest Hemingway wrote:

"But in modern war there is nothing sweet nor fitting in your dying. You will die like a dog for no good reason."

All good citizens should speak for Northern Ireland and be good citizens —

**Mr Deputy Speaker:** Order. The Member will resume his seat.

**Mr Poots:** This is an obnoxious motion put forward by IRA/Sinn Féin. It states that it expresses

"sympathy to all those who have been the victims of sectarian murder, violence and intimidation in recent times".

That is disgraceful. It is saying that only those who have been murdered and terrorised in recent times should receive sympathy, and should receive it from this source. Sinn Féin wants to forget the past and introduce political amnesia. It is saying that sectarianism is not all right today, but it was all right yesterday. According to Sinn Féin, sectarianism was fine before April 1998, and it was all right to terrorise and to murder up to that date. IRA/Sinn Féin would not want to condemn the La Mon House massacre or those of Bloody Friday, Teebane, Shankill, Claudy, Whitecross or Kingsmills, to name a few, because Sinn Féin was up to its eyeballs in it. There are people sitting in this Chamber who helped to organise, and who were involved to the highest level in setting off, some of those bombs, murdering people simply because they were Protestants. Here they are today, crying crocodile tears about sectarianism and terrorism, after they have terrorised the community to get what they want over the years. That has not just affected Protestants. Roman Catholics have been, and still are being, terrorised by IRA/Sinn Féin.

If people wanted to see what was in the heart of IRA/Sinn Féin today, they had only to listen to the sectarian bile pouring out of Mary Nelis as she made her



sectarian speech. Sinn Féin/IRA recommends that the Police Service of Northern Ireland be treated in the same way that the RUC was treated. What happened to the RUC? More than 300 members lost their lives, and almost 10,000 were injured in attacks by the IRA and their cohorts. Sinn Féin tells us that the Police Service of Northern Ireland should be treated in the same way, and in the next breath it tells the Assembly that it is against sectarianism and violence. It is up to its eyeballs in violence right now.

I have obtained some information about how the conflict began in the Short Strand area. The Army and police moved in to make several house searches in Short Strand. Sinn Féin was concerned because weapons were being held in safe houses in that area, and immediately instigated a riot to divert the Army away from its legitimate business. That riot began the sectarian conflict at the Short Strand interface.

Sinn Féin deplores Protestants and says that the Protestant UDA is up to its eyeballs in the conflict. However, it claims that the Roman Catholic IRA has nothing to do with it. I use that term because Sinn Féin introduced the term "Protestant UDA" earlier in the debate. The facts are that of the 22 houses in that east Belfast area that have been vacated, 19 were vacated by Protestant families, and three by Roman Catholic families. All five people shot in that area were Protestant — none were Roman Catholic. Sinn Féin/IRA has been involved in that. It is responsible for starting the sectarian tension in Short Strand and for a great deal of the sectarian tension that exists.

The DUP amendment is best placed to state Northern Ireland's position. The Assembly has not previously affirmed its commitment to non-violent and exclusively peaceful means, and therefore it is not appropriate for Members to reaffirm something that they have not already affirmed.

I encourage everyone to support the DUP motion, and to reject the crocodile tears of Sinn Féin/IRA, which is the most sectarian party in Northern Ireland and in this Chamber.

**Mr A Maginness:** This has been a disheartening and disappointing debate. The issue of sectarianism goes to the very heart of our political problem, and therefore it is perhaps not surprising that we have had such a disappointing debate. We heard from the DUP that the Catholic Church has stirred up sectarianism, and we heard from Sinn Féin that this is primarily a Unionist problem that stems from Loyalist paramilitaries. Others have cast blame on other sections of the community. The fact is that our society is structurally sectarian. That sectarianism is endemic, and if we were all honest enough we would accept that we all, to some extent, have a degree of sectarianism in our lives.

We must face up to the realities of sectarianism. We must admit that it exists, and, rather than deny it, try to address it. Bob McCartney said that the Assembly represents institutionalised sectarianism. There may be some truth in that. However, if we are to free ourselves of the problems of our society, we must learn to manage that sectarianism in order to transform our society. I hope that the Assembly and the Executive will address sectarianism in a concerted fashion so that we can change this society.

The means for tackling sectarianism are in the agreement and in our hands. We can transform this society by creating a living partnership based on friendship and justice between the two political traditions in our society.

3.30 pm

Unfortunately, what we have at present is not true partnership. We have cold co-existence — some might even refer to it as benign apartheid. However, that is unacceptable. We have to build a partnership between both traditions to get out of the quagmire of sectarianism. Our amendment puts forward practical ways of doing that. I welcome the Sinn Féin motion, but I cannot agree with it all because it is selective: it qualifies murder, and it emphasises the recent instances of sectarianism. However, at least it is a step forward for Sinn Féin to now commit itself to non-sectarianism, because, unfortunately, its history as a party is one of extreme sectarianism. The Republican movement became an engine of extreme sectarianism in our society. That is the reality.

If we see an end to the daubing of streets, the misuse of flags, sectarian graffiti and hostile language, then we can go forward and redeem our society. Sectarianism is a disease — a pathology that affects every aspect of our society. Dr Dunlop, the former Moderator of the Presbyterian Church, said that sectarianism was a sick form of communal identification. If we realise that we have more in common with those on the other side of the sectarian divide, then we are taking a step in the right direction. Reconciliation must be the goal of the Assembly. Today, at least, may be a start in examining the problems of sectarianism — bad-tempered and negative though some of the comments have been. Perhaps we have taken a step forward.

**Dr Adamson:** I welcome the debate as it gives us the opportunity to focus on the root causes of sectarianism in Ireland and to set in context the interface violence in my constituency, East Belfast.

On Saturday 15 June 1991 Portadown District LOL No 1 held a mini-twelfth Orange pageant in commemoration of the drowning of Protestants in the River Bann in November 1641. Portadown bridge, coupled with the contemporary massacre of 17 men, women and children in the parish of Drumcree, has come to epitomise for them all that occurred throughout Ulster in the year of the

1641 rebellion. It was at that time that the sectarian battle lines that have dogged Ulster to this day were drawn.

It is often forgotten today that towards the end of the 18th century Belfast Protestants first promoted the idea of an insular Irish nation to unite all classes and creeds, while fully supporting Catholic emancipation and attempting to revive the ancient music and literature of Ireland. However, after Daniel O'Connell's campaign for a Catholic parliament for a Catholic people, Irish Nationalism became identified with Catholic Nationalism. By the middle of the 19th century, writers of romantic fiction had incorporated the ideal into medieval Gaelic Ireland and fostered the mythology of Gaelic patriotic racialism into a new Gaelic Nationalism.

In 1926, de Valera formed his Fianna Fáil (Warriors of Destiny) party. The Free State Party (Cumann na nGaedheal) lost power to Fianna Fáil in 1932 and changed its name to Fine Gael (Tribe of Gaels) the following year. How many of either party were Gaels in language, culture or ethnic origins is open to discussion. However, de Valera's basic Catholic Nationalism was highlighted by a radio broadcast on St Patrick's Day, 1935, when he said:

"Since the coming of St Patrick... Ireland has been a Christian and a Catholic nation.... She remains a Catholic nation."

According to Conor Cruise O'Brien, this statement demonstrates

"the peculiar nature of Irish nationalism, as it is actually felt, not as it is rhetorically expressed. The nation is felt to be the Gaelic nation, Catholic by religion. Protestants are welcome to join this nation. If they do, they may or may not retain their religious profession, but they become as it were, Catholic by nationality."

There has been a widespread diffusion of the Irish Nationalist mythos, which has progressed from being a political to an intellectual and finally a spiritual ideal. Genuine Loyalist and Unionist fears for their ancient British heritage, for their economic well-being, for their religious freedom and, last but not least, for their fundamental right to self-determination have been dismissed by Nationalist apologists as sectarianism.

Furthermore, the basic failure of the Northern Ireland intelligentsia to promote the Ulster identity has led to an inevitable clash between the two sections of our community. Thus, Ulster Protestants have been left to relive their past instead of using it to build up a normal national consciousness for the present. Derry has been besieged and the Battle of the Boyne fought in Belfast over and over again, with Ulster Catholics still fighting for Ireland. The complete expression of a native Ulster tradition, broader than Irish Protestantism and Catholicism and populist in sentiment, could assist our political development of a new Ulster based on co-operative democracy. That and that alone would allow the consensus in Government necessary to end at last sectarianism in Ireland.

*(Mr Deputy Speaker (Mr McClelland) in the Chair)*

**Mr Durkan:** Sectarianism is ugly and unacceptable in all its forms. That does not need declension, categorised definition or qualification. In this debate, and using every means at our disposal as an Assembly and at our respective disposals as parties, we should make that unambiguously clear. Sectarianism attacks the vulnerable — vulnerable communities, families, workers and children. Sectarianism does not just hurt its victims; its also corrupts its carriers. We see the corrosive effect of sectarianism in the divisions and tensions in the community. We also see sectarianism in the arrogant strut of paramilitary violence.

This debate has involved some heated exchanges. We must ensure that in our work in the Assembly we respond to the violent divisions that are apparent in our community. We will not do so through pointing the finger in blame at each other, nor by engaging in "whataboutery" in relation to different aspects of sectarianism but in making clear that we repudiate and renounce all aspects and forms of sectarianism.

It is not a matter of trying to use a debate such as this to define sectarianism as belonging predominantly in one end of the political spectrum. It is not a matter of using this debate to say how clear and pure each of us is from sectarianism and that the problem really belongs to someone else. It is not a matter of deciding in this debate or elsewhere that sectarianism is confined to those streets and areas that most graphically suffer from violent sectarianism at the hands of paramilitaries. It is not good enough for people in some areas to smugly decide "Thank God we are not like some of those interface areas in Belfast where people cannot get on."

We must recognise the scale and nature of sectarianism, and of the response needed from political leadership.

I welcome much of the content of the motion and the amendments. I will be supporting the SDLP's amendment, as it gives the most rounded, truly balanced and clear-headed response to sectarianism. The motion and the other amendments are more pointed and partial in different aspects.

Nevertheless, I welcome these declarations that Members are opposed to sectarianism and want to stand against it. That may be new light out of old windows as far as some parties are concerned. When I hear the statements and the renunciation of sectarianism I am tempted to recall the observation of Groucho Marx that he knew Doris Day "before she was a virgin". People cannot bathe publicly in the waters of a new interest in reconciliation while continuing to shower in sectarian attitudes at other levels and on other fronts. Many of us can stoke sectarian sentiment in our own community by how we say and do things. Let all parties ask whether, in some of the things that we have done and said, we have been stoking sectarian sentiment inside our own communities.

Our words and actions can stoke sectarian resentment in other communities as well. Instead of lecturing each other, let us question ourselves and lay down markers and standards that we and our parties can adhere to.

Sectarianism manifests itself in many ways. Not least is the clutter of flags, symbols and ugly, violent graffiti that is passed off as a normal and acceptable expression of community identity and affinity. It is not. We should not allow national flags that mean a unity of different territories to one community, and a unity of different religions to another, to continue to be abused and used as visual aids to sectarianism in the way that parties in this House do.

**Mr Attwood:** Mary Nelis has shown that she never lets the truth get in the way of her speeches. I will correct her. She said that there had been no searches or arrests in north Belfast, and that is wrong. The figures from January to May show that there were 66 searches in north Belfast — 55 in Loyalist areas and 11 in Nationalist/Republican areas. That search policy is not enough to reassure people about what is going on there, but it is also unhelpful and inaccurate to say that there were no searches and no arrests in north Belfast when the evidence — whatever that may be — flatly contradicts that. The sooner we start to tell the truth, rather than a collection of lies to sell some party-political approach, the better it will be for us all.

It is a similar story with Gerry Kelly, although he made a speech that was markedly dissimilar to that of Mary Nelis. Sinn Féin must reconcile itself to its opposition to “violence and intimidation” as stated in its motion. Even the best speeches will ring hollow until it can reconcile its warm words with what is actually happening in parts of the North, where Republicans are involved in the intimidation of PSNI trainees and of future SDLP and civilian members of district policing partnerships; and until it can demonstrably confirm that it is opposed to that intimidation.

3.45 pm

Several others suggested that people should simply support the police. That has not been, and is not now, the approach of the SDLP, even now that it is represented on the Policing Board. The rigorous and correct approach is to acknowledge the police when they get things right, and to criticise and challenge them when they get it wrong. If Unionism in particular would take that perspective in this debate, we might be better informed and better placed to deal with policing and sectarianism.

How does this debate end? It ends with Sinn Féin condemning sectarianism and blaming the Protestant community for it. The DUP condemned sectarianism and blamed the Catholic Church for it. The UUP condemned sectarianism and listed constituencies under threat — all of them were Unionist. As Mark Durkan eloquently pointed out, sectarianism infects all sections of society. Each

side is guilty of it, and each side has suffered from it. Combating sectarianism has to begin with an acceptance that none of us, inside or outside the Chamber, can afford to adopt a high moral tone on sectarianism. All of us, to a greater or lesser extent, have contributed to the position that we are now in, and we must all contribute to its undoing.

**Mr Morrow:** I have listened to much of today’s debate — some of it was good, some bad and parts of it downright bad. I was interested to hear Mark Durkan’s condemnation of paramilitaries. What a pity that he was not as forthright when the Belfast Agreement was signed. It would never have been signed if it had not been propped up by the paramilitaries who are being castigated today for their sectarianism.

Of all that we have heard, however, I suspect that the rant by Mary Nelis will take some beating. I think that she lives in cloud cuckoo land, because she certainly does not live on this planet. Some of the stuff that she comes out with beggars belief. I wonder at times where she is. She belongs to a party that is inextricably linked to the most ruthless killing machine in the whole of the Western world. For 30 years, it has carried out a naked sectarian terrorist campaign in this country. It waged war along the border and drove the Protestants from it. It waged war at La Mon, in Enniskillen, Teebane, Darkley and Warrenpoint; on Bloody Friday, in Omagh, at the Droppin’ Well, on the Shankill, and on police stations, including Newry RUC station; with human bombs, ethnic cleansing, and against civilians working in Army bases.

Yet they sit here today, and some of them would make a powerful stand-in for Worzel Gummidge. They have a pious look on their faces, yet they are at the cutting edge of naked sectarianism that has been waged in this country for 30 years. This debate has been brought about as a result of their hypocrisy. Members on the Benches opposite them realise that they are looking into the face of sectarianism in its most ruthless form. *[Interruption]*. I can understand why you would not look in the mirror.

Jane Morrice also mentioned the clergy. Will she cast her mind back a few weeks to an incident in Randalstown when a minister led his congregation with the news of the Gospel? How was he treated? He was treated in a most ruthless, sectarian manner; the congregation was taken apart and its instruments smashed into tiny pieces. That was done in the name of Republicanism. What support did he get from those who tell us that, in this ecumenical age, we are all together? One minister phoned him and apologised. Where were the hundreds and thousands of others? What were they doing? I suspect that by their silence they were giving consent to what happened.

The DUP’s amendment contains what is missing in most of the others. Mr Attwood from west Belfast is a member of the Policing Board. I am amazed that he cannot bring himself to state publicly that Members



should throw their lot behind the agencies of law and order. He has not said that because it would not be politically expedient for him to do so, and, on occasion, the SDLP want somehow to out-Sinn Féin Sinn Féin. Instead of drawing a definitive line between the two and saying that the SDLP is different, what does it do? It sidles up to Sinn Féin and gives it succour and support when it should be treated as the cast-out of society. Remember what Sinn Féin has been involved in over the years, yet its representatives come to the Chamber as if they were statesmen, as if the past 30 years never happened and was all just a bad dream.

I urge Members, before they cast their votes, to consider what the DUP is trying to achieve. The Assembly has been sectarianised because there has to be a sectarian headcount for every important vote — sectarianism has, in fact, been institutionalised.

**Dr Birnie:** The SDLP amendment corrects at least some of the flaws in the Sinn Féin motion; the DUP amendment correctly notes that ceasefires have been breached; and in the UUP amendment the word “re-affirms” could be replaced by “affirms”. With regard to the motion, it is not for the Assembly to affirm its commitment to non-violence — that is for the IRA and Loyalist paramilitaries to do. It is Sinn Féin, not the Assembly, that must demonstrate that it truly believes that all sections of the community have the right to live free from violence by encouraging IRA inactivity.

The Assembly does not need to express its sympathy to victims of violence by means of this orchestrated, manipulative and insincere motion. It is the IRA by its terrorism, and Sinn Féin by its continued hypocrisy, who have proven themselves to be institutionally sectarian. To support the motion would be to mock the victims of the troubles since 1969.

The wording of the motion bears striking similarities to the so-called “apology” from the IRA of a few months ago. There is no mention of the security force members who were killed by the IRA and whose deaths were not at that time, or this afternoon, condemned by Sinn Féin. That is one of the most disturbing features of the motion.

With regard to the PSNI, the Sinn Féin president said:

“I think they will be accorded exactly the same treatment the republican movement accorded to the RUC. No more, no less.”

His words stand testimony to the residual sectarian element in Sinn Féin.

I support amendment No 1.

**Mr Deputy Speaker:** I call Mr Maskey to respond and to conclude the debate.

**Mr Maskey:** Go raibh maith agat, a LeasCheann Comhairle. First, I want to return to the motion in my name and in Gerry Kelly’s, to make the point that it is in the spirit of sub-priority 2 of section 2.4, entitled ‘Growing

as a Community’, in the Programme for Government. The motion was deliberately designed to allow Members to give support and encouragement to the public, to offer some way out of the sectarianism that we face and to help to bring an end to the discrimination, death and destruction which afflict many communities in the North. Therefore, the motion, by its very nature, is not prescriptive or partial, and it is open-ended.

Sinn Féin rejects and opposes all forms of sectarianism — be it murder or whatever — for ever and a day. We oppose sectarianism totally, and we will stand accountable, like any other political party, to the public on that stance. I remind the public that all parties present had the opportunity to propose a motion this week, or at any other time, but none of them saw fit to do that. People can draw their own conclusions from that.

The Sinn Féin motion is designed to have a debate about sectarianism. Although listeners to the debate may find it hard to detect, sectarianism is a problem that transcends Republicanism, policing, and it transcends any one section of our community.

I commend the Deputy First Minister for his contribution, and for his acknowledgement of the issue and of the fact that sectarianism is all-pervasive. It is regrettable that the First Minister and other Members of the Executive have not contributed this afternoon. No one here can say that they have no responsibility or that they have all the answers. We need an inclusive, rational debate on sectarianism in which Members can put their analysis and solutions on the table. Regrettably, I have heard very few solutions this afternoon. All our constituents want answers and solutions. They do not want the finger-pointing which, for the most part, is simply an excuse for those who make those allegations and arguments to do nothing.

It is also clear that there is a need for a forum for all sections of society to participate in and to shape a campaign that will tackle sectarianism in all its forms. If the motion is passed today — and even if it is not passed — it shows that the Assembly can provide that forum. Sinn Féin has an analysis of what may or may not constitute sectarianism. The substance of the amendments today is simply that if Sinn Féin were to support the PSNI, our problems would no longer exist. That is not the simple answer. Unfortunately, if you believe Alan McQuillan’s comments last week — and you do not have to — the bulk of the violence came from Loyalists. That community very strongly supports the police and all their policing structures.

In recent months, the SDLP has not stopped running to the NIO, delegation after delegation, to complain that the PSNI is a part of the problem in so far as it is not giving protection to vulnerable communities. Regrettably, policing is still part of the problem, and that is why we did not include it in our motion. However, we stand ready



to debate all forms of sectarianism and all solutions to tackle it, because the people that we all represent deserve and want much better.

Today very few Members made any specific proposals, other than some generalised suggestions such as telephone link-ups, which are being dealt with at implementation group level. Sinn Féin made some of those suggestions during discussions. Many Members spent their time criticising Sinn Féin, and none of them have accepted that they are responsible for any of the attitudes, policies or actions that ferment sectarianism in society. If you are listening to this debate or you were listening to a radio programme at lunchtime, you would be forgiven for thinking, four years after the establishment of the Assembly, "is this the best that they can do?"

We should be debating the strategy that the Office of the First Minister and the Deputy First Minister was supposed to introduce this year. That strategy ought to lead to a cross-departmental plan to tackle sectarianism and offer solutions to our communities.

4.00 pm

It is now September 2002. We are a long way behind schedule in our attempts to deal with one of the biggest scourges of our society — sectarianism — and the death and destruction that it has caused in the streets. Although I commend the Deputy First Minister's contribution, we should be debating a fully thought-out, advanced strategy for solving the problems.

I want to be positive. Despite the negativity that was displayed today, Belfast City Council carried out good work in July when the Office of the First Minister and the Deputy First Minister was on holiday. The political leaders and the Departments were not available to tackle the many difficulties that faced communities. I spoke to Loyalist residents in east Belfast, the NIO, the Housing Executive and many other organisations about repairing houses and reinstating tenants. No senior officials were available from any Department.

Despite Belfast City Council's history, local councillors were able to meet in July and organise a rally with the trade union movement, the Churches and the private sector. They agreed to form a working group on sectarianism, which will meet for the first time later this month. Despite what some politicians said today, their party colleagues on Belfast City Council have been working together. They organised a programme of work and sought nominations to the working group. That sends out an encouraging and positive message. Despite difficulties, various analyses and differences of opinion about the origins of the conflict and the causes and definition of sectarianism, councillors did come together. That contrasts with today's debate. I hope that Belfast City Council will be able to demonstrate to the people of Belfast — perhaps for the first time and belatedly — that it is starting to agree on steps to tackle sectarianism.

We will all stand in the spotlight, all stand accused. Today I heard lily-white, halo-laden people deny that they had anything to do with sectarianism and say that it was not their problem. As Mark Durkan and other Members said, sectarianism is all-pervasive and has existed for a long time.

Despite all the nonsense that has been spewed out this afternoon, let us agree that there is a period of relative calm in some areas in Belfast. That is because many people have worked hard behind the scenes to bring a lull to those areas and achieve peace and respect in both the Unionist and Nationalist communities. Those communities deserve better from their political leadership.

If I was not a politician, and I listened to some of the contributions, I would advocate closing the Assembly, because if that is the best that Members can offer, they should not be here. I am delighted that the parties whose Members are here and have offered nothing but negativity and criticism are given much better and more mature leadership in local councils. Sinn Féin rejects the amendments, because they are not a total solution.

**Mr Morrow:** On a point of order, Mr Deputy Speaker. Having listened to what Dr Birnie said about his amendment, I propose to withdraw the DUP's amendment. My party will support the UUP's amendment.

**Mr Deputy Speaker:** That may only be done by leave of the House. It will not be possible to withdraw the amendment if there are dissenting voices. Do I have the leave of the House?

**Members:** No.

**Mr Deputy Speaker:** Given that there are dissenting voices, the amendment must be put to the vote.

**Mr Kennedy:** On a point of order, Mr Deputy Speaker. During yesterday's debate on firefighters' pay, several amendments were withdrawn without taking a collection of voices in the House.

**Mr Deputy Speaker:** I will look at Hansard, but I understand that it was stated. To be fair, Mr Kennedy, by now we should all know the rule that amendments may only be withdrawn by leave of the House.

**Rev Dr Ian Paisley:** On a point of order, Mr Deputy Speaker. If our amendment is not moved, you cannot do anything. It must be moved.

**Mr Deputy Speaker:** I understand that it has been moved; you may only withdraw it. However, I will take advice on that.

**Rev Dr Ian Paisley:** Further to that point of order, Mr Deputy Speaker. I led the debate on our amendment. I did not say that I was moving it. I thought that you would ask us in the usual way if we were moving our amendment.

**Mr Deputy Speaker:** Dr Paisley, I have taken advice, and in all cases we will have to check Hansard. However, I am advised at the Table that the amendment was moved, so it may only be withdrawn by leave of the House.

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

*The Assembly divided: Ayes 47; Noes 33.*

### AYES

*Ian Adamson, Fraser Agnew, Billy Armstrong, Roy Beggs, Billy Bell, Paul Berry, Esmond Birnie, Norman Boyd, Gregory Campbell, Mervyn Carrick, Joan Carson, Wilson Clyde, Robert Coulter, Duncan Shipley Dalton, Ivan Davis, Nigel Dodds, Boyd Douglas, Reg Empey, Sam Foster, Oliver Gibson, John Gorman, Tom Hamilton, William Hay, David Hilditch, Derek Hussey, Roger Hutchinson, Gardiner Kane, Danny Kennedy, James Leslie, Robert McCartney, Alan McFarland, Michael McGimpsey, Maurice Morrow, Ian Paisley Jnr, Ian R K Paisley, Edwin Poots, Iris Robinson, Ken Robinson, Mark Robinson, Peter Robinson, Jim Shannon, David Trimble, Denis Watson, Peter Weir, Jim Wells, Cedric Wilson, Jim Wilson.*

### NOES

*Gerry Adams, Alex Attwood, P J Bradley, Joe Byrne, Michael Coyle, Bairbre de Brún, Mark Durkan, Sean Farren, John Fee, Tommy Gallagher, Michelle Gildernew, Carmel Hanna, Denis Haughey, Joe Hendron, Gerry Kelly, John Kelly, Patricia Lewsley, Alban Maginness, Alex Maskey, Alasdair McDonnell, Barry McElduff, Martin McGuinness, Gerry McHugh, Mitchel McLaughlin, Francie Molloy, Conor Murphy, Mick Murphy, Mary Nelis, Danny O'Connor, Dara O'Hagan, Eamonn O'Neill, Sue Ramsey, Brid Rodgers.*

*Amendment No 1 accordingly agreed to.*

**Mr Deputy Speaker:** I will now put amendment No 2 standing on the Marshalled List. All those in favour say "aye"; contrary, if any, "no".

*No Members responded to either question*

*[Laughter]*

**Mr Deputy Speaker:** They do not pay me enough for this. The amendment falls.

*Amendment No 2 negatived.*

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

*Resolved:*

In its belief that all sections of our community have the right to exist and all people have the right to live free from violence and intimidation whether at home, at school, or the workplace, this Assembly expresses its sympathy to all those who have been the victims of terrorist murder, violence and intimidation, rejects Republican and Loyalist sectarianism and commits itself to providing leadership on this issue in practical ways. This Assembly re-affirms its commitment to non-violence and exclusively peaceful and democratic means and calls upon all parties to actively support and co-operate with the Police Service of Northern Ireland in securing evidence against those involved in violence and in default of their ceasefires.

**Dr Hendron:** On a point of order, Mr Deputy Speaker. What happened to amendment No 3?

**Mr Deputy Speaker:** It was clearly announced in the Chamber at 2.00 pm that if either amendment No 1 or No 2 was made, then amendment No 3 would not be put.

*Motion made:*

That the Assembly do now adjourn. — *[Mr Deputy Speaker]*

4.15 pm

## CONDITION OF A-CLASS ROADS IN WEST TYRONE

**Mr Byrne:** Before the Assembly rose for summer recess, the Minister for Regional Development presented his Department's 10-year regional transportation strategy (RTS) to the Assembly. I participated in that debate, broadly welcoming the RTS and its many positive aspects, which, if implemented, would improve the transportation infrastructure of Northern Ireland. However, there was insufficient time to address aspects of the RTS relating to the West Tyrone constituency, in particular the upgrading and maintenance of A-class roads.

*(Madam Deputy Speaker [Ms Morrice] in the Chair)*

It is not the purpose of the debate to castigate Roads Service, which has had to make do with limited resources and has completed several worthwhile schemes in the Omagh District Council and Strabane District Council areas designed to calm and relieve traffic congestion. The intention is to discuss flaws in the RTS in relation to West Tyrone's A-class roads, and to contribute to the wider debate on the future of the transportation infrastructure in that part of Northern Ireland.

The issue is important because it raises questions about the Department's commitment to social justice and equality in border constituencies such as West Tyrone, and to balanced sustainable development across Northern Ireland. It also raises issues about the Department's commitment to working with the National Roads Authority in the Irish Republic and the need to achieve a truly integrated transportation network on the island. Therefore, despite its many positive aspects, there have been serious omissions from the RTS, particularly in relation to A-class roads, an issue of concern to many in West Tyrone.

Geographically, West Tyrone is the largest of the constituencies, with a population of over 140,000. In terms of transportation infrastructure, the constituency is totally dependent on roads due to the non-existence of a rail network. It is difficult to overestimate the importance of the condition of roads to the social and economic life of the constituents. West Tyrone is served by the A5, the main arterial route and a designated trans-European network (TEN) route that runs between Ballygawley and Derry and passes through the towns of Omagh, Newtownstewart and Strabane. It also has two further A-class roads; the A32 connecting Omagh to Enniskillen, and the A505 that runs between Omagh and Cookstown.

I welcome the importance attached by the RTS to such TEN routes as the A5, which are essential to European integration, economic prosperity and generating employment. The TEN routes have an important role in ensuring the free movement in the European Union of goods, services and people, which reinforces social and economic cohesion.

I welcome the work currently being carried out on the A5. That includes stage 2 of the Strabane bypass, the Newtownstewart bypass and stage 3 of the Omagh through-pass, which has fallen in the list of priorities since the Chancellor's 1998 initiative and awaits the completion of the remaining statutory procedures before construction can begin.

I am, however, disappointed that the A5 TEN route, although one of the five designated key transport corridors in the RTS, may not get the capital investment necessary to upgrade it to dual carriageway standard. West Tyrone has not a single mile of dual carriageway or motorway. The RTS proposes to widen the A5 only at selected points. Those are merely gestures, and the road between Omagh and Ballygawley remains treacherous. The recognition of the A5 as a key transport corridor in the RTS will remain an illusion if the necessary capital investment is not made to upgrade it.

Currently the A5 is a 7.3-metre-wide single carriageway, and it is inadequate for the volume of traffic it carries. Furthermore, it makes a mockery of the RTS objective of decreasing public transport journey times. That is unacceptable, given the importance of the route to West Tyrone's local economy and the need to facilitate cross-border trade via the N2 in the South. In the common chapter of the Northern Ireland structural funds plan and the Republic's National Development Plan 2000-06, the co-ordination of transport planning and construction is a key area for co-operation. If we are to develop a socially-inclusive economy in Northern Ireland, we must invest in transportation infrastructure which is safe, accessible and integrated on an all-island basis.

Madam Deputy Speaker — I am sorry if I earlier called you Mr Deputy Speaker — in the RTS there is no reference to the A505 and the A32 roads in West Tyrone, and I draw the attention of the House to that. The condition of both roads is unacceptable, since they are the main routes between three major towns. That the RTS contains no proposals for upgrading those routes is a glaring omission. The A32 between Omagh and Enniskillen is frequently used by ambulances, often in emergencies, to take patients to the Erne Hospital's maternity unit. The A505 between Omagh and Cookstown is used by road haulage traffic travelling to the port of Larne.

I do acknowledge the great improvement to the A32 at Dromore with the new inner ring road which was completed last year.

Ignoring those roads is contrary to the principles of balanced regional development across Northern Ireland and the stated objective of the regional development strategy, the RTS's mother document, to achieve a modern, sustainable, safe transportation system which benefits society, the economy and the environment and which actively contributes to social inclusion and to everyone's quality of life.

It is essential that these routes be upgraded, for safety reasons as well as for economic ones. The RTS highlights the fact that Northern Ireland has the highest number of road deaths — more than in any other region of the UK. Both the A505 and the A32 are hazardous in many areas. Their narrowness effectively reduces the maximum speed to around 40 mph. Many road traffic accidents in rural areas can be attributed to that narrowness, and many people have lost their lives unnecessarily or have been injured.

That brings me to the matter of the maintenance backlog of West Tyrone's A-class roads, which received only 9% of the Department for Regional Development's spending on road maintenance during 2001-02. The RTS recognises that it is essential that the roads network receive substantial investment to upgrade key routes and to deal with the massive maintenance backlog, which is particularly acute in rural areas. For example, in the Omagh and Strabane districts the most recent figures, from a survey carried out in 2001, reveal that the maintenance backlog on A-class roads totals almost £8.5 million.

It is totally unacceptable that the amount required to address the maintenance backlog is more than twice the total funding of £4.126 million that has been allocated to major capital works, minor capital works and road maintenance during the same period in those district council areas. That situation cannot continue, and I ask the Minister to take the necessary action to clear up the road maintenance backlog in the Omagh and Strabane District Council areas.

4.30 pm

Successful regional transportation strategies are based on a close relationship between the improvement of transportation infrastructure and economic development. The provision of an accessible transportation infrastructure is a key factor in attracting new inward investment, the siting of new industry and the survival of indigenous firms. Transport costs have a major effect on the profitability of many businesses, especially the food and textile industries, in west Tyrone. Therefore, the uneven development of Northern Ireland's transportation infrastructure increases the economic disadvantages experienced by peripheral border areas.

For many years, my party has expressed its grave concerns about the lack of a co-ordinated and balanced approach to the development of the region's road infrastructure. Unfortunately, those of us who live in

rural areas have tolerated inadequate roads for many decades. The historic underinvestment in west Tyrone's road network continues to have a detrimental effect on the area's ability to generate further economic growth and employment.

In 1964, Northern Ireland's Minister of Home Affairs stated that the continuation of the motorway to Derry, and the upgrading of the routes from Omagh to Enniskillen and Omagh to Derry, would be a priority. Of course, aside from piecemeal improvements, that did not happen. Now that we once again have locally elected Ministers and the opportunity to, as the Programme for Government states, "make a difference", it would be a tragedy were we to repeat the mistakes of the past.

The need in my constituency does not stop at road maintenance. West Tyrone needs a transport system, albeit road-based, that is capable of supporting social and economic development.

**Mr Hussey:** Thank you, Deputy Speaker — to avoid Mr Byrne's problem, I left out the terms "Madam" or "Mr".

Although I support Mr Byrne's comments, I am mindful of the investment that we have seen in west Tyrone, and I thank the Minister for it. We are also aware of proposed future investment. The main tenet of Mr Byrne's Adjournment debate is that, although we welcome that investment, we realise that the bulk of the capital will, necessarily, be spent on one route. I thank Mr Byrne for joining me in highlighting that, as the Minister knows, the A5 should be a dual carriageway. The Minister is well aware of my views on that route, and I appeal to him that, when roadworks are undertaken on the A5, he should consider allowing land purchase to facilitate its dualling when funds become available.

Yesterday, the Minister stated that he is often hindered by the 30 years of democratic and financial deficit that we were plagued with in Northern Ireland. Members appreciate that and the efforts that are being made to overcome it. It is, however, a great pity that Members from Fermanagh and South Tyrone and from Mid Ulster did not stay to hear the debate, because Mr Byrne mentioned factors that will assist their constituencies when we deal with the Omagh to Enniskillen route and the Omagh to Cookstown route. I congratulate Mr Byrne on bringing those routes to the House's attention.

I am a little disappointed that the debate has been limited to a discussion of A-class roads. There are so few of them in West Tyrone, and many of our people use the B-class and C-class routes.

Mr Byrne referred to the maintenance backlog: it is a disgrace to see the state of some of our B-class and C-class roads. I am sure that the Minister is aware of the backlog, and I urge him to listen to what Mr Byrne has said and to hear the pleas of the officials in the western division of the Roads Service. That division is pleading



for the tools to do the job. That is the main tenet of the motion, and I support it.

**Mr Gibson:** I support my Colleagues in bringing pressure to bear on the Department for Regional Development to seriously consider the A5, particularly as it has been designated a trans-European route. I am grateful that the other representatives of West Tyrone have already highlighted the desperate condition of the B-class and C-class roads.

We must bear in mind that the constituency covers a large area: it is over 65 miles long and 49 miles wide. Despite that it has only 55 miles of A-class roads. The other 1,500 miles of road, which represent 95% of the total, are B-class and C-class. In a fortnight, councillors from Strabane and Omagh are joining me to meet the Minister for Regional Development to discuss those roads. This has been a burning issue for many years.

I should like to congratulate the Minister, because for the first time in 30 years the infrastructural deficit and backlog that we suffer in west Tyrone have been recognised. The complaints that I receive in the constituency office refer to the miles of pipe laying that is taking place for the new water mains that are being laid all over the countryside. Many delays are being experienced on the A5 because major road schemes are under construction.

We should recognise that improvements at Magheramason, Bready, Burndenet Bridge, Ballykeel, the Newtownstewart bypass, and the Garvaghy crossroads, as well as the expected Omagh throughpass, are the result of a major infrastructural input. I thank the Minister, because until two and a half years ago, we in Omagh and Strabane lobbied vigorously, but unsuccessfully, for funds. Therefore I recognise that our present Minister is the first to have seriously attacked the infrastructural backlog.

I should also like to thank the Minister and his Department for recognising that the backlog existed and for skewing funds westward. Approximately £850 million will be available over 10 years. However, a significant amount of the money has already been earmarked for many of the major projects I just mentioned.

We must seriously consider improving the A5, because it was designed 40 years ago when the maximum number of axles allowed for a lorry was two and the maximum weight was 18 tons. Nowadays, we struggle to overtake six-axled lorries with 40-ton road weight. At that time, roads were built and engineered to a totally different specification than that required today. Therefore the Minister and his Department face a dilemma as to how to utilise the existing infrastructure. Is a trans-European route to be considered because it is not as costly as a dual carriageway? Throughout the world, the broad four-lane road with two inside crawler lanes used for slower traffic — an old concept — has done away with the massive amount of kerbing. Instead, the

reliance is on white lining, directional lines and road signage for road safety. In countries where four-lane roads have been constructed they have proved safe and successful and have increased traffic through-flow by approximately 28%. That is something the Minister and his Department might consider. A four-lane road from Dungannon, with a branch to Enniskillen, to the Maiden City would have to be costed, but would prove to be more cost-effective. The design of the present A5 from Ballygawley to the Maiden City means that about 250 projects would have to be undertaken to improve safety. It would be single carriage each way, which would limit the traffic flow, as it can only proceed at the speed of the slowest vehicle.

It will benefit everyone if we recognise that there is a backlog and that it will take a fair amount of finance to resolve the problem of overworn, dilapidated road systems that we have inherited. The Department has struggled over the past 30 years to maintain those roads, but now the B- and C-class roads are punishing our transport systems. I have been lobbied continuously by the Western Education and Library Board. It is having to change the routes its buses take because it will no longer permit its new fleet to travel some of those B-class roads and all of the C-class roads. The condition of those roads is too sore on the bus system. The private transport sector, which is becoming more involved in the transport of children, has also complained about those roads. My recommendation emanates from those two sources. The construction of a four-lane road, all the way from Dungannon, with one branch to Enniskillen, right through to the Maiden City would cut out many of the major schemes still outstanding. Serious consideration should be given to the suggestion. I thank Joe Byrne for giving us the opportunity to debate this matter.

The deficit was created by 30 years of mayhem and destruction.

We had to replace and compensate; now we are playing catch-up. I am delighted to say that the Minister has made an honourable attempt to give some shape to the future of roads in the west.

4.45 pm

**Mr McElduff:** Go raibh maith agat, a LeasCheann Comhairle. I welcome the debate. I disagree that the problems are attributable to the past 30 years. It is more a matter of 80 years of institutional neglect of that part of County Tyrone, dating back to before the 1920s.

This is a useful opportunity to articulate the urgency of improving and upgrading class-A roads in County Tyrone, particularly in the western division area of the Roads Service. County Tyrone's legacy of underinvestment and the deliberate policy of discrimination practised there have only accentuated its sub-regional peripherality in the North, Ireland as a whole, and Europe. Since the

demise of the railways in the 1960s, roads are the sole mode of transportation. This situation places people in the greater north-west at a distinct disadvantage — the debate is more about people than it is about roads. The situation requires commitment from Departments, and from the Department for Regional Development in particular. I acknowledge that the Department has been getting to grips with the road situation in west Tyrone recently. Schemes such as that in Dromore are very positive. Good projects have been carried out, and several are in the pipeline, such as the A32 realignment scheme.

The Minister for Regional Development should look beyond the Assembly for roads funding for the greater north-west, to the European Union, and the Government in the South. He should seek a peace dividend to address our infrastructural deficit. The A5 is a priority requiring major funding to realign the road to accommodate its high usage. It has been identified as part of a major trans-European route that links, for example, citizens in Omagh to Belfast via the A4 and M1, and citizens in Donegal and Derry to Dublin via the A5 and N2. The road carries a great deal of cross-border traffic. I remind the Minister of a question that I asked some months ago, to which he replied. I asked how many miles of dual carriageway there were in County Tyrone.

Funding is required from the Assembly and other political institutions, although I appreciate the financial constraints on the Department. A more holistic approach is needed for the upgrading of the A32, which is the main road from Enniskillen to Omagh, or Omagh to Enniskillen, if someone were so inclined. I appreciate that positive steps have been taken with regard to the Dromore bypass and several realignment schemes. I urge the Minister to dig the channels and make provision for a dual carriageway in the immediate to mid-term future.

The A505 from Omagh to Cookstown is an important route linking the county town of Tyrone with another principal town in Tyrone, and beyond to the M2. The A505 also requires major realignment, not least at an important point known locally as the Seven Sisters.

The cake needs to be made larger in general. I urge the Minister to listen to the combined voices of the councils and the representatives of the people in those areas affected, including Donegal, Omagh, Strabane, Cookstown, Dungannon and Fermanagh.

I wish to make the political point that the Minister should take his seat at the Executive table, because his absence when funds are being distributed is to the detriment of the citizens of west Tyrone.

**The Minister for Regional Development (Mr P Robinson):** At the outset I find myself agreeing with many of the points that Members have made, particularly their calls for improvement to the strategic highways in west Tyrone, just as I would for other parts of Northern Ireland.

There can be no doubt that a modern and effective transport system is the lifeblood of any modern society. For that reason I developed my regional transportation strategy, 2002-2012, covering transportation strategy for the next decade. It proposes significant improvements to our roads, buses, light rail and railway infrastructure, and I was delighted when in July 2002 the House unanimously approved the strategic direction of its underlying principles. I stress “unanimously” because, as we have seen today, it is not always that our decisions in the House are unanimous. The strategy identifies the transportation priorities and the investment needed to provide

“a modern, sustainable and safe transportation system over the next 10 years”

— your words, Madam Deputy Speaker, because you endorsed them along with the rest of the House when we passed the regional development strategy for Northern Ireland 2002-2012, the mother of the regional transportation strategy. Such a programme will require significantly enhanced investment, yet the strategy is pitched at a level that can be realistically achieved.

However, I do not wish to leave the impression that west Tyrone has, in any way, been neglected for funding for major road schemes in recent years, and I will review some of my Department’s recent achievements in that area. In the last two years we have seen the completion of the £2.1 million scheme to provide overtaking opportunities on the A5 at Leckpatrick; the provision of the A32 Dromore inner link at a cost of almost £1 million; the £800,000 bridge replacement and realignment scheme at Burdennett; and, of course, the £500,000 widening scheme to provide overtaking opportunities on the A5 at Tattykeel, south of Omagh, which has recently been completed.

I also have to say that west Tyrone is faring reasonably well in major road schemes currently under construction, as was shown by the appreciative remarks of some Members. We are at stage 2 of the Strabane bypass, which will provide 2.6 kilometres of single carriageway, at a cost of £4.2 million, to bypass one of the most congested stretches of the A5. There is also the £8 million Newtownstewart bypass, which will provide just under three kilometres of new carriageway. In addition, stage 3 of the Omagh throughpass, which will complete the throughpass of Omagh at a cost of some £5 million, is going through the statutory procedures.

Regarding trunk roads in west Tyrone I am pleased to be able to make three important announcements today. First, I can tell the House that I expect the Newtownstewart bypass to be completed in November 2002, some four months ahead of schedule. This will be a welcome early boost to motorists on the Omagh to Londonderry road, eliminating the considerable delays to traffic currently experienced at that point.

Secondly, I am pleased to advise that all objections to the direction order for stage 3 of the Omagh throughpass have been withdrawn as a result of the Roads Service's negotiations with the objectors. This clears the way for us to proceed with land acquisition and brings us a crucial step nearer to starting this important scheme.

Thirdly, I can announce that in the next financial year the Roads Service proposes to construct a further overtaking opportunity on the A5 by widening the section from Ballygawley roundabout, heading north, to three lanes for a distance of approximately 1.3 kilometres. That will again provide better opportunities for overtaking. That proposal will be assisted by the recently announced investment in road maintenance from the reinvestment and reform initiative.

Despite the number of schemes recently finished or in progress in west Tyrone, I assure the House that major work schemes are chosen on an impartial and objective basis with the aim of benefiting Northern Ireland as a whole.

Although a major road scheme on a strategic route may be located in one county or one district council area, the scheme's purpose is to improve access to locations along the entire route. Mr Hussey made that point to some extent when he stated that he wished that Members from Mid Ulster and Fermanagh and South Tyrone had attended the debate. He recognised that what happens in west Tyrone can affect adjoining constituencies. Equally, what happens in adjoining constituencies can be to the benefit of west Tyrone. There is a recognition that the purpose of the scheme is also to improve access to other locations. For example, the £2.2 million scheme to improve the A4 at Eglisish and Cabragh on the main Belfast to Omagh road will also benefit West Tyrone. For this reason it is sometimes misleading to compare spending on major road schemes on a constituency or district basis.

I advise the Member for West Tyrone, Mr Byrne, who is happily smiling at present, not to refer to "only" 9% of the maintenance budget's being spent in West Tyrone when any of his Colleagues from other constituencies are around. If he multiplies 9% by the 18 constituencies in Northern Ireland, he will see that West Tyrone is probably receiving over 50% more than the average would permit. The figure is based on the principle that is adopted fairly by my Department: money goes where the need is. I hope that the Member will recognise that the 9% he mentioned in somewhat derisory terms is recognition that even though West Tyrone contains approximately 5.4% of the total population —

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

**Mr P Robinson:** I will, though I know what Mr Byrne is going to say. I will let him have the opportunity to put it on record. Although West Tyrone contains only

5.4% of the total population, it is getting about 50% more than that for spending on maintenance.

**Mr Byrne:** The Minister will accept — and other Members have made reference to this — that West Tyrone is the biggest constituency geographically.

**Mr P Robinson:** That is one of several factors. If we want to add a few more to the debate, one of the key issues that my Department must consider is the amount of use on any road. That was one of the factors that militated against the west of the Bann generally. It was one of the key reasons for not simply extrapolating over the next 10 years the amount of money that we would put into our regional transport strategy and for determining, even from the draft, that I would have to lift that up. Only by lifting that bar considerably higher was it going to have the spread right across the Province that West Tyrone and the other constituencies west of the Bann deserved.

In addition to the major road schemes over the past few years, the Roads Service has invested a similar amount on minor road improvement schemes across Northern Ireland. The resources available for minor capital schemes are allocated to the four Roads Service divisions and, in turn, apportioned across district council areas on a needs-based priority approach using indicators such as population, weighted road lengths and the number of accidents. As far as possible, that ensures an equitable distribution of funds across the country, and I am satisfied that West Tyrone has received an equitable share of those resources.

Mr Hussey spoke of the feeling among western division staff that if they were given the tools, they could do the job.

5.00 pm

I have no doubt that the confidence would be well placed in my colleagues in the western division. Equally, there would be those in the Department for Regional Development who would ask the Assembly for the tools to do the job. We are willing to do all the work required across the Province, but we need the resources to do that. If the Assembly gives unanimous approval to the regional transportation strategy and backs it up with the necessary financial support, the western division will show that it, and the other divisions, will do the job if they are given the tools.

The improvements to the A32 at Lettergesh were completed in May this year at a cost of over a quarter of a million pounds. In addition, the result of the reform and reinvestment initiative bids announced before the holidays in July will give an additional £20 million over the next two years for structural maintenance improvements on the regional strategic transportation network. The Roads Service has already programmed schemes for west Tyrone using those additional resources. They include improvements



to the A32 at Clanabogan near Omagh — I hope that I pronounced that correctly for the hon Gentleman — starting in October 2002 and costing £220,000; improvements to the A32 at Lisdoo between Dromore and Irvinestown starting in November 2002 and costing £495,000; and improvements to the A5 at Melmount Road, Strabane starting next year and costing £220,000.

Mr Byrne argued that the regional transportation strategy should have proposed a dual carriageway for the A5, or parts of it, rather than bypasses and overtaking opportunity schemes. Any investment must make economic sense, and the significant capital cost of a dual carriageway must be offset by time savings and other benefits for the traffic-using public. Experience shows that on inter-urban roads the minimum traffic volume that normally justifies the provision of a dual carriageway is about 11,000 vehicles a day. The typical traffic on the inter-urban sections of the A5 is just over 9,000 vehicles a day, and at times that stretches to 11,000 vehicles a day. That barely reaches the minimum threshold where the provision of a dual carriageway could be economically justified.

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

**Mr P Robinson:** The Member may want to hear my next sentence. The schemes shown in the regional transportation strategy were for illustrative purposes and to give some idea of what might be delivered by the additional £375 million envisaged for strategic highway improvements across Northern Ireland in the 10-year period. The illustrative map shows several improvements relevant to County Tyrone on top of the schemes already in the programme. Therefore the Member cannot say that there would not be a change to the illustrative case if he had an argument that convinced the Roads Service.

**Mr Hussey:** I thank the Minister for giving way. I understand the objective figures he is working with. However, as my Colleagues and I travel to and from Belfast from the western area we are aware of the subjective nature of the traffic encountered. We are dealing with rural and slow-moving traffic, and an economy that is totally dependent on roads. Mr Gibson pointed out that a considerable number of large commercial vehicles use that road and slow down the travel time.

**Mr P Robinson:** I have given the Member an opportunity to make his point. My officials, who will ultimately make recommendations to me on these matters, have heard the case. Mr Hussey does not have an argument with me, or my Department, about the need for road improvements. If I had not put the illustrative map into the regional transportation strategy, many Members would be asking whether that meant that schemes would go ahead in their areas. We have tried to give some indication of what can be done were £375 million to become available in the way that we have outlined.

I also pointed out that the illustrative map showed several improvements for County Tyrone as a whole, on top of the schemes that are already in the programme, such as selective widening. That scheme will provide further overtaking opportunities on several stretches of the A5, as well as the dualling of the Dungannon to Ballygawley road.

The schemes to be delivered under the regional transportation strategy have yet to be finalised, and will be progressed through three transport plans. Of those, two are relevant to west Tyrone. The regional strategic transport network plan will determine a programme of initiatives that includes strategic highway schemes, and the sub-regional transport plan will do the same for the non-trunk network. The third plan covers the Belfast metropolitan area.

I can assure Members that, in preparing the regional strategic transport network plan, my officials will consult the Committee for Regional Development and elected representatives, and will screen all single carriageway roads on the trunk network to identify those that would benefit most from dualling.

It is only fair to make it clear that the funding for road schemes, or any other element of the regional transportation strategy, is not unlimited. I have already proposed significant increased investment over the 10-year period of an additional £1.37 billion. If it is determined on the basis of analysis and other considerations that any particular route should be improved over and above the illustrative proposals in the regional transportation strategy, it stands to reason that other schemes in the illustrative proposal would have to be withdrawn, or additional funds would have to be found. That is the difficult balance that my officials and I will have to strike.

The single most critical factor in delivering the regional transportation strategy, whether it is for strategic highway improvements, or for better bus services or railways, will be the availability of the significantly increased levels of investment. Therefore I welcome Members' support for the strategy, and for individual schemes. I hope that that strong support across the House will result in my Department's being allocated the necessary funding increase in future Budget rounds, whether from normal public expenditure, the reinvestment and reform initiative, or the underwriting of payments related to public-private partnerships. I trust that the investments that I have mentioned for the road network in west Tyrone illustrate my Department's ongoing commitment to that area in particular, and that the regional transportation strategy, if fully funded, is the way forward for Northern Ireland in general.

*Adjourned at 5.08 pm.*



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## NORTHERN IRELAND ASSEMBLY

Monday 16 September 2002

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

*Members observed two minutes' silence.*

### ASSEMBLY BUSINESS

#### Withdrawal of Statement by Mr Roche

**Mr Speaker:** Mr Roche has requested, and has been granted, an opportunity to withdraw a remark that he made during the anti-sectarianism debate on Tuesday 10 September 2002.

**Mr Roche:** In the debate on 10 September I referred to a named Member as a “convicted murderer”. I now know that that statement was incorrect, and I withdraw the statement.

**Mr Speaker:** I think that the statement referred to Mr Gerry Kelly. I ask Mr Kelly whether he wishes to accept the withdrawal.

**Mr G Kelly:** I welcome the fact that the remark has been withdrawn. It is not the first time that Unionists have abused privilege. In the scheme of things, and considering the speed at which some Unionists are moving forward regarding dialogue, perhaps this is a small step forward.

**Mr Speaker:** A good precedent has been established by other Members that, when a Member discovers that something that was said was incorrect, it is withdrawn on the Floor of the House. That is a good and proper way to behave.

## STATE PENSION CREDIT BILL

### First Stage

**The Minister for Social Development (Mr Dodds):** I beg leave to lay before the Assembly a Bill [NIA 4/02] to make provision for and in connection with a new social security benefit called state pension credit; and to amend section 43(1) of the Pension Schemes (Northern Ireland) Act 1993.

*Bill passed First Stage and ordered to be printed.*

**Mr Speaker:** The Bill will be put on the list of pending business until a date for its Second Stage has been determined.

## LIMITED LIABILITY PARTNERSHIPS BILL

### Consideration Stage

*Clauses 1 to 16 ordered to stand part of the Bill.*

*Schedule agreed to.*

*Long title agreed to.*

**Mr Speaker:** That concludes the Consideration Stage of the Limited Liability Partnerships Bill. The Bill stands referred to the Speaker.

## OPEN-ENDED INVESTMENT COMPANIES BILL

### Consideration Stage

*Clauses 1 to 5 ordered to stand part of the Bill.*

*Long title agreed to.*

**Mr Speaker:** That concludes the Consideration Stage of the Open-Ended Investment Companies Bill. The Bill stands referred to the Speaker.

## CHILDREN (LEAVING CARE) BILL

### Consideration Stage

**Mr Speaker:** Members will have a copy of the Marshalled List, which details the order for consideration. There are two groups of amendments for debate. The first group contains only one amendment, which is amendment No 1. The second group comprises the Committee's opposition to clause 6 and amendment No 2 and amendment No 3, which are consequential to the opposition to clause 6. The amendments, therefore, will be called only if the Assembly agrees that clause 6 should not stand part of the Bill. The Questions on stand part will be taken at the appropriate points in the Bill. If that is clear, and there is no objection, we shall proceed. I propose to call clauses en bloc, to which there has been no signified objection.

*Clauses 1 to 4 ordered to stand part of the Bill.*

#### Clause 5 (Representations)

*Question proposed,* That the clause stand part of the Bill.

**The Chairperson of the Committee for Health, Social Services and Public Safety (Dr Hendron):** I beg to move amendment No 1: In page 8, line 38, leave out "(if any)".

The Committee for Health, Social Services and Public Safety scrutinised the Children (Leaving Care) Bill during every Stage of the Bill. The Committee's report details the scrutiny of the Bill. We took evidence from a wide range of key groups that work with young people leaving care. Clause 5 deals with representations made under the Children (Northern Ireland) Order 1995. It establishes arrangements for dealing with complaints about services provided under the Order. Each health and social services trust will be required to have procedures in place to hear complaints from young people who qualify for support arrangements under the Bill about the way in which the trust carries out its functions under Part IV of the Children (Northern Ireland) Order 1995. The Committee welcomed that requirement. It is a positive and much needed step that will give young people a stronger voice in their affairs.

Members recommended one minor amendment, which was that the phrase "(if any)" should be removed from clause 5. That amendment would give the Department authority to make Regulations under article 34 of the Children (Northern Ireland) Order 1995. It was agreed that the phrase was unnecessary.

**The Minister of Health, Social Services and Public Safety (Ms de Brún):** Éilíonn alt 5 go mbunódh iontaobhais sláinte agus seirbhísí sóisialta nósanna imeachta oiriúnacha le hionadaíocht agus gearáin a mheas maidir le hurscaoileadh a bhfeidhmeanna faoi alt 2 agus alt 4 den Bhille.

Beidh mionsonraí na nósanna imeachta ionadaíochta agus gearán leagtha amach i rialacháin arna ndéanamh ag mo Roinn. Níl aon deacracht agam dá bhrí sin glacadh leis an leasú seo.

Clause 5 requires health and social services trusts to establish suitable procedures to consider representations and complaints about the discharge of their functions under clauses 2 and 4 of the Bill. The detail of those procedures will be set out in the Regulations made by my Department. Therefore, I accept the amendment.

**Dr Hendron:** I am happy with the Minister's comments.

**Rev Dr Ian Paisley:** On a point of order, Mr Speaker. I wish to speak on the amendment.

**Mr Speaker:** I received no indication that the Member wished to speak on the matter. We have listened to the Minister's response, and the Chairperson has wound up the debate.

**Rev Dr Ian Paisley:** That is all right.

**Mr Speaker:** However, if the Member wishes to speak in the second debate, I shall make a note of his name.

**Rev Dr Ian Paisley:** I shall indicate my wish to speak at the appropriate time.

*Amendment No 1 agreed to.*

*Question put and agreed to.*

*Clause 5, as amended, ordered to stand part of the Bill.*

#### Clause 6 (Exclusion from benefits)

**Mr Speaker:** Amendments 2 and 3 are consequential on clause 6 not standing part of the Bill. Several Members have indicated that they wish to speak on their opposition to clause 6, and on the amendments. Therefore, we shall debate those matters together.

*Question proposed,* That the clause stand part of the Bill.

*The following amendments stood on the Marshalled List:*

No 2: In clause 9, page 10, line 14, leave out subsection (3). — [*The Chairperson of the Committee for Health, Social Services and Public Safety (Dr Hendron).*]

No 3: In clause 9, page 10, line 16, leave out "or subsection (3)". — [*The Chairperson of the Committee for Health, Social Services and Public Safety (Dr Hendron).*]

**Dr Hendron:** Clause 6 will remove entitlement to jobseeker's allowance, income support and housing benefit from care leavers who have not yet reached the age of 18. The intention is that the resources currently deployed by providing such benefits for that group be transferred from the Department for Social Development to the Department of Health, Social Services and Public Safety.

The transferred resources would be used by health trusts to provide support for 16- to 17-year-old care leavers. Around 220 young people are likely to be affected. The clause will place a duty on health trusts to act in place of the parent to safeguard and promote the welfare of

young people by providing financial assistance, as well as by giving advice and support. The cost, although difficult to gauge, may be around £1 million to £2 million a year.

*(Madam Deputy Speaker [Ms Morrice] in the Chair)*

The Committee took evidence from leading voluntary bodies, and from health and social service trusts, both of which have direct daily involvement with young people aged 16 and 17 who have to leave care. Many witnesses registered serious concern about the policy and the likely impact of clause 6 on the young people who will be affected by having their right to jobseeker's allowance, income support and housing benefit removed.

Barnardo's stated that

"Access to benefits is a fundamental right for 16 and 17 year olds."

To remove that right will stigmatise those young people. It will make them different from their peers by denying them the same access to benefits.

The Housing Rights Service was also concerned that the blanket removal of the right of young people to claim benefits could impact negatively on those who have become estranged from social services and depend on financial support.

Organisations such as the Children's Law Centre and the trade union NIPSA echoed those sentiments. They also stated that the proposed financial arrangements would change the ethos of the relationship between the young people and the trusts' social workers.

Some trusts registered their concern about the impact of clause 6 on the relationship established between the young person and his or her social worker.

They said that young people would become dependent on their social worker or personal adviser for financial help, as well as for advice and support. Witnesses said that that might impose extra stress and pressure on that relationship.

12.15 pm

The Family Bar Association asked whether financial penalties would be imposed should the young person not co-operate with the needs assessment. It suggested that the level of control being passed to trusts under the new financial arrangements might raise human rights issues. In fact, several bodies raised that point.

Witnesses queried the consistency of the delivery of financial packages across different trusts, each of which would have a degree of freedom in developing specific support arrangements. Many organisations referred to their unhappy experiences of finding that sufficient funding had not been made available to fully support new statutory responsibilities under the Children (Northern Ireland) Order 1995. An important point is that the

Order has been around for a few years, and there have been problems in financing its provisions.

Moreover, there was concern that, in moving from a needs-based social security system to a cash-limited social services system, budget considerations rather than individual need could become the basis for decision-making. Trusts would be made responsible for an area of work in which the expertise lies with the Social Security Agency. They would need to create a new administrative framework to manage the extra duties.

We do not doubt that the objective behind clause 6 is well meant. However, the young people involved have already lost the security and sense of belonging that being raised in a stable home environment brings to their peers. They already feel different and stigmatised, and clause 6 increases that feeling. To remove the clause from the Bill will leave 16- to 17-year-old children who leave care in the same position as regards their entitlement to social security benefits such as jobseeker's allowance, income support, and housing benefit as any other 16- to 17-year-old young person who leaves the family home. Except for some changes to avoid duplication of financial responsibility between the Department for Social Development and the Department of Health, Social Services and Public Safety, the other provisions for young people leaving care will remain.

There is much good in the Children (Leaving Care) Bill, and I commend the Minister and her officials for introducing this important legislation. Witnesses who submitted evidence to the Committee eloquently argued for or against clause 6. However, having carefully considered the arguments, the Committee decided on balance, last June, to recommend opposition to clause 6. The decision was strengthened by the absence of a cast-iron guarantee from the Department of Health, Social Services and Public Safety that all resources transferred from the Department for Social Development would be defrayed exclusively for the support of care leavers — and that is a key point.

Members were acutely aware of the legacy of historical underinvestment in family and childcare services, especially during the Committee's inquiry into residential and secure accommodation.

Since June, the Committee has continued to think long and hard about clause 6. Some Members have voiced worries that opposition to clause 6 may have an unwanted adverse impact on the financial position of the Department of Health, Social Services and Public Safety, as well as on the Northern Ireland block grant, if parity with England, Scotland and Wales were affected.

Clause 6 is important, and the Committee has taken great pride in making the best decision, which is in the best interests of those young people who are affected by the Bill. On 11 September 2002, the Committee agreed by a

majority vote to continue to oppose clause 6: the Committee is divided. The ongoing consideration and divergence of views on the Bill reflects the hard work that all Committee members have continued to put in to determine the best course of action on the clause and the Bill.

A key word in this matter is “mandatory”. I understand the arguments for retaining clause 6, and we have had discussions with senior officials from the Department. We have put this point strongly to officials, and have asked them whether they can give a guarantee. I understand that money has been ring-fenced under the English legislation. Bearing in mind the difficulties that were encountered in financing parts of the Children (Northern Ireland) Order 1995, and the stigma effect, which is also important, the Committee asked several times whether the Department could guarantee that funding that is to be transferred from the Department for Social Development to boards and trusts would benefit young people. The Committee did not get that guarantee. The word “mandatory” would have been key, had it been used. I wait with interest to hear what the Minister says.

**Mrs I Robinson:** I shall try not to be repetitive. I welcome the Bill’s aims and objectives. However, it has caused the Health Committee many headaches. At its meeting on 11 September 2002, the Committee was divided on how it should proceed. Had other Committee members attended that meeting, the decision might have been different. The vote was four to three in favour of removing clause 6.

Before the recess, the Committee was inclined to oppose the inclusion of clause 6 in the Bill. It was concerned that clause 6 would remove the right of care leavers to social security benefits. It was suggested that a single financial package might simplify care leavers’ management of their affairs. The Committee was concerned that no guarantee was forthcoming from the Department that resources transferred from the Department for Social Development would be used exclusively for those leaving care.

However, my views and those of my Colleagues have changed since then. I am now absolutely convinced that clause 6 should be retained, mainly due to its financial implications. Without clause 6, funding that is required for care leavers might have to come from the devolved health budget. There are already an extraordinary number of worthy issues that make compelling demands for their portion of precious health funding. Therefore, we are in no position to be extravagant.

Traditionally, there has been parity between the social security systems in Great Britain and Northern Ireland. Since power was devolved in 1999, social security legislation in Northern Ireland has proceeded in step with Westminster. I fear that clause 6 will divorce the Province from Great Britain on social security, and will bring parity to an end. I hope that Colleagues —

especially in the Ulster Unionist Party — will see the significance of retaining parity with the rest of the United Kingdom.

Without parity, there would be no transfer of social security funding. That would result in money having to come from the Northern Ireland Executive’s Budget. Who would suffer then? If the Health Department had to make up the shortfall, that would involve money that would otherwise have been spent on reducing waiting lists, purchasing medical equipment or boosting staffing levels. I am unsure as to how much money would be involved, but, presumably, it would pay for several heart operations or would provide extra acute beds for the Province.

Furthermore, the system in England and Wales has been working effectively. Why, when its health budget is so limited, would the Assembly choose to pay for something that would otherwise be funded through the Treasury?

Obviously, there are other advantages in retaining clause 6. For example, continuity of responsibility for those young people is desirable. To drop clause 6 would be to risk those vulnerable individuals losing contact with their trusts. There is a responsibility on trusts to ensure that care leavers receive their support swiftly and in its entirety. The money must pass down smoothly to young people. That must be a priority. Those individuals are in need; money for them must not be delayed or swallowed up by other projects. The Health Committee was united on that issue. I support the retention of clause 6 in the Bill.

**Ms Ramsey:** Go raibh maith agat, a LeasCheann Comhairle. As other Members have said, the Committee considered the Bill in great depth, gathering both written and oral evidence. One of the main issues that jumped out at us was clause 6. A sizeable amount of evidence came from children’s organisations, including organisations that work directly with children in care and children on the verge of leaving care.

Clause 6 gave the Committee — and me — the greatest concerns. Like the Chairperson, I thank the officials, both from the Committee and from the Department of Health, Social Services and Public Safety, for their work in trying to find common ground on clause 6. It is unfortunate that no agreement could be reached, but I place my thanks on record. The Committee has seen more of its officials during the consideration of this Bill than of any other.

Clause 6 will remove the entitlement to jobseeker’s allowance, income support and housing benefit from care leavers who have not yet reached the age of 18. In an ideal society, young people should not be leaving care to go straight on to benefits. That is an issue that must be examined. That is what is happening to a percentage of



young people, some of whom leave care with few or no educational qualifications.

The Committee took evidence from leading voluntary and community representatives, and also from trusts, which have a daily direct involvement with young people. Barnardo's said that access to benefits was a fundamental right for 16- and 17-year-olds. To remove that right will stigmatise those young people. It makes them different to their peers by denying them the same access to benefits. Trusts also had their own concerns. I was struck by the concern that clause 6 would harm the relationship between social workers and young people by changing the nature of that relationship.

I understand and accept that people are entitled to change their minds, but, based on the evidence at the time, the Committee accepted that it would vote against accepting clause 6. *[Interruption]*.

If I am allowed to continue, I shall explain that.

The Committee published a report, which I read carefully at the weekend. However, I am conscious that Committees can receive evidence after reports have been signed off. I am aware that some Committee members, based on the arguments that they have received, have pulled back. I accept that. It shows that, as a Committee, sometimes we may agree as a whole, and sometimes we may not. However, the majority of the Committee agreed and voted that the Committee would still support the removal of clause 6 from the Bill.

I am not for one minute going to speak for the Ulster Unionist Committee members. I am sure that they will tell us how they are going to vote. However, last Wednesday, the majority of the Committee agreed to vote against the inclusion of clause 6 in the Bill. That decision was based not on the benefits issue, but on the stigmatisation that young people will face should their right to benefit be removed, and on other issues that were highlighted to the Committee by leading children's organisations. Therefore, I support the opposition to clause 6.

**Ms McWilliams:** One reason why I support the removal of clause 6 from the Bill is a commendation of the Department for Social Development and a criticism of the Department of Health, Social Services and Public Safety. That might interest some Members who had thought not to support the removal of the clause.

In this country social security payments are still paid swiftly and fully. There would be no guarantee that that would continue to be the case if those changes were implemented.

12.30 pm

Last week, the Minister for Social Development introduced some good new legislation that extended disability benefits in Northern Ireland, especially disability living allowances for people aged over 65. The Minister regularly

introduces new legislation regarding benefits that focuses on inclusion rather than exclusion. This Bill is rare in that its subtext is the exclusion from entitlement to benefits of one of the most vulnerable groups in society. I am concerned that if the amendment is not agreed to, Members will tell the House about the many young people in their constituencies who receive benefits and who do not know where their social worker is or to which health trust they belong. That is the message coming from young people in care. We must support the amendment and delete clause 6, not only to avoid stacking up enormous social problems for young people and help-providers but to avoid funding difficulties.

Iris Robinson argued that the money must come out of the block grant; that is correct. However, one way or another, it will come out of the block grant. It will come out of either the social security budget or the Department of Health, Social Services and Public Safety's budget. I would be happier about it coming out of the budget of the Minister for Social Development, from which it may be paid more quickly, than it coming out of the budget of the Minister of Health, Social Services and Public Safety.

The guarantee of preserved rights for the elderly must be borne in mind. Those benefits will now be paid from the budget of the Department of Health, Social Services and Public Safety rather than from the social security budget. However, will those benefits continue to be paid in two years' time, when the transitional period has ended? The answer is perhaps not. There may not be enough money in the budget for those payments to be made to that group of residents in old people's homes. That example applies to this situation too.

The Minister did not seek accelerated passage for the Bill. One would have thought that she would have done so given the benefits issue. The legislation has already been enacted in England, and evidence collected by the Committee for Health, Social Services and Public Safety suggests that it is not working well. It has not had the intended effect — quite the opposite. However, we have continued to pay the benefits out of the social security budget. Thus, parity has already gone, yet no crisis has arisen. Evidence to the Committee suggests that the best approach is to continue to pay those benefits from the social security budget. It is an example of Northern Ireland benefiting from moving in a different direction to England. And why not? After all, that is one of the benefits of being a devolved region. What is best for one region is not necessarily what is practised elsewhere.

A shift in payments from one budget to another would create a further layer of bureaucracy and considerable administration costs for the trusts. We are trying to do away with further bureaucracy. People's rights should be assessed according to need, rather than on a discretionary basis by an office set up to administer the new form of benefit. Those workers would have to be paid accordingly.

Thus, there would be high administrative costs for providing a small number of people with a service that is already provided for adequately under the social security system.

We have made some good changes to social security legislation, especially with regard to lone parents aged between 16 and 18. Changes are also being introduced to legislation that affects carers, which will take on board how their daily circumstances are affected by the fact that the elderly are living longer — an issue that had not been considered previously.

Why is exactly the same not done for these young people? My understanding is that they would receive their basic entitlement and could still rely on social services and their personal advisers for extra funds if necessary. In respect of value for money, efficiency or a needs-based analysis for the most vulnerable group in Northern Ireland, the arguments do not stack up. All the other parts of the legislation attempt to protect those young people, and if we cannot provide for a roof over their heads, for food on the table and for their quality of life, the whole Bill might as well go out the window.

**Mrs Courtney:** I support the opposition to clause 6 of the Bill. For those who may not be familiar with the Bill, clause 6 deals with changes to social security legislation and the transfer of responsibility for children leaving care to health and social services trusts.

Evidence was taken from various statutory and voluntary bodies, all of which were concerned that the removal of entitlement to income-based social security benefits, and the transfer of financial support to health and social services trusts, would have a direct impact on care leavers. That concern included a lack of commitment from the Department of Health, Social Services and Public Safety that all resources due to be transferred from the Department for Social Development would be kept exclusively for the support of care leavers.

Clause 6, of course, will mean changes to the social services legislation, which is the responsibility of the Department for Social Development. On balance, however, the majority view was that the removal of clause 6 would be more beneficial to young people leaving care.

It was further noted that in England similar legislation was accompanied by a substantial addition to the budget, which was ring-fenced. That was achieved by giving additional resources from the special social services grant under the Quality Protects initiative. However, apart from £1.2 million from the social inclusion fund for 2001-02 and 2003-04 for pilot schemes, there is no specific commitment to the overall package of additional resources to assist in underpinning the implementation of the Bill.

Northern Ireland is the only part of the United Kingdom with devolved responsibility for social security, child support and pensions. For a considerable time, parity has applied to the relationship between the social

security systems in Great Britain and Northern Ireland, and, since devolution, legislation has been enacted in parallel with Westminster. However, I understand that there is no legal definition of “parity” in the Northern Ireland Act 1998. Parity concerns equivalence and equality of treatment. For that reason I have consistently supported the removal of clause 6 from the Bill. Although I welcome the fact that officials put their views to the Committee, I support the opposition to the clause.

**Mr S Wilson:** Until it is decided exactly how we deal with parity legislation, the Assembly will continually have to address this issue. We pretend that we have the luxury of departing, if we so desire, from legislative parity with the rest of the United Kingdom, especially in respect of social security legislation. Even the devolved Parliament in Scotland, with much wider powers than our own, did not take it upon itself to do that. Scotland realised that to break parity at any stage — especially while being a net recipient in respect of welfare expenditure — is a very dangerous position to adopt. The Social Development Committee has examined parity legislation, and we have been faced with the issues time and time again. People may like to flex their muscles and suggest being different, but, financially, we cannot afford to be different.

The Treasury would love it if we were to break parity, albeit in a small way. Given that we are the net recipients of over £3,000 million for social security, the consequences of breaching that parity are obvious. When considering clause 6, we must decide whether we can consider seriously doing that.

The Assembly spends about £1 million of the Budget on those who leave care. That expenditure is demand-led; it could be less than £1 million next year, or it could be more. As it is demand-led, the money does not, despite what Ms McWilliams thinks, come from the block grant. It is not part of the allocation that was devolved to Northern Ireland, so if Members decide that it is only £1 million and that, for reasons such as stigma, responsibility should stay with the Department for Social Development, they will find that that is the thin end of the wedge.

**Ms McWilliams:** In response to Mr Wilson’s points, the Scottish Parliament has done an enormous amount of innovative work on the effects of student finance and free nursing care — both of which affect its block grant — on its social security budget. Of course funding for those who leave care does not affect our block grant — I was responding to Mrs Robinson’s comment that it may do so in the future — so whether the funding comes from the social security budget or from the Department of Health, Social Services and Public Safety, there must be a variation.

**Mr S Wilson:** The point about free nursing care and student finance in Scotland is spurious, because those matters were not reserved, and Scotland had the freedom to change its policy on them. Northern Ireland has that

freedom also. However, the measures in place for social security payments are different. If we start to breach parity, albeit in small ways, that will open the door for the Treasury to treat Northern Ireland differently, and Members will find that increasingly the burden will fall on the Assembly's Budget.

A second aspect of the debate surprises me; perhaps it will be clarified later. It is my understanding that, although members of the SDLP and Sinn Féin have said that they support the amendment to clause 6, that is not the position that the Ministers from those parties have adopted. The Minister of Finance and Personnel does not want yet another drain on the Budget, which he says he works hard to balance every year, and for which he must find additional finance through measures such as rate increases. Do Members want to place yet another burden on him? It would be interesting if he were to come to the Chamber before the end of the debate and say whether his party Colleagues who support the amendment are rebels or are in line with his thinking.

The same applies to the Sinn Féin Minister of Health, Social Services and Public Safety who, I understand, was happy to allow her Department to absorb the expenditure. Perhaps the fact that her Colleagues who disagree with her did not hobble in this morning shows that she is not too worried about their decision to support the amendment, but it would be useful to hear her view.

Indications are that the Minister of Finance and Personnel does not want any greater demand on his resources, and the Minister of Health, Social Services and Public Safety did not disagree with the inclusion of clause 6, unless she has since been persuaded otherwise by her Colleagues.

12.45pm

For all of those reasons, the House ought to support the Bill as it stands and to reject the amendment, because it has been ill thought out and is perhaps a knee-jerk reaction to extensive lobbying. Even if Members are heavily lobbied, it is important for the Assembly to weigh up these matters before deciding to unnecessarily increase a financial burden.

**Lord Kilclooney:** Madam Deputy Speaker —

**Madam Deputy Speaker:** Is the Member raising a point of order?

**Lord Kilclooney:** No.

**Madam Deputy Speaker:** I was about to call the Minister of Health, Social Services and Public Safety, but the Member has permission to speak.

**Lord Kilclooney:** I have listened intently to the debate. Whether a devolved Administration should opt out of parity parameters is highly controversial; when it comes to the social fund and social services, I advise that we should not opt out. First, it greatly upsets the negotiations between

the Department of Finance and Personnel and the United Kingdom Exchequer. Secondly, those of us who have been in politics for some time will recall that one of the great breaches in parity was the decision of a previous Northern Ireland Administration to change family allowance levels in Northern Ireland, making them different to those in Great Britain. That created a tremendous controversy. That was not worth trying, and I suggest that this is not worth trying either.

**Ms de Brún:** Go raibh maith agat, a LeasCheann Comhairle. Ar an chéad dul síos, aithním na hábhair inní a léiríodh faoin alt seo. Mar is eol do Chomhaltaí, cuireann alt 6 deireadh leis an teideal do liúntas ioncam-bhunaithe do dhaoine atá ag tóraíocht oibre, do thacaíocht ioncaim agus do shochar tithíochta i gcás na ndaoine óga sin a bheidh ag fáil tacaíochta ó na hiontaobhais faoi na socrúithe nua sa Bhille um Fhágáil Cúraim go mbeidh siad 18 mbliana.

Cé go n-aithním na ábhair inní seo, creidim gur chóir alt 6 a choinneáil. Is é aidhm an Bhille go ndéanfaí riachtanais daoine óga atá ag fágáil cúraim a mheas agus freastal a dhéanamh orthu go hiomlánaíoch. Tá contúirt nach beag ann gur cur chuige neamhiomlán a bheadh mar thoradh ar dheireadh a chur le halt 6. Ní cosúil gur chun leasa daoine óga atá ag fágáil cúraim é a riachtanais tacaíochta airgeadais agus tithíochta a mheas ar leithligh óna riachtanais ar nithe eile mar oideachas agus oiliúint.

Is mian linn socrúithe tacaíochta níos loighciúla a chur ar bun a dhéanfaidh freastal ar riachtanais phraiticiúla — lena n-áirítear airgead tirim — daoine óga chomh maith le cabhair eile. Chiallódh na socrúithe nua, don chéad uair riamh, go bhfaigheadh daoine óga pacáiste iomlánaithe de thacaíocht mhothaitheach, phraiticiúil agus airgeadais, lena n-áirítear plean conaire pearsanta agus measúnú riachtanas lena chinntiú go bhfaigheann siad an chabhair chuí ar a mbealach chun an neamhspleáchais. Bhainfí den bheartas seo mura mbeadh tacaíocht airgeadais mar chuid den phacáiste cúraim.

Tuigim gur léirigh cuid Comhaltaí inní i rith Chéim an Choiste den Bhille an gcosnófaí na hacmhainní a d'aistreofaí ón Roinn Forbartha Sóisialta chuig mo Roinnse. Le deireadh a chur le haon amhras faoi sin, glacfaidh mé céimeanna lena chinntiú go gcosnófar na hacmhainní a aistreofar ón bhuiséad slándála sóisialta ionas gur féidir dul i mbannaí nach mbeidh daoine óga 16 bliana agus 17 mbliana atá ag fágáil cúraim faoi mhíbhuntáiste airgeadais ag na socrúithe nua. Tá moladh agam acmhainní aistrithe a chosaint agus tá súil agam go n-áiteoidh seo ar Chomhaltaí gan cur i gcoinne alt 6.

Is é an aidhm atá ann nach bhfaigheadh aon duine óg pacáiste dá chóiríocht agus dá chothabháil — cé acu a dhíoltar sin leis go díreach nó a eagraíonn seirbhísí sóisialta é ar a shon — a bheadh níos lú ná mar a gheobhadh sé dá mbeadh sé i dteideal tacaíochta ioncaim nó liúntas do dhaoine atá ag tóraíocht oibre agus leas tithíochta a éileamh.



Clause 6 will remove entitlement to income-based jobseekers's allowance, income support and housing benefit from young people who would be supported by trusts under the new arrangements made in the Children (Leaving Care) Bill until age 18. I recognise Members' concerns regarding clause 6, but I believe that the clause should be retained.

The intention behind the Bill is that the needs of young care leavers should be assessed and met in a holistic fashion. There is a real danger that removing clause 6 would lead to a fragmented approach. To have young care leavers' housing and financial support needs assessed separately from education and training needs would not be in their best interests. More coherent support arrangements need to be put in place to meet young people's practical requirements, including cash as well as other assistance.

The new arrangements would mean that, for the first time, young people would receive an integrated package of emotional, practical and financial support, including a personal pathway plan and needs assessment to ensure that they have appropriate help on their road to independence. If financial support were not part of the package of care the policy would be undermined.

During the Bill's Committee Stage, members expressed concern about whether the resources to be transferred from the Department for Social Development to my Department would be protected. To allay fears on that front, I will take steps to ensure that the resources transferred from the social security budget will be protected to guarantee that 16- and 17-year-old care leavers will not be financially disadvantaged by the new arrangements. The intention is that no young person should receive a package for their accommodation and maintenance, whether paid directly to them or handled on their behalf by social services, that amounts to less than they would have received had they been entitled to claim income support or jobseeker's allowance and housing benefit. *[Interruption]*.

**Madam Deputy Speaker:** Order. There is a general hubbub, which should cease so that the Minister can be heard.

**Ms de Brún:** The Bill's intention is to strengthen the bond between social services and the young person. I have listened to Members' points about changing the ethos of that relationship. The Department and I consider that the Bill's provisions will aid the development of that relationship, which will be the equivalent to that of a good parent.

No guarantee is being provided for the transferred resources in the equivalent legislation in England and Wales. The arrangements are purely administrative; and we wish to follow that model.

**Dr Hendron:** The Minister mentioned a guarantee as regards the transfer of social security funding. I have written to her several times about funding for children in care being ring-fenced, and the Committee for Health, Social Services and Public Safety and Members will be concerned that that will be the case. Will the money coming from social security be ring-fenced? We will come to the issue of parity later, but I would appreciate an answer to my question.

**Mr Dodds:** There is no guarantee of ring-fenced funding.

**Madam Deputy Speaker:** Order, the Member will address his comments through the Chair.

**Ms de Brún:** The process will be carried out through administrative arrangements in keeping with the procedures elsewhere. With regard to the costs of administration, the legislation is concerned with assessing and meeting need. That is more likely to be achieved effectively by a co-ordinated approach than by a fragmented one that would involve a range of agencies.

In the event that the Assembly does not agree that clause 6 stand part of the Bill, I will seek to table amendments at Further Consideration Stage to amend trusts' duties with regard to relevant children.

Clause 2 of the Bill inserts a new article 34C into the Children (Northern Ireland) Order 1995. The article sets out the duties of trusts towards relevant children. Paragraph 8 imposes a duty on trusts to safeguard and promote the welfare of those children. Trusts must provide relevant children with maintenance, suitable accommodation and such other support as may be prescribed in Regulations. If clause 6 is dropped, the provisions of article 34C(8) will duplicate the responsibility of the Department for Social Development for maintaining and accommodating young people.

In other words, primary responsibility for the maintenance and accommodation of such children will remain with the Department for Social Development. To ensure that there is no duplication of responsibility, I will have to consider removing the specific duties of trusts that are set out in article 34C(8) to maintain and accommodate relevant children.

**Dr Hendron:** I thank the Committee Clerk, the Committee and departmental officials for their hard work. I listened carefully to everyone, including the Minister, and I respect what they said. I listened particularly carefully to Sammy Wilson and John Taylor on parity with Britain. Anyone who has read the recent needs and effectiveness document will know that, compared with England, there is a massive deficit in Northern Ireland's Health Service. I do not have the figure to hand, but I think that it is around 30%. Over the past few years, millions of pounds should have been invested in the Health Service in Northern Ireland, but it did not happen. We



are a long way behind England in that respect, and people who wish to promote parity should realise that.

The legislation in England ring-fences funding from the social security budget for young people leaving care. Earlier I saw Peter Robinson shake his head and say that money could not be ring-fenced. It seems to be done in England, and I would like that to be explained.

It is important to note that, under the Children (Northern Ireland) Order 1995, the finance for young people in or leaving care has often been found wanting. Young people leaving care are the main concern of every member of the Committee, including those who wish to keep clause 6. Sammy Wilson did not even mention young people; his whole speech was about the issue of parity. I have no problem with the principle of parity, provided that it is genuine parity.

I thank Iris Robinson, Sue Ramsey, Monica McWilliams, Annie Courtney, Sammy Wilson, John Taylor and the Minister for their comments. If the Committee had been sure that the funding from social security benefits would go entirely to young people, that would have been a different kettle of fish. Everyone in the Committee took the time to speak to officials and ask about that matter again and again. Those Members who argue that we should have parity with England should face the truth on this issue. If funding can be ring-fenced in England, why can it not be done in Northern Ireland? I appreciate the difficulty that the Minister of Health faces, and her integrity is beyond question.

A Member made the point that removing clause 6 would make young people more dependent on the benefits system. However, allowing young people leaving care to have access to the social security system is not about making them dependent on it.

Trusts must ensure that those children have every opportunity for further education and access to jobs. In other words, they must ensure that those children are treated equally to their peers who come from a stable family background.

1.00 pm

To delete clause 6 would limit flexibility on how resources are deployed. However, if trusts are to act as good parents, the resources available to help young people leaving care should be used as necessary and should be based on their assessment of need and the pathway plans. The threat of limiting flexibility should not be used as an argument to retain clause 6. To remove the clause will prevent a holistic approach being taken and would fragment the service assessment. Assessment of need should be based on a young person's overall needs. How those needs are met will inevitably be through a variety of agencies, including the social security and further education systems.

Furthermore, to continue to make the social security system responsible for young people leaving care would send out the wrong message about our expectations of them. We do not wish to stigmatise young care leavers; we want to give them the same entitlement to benefit as any other 16- or 17-year-old.

Finally, I listened carefully to the arguments about parity. Nobody would have trouble with parity were it to be genuine parity. All those who helped draft the needs and effectiveness evaluation know that there is not parity between the Health Service here and that in England.

**Mr S Wilson:** Will the Member give way?

**Dr Hendron:** I am sorry. Were I not summing up, I would. If I did, I would have to give way to others, and I cannot do that.

We do not have parity with England, and everyone, especially Lord Kilclooney, should take that on board. Our main concern is young people who are leaving care. This is the Bill's Consideration Stage, and the Minister can table further amendments at Further Consideration Stage if she so wishes. I have made the arguments for removing clause 6, and other Members and I still want clause 6 removed for the reasons that we have given.

*Question put, That the clause stand part of the Bill.*

*The Assembly divided: Ayes 47; Noes 24.*

#### AYES

*Ian Adamson, Pauline Armitage, Billy Armstrong, Roy Beggs, Billy Bell, Paul Berry, Esmond Birnie, Gregory Campbell, Mervyn Carrick, Joan Carson, Wilson Clyde, Fred Cobain, Ivan Davis, Bairbre de Brún, Nigel Dodds, Pat Doherty, Tom Hamilton, William Hay, David Hilditch, Derek Hussey, Roger Hutchinson, Gardiner Kane, Danny Kennedy, Lord Kilclooney, Robert McCartney, William McCrea, Alan McFarland, Michael McGimpsey, Gerry McHugh, Pat McNamee, Maurice Morrow, Conor Murphy, Mick Murphy, Dara O'Hagan, Ian Paisley Jnr, Ian R K Paisley, Edwin Poots, Iris Robinson, Mark Robinson, Peter Robinson, George Savage, Jim Shannon, David Trimble, Denis Watson, Peter Weir, Jim Wells, Sammy Wilson.*

#### NOES

*Alex Attwood, P J Bradley, Joe Byrne, Seamus Close, Annie Courtney, Michael Coyle, John Fee, David Ford, Tommy Gallagher, Carmel Hanna, Joe Hendron, Billy Hutchinson, John Kelly, Patricia Lewsley, Alban Maginness, Donovan McClelland, Alasdair McDonnell, Barry McElduff, Eugene McMenamin, Monica McWilliams, Francie Molloy, Eamonn O'Neill, Sue Ramsey, Brid Rodgers.*

*Question accordingly agreed to.*

*Clause 6 ordered to stand part of the Bill.*

**Madam Deputy Speaker:** No amendments have been tabled to clauses 7 and 8. As the Assembly has already agreed that clause 6 should stand part of the Bill, I shall not be calling amendment No 2 and amendment No 3 to clause 9, as they were consequential to the removal of clause 6. Therefore, I propose, by leave of the Assembly, to group the three remaining clauses.

*Clauses 7 to 9 ordered to stand part of the Bill.*

*Long title agreed to.*

**Madam Deputy Speaker:** That concludes the Consideration Stage of the Children (Leaving Care) Bill. The Bill stands referred to the Speaker.

1.15 pm.

## SOCIAL SECURITY BILL

### Consideration Stage

*Clauses 1 to 10 ordered to stand part of the Bill.*

*Schedules 1 and 2 agreed to.*

*Long title agreed to.*

**Madam Deputy Speaker:** That concludes the Consideration Stage of the Social Security Bill. The Bill stands referred to the Speaker.

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

## STATE PENSION CREDIT BILL

### Accelerated Passage

**The Minister for Social Development (Mr Dodds):** I beg to move

That, in accordance with Standing Order 40(4), the Assembly grants accelerated passage to the State Pension Credit Bill.

This Bill is an important piece of legislation. It will make provision for Northern Ireland to correspond to the social security provisions that are contained in the State Pension Credit Act 2002. As Members will be aware from the previous debate, there is a long-standing principle of parity between Great Britain and Northern Ireland in the fields of social security, pensions and child support.

People in Northern Ireland pay income tax and make National Insurance contributions at the same rate as those elsewhere in the United Kingdom. Therefore, I take the view that they are entitled to expect changes in the legislation elsewhere in the country to apply in Northern Ireland with minimal delay. The State Pension Credit Act received Royal Assent on 25 June 2002. The Department for Work and Pensions made Regulations on 11 July 2002 to allow for the early implementation of the proposals from October 2002. From October 2003, pension credit will replace the minimum income guarantee for those aged 60 and over.

For many pensioners who need it, pension credit will not only provide more money. There will also be a fairer system and the decent treatment that senior citizens deserve will be provided. Pension credit will differ from current pension provision in several ways. First, it will guarantee that no one over the age of 60 need live on less than £100 a week, or £154 a week in the case of couples. Secondly, people who qualify will receive a cash reward from the age of 65 for modest savings. Single people can benefit by up to £13·80 a week and couples by £18·60 a week. Thirdly, the rule that excludes pensioners with savings of £12,000 or more will be abolished.

Fourthly, from the age of 60, people will no longer have to report any savings that they have under £6,000. That means that 85% of pensioners who are entitled to the pension credit will not have to report savings. Fifthly, the way in which help is delivered to those aged 60 and over will be modernised, and the rules simplified. There will be a significant reduction in the information that pensioners must provide at the outset and over time as changes happen. That will enable pensioners to get what they are entitled to with much less intrusion and hassle.

From age 65, most pensioners will not have to report changes in income for fixed periods of five years. That will effectively abolish the old weekly means test. Approximately half of all people aged 60 and over in Northern Ireland, some 120,000 persons, will potentially gain as a result of the introduction of pension credit. On average, they stand to gain around £400 a year.

The aim of pension credit is to provide a way to help the least well off and to taper that help for pensioners further up the income distribution. The extent of the changes is such that it is necessary to put in place the required subordinate legislation this autumn to allow time for staff to be trained, and for systems and processes to be designed and implemented.

It will be necessary to begin to reassess the 75,000 minimum income guarantee cases before conversion to pension credit. In some cases, that will involve verification of matters such as age and savings. Moreover, the advance take-on of new claims will start in April 2003, when it is expected that there will be many thousands of cases to be assessed. If pension credit is not in place, pensioners here will face the possibility of not having access to the new pension credit and the more generous income and capital rules at the same time as their counterparts in Great Britain.

Therefore, for the reasons that I have given, I ask that the Bill proceed under the accelerated passage procedures set out in Standing Order 40(4), so that we can bring Northern Ireland law on those matters into line with those in the rest of the United Kingdom with a minimum of delay. To grant accelerated passage means that there will not be a formal Committee Stage, so I have discussed the provisions of the Bill with the Committee for Social Development. Members will, of course, be able to make their views known at the Consideration and Further Consideration Stages.

**The Chairperson of the Committee for Social Development (Mr Cobain):** I explained to the House last week that the Committee for Social Development received written notification in August of the Minister's intention to seek accelerated passage for the Social Security Bill. In that correspondence, the Minister said that he also intended to seek accelerated passage for the State Pension Credit Bill. As I said to the House last week, the Minister agreed to attend a specially convened meeting of the Committee to explain the reasons for his request.

At that meeting, the Minister explained that the State Pension Credit Bill is considered to be a parity measure in that it replicates the State Pension Credit Act 2002 enacted at Westminster. The Minister stressed that the introduction of the legislation would offer more generous income and capital rules than those that apply in Northern Ireland at present.

The Minister gave three main reasons in support of his case. He explained that, although the provisions in the Bill will not take effect until October 2003, it is necessary to introduce extensive subordinate legislation to give effect to the new law. The Minister also pointed to the need to make significant alterations to operating systems, especially the computer system, and to undertake substantial staff training programmes to ensure the smooth implementation of the new law. The Minister stressed that it was important to get the legislation onto the statute book promptly so that pensioners here can enjoy the benefits of the new pension credit arrangements at the same time as pensioners in Great Britain.

As Chairperson of the Committee for Social Development, I assure the House that the Committee listened carefully to what the Minister had to say and welcomed his assurances that the Bill's provisions will be beneficial. It seems that the practical arrangements for the introduction of the new legislation are complex, and although I do not understand why accelerated passage is necessary to accommodate changes to the computer systems and to facilitate staff training, I acknowledge that the Department has a sizeable task ahead of it.

If the House agrees to grant the Bill accelerated passage, I hope that the Minister and the Department will use the time granted in an efficient way. It would be disappointing to hear at a later date that there were difficulties with putting in place the new arrangements and that the introduction of the new legislation had to be deferred. That will be especially true when Members come to consider the third main plank of the Minister's argument.

As with the Social Security Bill, the Committee accepts the Minister's contention that it is important to ensure that people in Northern Ireland benefit from the changes at the same time as they are introduced in Great Britain. It is hoped that, by October 2003, the law will be introduced, that transitions to the new arrangements will be seamless and that pensioners will not suffer any inconvenience.

At its meeting on 29 August, the Committee agreed not to register any objections in the debate to the Minister's request that the Bill be granted accelerated passage.

**Ms McWilliams:** The Minister may have noticed in the media recently that attention has been drawn to the married woman's contribution to pensions, which was known as the "small stamp". However, that contribution has recently been wiped out, and many of the women who thought that they had been contributing towards their pension have been told that it is now irrelevant. Is there anything in the State Pension Credit Bill that will be of comfort to those women? There has been speculation that married women have lost out on their pensions.

**Mr Dodds:** I thank the Chairperson of the Committee for Social Development for his remarks, and I am delighted with the Committee's approach to the issue. I

was glad to be able to go to the Committee and explain the reasons for accelerated passage and to assure the Committee that I shall endeavour as far as possible to keep its members informed — personally and through officials — of parity issues as they arise at Westminster.

The State Pension Credit Bill does not address the issue that Ms McWilliams raised. I am happy to discuss it with her, but it is not relevant to the Bill's provisions.

Mr Deputy Speaker, I thank you and the Assembly for your co-operation. I look forward to having the provisions implemented as quickly as possible and to meeting the deadline of October 2003 for the implementation of state pension credit in Northern Ireland in line with the provisions in the rest of the United Kingdom.

**Mr Deputy Speaker:** I remind Members that the motion requires cross-community support.

*Question put and agreed to.*

*Resolved (with cross-community support):*

That, in accordance with Standing Order 40(4), the Assembly grants accelerated passage to the State Pension Credit Bill.

**Mr Deputy Speaker:** The Bill will receive its Second Stage tomorrow, Tuesday 17 September 2002.

## REVIEW OF OPPORTUNITIES FOR PUBLIC-PRIVATE PARTNERSHIPS IN NORTHERN IRELAND

**The First Minister (Mr Trimble):** I beg to move

That this Assembly notes the Report of the Review of Opportunities for Public Private Partnerships in Northern Ireland and the Executive's consultation process on 'Financing our Future'.

The consultation exercise was launched on 21 May and is due to conclude this Friday. It has been based on the report of the working group that was set up to review the opportunities for public-private partnerships (PPPs) in Northern Ireland. The group's remit was to consider all funding opportunities to assist in addressing the major investment deficit in our public services.

We must take a strategic approach towards investment in order to maximise the return from the resources at our disposal as regards quality and level of service provision. The Executive's reinvestment and reform initiative offers an opportunity to accelerate investment in infrastructure and reform service provision.

Through it we can make a difference to the quality of our core infrastructure. A long-term strategic approach must replace the piecemeal ad hoc approach of previous years.

*1.30 pm*

A key element of the initiative is the creation of a strategic investment body, and we will introduce legislation soon to establish it. The body should combine the best expertise from the public and private sectors. Given the current investment deficit and the ad hoc way in which the issues had previously been addressed, it is vital that strategic infrastructure investment be viewed in the long term. The strategic investment body will advise on the best use of the financing sources available to us from the public or private sector. It must have the necessary expertise and resources to serve the Executive's programme of strategic capital investment. We want to ensure that projects are taken forward by the most appropriate method. We want to achieve high-quality public services to maximise the return on our limited resources and encourage investment additional to that funded by the public purse.

The initiative also provides for the possibility of borrowing, and that would need to be paid for from local revenue sources. The option to borrow should provide a means by which we could accelerate capital investment. There are clearly important links with the review of rating, on which public consultation concludes today.

We announced the reinvestment and reform initiative on 2 May and the initial allocations infrastructure projects on 2 July. The initial allocations will secure significant progress on projects including the regional cancer centre; the widening of the M1; improved invest-



ment in water, sewerage and road infrastructure and the replacement of 20% of mobile classrooms. The consultation exercise has been based on the Executive paper 'Financing our Future'.

The reinvestment and reform initiative changes the context within which policy on PPPs will be formulated. No single solution, be it borrowing, PPPs, or the more traditional public expenditure, can be hoped to meet our need alone. Different funding and procurement approaches should provide solutions in different circumstances. Dependence on routine public expenditure alone to fund infrastructure would make it much less likely that we could secure the range or quality of public services required.

Public-private partnerships are one option for helping us to deliver the reinvestment and reform initiative. We must also ensure that all our assets are put to best use. The initial Executive response to the PPP working group report noted that the group's findings were broadly consistent with the view set out in the July 2001 report of the Committee for Finance and Personnel. Both reports stressed the need for an investment strategy, a central investment board and value for money. The Executive will consider those points in greater detail, and they could be brought to bear through the proposed strategic investment board.

The working group report includes a helpful analysis of the scale and nature of the investment deficit, its causes and how best to address them. The group estimated that £6 billion would be required over the next decade to cover our investment deficit. The working group developed a definition of public-private partnerships to suit our circumstances. It states:

"A Public Private Partnership is generally a medium to long-term relationship between the public and private sectors (including the voluntary and community sector), involving the sharing of risks and rewards and the utilisation of multi sector skills, expertise and finance to deliver desired policy outcomes that are in the public interest."

That definition of public-private partnerships reflects its wide-ranging nature and its ability to encompass some potential PPP forms. It is important to emphasise that all types of PPP should be considered. There is scope for new thinking and untried models to be developed.

Public-private partnerships have been developed in some public sectors in Northern Ireland, particularly in health and education. Some 25 projects have been developed across several sectors to the value of nearly £190 million. A further 25 projects have been put out to tender and planning with an estimated capital value of £500 million. Earlier this year, I visited the new Balmoral High School, which is one of the projects that have been completed.

The headmaster told me that, although initially he had had considerable problems with this form of finance, he had had a greater input into the design of the school than

he would have had under the normal public expenditure model.

One consequence of PPP development is that managerial problems have been shifted from teachers to the private body. It is commonly said that, in the past, head teachers spent 25% of their time on teaching and 75% on administration. The PPP approach has reversed those percentages; head teachers now spend only 25% of their time on management, without suffering any significant loss of managerial control. Those are just some examples of the benefits of PPP.

Whatever model is adopted, we are limited by the amount of funding that is available. The working group emphasised the crucial distinction between financing and funding of public services. Funding is defined as the source of public revenue to pay for the service, whereas financing is the means used to raise the capital needed for investment. The new borrowing power and PPPs represent alternative options for the financing and delivery of public services — not their funding. Whatever model is chosen to service our investment deficit, it must be paid for. None of the available methods is free; they all require a source of public funding.

In developing a policy framework, we must ensure that our available funds are efficiently and strategically invested to obtain best value for money. Increased investment must be balanced with optimum returns in order to ensure that we achieve the required quality of public services. As the working group's report emphasised, the level of available funding would have to increase significantly in order to provide the required level of public services and reduce the investment deficit.

Given the limitations of available infrastructure funding, we must look hard at all possible sources of ongoing funding for essential infrastructure, but we must also utilise the funds at our disposal to best effect.

The working group concluded that several benefits could be realised from PPP, but there are also several areas of concern. It is important that we recognise and address such concerns when developing our policy. Public-private partnerships are not a panacea for our financing and funding problems, but they can potentially improve efficiency, provide value for money in service delivery and secure lifetime asset maintenance. They also offer one way of achieving earlier service delivery.

Ultimately, we must recognise that PPPs should be chosen as a means of providing public services only where they offer better value for money than conventional procurement methods. The strategic investment board should have an important role to play in advising Departments of the most appropriate means by which to develop individual investment projects.

The Executive recognise the centrality and complexity of the issues of equality and public-sector employees.

Those issues were addressed in the working group's review and in the subsequent consultation exercise. The Executive share those concerns and will address them when formulating policy in that area.

The consultation process lasted 18 weeks, which is longer than usual. We wanted to ensure that interested bodies and individuals were offered as much opportunity as possible to voice their opinions and concerns on the issue, and thus inform the policy process. We endeavoured to have a consultation process that was as proactive as possible. It encompassed debate in the Assembly and discussion with Committees, together with three public meetings that were attended by Ministers. The public meetings were well attended, and a wide range of views was expressed. The Department of Health and the Northern Ireland Council for Voluntary Action (NICVA), among others, held seminars to discuss the report on PPPs. That supplemented the Executive-led discussions.

The Executive encouraged all organisations and individuals who have an interest in the matter to respond. The review and the consultation involved a social partnership approach. Our policy-making process must be inclusive. Both the review and the consultation exercise included representation from the public, private, voluntary and trade union sectors, and their contribution will be invaluable in assisting the Executive to formulate their policy in that area. We are keen that Members' views should be brought to bear in formulating our policy framework. We realise the importance of the issue for the future provision of public services, and we are all aware of the current deficiencies in public service provisions. All of the options available, as expressed during the consultation and today's debate, will be considered when addressing the inadequacies. We welcome the opportunity for an informed debate on how best we can proceed to address the key issues — considering the options for public-private partnerships and how we might most effectively avail of them.

The views expressed today, and the responses to our consultation, will contribute to our work on a policy framework for public-private partnerships in the coming weeks.

**The Chairperson of the Committee for Finance and Personnel (Mr Molloy):** I thank the Speaker's Office, staff and Members for their expressions of sympathy following my recent bereavement.

The Committee for Finance and Personnel welcomes today's debate on public-private partnerships (PPPs), and I thank the working group for the report that has led to this debate. The First Minister outlined in detail his response to the report and commented on the role that the Committee has played.

The Committee tabled a motion on 3 July 2001 on its report and the recommendations from its inquiry into the use of public-private partnerships. I recognise that

the scope of the original debate has moved on, and since the Chancellor of the Exchequer's announcement on the reinvestment and reform initiative in May 2002, it is now focused on public-private partnerships. Taking that into account, the Committee and I see this debate as an opportunity for the Assembly to consider the full range of procurement and financial options available to the Executive on the wider issues associated with whatever method is selected.

I wish to begin by pointing out some of the figures given to the Committee on the infrastructure and public service deficits. All Departments require funding of £4 billion to £7 billion for capital projects in the next ten years, depending on the range of proposals and whether they are accepted. The bulk of the deficit is in three Departments — Education, Regional Development and Health, Social Services and Public Safety. Those Departments have programmes to deliver the priority areas in the Programme for Government. Some £6.5 billion of the infrastructure and public service deficit lies there, and those Departments have a shortfall of £5 billion in their capital budgets over the next ten years as regards the projects identified as requiring capital investment.

Assuming that departmental capital budgets remain the same, the Department of Education will have £1 billion conventional public finance available to meet its assessed need of £2.1 billion over the next ten years. The Department of Health, Social Services and Public Safety will have £0.6 billion available to meet its assessed need of £2 billion over the next ten years, and the Department for Regional Development will have £1.8 billion available to meet its assessed need of £4.4 billion over the next ten years.

In May, the Chancellor of the Exchequer made a borrowing facility available in the reinvestment and reform initiative, and £125 million was made available for the financial years 2002-03 and 2003-04. It is worth taking into account that that is approximately one third of the underspend over the past year. The Executive used those resources, some of their own in the Executive programme fund for infrastructure, and underspend resources carried forward through end-year flexibility. In total, £270 million was allocated for capital projects in the next two years. Those allocations will advance other projects in the pecking order for consideration for funding.

The Committee is grateful to the Minister of Finance and Personnel for the early copy of the draft strategic investment and regeneration of sites Bill. The Committee notes that the Bill will be introduced by the Office of the First Minister and the Deputy First Minister and that the Committee of the Centre will undertake the Committee Stage. The Committee will want to consider the relationship between the strategic investment body, the procurement board and the Department of Finance and Personnel. The Committee will also want to be assured that the

significant costs of those initiatives will represent good investment and value for money.

1.45 pm

It is easy to advocate that we accelerate the capital investment programme. All Members would like that to happen. However, as the Minister said, infrastructure and better public services must be paid for. Many questions about that investment remain unanswered, and the Assembly faces many problems. Which projects will be selected? How will they be prioritised? How will they be financed? How will the financial options be funded? How will funding affect future resource position manoeuvrability? Is the project flow realistic and achievable by the construction industry? That matter was dealt with in the Committee's report. Will projects be properly managed, guided and monitored to ensure the efficient use of resources?

The Committee's report made several recommendations. It considered those issues during its inquiry into the use of public-private partnerships. It investigated a range of financial models, such as bonds and not-for-profit organisations. It also heard evidence from the advocates and opponents of public-private partnerships. The Committee concluded that the preferred financial option is public finance. However, it still sees a role for public-private partnerships in the right circumstances. It concluded that core needs had to be taken into account and that all contracts had to be properly investigated and fully secure.

However, the Committee also decided that public-private partnerships were not the only game in town. One of its recommendations in July 2001 was that a unified, service-wide investment strategy be established for financing and managing the infrastructure deficit. The Committee envisaged that expertise would be brought together to create a centre of excellence, which would ensure that contracts were fully investigated; that one Department would not overlap another; that each Department would not do its own thing; that a partnership would be established to ensure a long-term investment strategy, rather than simply the short-term secondment of civil servants from one branch to another; that the Minister would be given responsibilities for leading and delivering the investment strategy; and that a social partnership would be created to support it. The Committee also envisaged that it might be similar to that which exists in the South of Ireland, where trade unions play an important role in putting together a social partnership.

The working group will have an important role. The strategic investment body will have the role that is described in the report. Its job will be to ensure that public-private partnership contracts are put together properly. The Committee would welcome an explanation from the Minister of the relationship between the strategic investment body and the procurement board.

The Committee for Finance and Personnel will soon provide a substantial response to the Executive's consultation exercise. As the basis of its response, a detailed analysis has been carried out to compare the recommendations of the Committee's report that was published in July 2001 with those of the report of the public-private partnership working group, which was published in May 2002. The Committee will meet on 17 September 2002 to agree a formal response to the First Minister and the Deputy First Minister. The public-private partnership working group has built upon the findings of the Committee's inquiry. Progress has been made in several areas, including the statement of principles and setting the future direction of PPPs.

When he launched the consultation process, 'Financing Our Future', in the Assembly on 21 May 2002, the Minister of Finance and Personnel correctly pointed out that the reinvestment and reform initiative, which was announced in May 2002, provides a new context for consultation. The draft Strategic Investment and Regeneration of Sites Bill provides some detail of how the investment body will relate to Departments. That relationship will be key in the Executive's development of an effective investment strategy. The Committee is interested in hearing from the Minister whether the reinvestment and reform initiative will mean that less use is made of public-private partnerships and whether the low-cost loan from the Treasury will have any implications for the use of relative-cost private finance. The Committee's report recommended public finance as the best way to secure public administration. If new money is available more cheaply than are PPPs, will it be seriously considered?

The Committee has been disappointed by the slow progress in developing the high-level investment strategy that the strategic investment body took so long to set up. The need for an overarching investment strategy is all the more important given the new borrowing facility and the fact that there are now several games in town. Clarity is required as to the relationships between the Departments, the strategic investment body and the Department of Finance and Personnel, and their respective roles in relation to PPPs.

Although the Committee recommended that a Minister lead the investment strategy, it remains unclear where responsibility lies. It is important that one Minister or Department has an identified lead role so that everyone knows where they stand.

During the inquiry, the Committee found it difficult to determine evidence of value for money. That is not to say that there is no value for money, but it did not come out during the inquiry. There may be good projects that will deliver value for money in the long term — some of the contracts are still in the very early stages — but there may also be evidence to suggest that they will not.



Since the report in July 2001, Departments have retained their capital projects and pressed forward with their own PPP projects, without the significant degree of strategic oversight or planning from the centre, which was one of the inquiry's recommendations.

I will conclude with the main questions that the Committee for Finance and Personnel wants answered. What further detail is available on the reinvestment and reform initiative? What are its implications for funding from the departmental expenditure limit? When will a strategy embracing all the financial options be delivered? What are the relationships between the Departments, the strategic investment body and the procurement board? What are their respective roles as regards PPPs? Will responsibility for investment be delegated to a specific Minister? Do the Executive have further evidence of the value for money achieved by PPPs? Can some light be thrown on the capital resources currently held by Departments? What short-term capital expenditure plans and PPP plans do individual Departments hold, and how do they fit in to the strategic investment plan? Has any assessment been made of the longer-term funding implications of those projects?

I thank the Ministers for the debate. I urge the Committees to take on board the points that have been made and to consider how financing and funding decisions will impact on future Programmes for Government and Departments in the longer term.

**Ms Lewsley:** Our main goal in this matter should be to attain social justice and sustainable development. Public services cannot be seen as a mere safety net. Rather, it must be accepted that a vibrant economy and a healthy society cannot be built unless we lay essential foundations. Investment of our shared resources will be of benefit to all.

Most Members will agree that the issue is not whether we need to find more money for public services, but how to find it. We must explore the options available to generate greater resources for social and economic development and seek to raise the bulk of the required resources through directing graded taxation. However, spreading society's financial burden fairly, according to means, is not an easy task. The limitations of political powers in the North mean that we cannot raise enough money in that manner.

Everybody is aware that Northern Ireland faces a huge infrastructure problem and needs to examine these issues. Even the most vocal critics of PPPs accept that we need to make significant improvements in roads, the transport system, hospitals, schools and college estates. Yet when we take our own resources into consideration, we simply do not have enough funds to address those issues in the traditional way. Therefore, it is logical to conclude that we need new approaches and ideas when considering our capital needs. In that context, the 'Financing Our Future' review must be welcomed. We must have

mechanisms in place that can guarantee public benefit in terms of value for money, transparency and accountability. Such schemes must be compatible with our commitment to social justice and the targeting of social need.

There has been criticism of PPPs, and more will probably be expressed in this debate. It is proper to acknowledge that some of the fears are genuine and should be addressed. For instance, do workers face job insecurity after the establishment of a PPP? If so, we must take that on board and, if necessary, tighten legislation to protect workers. The stability and the future of public-sector employees must remain paramount, and I hope that that will be given priority.

Given that more than 20 PPP projects have been completed in Northern Ireland, it is now time to look closer to home and consider what can be learned from the achievements. Simply to examine the UK experience is not the most appropriate way of establishing which measures are necessary to achieve a successful outcome in Northern Ireland.

We must ensure that the private sector does not have undue influence in determining which projects are suitable for partnership financing. Government policy and strategy must remain in the hands of the public through their representatives, and not become subject to the needs of company shareholders.

The reinvestment and reform initiative seeks to establish a strategic investment body to examine strategic infrastructure and investment in Northern Ireland and to suggest innovative approaches to managing and financing the Executive's infrastructure programme.

We must develop ways of building innovative partnerships across society that can fund the necessary development. We must examine new and different public-private models as well as other alternatives, from Government bonds to options involving the voluntary sector and not-for-profit organisations. That would preclude concerns about benefits for shareholders, plough profits back into services and promote sustainability for provider organisations, many of which provide valuable services to the public.

New models of financing must genuinely lever in additional finances for public services, rather than merely substituting one mechanism for another without clear long-term benefits for the public. If PPPs are to work, they must not replace public spending but add to its capacity. We must seek to combine the best models of social partnership with the best models of financial partnership to deliver better public services to the whole community.

**Mr Weir:** Much has been made of the changed environment since the last debate on the matter in July 2001, when the Committee for Finance and Personnel published its report on public-private partnerships. Much has changed — the reinvestment and reform initiative



has been introduced, and proposals have been put forward to establish a strategic investment body. We have witnessed a poacher-turned-gamekeeper transformation. The Deputy Chairperson of the Committee at that time, who shared the Committee's view, has now risen to become one of the people who will help to implement this. There are also the proposals in the 'Financing our Future' document.

However, while there have been changes at that level, much has remained the same. We are still faced with a large infrastructural deficit, which is as great as it was in July 2001. It is clear that although a range of options could be used to make good that deficit, PPPs have a large part to play. PPPs are not an end in themselves, but a means to an end to ensure that we get the best services. Some would argue that in our efforts to finance that massive infrastructural deficit, not enough is being done to reduce administration costs in Northern Ireland. Leaving that argument aside, it is important that we get the best value for money in our projects and that the right structures be in place.

2.00 pm

In July 2001, the Committee for Finance and Personnel established a range of principles, structures and recommendations, which have remained — more or less — the same. Although it may not be appropriate to pat ourselves on the back, many of the principles established by the Committee are as relevant today as they were a year ago. However, the manner of their implementation has been a mixed bag. Today, we are at the interim stage, and we should therefore indicate what we wish to see emerging from the consultation and what should, ultimately, be carried forward by the strategic investment body. We are still at the recommendation stage.

There has been some movement, such as the public-private partnerships working group that has already been referred to. There has also been movement in setting out the principles of PPP projects; in technical guidance; on the public service comparator; and in the definition of PPPs. However, the Committee feels that progress has been slow in several areas. There were a couple of assumptions running through the Committee's recommendations. First, it was assumed that it is important that we learn from others. I appreciate that it is not simply a question of taking what has happened in England or the Republic of Ireland and transferring it to Northern Ireland. However, as I indicated at the time, a wise man learns from his mistakes: a wiser man learns from someone else's mistakes. It is important that we apply the lessons learned from what has taken place elsewhere, and that from the beginning, through the strategic investment body, we take the opportunity to get the structures right. That is vital.

One principal area of concern not properly answered was the recommendation that one Minister be given

overall responsibility for driving the initiative. For example, the motion stands in the names of the First Minister, the Deputy First Minister and the Minister of Finance and Personnel. I am sure that both Departments have valid reasons to do that, but it is not clear which Department will have responsibility for spearheading the initiative. It is vital that that point is clarified soon.

It is essential that we get the powers of the strategic investment body right from day one. Moreover, there is the matter of the relationship between the strategic investment body, public-private partnerships and the current procurement body. It is important that our structures and practices are correct. According to the evidence that the Committee received, everyone agrees that a strategic investment policy is necessary, and that a strategy must be in place to implement the policy. However, when the powers of the strategic investment body are determined, and proposals are in place for its practice, we shall be in a better position to judge whether that has been achieved.

Furthermore, in the light of the evidence received, and since Northern Ireland has always been behind the rest of the UK and other places, it will be especially important that an appropriate flow of deals is achieved as regards proposals on strategic investment and public-private partnerships. We must not have a situation in which so many projects come on to the market at the same time that companies are overwhelmed and are unable to deal with them, or that they come through so slowly that it will be uneconomical for local companies to bid for them. In such a situation, the level of expertise required for one project would mean that costs were not suitably apportioned among several projects. We must ensure that the balance is correct.

The strategic investment body will provide the opportunity to pool resources, especially those of the Civil Service, so that areas of expertise can be concentrated. A level of expertise will be developed, for example, in contracts, and we shall be able to learn from the range of projects available. A review of legislative powers will be necessary to ensure that no impediment to contracts is caused, for example, by the need for powers that do not already exist.

I am reluctant to comment further because the Committee for Finance and Personnel will make its full response available soon. Today's debate is on an interim level, and to ensure that the right conclusion is reached, the Executive must clarify a range of issues.

Such is the scale of investment needed, through public-private partnerships and other means, that if the issue is handled wrongly — and it is to be hoped that it will not be — the people of Northern Ireland will pay for our mistakes for generations to come. It is, therefore, vital that

lessons are learned now; that, in the face of opposition, flesh is put on the bones of the strategic investment body; and that the initiative is got right at that stage.

I urge the Ministers responsible to consider the Committee's report and ensure that its proposals and recommendations are considered, so that the necessary lessons are learnt and they get it right from day one.

**Mr Close:** The Assembly last debated PPPs in July 2001 in response to a report by the Committee for Finance and Personnel. It is worth emphasising that the Committee made several important, pertinent and salient recommendations on the implementation and progress of PPPs. Today, we are debating a different report that does not take away from those recommendations. It builds on them and is a weightier report. It is not more important, and it does not point in a significantly different direction. It simply deals with the matter in a more colourful way.

It is to be regretted that, in the past fourteen and a half months, progress on PPPs has been slow, and that should be subject to criticism. Even after fourteen and a half months, as the Chairperson of the Committee for Finance and Personnel has said, several significant questions have yet to be answered properly, and out in the big, bad world, the problems continue to increase.

In his introduction, the First Minister said that it is important to hear Members' views. With due respect to the First Minister, if he is looking for my views, I refer him to Hansard Volume 11, No 10, pages 399 to 401 of 3 July 2001. Those remain my views. I could waste the Assembly's time by regurgitating them but, because nothing has changed, I shall not. The Executive must accelerate the snail-like pace that they appear to have adopted. Our constituents do not want to see more reports. They want, and need, to see action, and that should not be interpreted as my saying that we should rush into PPPs willy-nilly. We cannot be accused of doing that.

The recommendations give the vital building blocks that must be put in place — they should have been put in place before now. However, when I read the report, I wonder whether even a strategic plan, upon which to build, exists, and therein lies my major criticism.

I hope that we shall get answers to those vital questions as a result of today's debate; who knows, the Minister might answer them in his summing up. The Chairperson of the Committee for Finance and Personnel concluded his summary by posing fundamental questions that must be addressed urgently. The Committee feels that, if we do not get answers to those questions, the matter must be driven forward, and one Minister must be given control of doing so strategically and positively. If that decision has not yet been made, we must ask where we are going.

I hope to lay to rest the myth, which can arise through debates such as this, that PPPs per se can solve the

funding deficit. That is a load of rubbish: PPPs do not solve the funding deficit, and I am delighted to see the Minister of Finance and Personnel nodding in approval. The only way to solve a funding deficit is to increase revenue or reduce expenditure. Public-private partnerships are an alternative way to provide facilities.

Fourteen and a half months ago, several Members said that PPPs were not a panacea and were not the only show in town. In those fourteen and a half months, the reinvestment and reform initiative has clearly demonstrated that we should recognise that fact. Public money is the cheapest, and that must be borne in mind. If we decide to use the strategic investment board or other bodies, they must make clear decisions about the selection and prioritisation of the different deficits that must be funded, such as schools, roads, water, et cetera. We must see that prioritisation carried out, and we need it done yesterday. We certainly need it before another fourteen and a half months elapse.

**Ms Morrice:** When the First Minister and the Deputy First Minister originally announced the establishment of the borrowing facility — the reinvestment and reform initiative that Mr Close mentioned — I said that a large "handle with care" stamp was necessary; that same stamp is necessary for PPPs. That message has been reiterated by all contributions to today's debate.

The public are still confused by pick-and-mix financial policy. They make all sorts of assumptions: that PPPs are confined to the private-finance initiative, which in fact finances only major capital projects, and that PFI offers something for nothing in the context of public expenditure restraint. However, no matter how projects are financed, in the absence of user charges they remain funded by the public purse. Members have made that point repeatedly today. We risk locking the public sector in Northern Ireland into long-term financial commitments that offer poor value for money for the taxpayer. That is the argument of short-term pain versus long-term gain.

It has been recognised today that the infrastructure in Northern Ireland, specifically for regional development, health, and education, is under tremendous pressure and that dependence on public expenditure alone means that the range and the quality of services provided will be insufficient, both now and in future. PPPs may be one way to bridge the gap.

2.15 pm

The assertion that the private sector has skills that make it inherently more efficient than the public sector is not always backed up by evidence. If this were the case, far from there being a preference for traditional procurement, there would be a preference for private sector solutions, with no reference to public sector comparators.

Principles and economics must also be considered. Mr Close stated that public money is always the cheapest

money, and we should not forget why that is so. Public money should always have the good of the public at heart, which is why it is the best and cheapest way to progress. Some people think that a public service that is funded for profit by the private sector is incompatible, and that Government should provide schools, hospitals, roads, public transport and sewerage systems. Are PPPs and PFIs a legitimate and cost-effective way to increase the pool of money that is available for those services? The dangerous approach of “buy now, pay later” cannot be overstated or ignored.

PPPs should be chosen as a financing option only when they provide better value than conventional long-term public finance. A holistic approach must be adopted, and an assessment of comparative costs must include the social and environmental impact as well as cost-effectiveness considerations.

We urge the Executive to give priority to the identification of long-term and dependable funding streams to sustain the valuable public services that the voluntary and community sector provides.

Patricia Lewsley and others spoke about the guarantees that are required for a level playing field for employees. Trade unions and Members have expressed fears that a two-tier workforce may emerge. Contractors are employing new workers on poorer terms and conditions than workers who have transferred from the public sector. Ms Lewsley also stated that the legislation must be tightened to take that issue on board.

PPPs have not been highly contentious in the Republic of Ireland, so the Executive should consider the Southern experience and take a broader view.

The partnership approach has been highly successful; for example, between local councils and the not-for-profit companies — the voluntary sector. That approach has been important to our communities, because PPPs are at the cutting edge and work successfully in the voluntary sector. Bryson House provides local councils with valuable expertise and information, and its kerbside recycling schemes are at the cutting edge.

Information on the ‘Financing Our Future’ consultation process and its implementation timetable would be appreciated.

**Mr Beggs:** Northern Ireland has a huge infrastructure deficit, and different estimates have been made about its extent, which appears to be more than £7 billion over the next 10 years.

The Committee for Finance and Personnel indicated that the preferred source of finance is public finance, because it is generally provided at lower interest rates than those available through the private sector. We should address that important issue, because there would be no point in passing funding over to the private

sector if that were the only consideration. However, it is not the only consideration. No one has claimed that we could finance our deficit of some £7 billion over the next 10 years from within existing public expenditure. We shall have to think outside the box and, increasingly, consider alternatives.

Public-private partnerships can bring benefits. We have heard about improvements in the design of schools, and about the ease of the management of ongoing maintenance arrangements. There are also benefits to be had from encouraging Departments and organisations to think outside the box. For example, Departments could perhaps be encouraged to share facilities with other Departments, and to increase the use of those facilities. That form of funding could increasingly encourage communal use, and a variety of other uses.

There are many ways to finance those activities. We have the traditional route of public expenditure; we have the private finance initiatives and public-private partnerships; and we now have the reinvestment and reform initiative. We should not be tied to any one route. We must consider each means of finance on its merits, and decide which one will best address the urgent community needs that exist. As Members have said, we must also bear in mind that, ultimately, as when someone takes on a mortgage or hire purchase agreement, it must be paid for. Therefore, we must consider the long-term implications of each option.

I concur with the Committee for Finance and Personnel’s view that PPPs can be a valuable tool and means of investment, and should not be ruled out. I welcome the First Minister’s comments, which reflect the views of the Committee, that value for money has to be demonstrated clearly over the life of a project.

I joined the Committee for Finance and Personnel only this year, and I have already heard favourable comments about public-private partnerships. For example, I heard some during a visit to the Scottish Parliament, and I also heard about positive experiences in the Republic of Ireland. I learnt that, on occasion, even though public finance was available, PPPs were preferred because of other perceived benefits.

Northern Ireland has had limited experience to date of PPPs compared with other UK regions. We need an advisory group that will consider in detail the overarching investment strategy. I expect that to be done by the strategic investment body.

How can we be assured that that body will have the necessary experience and expertise? That will be critical in determining options for funding. I agree with Patricia Lewsley that we should learn lessons from our existing PPPs. There should be a review of our experience to date. Although it is limited, there must be positive

lessons to be learnt. I ask the Minister to ensure that any early lessons are built on in future decision-making.

I welcome the reinvestment and reform initiative and the move to establish the strategic investment body. However, further details are needed, and we need to keep the process moving forward. Ultimately, projects must be delivered. For example, the widening of the M1, which is of concern to many commuters, and the new cancer centre will be financed by the initiative. When will more projects be delivered, and when will our constituents begin to see more benefits from these initiatives?

**Mr Deputy Speaker:** Before I call Mr Byrne, I remind the House that we must break at 2.30 pm for Question Time. Mr Byrne will be allowed to resume after 4.00 pm, if necessary.

**Mr Byrne:** It is generally recognised that public investment needs are a major problem in Northern Ireland. That point has been highlighted since the Assembly came into being. Three Departments in particular — Education, Health, and Regional Development — have major capital investment needs, and we have suffered major handicaps in those areas over many years.

Public resources are insufficient to meet those capital investment needs, and that is regrettable. However, that is the reality that the Assembly faces. Most parties would like to see public capital needs provided for through the public purse, but, unfortunately, that is not possible under the limited devolved Budget. The big question is whether private-finance capital sources can be attracted to finance capital budgets or projects in those areas.

There have been several private finance initiative (PFI) projects, and, more recently, public-private partnerships in Britain and, indeed, Northern Ireland that have resulted in new schools, colleges and offices. That has brought welcome development to different localities and communities. However, it is fair to say that there has been some genuine concern and criticism of how some PFIs have worked, including the accumulated cost of servicing the payback on some projects. Many trade unions are greatly concerned about how workers are often asked to pay a price for such projects.

One of the key principles is value for money, which must be crucial in assessing a PFI or public-private partnership project. The rate of return on a private finance initiative must be sufficient, but not excessive. There has been genuine criticism of some of the excessive returns in some projects, and the rate of return should reflect the prevailing safe loan capital environment — the repayment is assured to the public purse, so that risk is limited and controlled.

*(Mr Speaker in the Chair)*

The reinvestment and reform initiative outlined by the Office of the First Minister and the Deputy First Minister and the Chancellor of the Exchequer in May is

a welcome proposal that can be used to get necessary, upfront capital investment money for infrastructure projects. The strategic investment board has obvious merit in facilitating private finance schemes for public investment projects. The public wants to see new schools and hospitals as soon as possible, and there is a great imperative that private finance schemes should be processed in a more efficient and effective way. There is genuine concern that the entire administration of projects is long-winded, cumbersome and leads to excessive costs.

**Mr Speaker:** It would be unfair to ask any of the other Members to start a speech for the sake of a few seconds, only to have to interrupt themselves in full flow. The House will take its ease until Question Time, which is in less than one minute.

*The debate stood suspended.*



2.30 pm

## Oral Answers to Questions

### EDUCATION

**Mr Speaker:** Question 7, in the name of Mrs Eileen Bell, has been withdrawn and will receive a written answer.

#### Burns Review

1. **Ms Ramsey** asked the Minister of Education to give an assessment of the response to his consultation on the Burns proposals. (AQO 70/02)

**The Minister of Education (Mr M McGuinness):** We adopted a multi-stranded approach to the consultation to ensure that all sectors of the community had an opportunity to participate, and I have been encouraged by the response. I held 28 meetings with key interests during the consultation period. More than 650 written submissions were received from education partners, churches, schools, parents, teachers, pupils, political parties and the business community. More than 550 detailed response booklets were received from schools, training organisations and community groups. More than 200,000 adults completed the household response form, and research was conducted into the views of young people. I will publish a summary of the responses to the consultation in early October for everyone to see and consider.

**Ms Ramsey:** I am also encouraged by the response. After the recent media speculation that there has been intensive canvassing by grammar schools regarding the survey, how will the Minister ensure that the outcome is totally representative of all opinions?

**Mr M McGuinness:** We had a good response to the household forms; 200,000 people represent a substantial body of opinion in anyone's book. However, we must put that into context — it represents 16% of the adult population. The household form is one strand of a multi-stranded approach to consultation. We adopted that approach to ensure that everyone's views were heard. The public's views are also represented in the responses from schools, parents, pupils, the Churches, community groups, voluntary organisations, the political parties and our education partners. All those views will be taken into account.

**Lord Kilclooney:** Does the Minister recognise that the Burns proposals are particularly controversial? Does he know that more than 1,000 constituents in Strangford have written to me to express their opposition to the proposals? Now that he has confirmed that he will publish his own conclusions in October, he owes it to the public — and I ask him to do it today — to advise us

when he is likely to present those proposals to the Committee for Education. Should the Committee reject his recommendations, will he go over its members' heads and bring them before the Assembly?

**Mr M McGuinness:** It is important that everyone, including myself, take time to consider the responses to the consultation exercise in detail. I want to hear the views of key stakeholders in education on the responses to consultation and how best to progress the post-primary review before I make proposals on the way forward. Any new arrangements and their implementation will be shaped by the responses to the consultation and must build on the growing consensus that has emerged during the post-primary review. I will announce details of the timetable for the next stages of the review when I publish a report on the responses to consultation in early October.

**Mr Gallagher:** I thank the Minister for the way in which he outlined the handling of the consultation process. The proposals that emerge from that process will be of greater importance. Does the Minister plan to bring those proposals to the Assembly before the end of the year?

**Mr M McGuinness:** Through the consultation process and my meetings with key interests and partners, there are strong signs of a growing consensus on the need for change. I want to build on that emerging consensus. I am firmly of the view that we can work together to bring about new arrangements for post-primary education, to the benefit of all.

Decisions on the way forward — which is what Tommy Gallagher is asking about — will depend on the outcome of the consultation, and I intend to consult the Assembly and the Executive about any changes. It may also be necessary to give effect to new legislation, and that will be subject to the approval of the Assembly.

Children are the key focus, and they will continue to be my prime concern throughout the review of post-primary structures. The debate should rise above party-political lines and the interests of individual institutions. Any changes, and the timing of their introduction, will depend on the outcome of the consultation. My Department will maintain the existing arrangements and phase in changes in a planned and orderly manner in order to safeguard the education of children in schools.

Throughout this process the intention is to improve the educational experience of children and to improve standards, and my Department will work with the boards, the Council for Catholic Maintained Schools (CCMS), boards of governors, principals and teachers to achieve that.

The Assembly has a critical role to play, and, given the events of the summer, I have been encouraged by the high level of debate and the important contributions from all the political parties and our education partners.

I am pleased how the situation is moving along, and my key object is to continue to build on the consensus that I believe already exists.

### School Transport Strategy

2. **Ms McWilliams** asked the Minister of Education whether he intends to urgently review the current school transport strategy in the light of the inequities that it is causing. (AQO 26/02)

**Mr M McGuinness:** The current transport arrangements were introduced in 1997 to constrain the escalating costs of home-to-school transport and to release resources to safeguard funding for the classroom. The revised arrangements restrict transport provision to pupils who have been unable to gain a place in any suitable school within statutory walking distance of their homes. Suitable schools are defined as the established educational categories of controlled, maintained, integrated and Irish-medium, and, in the grammar sector, denominational and non-denominational. Parents are not obliged to send their children to the nearest suitable school or to any particular school, but, where they do not qualify for assistance, the responsibility to provide transport falls to the parents.

I recognise that some aspects of the current policy concern parents and public representatives. My Department is reviewing the present arrangements and will consult with all relevant bodies in due course.

**Ms McWilliams:** A similar answer was given the last time that the question was tabled — namely, that the Department was reviewing matters. We need some urgent action, particularly in the light of the earlier question on the Burns review, given that there is such inequality in the current system. For example, a parent on a low income from the Markets area or the Short Strand sending a child up the Ravenhill Road by bus to school — which has to do for safety reasons and because of the sectarian nature of the area that is passed through — has to pay the bus fare. It costs at least 55p a trip. That amounts to over £200 a year, and if there are three children involved it can add up to £600.

On the other hand, a parent of a child living on Malone Road, or in Carryduff, outside the three-mile area, gets such transport for free. That results in an unequal system, where low-income families have to pay more. Likewise, a parent whose child has passed the 11-plus faces the same problem.

**Mr Speaker:** The question from the hon Lady is clear.

**Ms McWilliams:** Could we please have a date for the end of this review and some free school transport in the future —

**Mr Speaker:** Order.

**Mr M McGuinness:** I appreciate the concerns articulated by Ms Monica McWilliams and, indeed, by other elected representatives. It is an important issue. There will be a wide-ranging review, which will consider the impact of the 1997 policy change, along with other issues that have emerged since then. Ms McWilliams is correct in saying that the review will need to have regard to the report of the review body on post-primary education; it will also need to take account of the recommendations of the Committee for the Environment's report on home-to-school transport.

**Mr Hussey:** I am concerned, as is Ms McWilliams, that we are hearing words rather than having action. Does the Minister intend to take any action to address the situation in which students over 16 years of age in full-time education and financially dependent on their parents must pay adult fares? Is that not unfair and discriminatory? Their situation has not changed; only their age has.

**Mr M McGuinness:** The review provides an opportunity for everyone to raise his or her constituents' concerns, and this matter can also be considered during it. However, at the same time, there will be widespread appreciation that it is sensible, when dealing with such issues, for us to recognise that the review must also have regard to the report on post-primary education and the Committee for the Environment's report on home-to-school transport, on which we have had several debates.

**Mrs Courtney:** I tabled a similar question some months ago, and the answer too was quite similar: there will be a review. I share the other Members' concerns that we still have no date for that review. My worries are about primary schoolchildren and also about 16- to 18-year-olds. I understand that a review is under way involving the Department for Regional Development and the Department for Employment and Learning. Will the Minister consult those Departments when proposing any changes? It is very relevant. I believe that he is proposing a reduction of at least 50%, and for some primary schools that would be of great help.

**Mr M McGuinness:** We shall gladly consult those Departments.

### Nursery Education

3. **Mr Ford** asked the Minister of Education to make a statement on the development of nursery education. (AQO 92/02)

**Mr M McGuinness:** In 1997, there were funded places for 45% of children in their immediate pre-school year in statutory settings. As a result of my Department's pre-school education expansion programme, that rose to 85% in the 2002-03 school year in both statutory and voluntary settings. In the 2003-04 school year the pro-

gramme aims to provide a place for every child whose parents wish it.

**Mr Ford:** The overall growth in places is obviously to be welcomed. How many places are in existing controlled or maintained primary schools as opposed to in facilities which are seen to be completely open to all sections of the community? Is there not a danger that we have lost a major opportunity to promote integrated education for the under-fives?

**Mr M McGuinness:** I shall write to Mr Ford with the figures that he seeks. It is also important to point out that in the present provision there are undoubtedly many integrated settings in which children from all sections of the community enjoy a year's pre-school education together. Growth in pre-school education for children in the year before formal education begins has mushroomed over the last few years. We have made tremendous strides, and we must constantly review how we continue that in the light of our having quite a strong integrated education sector. Parents increasingly choose to have their children educated together; I am conscious of and sympathetic to that trend.

**Mr Kane:** When can Moorfields Primary School have its nursery unit?

**Mr Paisley Jnr:** He is stumped.

**Mr M McGuinness:** No, I am not stumped; not yet. My Department has been in contact with the North Eastern Pre-School Education Advisory Group on the subject, and I shall write to the Member about it.

2.45 pm

**Mr Beggs:** Why has the Minister not taken the opportunity afforded by the Education and Library Bill to close the legislative loophole that allows two-year-olds a funded voluntary- or private-sector nursery place while many four-year-olds do not receive one? Would it not be better if he enabled educationalists to ensure that every child in his or her pre-school year received a funded place? The Minister could do that by moving an amendment, rather than simply hoping that those places will become available. The Minister might be able to give an assurance based on the assumption that a percentage of parents will not take up places, but there will undoubtedly be a spread in different areas.

**Mr Speaker:** Order. The Member's question is clear, and I am sure that the Minister is aware of the arguments.

**Mr M McGuinness:** Since the early 1970s, places in the statutory sector have been open to children from two years old to the lower limit of compulsory school age. It is, however, my intention to amend the legislation so that very young children, who gain little benefit from attending nursery schools or classes, will no longer be admitted. Such an amendment was not made to the current Bill because of the nature of the legislation. The

main purpose of the Bill is to introduce the local management of schools common funding formula.

I am aware, however, that the Committee for Education has raised that issue, and that departmental officials met the Committee last week. I want to await the outcome of the Committee's report.

### Centre for Autism

4. **Ms Lewsley** asked the Minister of Education to give an update on the progress of the centre for autism.  
(AQO 90/02)

**Mr M McGuinness:** Work on the centre for autism is progressing well. A project manager has been appointed to co-ordinate the work of all the agencies involved, prior to the appointment of a chief executive. A steering group has been established, including representatives from the Department of Education and the Department of Health, Social Services and Public Safety in the North, and the Department of Education and Science and the Department of Health and Children in the South.

In particular, the steering group will consider legal issues such as purchase, ownership, governance and management of the centre, professional issues, access and health and safety issues, and ways of including parents and other interests in the planning process.

**Ms Lewsley:** What is the current state of financing for the project? Have any resources been forthcoming from the Government of the Republic of Ireland?

**Mr M McGuinness:** We were given some £1.7 million from the Executive programme funds, which will contribute to the purchase of the site at the former St Joseph's adolescent training centre in Middletown. I am confident that the Government in Dublin will make their contribution. I do not have any difficulties about achieving that. Our objective is to have the centre up and running in autumn 2003. Some months ago, people thought that that was an ambitious target, but I am confident that we will meet it. There is still work to be done, and many appointments to be made, but the work is well in hand. We will have to consider funding as we progress.

**Dr O'Hagan:** Go raibh maith agat, a Cheann Comhairle. What other work has the Minister initiated to address autism?

**Mr M McGuinness:** I recently reported to the House on the outcome of the previous North/South Ministerial Council meeting. A joint working group on special education was set up under its auspices, which will focus initially on autism and dyslexia. Northern task groups on autism and dyslexia were established, and I launched the reports produced by those groups earlier this year. I welcome their challenging recommendations to all of us with responsibilities for the education of children with autism and dyslexia.



My Department has also organised separate conferences, to be held in September and November, which will progress the recommendations from the reports on autism and dyslexia. Those major events will involve relevant education and health professionals working together with parents of children with autism and dyslexia and representatives of voluntary organisations to help plan for provision. Those events will provide focal points for discussion on how best to take forward the recommendations from each report.

My Department and the Department of Education and Science are supporting a bid made to the Peace II funds by the Centre of Cross-border Studies, which will, if successful, provide cross-border exchange opportunities for teachers, principals, educational psychologists and inspectors working in special educational needs. The programme intends to promote dialogue and the exchange of good practice for professionals working with children with special educational needs.

I have recently become aware of the difficulties that many young people face in accessing appropriate day care or employment when they leave special schools. I therefore met the Minister of Health, Social Services and Public Safety, the Minister for Employment and Learning and relevant officials to consider what could be done. Officials from the three Departments will consider the matter fully, and they will put forward proposals on how best to improve the transition planning process and the options available to the young people.

### Attacks on Schools

5. **Mr G Kelly** asked the Minister of Education to comment on the series of attacks on schools that occurred over the summer. (AQO 76/02)

**Mr M McGuinness:** My Department is aware of seven arson attacks on schools since the beginning of June. During other attacks on schools windows were broken — in one case in north Belfast there was a disgraceful attack in which hundreds of windows were broken in a controlled school. I deplore attacks on all schools. Schools must remain sanctuaries and should not be dragged into community conflict. Acts of vandalism serve no purpose and divert financial resources from the classroom, where they are needed most.

All children are entitled to the best possible education in good, modern, safe schools. Vandals try to deny them that right, and it is everyone's responsibility to make it clear that attacks are unacceptable.

**Mr G Kelly:** I agree that such attacks are reprehensible. Approximately how much funding is being diverted from the delivery of education?

**Mr M McGuinness:** I appeal to everyone in society to do his or her best to help to create a proper environment in and around schools to ensure that such attacks

are stopped. I call for an immediate halt to attacks on all schools.

My Department does not have details of the cost of repairs to the schools affected, but such attacks put further pressure on funds, given the increased need for security measures in schools. For the five years until March 2002, additional resources of £5 million were made available to address basic security measures in schools, and a further £1 million has been made available this year. That money could be put to better use.

**Mr Hamilton:** I note the Minister's comments regarding pressure and the diversion of funding. Will he assure the House that the schools affected will not suffer financial difficulties because of the attacks, and that additional funding will be provided to address the damage so that resources meant for the classroom will not be diverted from where they are most needed.

**Mr M McGuinness:** There is a responsibility on Members to ensure that the limited funding available goes directly where it is needed — into the classroom. Undoubtedly, the disgraceful behaviour by a tiny minority in society has a detrimental effect on our children's education. There is a responsibility on me, the Executive and every Member to ensure that we do everything in our power to get as many resources as possible for the education of our children. That is problematic considering the difficulties that many Departments are enduring as a result of the legacy of neglect and underfunding across all Departments over the past decades.

At the same time, the Department will do its best with its limited budget, and I will fight for more resources for the education and library boards, the CCMS and other education partners.

### Burns Questionnaire

6. **Mr Kennedy** asked the Minister of Education how many postcode areas had not received the Burns questionnaire by the beginning of June 2002, and to explain the reasons for the delay. (AQO 88/02)

**Mr M McGuinness:** The household response form was distributed to more than 670,000 households. Distribution took longer than anticipated due to the massive scale of the exercise, and, unfortunately, a few postcode areas did not receive their forms by the beginning of June. Those areas were BT1, BT2 and BT3 in Belfast; BT24, which is Ballynahinch; BT25, which is Dromore; and BT40, which is Larne. However, those areas received their forms by the week commencing 24 June 2002. The deadline for responses was 28 June 2002, but, in the light of the distribution difficulties, my Department considered all responses received up until the end of July 2002.

**Mr Kennedy:** Does the Minister accept that many people found the personal questions on the back of the form intrusive and offensive, and does he accept that



this will have affected the response rate? Will he give an assurance that the results of the consultation will take account of all responses regardless of whether these questions were answered?

**Mr M McGuinness:** I received no information to the effect that society had revolted over the quite legitimate questions that were posed in the household response form. All the responses will receive the important consideration that they deserve given that some 200,000 households saw fit, and were bothered enough, to return the forms. The Department is very pleased with how the exercise has gone, and people should consider that we are evaluating not only the household response form exercise, but the many other strands of the consultation. As a result of the exercise, we have given society a unique opportunity to contribute to the shaping of our future education system. Good work has been done. Let us try to build consensus to ensure that the key people in all of this, the children, receive the best possible education.

**Mr S Wilson:** Does the Minister accept that a response from 200,000 households out of a circulation of more than 600,000, which is 33%, is a response of over 100%, if we take into account the number of families with children in education? Why has he sought to downplay the responses that he has received and introduce yet another layer of consultation by asking the key stakeholders to respond to a consultation on the consultation? The Minister is ducking and diving because he knows that the people have hampered his drive towards comprehensive education in Northern Ireland. Will he assure the House that when he finally comes up with some proposals, he will seek the cross-community consensus of the House rather than try to drive it through by ministerial decree?

**Mr M McGuinness:** We have had a good response to the household form. A response by 200,000 people represents a substantial body of opinion, though still that constitutes only 60% of the adult population, and that is why the five strands of the consultation were so important to ensure that everyone's views are represented. The views of the public are also represented in the responses from schools, community groups, churches and education partners. I find it a bit rich that the Member takes it upon himself to speak for the education partners.

I have had 28 positive and constructive meetings with everyone who is involved in the process. Much good work was done over the summer, and I am confident that in bringing about the essential change that everyone knows must take place, I will do so with the full good heart and co-operation of those people.

3.00 pm

They are genuine people; they are good people. They may be on different sides of the argument, but they all want to do everything in their power to ensure that our education system grows stronger no matter what changes

are made. No one in the House can speak for the education partners. They are good, decent people, who will work in partnership with me to ensure that change takes place sensibly.

**Mr Speaker:** I regret that other Members who wish to raise questions will find that we have run out of time.

## HEALTH, SOCIAL SERVICES AND PUBLIC SAFETY

**Mr Speaker:** I wish to inform the House that question 14, standing in the name of Mrs Eileen Bell, has been withdrawn and will receive a written answer.

### Antrim Area Hospital

1. **Mr Paisley Jnr** asked the Minister of Health, Social Services and Public Safety whether the casualty unit at Antrim Area Hospital is being used as a makeshift ward, and, if so, what plans she has to improve the bed-blocking system there. (AQO 3/02)

**The Minister of Health, Social Services and Public Safety (Ms de Brún):** Go raibh maith agat, a Cheann Comhairle. Bhí sé riachtanach ar roinnt ócáidí d'othair in Ospidéal Ceantair Aontroma fanacht sa roinn taisme agus éigeandála i ndiaidh na cóireála tosaigh go dtí gurbh fhéidir iad a ligean isteach i mbarda. Ba í an phríomhchúis leis sin ná an mhoill i ligean amach othar nach raibh cúram de dhíth orthu a thuilleadh in ospidéal, mar aon leis an líon méadaithe iontrálacha éigeandála.

I mí Iúil 2002, chuir mé maoiniú ar fáil do bhorda breise 24 leaba, agus le trí bliana anuas méadaíodh an bhunáit altranais mhaoinithe i roinn taisme agus éigeandála an ospidéil. Ag tabhairt aitheantais don bhrú a chruthaíonn moill a bheith ar ligean amach, fuair mé £19.1 milliún breise do sheirbhísí cúraim phobail anseo sa bhliain reatha.

It has been necessary, on some occasions, for patients at Antrim Area Hospital to remain in the accident and emergency department after initial treatment until it is possible to admit them to a ward. The principal reason for that is the delayed discharge of patients who no longer need hospital care, combined with an increased number of emergency medical admissions.

In July 2002, I made funding available for an additional 24-bed ward, and the funded nursing establishment in the accident and emergency department of the hospital has been increased in the past three years. I acknowledged the pressures created by delayed discharges, and I secured an additional £19.1 million for community care services here in the current year. That sum will enable boards to increase care home payments, implement free nursing care from next month and support 1,000 more people in community settings.

**Mr Paisley Jnr:** Does the Minister agree with Dr Brian Patterson's comments on behalf of the British Medical Association (BMA)? He said:

"It is not enough to just pour money into the NHS. It must be targeted to where it is most needed, within the context of a coherent strategic plan, otherwise finance disappears".

If she accepts that opinion, will she coherently — not using the gobbledygook that we have heard to date — outline her strategic plan for the Antrim Area Hospital and say how she will provide beds and staff to tackle the bed-blocking and waiting crises? None of the measures that she mentioned in her answer has, to date, solved the problems or fulfilled her promises.

**Ms de Brún:** I shall continue to make the problem of delayed discharges a priority, together with the restoration of domiciliary care as a cost-effective alternative to institutional care. Studies have shown that that is a fundamental measure in any strategy for dealing with the issue to which the Member referred.

Moreover, each board is committed to examining good practice and innovative schemes. The boards have identified schemes that are specifically designed to reduce admissions to long-term care, prevent inappropriate admissions to hospitals and facilitate early discharge. The Northern Board, in meeting its targets of 1,000 additional people to be treated in community settings, indicated that 75% of the additional support will be made available to elderly people, and that will have an impact on the problem.

There are no easy answers. I have made the case for substantial additional funding, some of which has now been secured and is finding its way into the service. Developing better services will provide a framework in which significant improvements can be made to the provision of acute services here. Significantly, I announced in the summer that Antrim Area Hospital will gain 24 additional medical beds at a cost of £3.47 million, a new chemotherapy unit costing £1.58 million, a new CT scanner costing £0.65 million, and four additional dialysis stations costing £0.35 million.

We must put capacity back into community services and hospitals to ensure that equipment is up to date and that staff are available. Since I became Minister, I have addressed in a sustained and strategic manner issues that had not received significant investment during direct rule.

**Dr O'Hagan:** Go raibh maith agat, a Cheann Comhairle. Will the Minister outline what she is doing to improve community care services, so that people who are able to use such services can do so rather than availing themselves of hospital care, thereby easing bed blocking?

**Ms de Brún:** I have made a provision of £19.1 million. Each board has suggested ways in which community care can be improved. I carried out a review of community care, which has led to information on good practice

being collated. Boards have been asked to take that into account when examining the implementation of the work to ensure that an additional 1,000 people in community settings are supported. That will help to address problems in the community, prevent inappropriate admissions to hospital and facilitate early dismissal.

**Mr Beggs:** The Minister has advised that some £19 million of additional money has been directed towards the easing of bed blocking. However, does she acknowledge that there is a problem in the Homefirst Community Trust area, which serves United Hospitals, in that it receives less funding for community care per capita? The inability to move patients from hospitals into the community and provide care packages adds to the waiting lists.

**Ms de Brún:** The £19.1 million is for community settings and will include funding for nursing homes and free nursing care. However, the bulk of the money will be used to ease bed blocking. There are difficulties with delayed discharge in United Hospitals, which, according to provisional figures for the end of June 2002, have the highest number of patients awaiting discharge. I allocate funding to boards, and the boards decide on the allocation of funding to the trusts based on population needs.

## Cancellation of Cancer Operations

2. **Ms McWilliams** asked the Minister of Health, Social Services and Public Safety how many cancer operations were cancelled last year due to lack of available intensive care unit beds. (AQO 25/02)

**Ms de Brún:** Níl teacht furasta ar an eolas seo san fhoirm inar iarradh é agus níorbh fhéidir é a fháil ach ar chostas díreireach.

That information is not readily available in the form requested and could be obtained only at a disproportionate cost.

**Ms McWilliams:** I am disappointed by the Minister's answer. That information should be available because cancer patients are being told to prepare for operations that require intensive care beds, only to be told that their operation has been cancelled.

My question is based on the case of an elderly woman who was admitted to the Ulster Hospital. On four occasions she prepared for an operation by fasting so that pre-operative medication could be administered, and on four occasions her operation was cancelled. She was sent home, told to fast, and to wait for a telephone call. A message cannot be sent out that the Health Service will tolerate such practice. Members must be told how many operations were cancelled in the past year because no intensive care beds were available.

**Ms de Brún:** That detailed information is not available because of the way in which it is collected and collated.

The cancellation of operations causes anxiety for cancer patients and their families. However, all trusts prioritise patients with suspected or diagnosed cancer, and they take all possible measures to minimise delays. Trusts have reported that cancer operations are rarely cancelled because intensive care beds are unavailable.

That will not be of much comfort to the small number of people who have been affected. However, although the Department does not collect statistics centrally, it is a matter that trusts prioritise and on which they take all possible action. Among other tasks, they ensure that procedures are in place to reschedule operations as soon as possible. Since I became Minister, I have taken considerable care to increase the number of high-dependency beds and intensive care beds that are available.

**Mrs Courtney:** I share Ms McWilliams's response to the Minister's reply. It is disappointing that those answers are not forthcoming. Anyone who has cancer, or whose life is at risk, deserves a proper explanation as to why his or her operation has been cancelled, whether it be due to the lack of an intensive care bed or to the lack of a surgeon. That came through loud and clear in the latest waiting list report. More operations are being postponed — sometimes for six months. I want the Minister to inform the House of those figures as soon as possible.

**Ms de Brún:** There is a major difference between patients not being told the reason why their operation has been postponed and my not having that information collected centrally. The fact that such information is not collected centrally does not in any way suggest that patients are not told why their operations have been cancelled.

I wanted to give an answer that was not based on information that trusts were able to give me from their own knowledge. That answer is that operations are scheduled by prioritising patients who have suspected or diagnosed cancer. It is rare for a cancer operation to be cancelled for that reason. Since 1999, when I became Minister, there has been significant expansion in the number of intensive care and high-dependency unit beds. It has considerably reduced the problems caused by the lack of availability of critical care beds. I accept that, occasionally, during peak periods, it is possible that all intensive care and high-dependency unit beds can be filled, which can result in urgent operations being postponed. Although such procedures are usually rescheduled quickly, I am, of course, not happy that any operation can be affected by the lack of such beds.

**Mr Hussey:** With regard to the lack of intensive care unit beds, will the Minister clarify whether the major problem lies with the facility infrastructure or with the lack of staff? Will she also explain what action she is taking to remedy the problem?

**Ms de Brún:** As I have said, considerable work has been done to increase the number of intensive care and high-dependency unit beds. One of the first tasks that I

undertook to do when I became Minister was to ask the Chief Medical Officer to review intensive care services. All 10 additional intensive care beds recommended by the Chief Medical Officer have been brought on-stream. The Department of Health, Social Services and Public Safety is clear that intensive care beds are available and staffed to support patients who require such care. However, the demand for those beds occasionally exceeds availability, and some operations might be temporarily delayed. As I said, immense action has been taken, given the cost of bringing on-stream both intensive care and high-dependency unit beds. It is not simply a question of funding; it is also a question of staff. When the Department examines how it can develop better services and the profile of each of the hospitals, it will also consider where intensive care and high-dependency provision needs to be.

3.15 pm

### Disabled Young People Leaving Education

3. **Mr J Kelly** asked the Minister of Health, Social Services and Public Safety what assessment she can make of the difficulties faced by disabled young adults leaving full-time education, and to outline how she intends to address the issue. (AQO 80/02)

### Day Care for Young People Leaving Special Schools

9. **Mr Ford** asked the Minister of Health, Social Services and Public Safety how many young people who left special schools this summer have been provided with (i) full-time; (ii) part-time; and (iii) no day care by health and social services trusts. (AQO 95/02)

### Day Care for School-Leavers with Learning Disabilities

13. **Mr Gallagher** asked the Minister of Health, Social Services and Public Safety whether she plans to provide additional day-care services for school leavers and young adults with learning disabilities in the Dungannon area. (AQO 94/02)

**Ms de Brún:** Le do chead, a Cheann Comhairle, freagróidh mé ceisteanna 3, 9 agus 13 le chéile ós rud é go mbaineann siad leis an cheist chéanna.

With your permission, Mr Speaker, I shall take questions 3, 9 and 13 together, as they relate to the same issue.

Tá sé tábhachtach go mbíonn teacht ag aosaigh óga mhíchumasacha ar thacaíocht agus ar sheirbhísí fóirsteanacha nuair a fhágann siad oideachas lánaimseartha. Thiocfadh dó gur teacht é seo ar oideachas, oiliúint agus fostaíocht bhreise a bheadh i gceist, chomh maith le teacht ar ionaid lae aosach nó scéimeanna gníomhaíochta lae



eile a reachtálaíonn iontaobhais sláinte agus seirbhísí sóisialta.

Éilíonn ‘Tosaíochtaí le haghaidh Gníomhaíochta 2000-03’ ar bhoird agus ar iontaobhais leanstan ar aghaidh ag forbairt seirbhísí chúram lae agus seirbhísí faoisimh do dhaoine le míchumas foghlama. Ar 3 Meán Fómhair bhuaile mé leis an Aire Oideachais agus leis an Aire Fostaíochta agus Foghlama le plé a dhéanamh ar cad é mar is féidir lenár Ranna agus lena ngníomhaireachtaí oibriú le chéile le freastal níos fearr a dhéanamh ar riachtanais na ndaoine óga seo. Iarradh ar fheidhmeannaigh tuairisc a thabhairt dúinn i mí na Samhna le moltaí.

It is important that disabled young adults have access to the appropriate range of services and support when they leave full-time education. That may be access to further education, training or employment, as well as access to adult day centres or other day activity schemes run by health and social services trusts. Priorities for action require boards and trusts to continue to develop the range of day-care and respite services for people with learning disabilities.

On 3 September, I met the Minister of Education and the Minister for Employment and Learning to discuss how our respective Departments and their agencies can work together to better meet the needs of those young people. Officials have been asked to report to us with proposals in November. Information on the numbers of young people who left special schools this summer, and the type of day care provided by health and social services trusts, has been placed in the Library.

As regards the development of day-care provision in the Dungannon area, I understand that the Southern Health and Social Services Board gave Armagh and Dungannon Health and Social Services Trust £68,000 in 1999-2000 for that purpose. A further £75,000 was allocated in 2002-03. The trust advises that the money was used to develop services in each of the four centres in the Dungannon area, especially the Aghnacloy day centre and the Oakridge Social Education Centre. The trust has reported that it is able to meet the day-care needs of special school leavers in that area.

**Mr J Kelly:** Does your Department require additional funding from the Executive if full day-care services for people with learning difficulties are to be developed?

**Ms de Brún:** I have bid for additional resources in the next spending round. Additional funding is needed for day care and, indeed, for a whole range of other health and social services. However, I was able to allocate a further, recurrent £300,000 to boards in June for wheelchair and day-care provision.

Given the pressures across the spectrum of health and social services, it is inevitable that difficult decisions must be taken about the allocation of funding. However, it is health and social services' responsibility to provide

day care for those young people who are unable, because of their disability, to access further education, training or employment. Many young people do not want a day-care place and aspire to do the same things as their non-disabled peers.

**Mr Ford:** I thank the Minister for her response to my question, although I regret that she could not supply the statistics for which I asked.

No matter what the Minister might say about young people who may or may not want a place in day care, is it not a fact that there is a huge demand — indeed, requirement — for day-care places, both from young people with learning disabilities and from their parents? It is not a crisis that is thrust upon the Minister at the last minute, as people tend to reach the age of 19 gradually over a period of years. Why can priority not be given to that important area when other services, such as acute hospitals, seem to get a much easier acceptance from the Department?

**Ms de Brún:** In relation to the Member's regret about the provision of information, I have placed that information in the Library. Members must accept that I am restricted by time when answering questions, and that asking specific questions with more than one part, which requires detailed information, makes that rather difficult.

Six people are currently not receiving day care. Of those, one is due to receive day care shortly, initially part-time, but that will be increased to full-time care as soon as possible; one was referred to the trust only on 4 September and has yet to have a needs assessment; and another person's parents were adamant that they did not want any day-care arrangements.

As I have said, I accept that additional funding is needed, and I have given additional funding to boards this year. Like all other Ministers, I must consistently bid for funding, and I shall continue to do so. I have given much more in that area than has been given for quite some time, although I accept that much more needs to be done.

**Mr Fee:** I welcome the Minister's confirmation that a cross-departmental approach will be taken. Will her Department take the lead in examining the issue of young people with disabilities who have left full-time education or specialist schools? Will she examine the quality of the accommodation in day-care centres, the facilities and equipment, the number of support staff available, and training provision for staff and parents?

**Ms de Brún:** The Minister of Education took the lead in organising our meeting with the Minister for Employment and Learning. I am happy to report that the discussion was positive. It was not a case of pass the parcel. We discussed how each Minister could contribute to the future of people who leave special schools.



My Department's remit covers the provision of services for those who are unable to access further education, training or employment because of disability. I have included the expansion of day-care services as a service development priority this year, and some of the additional funding allocated to boards for the development of community services is available for that purpose. However, it is important that we examine how our respective Departments and agencies can work together to better meet the needs of those young people.

**Rev Dr William McCrea:** Does the Minister agree that no other society forces its young people out of full-time education at the age of 19? Although many of those young people have the bodies of 19-year-olds, they can have mental ages of seven or eight. Where else are children forced out of full-time education at that age? Why are those young people discriminated against by not being allowed to continue in full-time education? Many adult centres are totally inappropriate for children of that age. They fossilize rather than further themselves, while other children are permitted to develop. Can the Minister find a way to give those children the same access to education, learning and employment that other children have?

**Ms de Brún:** I cannot say who does or does not have the right to education, because that is not within my area of responsibility. However, the Ministers and officials at the meeting made it clear that we want to examine overall needs and centre our work on the needs of individuals to ensure that they do not fall between two stools — or in this case three, given that three different Departments are involved.

I also accept that, although facility-based day care may meet the needs of some people, provision must offer choice. Boards, therefore, prefer to develop a range of day care with several providers, including those from the voluntary sector, to develop innovative, locally based schemes, which have been particularly beneficial in some areas. That is a more inclusive response to the day-care needs of today's young people.

### Ambulance Service Grievance Procedure

4. **Mr M Murphy** asked the Minister of Health, Social Services and Public Safety, subsequent to delays in the processing of a grievance procedure relating to the shift rota at Kilkeel ambulance station, whether the Ambulance Service is required to adhere to any standards for the processing of such procedure. (AQO 78/02)

**Ms de Brún:** Tá a cuid nósanna imeachta inmheánacha féin ag an tSeirbhís Otharchairr le déileáil le gearáin fostaithe. Leagann siad sin amach amchlár soiléir mar threoirle le déileáil le céimeanna éagsúla na nósanna imeachta.

Tuigim go raibh moill dhosheachanta ann roinnt uaireanta i bpróiseáil gearáin faoi phatrúin sealanna a thóg foireann Stáisiún Otharchairr Chill Chaoil níos luaithe i mbliana. Tharla an mhoill mar gheall ar chastacht na ceiste agus cionnas nach raibh fáil ar go leor foirne le painéal achomhairc a chur le chéile ag an am.

The Ambulance Service has its own procedures for dealing with grievances raised by employees. Clear time-tables are set as guidelines to deal with various stages of the procedures. I understand that earlier this year there were several unavoidable delays in the processing of a grievance about shift patterns that was raised by staff at Kilkeel ambulance station. Those delays were partly because of the nature and complexity of the issue and partly because of the unavailability of key staff to constitute an appeals panel during the period in question. Although the grievance was not upheld, the Ambulance Service has given the staff at Kilkeel an undertaking to review urgently the shift patterns.

**Mr M Murphy:** Go raibh maith agat, a Cheann Comhairle. I thank the Minister for her answer, and I am delighted to hear of the review. Will the Minister ensure that management listens to those at the coalface of accident and emergency care, and takes seriously their recommendations to improve the service rather than stick to the old, familiar ways? They are inadequate and endanger the welfare of patients.

**Ms de Brún:** Given the decision to refer the matter of shift patterns to the joint consultative negotiating committee for urgent consideration next month, it is clear that the service wishes to listen to staff, and that it accepts that there should be fair treatment and a consistency of approach for all staff.

### Breast and Cervical Screening

5. **Ms Lewsley** asked the Minister of Health, Social Services and Public Safety whether she will consider offering breast and cervical screening to all women over 40. (AQO 93/02)

**Ms de Brún:** Faoi láthair, tugtar cuireadh do gach bean idir 50 bliain d'aois agus 64 bliana d'aois dul faoi scagthástáil cheirbheacsach gach trí bliana. Ní thacaíonn toradh an taighde atá ar fáil go nuige scagthástáil a thabhairt isteach do mhná faoi 50. Seo dearcadh an Choiste Scagthástála a thugann comhairle do na hAíri Sláinte anseo agus i Sasana, Albain agus sa Bhreatain Bheag.

The programme invites women between the ages of 50 and 64 for breast screening every three years. To date, research evidence available does not support the introduction of breast screening for women under 50. That is the view of the screening committee, which advises Health Ministers here, in England, in Scotland and in Wales.

**Ms Lewsley:** I thank the Minister for her answer. What was the date of the most recent figures given to her Department? Would new figures not prove that the detection of more women over 40 might be relevant to the question that Monica McWilliams asked earlier about operations?

**Ms de Brún:** The reason for not introducing breast screening for women under 50 is that, in the view of the screening committee, there is a difficulty. The evidence available was assessed, and it is not at all clear that its introduction would lead to better detection. Mammograms, or X-rays of the breast, in women under 50 are much more difficult to interpret compared to those of women over 50. The breast tissue in women under 50 is more dense, thus making the X-ray difficult to read. Furthermore, the consistency of breast tissue in pre-menopausal women changes throughout each month, and that could result in an unacceptable level of false positives and false negatives.

**Ms Ramsey:** Will the Minister examine why the breast-screening service does not apply to women over 64?

3.30 pm

**Ms de Brún:** The extension of the breast-screening programme to women aged between 65 and 70 would increase the workload by approximately 40% and would require additional staff and finance. It is to be hoped that, in the coming year, I will be able to allocate funding for that purpose.

**Mr Speaker:** We have run out of time for questions to the Minister of Health, Social Services and Public Safety.

## FINANCE AND PERSONNEL

**Mr Speaker:** Question 2, in the name of Mr John Dallat, has been withdrawn and will receive a written answer.

### Needs and Effectiveness Evaluation Studies

1. **Ms Ramsey** asked the Minister of Finance and Personnel to make a statement on the current position of the needs and effectiveness evaluation studies.

(AQO 86/02)

**The Minister of Finance and Personnel (Dr Farren):** Five needs and effectiveness evaluations are being considered by the relevant Assembly Committees. They cover health and social care, education, financial assistance to industry, housing and vocational education and training. Further work has been undertaken on English expenditure figures provided by the Treasury. Such figures give us the comparators against which to assess our spending. Departments are being advised of the outcome of that work so that it can be taken into account in the consideration of the material.

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

**Ms Ramsey:** The needs and effectiveness study now with the Committee highlighted that the Health Service is seriously underfunded. Will that be reflected in the forthcoming Budget?

**Dr Farren:** The needs and effectiveness evaluation reports are important documents to be considered when finalising the forthcoming Budget, and they will help the Executive to make the best use of their resources. Health is an important priority, which has been emphasised in previous Budgets. The priority that we give to health and the results of the needs and effectiveness evaluations must be taken into account when we decide the Budget allocations.

## Spending Review

3. **Mrs Courtney** asked the Minister of Finance and Personnel to outline the key elements of the spending review and the implications for Northern Ireland.

(AQO 101/02)

**Dr Farren:** The Chancellor of the Exchequer announced the outcome of the national spending review on 15 July 2002, and the Executive are considering its implications for Northern Ireland and how best to allocate the additional resources. The spending review provided Northern Ireland with additional resources, based on the Barnett formula, of approximately £148 million for 2003-04; £507 million for 2004-05; and £930 million for 2005-06. Northern Ireland also received non-Barnett additions for ring-fenced items such as the European Union Special Support Fund for Peace and Reconciliation (EUSPPR). A draft Budget containing the Executive's assessment and proposals will be presented to the Assembly on 24 September 2002.

**Mrs Courtney:** Will additional resources target the Assembly's agreed priority areas?

**Dr Farren:** The Executive's position report presented to the Assembly on 5 June 2002 outlines the key issues that affect public services. Based on the comments received from departmental Committees and other interested parties, the Executive are considering the best allocation of resources. As I said earlier, the Budget will be presented next week.

I will outline the process thereafter. The draft Programme for Government and the draft Budget will be presented next week. In October and early November the Committee for Finance and Personnel will take evidence from other Committees on the draft Budget. That will be followed by a take-note debate on the subject, and the revised Budget will be presented to the Assembly for debate and vote in early December.

## Wet Weather Payments for Farmers

4. **Mr Poots** asked the Minister of Finance and Personnel what consultation has taken place with the

Minister of Agriculture and Rural Development on wet weather payments for farmers. (AQO 99/02)

**Dr Farren:** I met the Minister of Agriculture and Rural Development last week, and she raised the issue of wet weather payments for farmers. Her Department is reviewing the situation and will be unable to assess the position until the autumn, when the growing season has ended. The Minister of Agriculture and Rural Development and I have agreed that she will keep the issue under review, and, indeed, she has written to Executive Colleagues to advise them of the matter.

**Mr Poots:** I am surprised that the Minister of Agriculture and Rural Development raised the issue only last week; perhaps she did so because she knew that there would be a question to be answered this week. Is the Minister of Finance and Personnel aware of the severe problems that farmers have faced, and still face, as a result of the wet weather earlier this year? Does he realise that harvests are substantially down on previous years and that farmers are in hardship and crisis? What assistance can he offer to the Minister of Agriculture and Rural Development so that she can deliver help to the rural community?

**Dr Farren:** I am aware of the situation from my own observation and through direct contact with members of the farming community. I am sure that the Minister did not first consider wet weather payments last week. She advised me that she was reviewing the matter then, but that followed ongoing consideration of the matter by her and her officials in recent months. As I suggested in my initial answer, when the position becomes clear, then, and only then, can decisions be taken about allocations under the wet weather payments scheme.

**Lord Kilclooney:** The farming industry has suffered badly as a result of various diseases over the past few years, and the situation has been made much worse this year by the atrocious weather. Will the Minister of Finance and Personnel assure the House that if the Minister of Agriculture and Rural Development agrees that there should be an application to the European Commission for wet weather payments, she will have his Department's full support? Should such an application to Brussels be successful, will he tell the House whether it will be funded entirely from the European Commission, entirely from the Northern Ireland allocation, or from both? If a wet weather payment scheme proceeds, will payments be made to the agriculture industry generally in Northern Ireland or to individual farmers?

**Mr Deputy Speaker:** I remind the Minister that he should answer only one of those questions.

**Dr Farren:** I thank the Member for the three invitations to speculate on what action would be sought from the Executive on a situation that might arise. I hesitate to become involved in such speculation, but in my previous response I said that I am aware of the situation that has been affecting the agriculture industry. However, my

Colleague, the Minister of Agriculture and Rural Development must advise me about the precise situation as regards wet weather payments.

**Mr Bradley:** I will try to ask a question that Mr Taylor may have left out. There are currently no central EU funds from which the Department of Agriculture and Rural Development can bid for aid. Will the Minister, therefore, assure the Assembly that he will be sympathetic to any bids from the Minister of Agriculture and Rural Development to address the problem?

**Dr Farren:** My role is to consider bids by all my Colleagues. Bids from the Minister of Agriculture and Rural Development will be given careful and sympathetic consideration, in line with that approach.

## Water Charges

5. **Mr Molloy** asked the Minister of Finance and Personnel to detail (a) any plans to introduce water charges; and (b) whether the Chancellor of the Exchequer expressed a view on water charging; and to make a statement.

(AQO 112/02)

**Dr Farren:** There are no plans to introduce water charges. The Minister for Regional Development is considering the future organisation of the Water Service. His proposals will have important implications for the future financing and structure of water and sewerage services. The Chancellor of the Exchequer has not directly expressed a view on water charging here.

**Mr Molloy:** Is there European pressure on the Minister to introduce water charges? Will he take into account the TSN policy and the effect of the imposition of water charges on those with larger families who use more water, and those who live in deprived areas? It is important that services should be freely available, as charges would be detrimental to them.

**Dr Farren:** I am aware of the European Directives, but responsibility for responding to Directives on water quality and sewerage lies with the Minister for Regional Development and the Minister of the Environment. As with all the members of the Executive, I am aware of the need to bear the TSN policy in mind, whenever or wherever policies are being developed.

**Mr Close:** Does the Minister agree that the introduction of water metering would conserve water? Does he also agree that it would dispel the myth, prevalent throughout Northern Ireland, that people receive their water free of charge?

**Dr Farren:** That question must be directed to the Minister responsible for the Water Service, not the Minister of Finance and Personnel.

**Mr Byrne:** Will the Minister confirm that there are no current plans or intentions to introduce a system of



direct water metering charges for domestic householders in Northern Ireland?

**Dr Farren:** The consultation document on the review of the rating system includes a section on the future financing of the Water Service. Having read it, they will be aware that the Executive have ruled out any proposal for the introduction of water meters.

### Strategic Resources Shift

6. **Mr J Kelly** asked the Minister of Finance and Personnel what plans are being developed to ensure a strategic shift in resources across Departments in 2003-04 and future years. (AQO 84/02)

**Dr Farren:** The Executive are considering the development and annual revision of the Programme for Government, which will inform our budgetary decisions, and seek to develop a collective direction involving agreed priorities, based on our assessment of where the greatest needs lie across the 11 Departments. We will take account of the outcome of the national spending review and the responses to the consultation that followed the publication of the Executive's June position report. Next week, a draft Budget containing our assessments and proposed spending plans will be presented to the Assembly, alongside the revised Programme for Government. At that stage, Members and Committees will have a full opportunity to engage in the process before the revised Budget is presented to the Assembly for a debate and vote on it in early December.

3.45 pm

**Mr J Kelly:** I thank the Minister for his comprehensive reply. Am I to take it from his response that this plan will end the large underspending of the past couple of years? Will it ensure that those Departments that need the money will get it, rather than have certain Departments bidding for more funding than they need?

**Dr Farren:** If Mr Kelly is implying that any funds are allocated without proper consideration of the business plans associated with the expenditure in question, I must dispel that belief. Before the summer, I presented the Assembly with an outline of how I intend to deal with the problem of underspending. Several Members, and the Committee for Finance and Personnel in particular, have been quite exercised about this, and action to address it is under consideration as part of the process of formulating the draft Budget.

### Financing our Future

7. **Ms Lewsley** asked the Minister of Finance and Personnel for a timetable on the implementation of 'Financing our Future'. (AQO 103/02)

**Dr Farren:** On 21 May, I announced to the Assembly the Executive's launch of a consultation exercise, 'Financing

our Future', which focused primarily on the report by the working group on the opportunities for public-private partnerships (PPPs) in Northern Ireland. The consultation period, lasting some 18 weeks, has, to date, been proactive and constructive. It has included several public meetings and discussions with organisations, including representatives from the trade union movement, the business community and the voluntary sector. The process continues with today's debate and ongoing engagement with Committees. The consultation period ends on 20 September, when detailed consideration and an evaluation of comments and written submissions will begin. The findings will be submitted to the Executive later this year, and they will make a final decision on a policy framework for PPPs in Northern Ireland.

**Ms Lewsley:** Has consideration been given to the Committee for Finance and Personnel's report on PPPs?

**Dr Farren:** I thank the Member for her supplementary question, which reminds us of the significant work undertaken by the Committee on public-private partnerships. The Committee's report made a useful and significant contribution to the discussion on the use of PPPs to fund public services. As part of the consultation process for the working group's report, account was taken of responses to the Committee for Finance and Personnel's report. In formulating their final policy on the opportunities for using public-private partnerships, the Executive will take account of the PPP working group's report and the Committee's report.

### Procurement Policy

8. **Mr Attwood** asked the Minister of Finance and Personnel what progress has been made in implementing the new procurement policy. (AQO 102/02)

**Dr Farren:** Since the announcement of the new procurement policy on 27 May 2001, the procurement board has met and agreed its terms of reference and approved the establishment of a procurement practitioners' group, which will assist the development of policy. It has also approved a work plan for the central procurement directorate for the period up to March 2003. The next meeting of the board is scheduled for early December, at which a plan for implementing all recommendations of the procurement review team will be tabled for discussion.

**Mr Attwood:** I acknowledge this bold and imaginative initiative by the Minister — an effort to ensure that public procurement becomes a mechanism to address long-term unemployment and disadvantage. However, the Minister will be aware that there were only four proposals for pilot schemes to the public procurement board two weeks ago, despite the fact that 20 were hoped for. Can the Minister reassure the Assembly that permanent secretaries will redouble their efforts to ensure that contracts of sufficient volume, value and impact are



identified and forwarded to the public procurement board for consideration as a pilot scheme?

**Dr Farren:** This is an important issue, and the idea of working through a series of pilot schemes is central to achieving the social dimension to procurement policy — helping the long-term unemployed in particular. As suggested by the procurement review team, Departments have initially been asked to submit capital work projects with a value above the European Union tendering threshold of £3.8 million, or service projects with a value above £500,000. Some Departments have stated that they have no such projects available in the current financial year, and so far only five projects have been identified for inclusion in the scheme. My officials are working closely with all Departments to ensure that we achieve our target of 20 projects.

**Mr C Murphy:** Go raibh maith agat, a LeasCheann Comhairle. The Minister for Regional Development, in a written reply to Mr Attwood, appears to be quite sceptical, if not openly hostile, to the idea of using procurement policy for some of the benefits that the Minister has outlined. What authority will the Minister or the procurement team have in this regard, given that the Department for Regional Development is a huge spender and is heavily involved in public procurement?

**Dr Farren:** Views differ on this issue, but it is clearly set down and endorsed by the Executive that procurement policy should have this clear social dimension. I will be working with my officials and ministerial Colleagues to ensure that this objective is achieved across all Departments. I am conscious of the considerable scale of expenditure for which the Minister for Regional Development is responsible.

## Review of Rating Policy

9. **Dr McDonnell** asked the Minister of Finance and Personnel to provide an update on the review of rating policy. (AQO 119/02)

**Dr Farren:** I announced the launch of the consultation stage of the review of rating policy on 27 May 2002. A dedicated web site has since gone online, and three public conferences have been held. There has also been a series of meetings with groups, organisations and district councils. Furthermore, evidence has been given to the Committee for Finance and Personnel, the Committee for Enterprise, Trade and Investment, and the Committee for Agriculture and Rural Development. Consultation ends in mid-September, but I have decided to extend the deadline for Committees and district councils until 7 October. The consultation period will be followed by an assessment of responses. I hope to present a report on identified options to the Executive later this year. If significant change is endorsed, the legislative process will commence in 2003.

**Dr McDonnell:** It is important that the public have a say on the issue. Only last week, I took part in a seminar run by the Federation of Small Businesses in the Long Gallery, at which those present participated eagerly and expressed their views. Can the Minister give us a flavour of the public response to the consultation so far?

**Dr Farren:** I appreciate the curiosity about statements at those meetings. Members will fully appreciate that it is taking officials some time to collate and tabulate all the reactions, comments and recommendations made during the consultation.

I will, however, give a flavour of what has transpired. In June three public consultation conferences were held in Enniskillen, Belfast and Derry to discuss domestic and non-domestic rating issues. Representatives from local businesses, district and borough councils, public sector bodies and the voluntary sector attended the conferences, as did members of the public. Total attendances were disappointing. However, since the web site went live, it has been visited on more than 17,400 occasions, resulting in the consultation paper being downloaded more than 7,000 times. Clearly, society is availing of electronic communication to a greater extent than it is attending consultation meetings.

Several meetings were held with specific interest groups, including the Association of Local Government Finance Officers, charitable groups, the business sector and trade union groups. Two forums were held during August, with the landed professions — estate agents, valuers and surveyors — and with district council personnel through the Northern Ireland Local Government Association.

In addition, by mid-September the head of the Rating Policy Branch will have addressed council meetings in Fermanagh, Castlereagh and Omagh. Meetings have also been held with the Northern Ireland Federation of Clubs, the Confederation of British Industry, the Northern Ireland Independent Retailers' Association, the Northern Ireland Voluntary Association and the Federation of Small Businesses. A wrap-up conference has been organised for 23 September in Belfast.

We have attempted to consult widely, and many organisations and groups have approached us seeking the attendance of officials to explain the issues. I trust that the consultation process has been as comprehensive as possible during the past few months.

**The Deputy Chairperson of the Committee for Finance and Personnel (Mr Beggs):** The Minister has outlined that a wide range of business interests and professional groups have responded to date. Can he advise Members of the degree of the response from domestic ratepayers to date? Would he acknowledge that a greater public response would be expected if more details were available of how the changes might ultimately affect individual households? Why was such indicative information not included in the consultation paper?

**Dr Farren:** Although many organisations might appear to represent the non-domestic sector, every representative is resident somewhere, and, I imagine, interested in domestic rates. All aspects of the review were considered. I am reasonably assured that as comprehensive an opportunity as possible has been afforded to both domestic and non-domestic interests to address the issues.

The amount of downloading from and the number of visits to the web site show the high volume of interest across both areas.

4.00 pm

### **Ouseley Report on the Review of the Senior Civil Service**

10. **Mr McCarthy** asked the Minister of Finance and Personnel whether he will make public the findings of the Ouseley Report on the review of the Senior Civil Service. (AQO 98/02)

**Dr Farren:** The report and consultation document on the appointment and promotion procedures for the Senior Civil Service was made available to the public on 9 July as part of the consultation process. It is not a question of when the report will be published; it was published some time ago.

**Mr McCarthy:** When will the Minister's Department act on the report's findings? The longer it fails to act, the more the staff in the Civil Service will be discriminated against when they reach 60.

**Mr Deputy Speaker:** It is impossible for the Minister to give Mr McCarthy a full answer in the time allowed, and I am sure that he will receive a written answer.

**Mr Close:** On a point of order, Mr Deputy Speaker. Is it in order for the Minister of Finance and Personnel to refer me to the Minister for Regional Development to find out whether the Minister of Finance and Personnel agrees with a concept under water charges?

**Mr Deputy Speaker:** It is entirely appropriate for a Minister to refer you to another Minister if he feels that that is right.

**Mr Close:** To find out whether he agrees with something?

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

## **REVIEW OF OPPORTUNITIES FOR PUBLIC-PRIVATE PARTNERSHIPS IN NORTHERN IRELAND**

*Debate resumed on motion:*

That this Assembly notes the Report of the Review of Opportunities for Public-Private Partnerships in Northern Ireland and the Executive's consultation process on 'Financing our Future'. — [*The First Minister (Mr Trimble).*]

**Mr J Kelly:** Go raibh maith agat, a LeasCheann Comhairle. It was heartening to hear the First Minister say earlier that private finance initiatives (PFI) or public-private partnerships (PPP) are not a panacea and to hear other Members say that they are not the only horse or show in town. I was afraid that those of us who opposed PFI might be accused of being Luddites.

The Conservative British Government of John Major launched PFI in 1992, and the original motivation behind it was to reduce public expenditure in Britain at a time in the early 1990s when public borrowing was perceived to be out of control.

The British public sector budget had a surplus of £20 billion in 2001, but that did not inhibit the uncontrolled progression of PFI. One would expect that, with that huge surplus, the critical issue of public expenditure would be well under control. However, it seems that PFI has become a means of replacing public expenditure rather than adding to public services.

There are enormous questions around PFI that have not been studied, answered or resolved. Everyone seems to take the view that "if the money is there, why not use it?" However, they have not considered the serious consequences. The First Minister said that he had met school teachers and others who considered PFI to be praiseworthy, as it allowed them more time to run their schools rather than be concerned about replacing old buildings, about the fabric of the building, or about looking for new buildings.

However, the British Medical Association said that, apart from the evidence on beds and doctor numbers, PFI health provision has led to questioning every service provided. As a result, prolonged and expensive treatments have been withdrawn, and care is concentrated on patients who are broadly healthy rather than on the chronically sick. Expensive treatments such as maternity and accident and emergency treatments are reduced. Those who can afford to buy insurance get private treatment, while those who cannot must wait for services that may never materialise. The number of people who die while on waiting lists for cancer care is a case in point.

In effect, PFI acts to put profit before people. It therefore acts to undermine the very foundations of socialised medicine and social services. That is at the core of my objection to PFI. Trade unions and workers in Scotland have successfully campaigned on the basis of

their objections to keep workers out of PFI contracts so that they cannot be transferred to the private sector against their will. In Wales, ancillary workers such as cleaners and meal workers have simply been classified as clinical staff, which enables them to remain in the public sector under existing rules.

Yet officials in the Northern Department of Education are reportedly still telling education and library boards that all PFI projects must include the transfer of employees, who are, once again, primarily cleaners and meal workers. The privatisation of workers is the greatest source of private profit in many PFI projects, and there must be a strong suspicion that those who favour PFI are concerned that their projects will not be attractive enough to the private sector unless workers are transferred or made redundant. The protection of public sector workers may be the most important immediate task of the campaign against PFI.

The unions here said:

“We are still gravely concerned with regard to the insufficient time and resources allocated to exploring alternative sources of funding such as Not For Profit, the USA experience, and Bond Finance.”

Those unions are the most vocal against PFI. Seamus Close said that public money is cheaper, but public responsibility is a major factor in how we approach the notion of PFI. We are not against increased spending on public utilities such as schools, hospitals and roads. However, we question whether it is cheaper to do that through public funding or through PFI. I argue that the latter is certainly more expensive. The evidence so far will confirm the notion that privately financed projects are more expensive than those funded publicly.

The strategic investment body is, I believe, the driver behind PFI. Have the voluntary sector and the unions been consulted on the matter? There are issues of accountability and planning. Where PFI has been introduced, the planning of public services has effectively been carried out by private companies without there being adequate accountability. For example, hospital bed numbers are reduced to make plans affordable without any concern for the knock-on effects for other parts of the Health Service.

The British Medical Association has shown that the health trusts running the first 14 hospitals in Britain that were built under PFI will lose a total of 3,700 beds, and that, on average, bed numbers will decline by 31%. A study carried out by a consultancy company that works for the NHS trusts and the Department of Health found that every £200 million spent on privately financed hospitals would result in the loss of 1,000 doctors and nurses. In essence, PFI drains money away from areas that need it more, thus increasing health inequalities.

We must take a serious view of PFI. There must be more consultation, particularly with the unions involved. For example, the Irish National Teachers' Organisation

(INTO) has opposed PFI throughout Ireland. The INTO has not been adequately consulted about the effects of PFI's introduction on its members. Nor has there been sufficient consultation with trade unions in services such as hospitals and the public sector bodies that we have mentioned.

The main conclusion is that PFI is one of the most important social and economic policy challenges that the Irish people face. Attempts by both the Dublin and British Governments to displace public spending on important social projects with private finance would have a damaging impact on the fabric of our society, both now and in the future.

Private finance holds out the politically attractive prospect of “free money” with which to provide popular projects now. That is an illusion, because the profit motive and the bargaining expertise of business, not to mention the possibility of corruption, mean that society will pay greater costs in the future for the “free money” that politicians seek today.

It will be difficult to explain to the people who seek and deserve new hospitals and schools that PFI is an unnecessary illusion, but the resources that are required to provide for social needs must be made available. The Government have those resources, or can get them through more equitable fiscal policies, such as fair taxation, or through alternative ways to raise money, such as the issue of bonds.

We should not be deluded by PFI or PPP into thinking that this so-called “free money” will solve all our problems. Until we have a proper and comprehensive consultation and a thorough examination of experiences elsewhere, we should exercise caution in coming to any definitive conclusions about the benefits of PFI.

**Mr A Maginness:** The debate has been interesting, and there has been a degree of maturity in the Chamber on the subject of PPP, at least until Mr Kelly's speech. Most Members have refrained from simply opposing a proposition out of financial orthodoxy. We have refrained from applying a sort of financial fundamentalism to public administration and finance. However, listening to Mr Kelly's speech, I became confused as to whether he was a member of Sinn Féin or a member of some other party.

The reality is that the Sinn Féin Ministers are the most dedicated to PPP and PFI. They are the people who have most relied on PPP. It is a matter between Mr Kelly and his Colleagues in Sinn Féin as to whether those differences can be satisfactorily reconciled. Listening to his speech, I could not believe that they could possibly be reconciled. However, that is a political problem for Sinn Féin.

**Mr J Kelly:** I do not know whether Mr Maginness has been listening. I was attempting to say that we must look at PPP and PFI more critically than we have done



before. I am, and will continue to be, a member of Sinn Féin — *[Interruption]*.

**Mr Deputy Speaker:** Order.

**Mr J Kelly:** What I have said does not conflict with anything that the Sinn Féin Ministers have done so far. All we are saying is that we should have a critical look at PFI, and not accept it, as the First Minister said this morning, as some kind of panacea.

**Mr A Maginness:** I am sure that Mr Martin McGuinness and Ms Bairbre de Brún are relieved that Mr Kelly is now in line with the Sinn Féin approach to PPP and PFI. Alarm bells may not be sounding in Sinn Féin over Mr Kelly's previous remarks, given that he has entered quite a strict qualification on his previous propositions to the House.

Members can check the record on that.

4.15 pm

The SDLP's position on PPPs is not one of financial orthodoxy or financial fundamentalism. We accept that there is a need for PPPs, but it is qualified, not absolute. Strict conditions should be imposed. It is important that there is value for money. There is no point in having PPPs if they only serve to indulge the private sector and allow it to make excessive profits out of the system of public finance.

It is essential that there be enhanced value for the money used in PPPs. That money must be additional to public finances, rather than a substitute for them. The SDLP also believes that the benefits of efficiency and effectiveness should compensate the public for the outlay. Our goal is to see high quality public services that give value to everyone. If PPPs do not deliver that extra efficiency and effectiveness, they are a waste of time.

The SDLP also wants to see the protection of workers' rights in PPPs. We want transparency in how the Government decide on PPPs, undertake the selection process, and agree their contractual terms and conditions.

I share the reservations expressed by other Members in the debate, as does my party. I have reservations about the length, complexity and size of contracts. We want PPP contracts to be properly controlled; we cannot give the private sector contracts that allow it to evade proper responsibility.

The SDLP would like to see the Department of Finance and Personnel and the Executive explore the option of voluntary, or not-for-profit, bodies or companies for the public services. The Executive should also be exploring the use of bonds.

All types of enterprise involve some risk and some burden on our citizens, but there is nevertheless a variety of funding solutions for Northern Ireland.

As Chairperson of the Committee for Regional Development, I re-emphasise that there has been an enormous deficit in our road network, public transportation system and water service for the past 30 years. That deficit is grave and challenging, and both Members and Executive Ministers have a duty to address it. That duty includes exploring PPPs and PFIs to find out whether they can assist us in trying to remove that deficit so that we can rebuild public services in Northern Ireland. We need a cocktail of options, not only one source of public funding.

The SDLP also welcomes the creation of a strategic investment body, which will be useful in monitoring what is being done and in targeting what should be done. That body will be crucial in developing future public services.

The reinvestment and reform initiative, which was negotiated by the Deputy First Minister and the British Treasury, has been mentioned. Everyone welcomes that: it gives the Government greater flexibility as regards public finance. It will help us to rebuild public services and our physical infrastructure; however, it will not be the final solution to our problems. It will be of limited use because we need an income stream for it to be used effectively. It is essential that we do not overburden the ratepayer; that would be grossly unfair. Therefore, there is a limit to the reinvestment and reform initiative, and Members should bear that in mind. There are no easy options in relation to public finance. However, the SDLP believes that Members should explore as many aspects of public finance as possible.

We must explore PPPs and PFIs and apply them in the terms that I have outlined. In the Republic, PPPs and PFIs are used to rebuild the roads structure and transportation system. Some 1.2 billion euros, which is 20% of the road building programme, and 80 million euros, which is 13% of public transport, are PPP-based. Therefore, it is not only in Britain that PPPs are being used effectively. Our neighbours in the South also use them effectively, and we should explore that situation further. The Executive and the Minister of Finance and Personnel are right to come to the House to seek Members' views. We should give a guarded welcome to the report.

**Dr O'Hagan:** Go raibh maith agat, a LeasCheann Comhairle. It is a pity that a good debate was marred by cheap shots from Alban Maginness — I suppose that has more to do with the fact that Members are in election campaign mode than anything else. The Ministers are, unfortunately, working within financial constraints, and the British Treasury is pushing us down a particular road.

Sinn Féin is not alone in voicing concerns about the move towards reliance on private finance initiatives and public-private partnerships to finance public capital building programmes and the provision of public services. Sinn Féin, through the Chairperson of the Committee for Finance and Personnel, Mr Molloy, instigated an inquiry



into PPPs and alternative ways to finance much-needed investment in public services, such as in hospitals, schools and infrastructure. That inquiry found that the best way to finance public services was through the public purse, using funds generated by general taxation, and, fundamentally, that public services should remain under public control.

Unfortunately, neither the review of opportunities for PPPs nor the Executive's consultation on 'Financing Our Future' have explored the full range of procurement and financial options. For example, the Irish Congress of Trade Unions (ICTU) statement to the review shows that the trade unions share that concern. It says:

"We are still gravely concerned with regard to the insufficient time and resources allocated to exploring alternative sources of funding such as Not For Profit, the USA experience and Bond Finance."

We can look for explanations from around the world, and we can call the initiative PPP, PFI or anything we want, but it is privatisation of our public services to a greater or lesser degree. The Assembly is being pushed into accepting that option. We must remember the key point, which is that the public sector can borrow at a more favourable rate than the private sector. We must look seriously at alternatives. I shall suggest a few, but it is for the Executive to examine them.

**Mr A Maginness:** The Member said that PPP was a form of privatisation, but it is an alternative form of public financing. It is really an alternative form of borrowing by the Government. Naturally, it has implications for workers and those involved in service delivery, but we must ask whether we would have the specialist cancer centre without PPP. If that centre is established in Belfast, will you regard it as a privatised cancer service?

**Mr Deputy Speaker:** I remind Members that they must put questions through the Chair.

**Dr O'Hagan:** We all recognise the difficulties and the constraints under which we must operate. Every Minister in the Executive is faced with the choice of whether to go down the road of PPP or PFI to provide essential services. My party and others argue that we should examine alternative means. We should not have to choose between PPP and nothing.

The people who carry out the review must look seriously at alternatives. For example, we should examine the possibility of the Assembly's borrowing from external bodies such as the European Investment Bank.

Of course, that should be subject to sensible economic calculations, such as expected changes in exchange rates. The problem is that British Treasury rules disallow all public bodies here from doing that. In European terms, that is highly unusual, and it is a tight restriction on the autonomy of public bodies, without any economic basis. If special provisions can be made for the North to borrow

from the British Treasury, which the 2002 Brown/Blair initiative introduced, they should be extended to allow the Assembly to decide when, where and from whom to borrow.

4.30 pm

Public bonds were also mentioned. Why should the Assembly not be able to sell bonds to the public at a guaranteed rate of return over several years? Public bonds have been suggested as a possible way to fund the London Underground, and they are regularly used by US cities to fund major projects. Crucially for our purposes, the British Treasury recently waived its opposition to bonds in order to allow Wales to modernise its water supply through that source of finance. Glas Cymru, a non-profit public company issued £2 billion worth of bonds to buy the utility that supplies water and sewerage services to Wales.

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

**Dr O'Hagan:** I have already given way; I prefer to speak.

Public bonds are preferable to PFIs because lower rates of interest can be charged and public bodies can borrow at lower rates. Most importantly, capital investment projects such as hospitals and schools remain under full public ownership and management. In the case of Glas Cymru, bond funding was accompanied by an innovative management incentive scheme. The emphasis is on reducing the cost of provision by ploughing savings back into lower user fees, and managers are paid bonuses if they reduce costs to the public. That is the opposite of PFIs, which give incentives to managers to realise profits at the expense of the public and the workforce.

All parties here should campaign to persuade the British Treasury that we should have tax-raising and tax-varying powers to give the Assembly much more freedom to operate financially.

**Mr J Kelly:** Does the Member agree with my earlier statement that, despite a surplus of £20 billion in 2001, the British Exchequer continued to use PFI to replace public expenditure instead of adding to it? Would she also agree, in case I am accused of being a Luddite by Alban Maginness, that professional associations, such as the British Medical Association, oppose PFI? It was described in the British Medical Journal as "perfidious financial idiocy" that could "destroy the NHS". The Chartered Institute of Public Finance Accountants, the National Audit Office and the House of Commons Committee of Public Accounts and the Health Committee have also criticised PFI in Britain.

**Dr O'Hagan:** I thank the Member for his intervention, and I agree with his comments.

**Mr A Maginness:** I assume that tax-raising powers will involve taxing people's income or taxation in some

other form. Does the Member suggest that taxes here should be increased — that the taxpayer here should pay more than in other places?

**Dr O'Hagan:** I am not suggesting any such thing. Tax-raising and tax-varying powers would give the Assembly much more financial freedom to operate.

Unfortunately, PFIs and PPPs are central to the British Government's plans for transforming the economy. They are inextricably linked to the Budget, the Barnett formula, the reinvestment and reform initiative, the strategic investment body, increases in rates, and the imminent introduction of water charges.

It is part of an effort by the British Treasury to tighten its control of our fiscal policy and to privatise public services. It is an agenda that is not being effectively resisted by an Executive dominated by the orthodox SDLP and UUP.

We do not have economic sovereignty; unfortunately it is subject to shrinking financial resources and unduly restrictive policy planning rules laid down by the British Government, which seriously compromise the capacity of the Northern Executive to meet local needs. The Assembly merely administers British Government policy within already set and extremely tight financial constraints and guidelines.

With regard to this report and 'Financing Our Future', I ask the Executive to go back to the drawing board, give us more alternatives, and let us try to be more imaginative in our approach.

**Mr Hussey:** I realise that the best funding that the Assembly can have is directly from the public sector. However, if I needed somewhere to live, but could not afford to pay for a house, I could rent one, take out a mortgage, or seek some sort of finance. There is a tremendous deficit in the overall infrastructure of Northern Ireland, which must be addressed. The Assembly must consider the current review of the possibility of PPPs and the different ways of using them.

I want to deal with four issues that arose during the debate. First, when the Committee for Finance and Personnel visited England, it saw that the Department of Health had a central unit that assisted health trusts to formulate contracts, including specifications, risk transfers, financial models, legal issues, and so on. It had a centre of excellence and expertise. We need to develop such a centre in Northern Ireland.

Many of our Departments have PPP units replicating costs, particularly for consultancy. Would it not be better to employ consultants to provide financial and legal expertise on a permanent in-house basis as in the Department of Health? The development of a centre of excellence, which could develop the necessary expertise, should be wholly cross-departmental.

Secondly, people have referred to the private sector gaining profit through PPPs. Naturally the private sector will not get involved in this for philanthropic reasons; it will seek to make a return on its investment. The private sector will make a profit regardless of whether we use conventional finance, the reinvestment and reform initiative or PPPs. However, we should not allow the private sector to lead the process or tell us when projects should commence. More especially, the private sector should not tell us which projects we should undertake. We must take the lead in all projects.

Thirdly, I want to deal with asset management. Mr Beggs and I have tabled questions about Northern Ireland's assets. The public sector has many various assets and, perhaps, we are not making the best use of them. Some might not be suitable for the purpose for which they are being utilised; others may be doing nothing for us. For instance, are our schools big enough, and will they be big enough in the future? What is the true condition of our water and sewerage systems? How much will it cost to bring them up to standard? There is now a cost to capital through resource accounting and budgeting. We need to know whether the concept that public finance is cheaper than private finance still applies, or how much difference there is. For example, what authority do the Executive have to sell off their assets and to use the receipts for future investments?

Members of the Committee for Finance and Personnel mentioned that little or nothing has happened since the publication of its report on PPPs. I tend to agree, but we must acknowledge what has happened. At departmental level, capital expenditure plans have been ongoing, and PPP plans have been developing. The weakness lies in the lack of a strategic approach at central level. That shows the long-term effects of short-term planning on resource manoeuvrability.

Some of the capital budgets allocated to Departments in the 2001-02 Budget have also featured in end-year flexibility. Would resources available in 2001-02 have been better spent at 2001-02 prices rather than being earmarked as rolling-on, end-year finance?

We need to have a strategic investment body up and running with a remit of examining current PPP and capital plans. The Committee made visits to see how other areas dealt with PPPs; we must learn from the mistakes and, indeed, the experience of others. I know of capital projects where the design, build and maintain concept has been a very effective way of ensuring a first-class product. It is a logical idea; the people who designed and built the project will also maintain it, so they will not do a sloppy job that will cost a fortune to maintain.

Some people are concerned that some projects undertaken in Northern Ireland may be too small. However, there is no reason why we cannot consider bundling

projects; that is, bringing projects together to create a larger package that is attractive to the private sector.

**Mr Armstrong:** I welcome the opportunities for public-private partnerships in Northern Ireland. The motion is particularly timely, as it comes at the end of the 'Financing Our Future' consultation and in the aftermath of the Report of the Review of Opportunities for Public Private Partnerships in Northern Ireland.

The consequences of years of underinvestment in public services can be seen today clearly. Although not the solution in themselves, public-private partnerships have great potential to dispel our huge investment deficit, which is projected to increase over the next decade.

A form of public-private partnership is already operating in the agricultural sector. Today's farmers do not have the same access to machinery or expertise as agricultural contractors do. A type of public-private partnership is formed whereby agricultural contractors employ farmers to do the job that they know best. People are taking the initiative to run a business. As my hon Friend mentioned, the people who erect buildings will maintain them and ensure that they are fit for their intended purpose.

Many European countries have seen a rise in the number of private finance mechanisms as opposed to traditional public procurement methods. However, it has been suggested that public-private partnerships are best suited to areas such as regional development to boost roads and general infrastructure, and for hospital development.

One concern about the use of public-private partnerships is the potential for unaccountability — partners could take on a mind of their own. The best way to prevent such unaccountability is for the public sector to maintain its monopoly of policy responsibility and control. However, the Government must co-operate with private bodies and work with those who often have excellent insight into what is needed.

Members are aware of the investment deficit in water and sewerage services. Problems have reached crisis point and can no longer be ignored. There have been many questions in the House on sewerage problems and the environment.

4.45 pm

**Mr Hussey:** Mr Armstrong mentioned a crisis situation, suggesting that such crises are forcing us into forming PPPs. Interestingly, when we visited Dublin to explore this issue, one of the contributions was that PPPs were being approached there from a position of strength, with a strong economy. Rather than being forced into the situation, many of the capital projects that led them through to PPP/PFI were a matter of choice. I am sure that Mr Armstrong will agree that we must find a model that suits the system in Northern Ireland.

**Mr Armstrong:** I agree that we have to explore all avenues and find a model that best suits the Northern Ireland economy. The crisis in our public services is highlighted by the Report of the Review of Opportunities for Public Private Partnerships in Northern Ireland. We must fully explore all alternative sources of financing. PPPs are seen as a more expensive option than conventional financing; however, they offer potential benefits. The working group noted that one advantage is that the contract mechanism ensures that the service is maintained to a specified standard during the lifetime of the contract. For example, penalties can be introduced for breach of contract.

No one solution, including PPPs, is likely to meet the many needs of Northern Ireland, which has higher levels of social disadvantage than the rest of the United Kingdom. I hope that this alternative source of finance for public services leads to the discovery of other such sources in Northern Ireland.

**Dr Farren:** I found the debate valuable and interesting. I compliment Members on their contributions, whether they were supportive, critical or sceptical of PPPs.

Concerns were raised about the form of consultation. The 'Financing our Future' report was compiled by a representative group, which consisted of members of the trade union movement, the business community and the voluntary and community sectors. A very intense process of discussion and engagement took place, not just within the group, but with others. All aspects of the issue have been thoroughly considered by the working party. In that respect, all interested parties had the opportunity to have input to the report. Members who have read the report will note the reservations expressed by representatives of various sectors about it. Notwithstanding those reservations, however, the report has received broad support.

Since the report was presented to the Assembly in May, public consultation has proceeded. I chaired a public meeting in Belfast in June and found it stimulating and thought-provoking. It was well-attended and the discussion was very lively indeed. Several key issues were highlighted that must be borne in mind. Many were echoed by Members in this debate. In particular, our social partners, including trades unions, expressed concerns about public-private partnerships.

The meeting also provided an opportunity to clear up some of the misunderstandings about PPPs held by the public and other representative organisations. A panel of experts from the public, private and voluntary sectors and trades unions provided assistance. Other public meetings were similarly constructed. The junior Ministers represented the Office of the First Minister and the Deputy First Minister, and assistance was provided by the panel of experts, which was drawn from those who had helped to formulate the report.



The meeting was followed up by a meeting last week to hear the views of a delegation from the Northern Ireland Public Service Alliance, one of the largest trade unions to represent public sector workers. Some were critical of PPPs, and all views will be used to inform the policy-making process on their use.

Furthermore, I recently visited one of our operational school PPP projects to hear at first hand how it operates. It proved to be a valuable visit that allowed me to see the benefits to teachers and pupils of new accommodation with modern and well-maintained facilities. I learned how education is provided in the school and how its ancillary services are delivered.

That visit added to the experience that I gained with the Department for Employment and Learning, which uses PPPs to provide accommodation in the further education sector. Members who are familiar with the project in the North-West Institute of Further and Higher Education in Derry and the Belfast Institute of Further and Higher Education's recently opened Millfield campus, and who have kept an eye on projects to provide new accommodation in Omagh and Dungannon, will appreciate how such PPPs are being developed with the intense co-operation and involvement of the institutions and their representatives, as well as those who have brought the projects to fruition.

Despite our long experience of providing such facilities by the traditional route, we do not reflect on one striking feature of public-private partnerships: the close involvement of those who provide the facilities, buildings and services and those who use them. It is a partnership that potentially gives both sides greater influence and control over the project's development, not just until the doors open but also throughout the lifespan of the project. That contrasts with the traditional procurement route, whereby a facility would be handed over and, in a sense, that would be that. If the facilities were not up to scratch, clients might have to chase contractors for a long time to ensure that things were put right. By highlighting the problems with traditional procurement, I am not arguing that PPPs are always the correct choice. However, I ask Members to reflect on those experiences, to familiarise themselves with projects, especially those in their constituencies, and to learn from people's experiences.

Not everything has gone as well as was expected; however, that is also the case with traditional procurement. I hear frequently about bad experiences across the water from those who are more critical of PPPs. However, 25 projects have been delivered through PPPs in Northern Ireland, and none of the literature published by commentators in Northern Ireland that I have read contains detailed references to the local experience from which we could learn. I am not saying that we should not learn from experiences elsewhere. References were made to the South's experience. We were ahead of the South. In

formulating its PPP policies, the South took advice from us and now it is ahead of us. We must take pride in the good elements of our experience and learn from those projects in which the experience was not so favourable.

PPPs have several key features. First, there is a need to standardise contracts. The approach to PPPs has been ad hoc, which is inevitable during the learning phase. However, in recent months, the Office of Government Commerce issued new standard contract documentation, on which Northern Ireland Departments and the other devolved regions were consulted, with the publication of a revised edition of the standardisation of PFI contracts, which is an update of original Treasury guidance. It is to be used throughout the UK and represents a significant step forward in establishing a standard approach to many of the issues that arise in private finance initiative projects. If we decide to make further use of the PPP route, the guidance will ensure that the process leading up to the signing of contracts is more expeditious.

As part of their consultation, the Executive will consider the adoption of the guidance, which is vital to speeding up the procurement process, spreading good practice and minimising development and bidding costs for Departments and the private sector. We must draw on the experience of projects awarded elsewhere, not just across the water but in other countries with extensive experience. Some people suggest that PFIs have been confined to Britain, Northern Ireland and the South. I invite Members to read the relevant literature that shows the widespread use of variations of PPP in many countries with different cultures and economic and social circumstances.

5.00 pm

The phenomenon, therefore, is not peculiar to these islands.

The PPP review clarifies the scale of the deficit in infrastructure investment; almost every Member who contributed to the debate acknowledged that fact. That deficit amounts to £6 billion across all programmes. Innovation and creativity are required to find ways to bridge the gap in order to meet the future infrastructure needs of the region. The way in which we organise ourselves to meet that challenge is critical.

No single solution — be it the use of PPPs, borrowing or more traditional public expenditure — is likely to meet all our needs. In this major consultation on the report of the review of opportunities for PPPs, comments are invited on the full range of possible sources of funding and how those can best meet our needs. Some commentators believe that PPP funding is being promoted as “the only show in town”, and to some extent that was reflected in the debate. However, that is far from being the case. If PPP were to fail to deliver best value and high-quality services, or if it were to put workers' rights at risk, I would not recommend it while I am responsible



for the portfolio. PPP should be put into the context of the investment resources and possibilities that are now at our disposal.

The policy framework on the use of PPPs should take account of local needs and circumstances and ensure that continued use is made of the current capital budgets. Would that it could all be done through the current capital budgets. Members address this issue as though the current capital budgets can grow simply at the wave of a magic wand. However, when Members also suggest that we should have some fiscal autonomy such as additional forms of taxation at our disposal, they acknowledge that the only way to get additional money into the public purse is to ask the public to put it there. I trust that that is acknowledged fully when such points are being made.

It is recognised in the review that there are merits in the PPP approach to finding funding options to address some capital investment requirements. Other routes will be used for other aspects of capital requirement.

The Chairperson of the Committee for Finance and Personnel raised several issues, including a request for details about the reinvestment and reform initiative and the subsequent funding implications. The practical arrangements regarding the reinvestment and reform initiative are being developed, and the details of the borrowing must be settled with the Treasury. Borrowing to fund capital projects must be paid for from additional revenues.

When the reinvestment and reform initiative is advocated, it cannot be separated from the way in which that borrowing will be serviced. Mr Hussey illustrated that point well when he stated that when we make use of a borrowing facility to finance our homes, for example, we must be able to satisfy the lender that we have the capacity to service the borrowing. If we were to ask the Treasury to grant us a loan, we would be asking somebody else to help us to service that loan. That "somebody else" is the person on the street, whether he or she is in Belfast or elsewhere, or, as one of my ministerial Colleagues put it recently, is "the man in the Central Bar". I am not sure which bar he frequents, but he was referring to one of those kinds of establishments.

Borrowing to fund capital projects will have to be paid for from additional revenues. It would not be funded from the existing departmental expenditure limit, and the level of borrowing will, of course, need to be considered further by the Executive and the Assembly.

As has been mentioned by several Members, the relationship involving the strategic investment body, the procurement board, the Departments and the Department of Finance and Personnel, must be considered fully as we take forward work with the Assembly on the reinvestment and reform legislation and implement the initiative. It is vital that the various public bodies work constructively

together to ensure that the infrastructure needs are met in the most effective and co-ordinated manner.

The idea of having a specific Minister with responsibility for leading on the investments was raised. No decisions have been taken on that matter, but Members should bear in mind that departmental Ministers have the responsibility of establishing priorities. We will be seeking advice from the strategic investment body as to the financing of the various projects. The House would not wish a single Minister or small group of Ministers to have the sole responsibility for driving forward a programme of investment that would take the prerogative of establishing priorities away from departmental Ministers. Therefore, teamwork is required, and that must be exercised in the Executive. Ideas will be brought forward when discussion takes place on the legislation associated with the establishment of the strategic investment body.

Mr Molloy asked about a strategy to embrace all the financing options. Some of the main funding issues, including the future of the rating system and the use of PPPs, are currently under public consultation. The Executive will consider the outcome of those consultations, and the work on the reinvestment and reform initiative, when setting their strategic plans.

The investment board will have a key role in advising on strategic planning of infrastructure investment, and we trust that its membership will provide the kind of experience and skills necessary to give the optimum advice to the Executive. In its membership, I expect the investment board also to reflect the interests of the social partners.

All PPP projects must demonstrate that they meet value for money criteria before being approved. The projects have long lives, and, as several Members mentioned, we must learn from experience and keep the projects under review to check that value for money is being delivered.

On the question, raised by Mr Molloy, of the capital resource held by Departments, the Executive are considering the level of capital spending as part of their work on the Budget.

As to the longer-term funding implications, which were also raised by Mr Molloy, the evidence from projects to date is that they are not an excessive charge, as they amount to less than 0.5% of the overall departmental expenditure limit resource Budget. Concerns were raised as to whether an inordinate level of debt might mount up, with the implication being that that would not be sustainable. That is a matter for the Executive, with the assistance of advice from the strategic investment board, to consider. It would be foolhardy of the Executive to simply extend borrowing beyond the capacity to service it. Indeed, if there were any attempt to do that, the Treasury would flash warning lights at a very early stage.

Mr Molloy and Mr Weir raised issues concerning the capacity of the construction industry, and deal flow, which are important points. One of the benefits of our strategic investment body is that it can engage with the construction industry when significant projects in which it is involved are being discussed to ensure that the deal flow can be managed. We do not want a situation to arise where we are signing up to projects that cannot be delivered. Members would be very critical if we were to do so.

Patricia Lewsley and Jane Morrice expressed concern about the potential of public-private partnerships to create a two-tier workforce. We are alert to that matter, and the working group dealt with it in some depth. It is important that we learn from our experience. No evidence of this phenomenon has emerged from our public-private partnerships. In our experience, no transferred workers have been made compulsorily redundant. The number of public-private partnerships is small, and —

**Mr Deputy Speaker:** Minister, you have only two minutes left to speak.

**Dr Farren:** Many questions were raised, and if I do not touch on those in the time remaining, I assure Members that I will attempt to deal with them in writing.

Since the consultation on PPPs is the responsibility of the Office of the First Minister and the Deputy First Minister and of the Department of Finance and Personnel, I would like to thank Members for their views and comments on this important issue. We have had other opportunities to hear Members' comments, and I am sure that they will continue to make their views known to us as the consultation progresses. This debate will help the Executive to shape the policy on the use of public-private partnerships, and to deliver value for money and high-quality services. I was pleased to hear the importance of both emphasised strongly in several contributions.

The 'Financing our Future' consultation has helped to promote wide discussion on PPPs with social partners, the general public and the private sector on their potential roles in meeting our investment needs. People have genuine concerns about PPPs, as the working group and the consultation exercise have highlighted. We in the Office of the First Minister and the Deputy First Minister and Department of Finance and Personnel share those concerns, particularly those relating to employee and equality issues. We are determined that the policy that we finally adopt on the use of PPPs will address those fears. We want to achieve a policy framework for the use of PPPs that helps to deliver an investment strategy that will provide a much-needed public sector infrastructure that finds broad support among all stakeholders and social partners.

I thank Members for the debate.

*Question put and agreed to.*

*Resolved:*

That this Assembly notes the Report of the Review of Opportunities for Public-Private Partnerships in Northern Ireland and the Executive's consultation process on 'Financing our Future'.

## CHANGE OF COMMITTEE MEMBERSHIP

**Mr Deputy Speaker:** There are four motions on the Order Paper, in the names of Mr Bradley, Dr McDonnell and Dr Hendron. As these are business motions, no debate should ensue. Therefore, I propose, by leave of the House, to put the Questions on these motions en bloc.

### Business Committee

*Resolved:*

That Ms Patricia Lewsley shall replace Mr John Tierney on the Business Committee. — *[Dr Hendron.]*

### Committee for the Environment

*Resolved:*

That Mr Michael Coyle shall serve on the Committee for the Environment. — *[Dr Hendron.]*

### Committee for Employment and Learning

*Resolved:*

That Mr Michael Coyle shall serve on the Committee for Employment and Learning. — *[Dr Hendron.]*

### Committee on Standards and Privileges

*Resolved:*

That Mr Michael Coyle shall serve on the Committee on Standards and Privileges. — *[Dr Hendron.]*

*Adjourned at 5.15 pm.*

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# NORTHERN IRELAND ASSEMBLY

Tuesday 17 September 2002

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

*Members observed two minutes' silence*

## NEW START FOR PUBLIC TRANSPORT IN NORTHERN IRELAND

**Mr Speaker:** I have received notice from the Minister for Regional Development that he wishes to make a statement on a new start for public transport in Northern Ireland.

**The Minister for Regional Development (Mr P Robinson):** I am grateful for the opportunity to announce to the Assembly the start of a period of public consultation on my proposals to reform the planning, delivery and governance of public transport.

When I presented the regional transportation strategy to the Assembly in July, I stressed the importance that I accorded to the future development of public transport. Of the proposed £3.5 billion investment envisaged in the regional transportation strategy over the next 10 years, some 32% will be allocated to public transport. That represents a doubling of the funding allocated to public transport over the past 10 years. It will require at least this level of investment if we are to achieve the stepped change in public transport strongly advocated throughout the process of formulating the regional transportation strategy. However, I cautioned that the scale of investment required for public transport is unlikely to be met by public expenditure alone. Inevitably, we will have to explore opportunities for attracting private sector finance and expertise.

Today, I am publishing an outline for a new institutional and regulatory framework in a consultation document, 'A New Start for Public Transport in Northern Ireland'. I will outline the key elements of my proposals. The Northern Ireland Transport Holding Company and its Translink bus and rail subsidiaries would be amalgamated into a new, dynamic, publicly owned operating company, Transport Northern Ireland. An independent public transport regulatory body would be established, initially in shadow form and in due course on a statutory basis.

I propose the progressive injection of private sector finance and expertise to the public transport market, but only in so far as it makes sound commercial sense and is acceptable to the community. I want a new start for public transport in Northern Ireland, and I regard these proposals as important stepping stones to a system fit for future years.

The development of public transport in Northern Ireland has suffered severely from violence, underinvestment and declining patronage. Last year, despite the successful introduction of free travel for senior citizens and the uplift that that initiative brought to ridership, the overall number of Translink passengers fell by 2.5%.

Despite the difficult conditions of the past 30 years, Translink management and staff have managed to provide a regular and necessary service to the Northern Ireland public. I pay particular tribute to the courage and dedication of Translink drivers in dealing with the unwarranted, mindless attacks that have been inflicted on them in recent months. I reiterate my abhorrence of those attacks, which are made against the whole community.

On a wider level, I acknowledge the dedication of Translink staff in keeping services running despite a public expenditure framework that has constrained new investment and innovation. There is a growing recognition that some of the difficulties that we face in reversing the decline in passengers and quality of service may stem from the institutional structures in which public transport operates. It is generally acknowledged that the relationship between the Department for Regional Development, the Northern Ireland Transport Holding Company and the operating companies — Northern Ireland Railways, Citybus and Ulsterbus — must change.

Unlike the rest of the United Kingdom, the publicly owned Translink companies have a near monopoly on public transport services. They are controlled by the board of the Transport Holding Company, which has a statutory duty to act commercially but is constrained by public expenditure limits on borrowing and expenditure. Although the Department for Regional Development has overall responsibility for public transport policy and grant funding, it has been left to the Transport Holding Company to determine the extent of the network and the standard of public transport services using the resources that are made available to it. The Transport Holding Company has had the tension of trying to plan adequate services to meet social needs while managing the Translink companies in pursuit of commercial objectives.

I propose to address the institutional shortcomings by amalgamating the Northern Ireland Transport Holding Company and its Translink subsidiaries into a new publicly owned public transport company, Transport Northern Ireland. That company would have direct lines of accountability with the Department for Regional Development as its shareholder. It would continue to have a leading role in the provision of bus and rail services but would

focus on developing the commerciality of the operating companies, with a view to competing in a market progressively opened up to private sector participation.

The Transport Holding Company's functions of planning a transport network to meet social needs and of setting and enforcing appropriate standards of services would be transferred to a new public transport regulatory body. That body would be appointed by, and report directly to, the Minister for Regional Development. Initially, it would be set up in shadow form in the Department for Regional Development, but once formally established, it would have its own staff and resources and would operate at arm's length from the Department.

The proposal's aim is to make the planning and delivery of public transport more rational and objective, and to give the operating companies an independent challenge. The establishment of a regulatory body would rectify the current conflicting role whereby I, as Minister, am the public owner, policy maker and part regulator of public transport.

Under my proposals the regulatory body would take on the licensing of bus routes as part of the overall economic regulation of the bus network. The Department of the Environment carries out that function at present, and I welcome the Minister of the Environment's agreement that the proposal be included in the consultation paper. The Department of the Environment would, however, continue to regulate the safety and operating standards of road passenger transport providers under a revised licensing system.

I have considered public transport arrangements in other countries. Experience suggests that independent or quasi-independent regulation is essential in developing a market in public transport. However, there is no one-size-fits-all model for the roles and responsibilities that a regulatory body should hold. Although the consultation paper lists some possible functions that a regulatory body might perform, the most appropriate arrangements for the Northern Ireland market have still to be worked out. Ultimately, the precise role of the body will be determined after the public response on how far Translink services should be open to the market. Changes to the functions of the Transport Holding Company and the establishment of a regulatory body will require new legislation. I intend to review the Transport Act (Northern Ireland) 1967 and other relevant legislation and in due course introduce a Bill for the Assembly to give effect to an agreed package of reforms. That is unlikely to happen before 2004. Members will have the opportunity to scrutinise the proposed finer details for the new institutions at that time.

I turn now to how private sector finance might be introduced to the public transport market. There are many models in use across Europe. At one end of the spectrum there is the closed market, in which a public sector

operator is protected from competition. Such an absence of competitive pressures can give rise to cost and other inefficiencies and act as a barrier to new forms of finance. However, there are mechanisms whereby the public sector operator can be given scope to franchise services to private sector providers or can introduce private investment through borrowing. Under that model, it may be possible for the public sector operator to engage the private sector in the development of major schemes such as the proposed rapid transit initiative for Belfast.

At the other end of the spectrum is the deregulated free market with minimal barriers to entry by anyone and direct competition between operators. That model operates in the rest of the United Kingdom outside London. Although deregulation has undoubtedly resulted in operating efficiencies, the market turmoil that it has caused is well documented. Between those two models there are various permutations of controlled competition, where operators have exclusive rights to deliver services for fixed periods after the award of a contract through competition. Under that model, a publicly owned public transport company would compete actively with the private sector for tendered services.

In the consultation paper I do not advocate unfettered deregulation as in Great Britain but rather a model that retains a publicly owned public transport company subject to the possible progressive injection of private sector finance in a manner acceptable to the community. Some key strengths in the present model of delivering public transport must be considered when new arrangements are being developed. For example, Translink's near monopoly of bus services enables it to cross-subsidise uneconomic services from profitable services without the need for further revenue support from the Assembly's Budget. Furthermore, through its control of rail and bus services, Translink has the potential to plan and deliver public transport in a wholly integrated manner.

At the same time, we cannot overlook the findings of recent studies of public transport systems in Europe. Those found that cities whose public transport services were regulated under controlled competition experienced higher rates of growth in passenger trips and better recovery of operating costs through fare income than those with closed public transport markets. Those studies concluded that controlled competition helps to maintain stability in the public transport market at a lower cost and with better prospects for permanent involvement.

Controlled competition, in which Transport Northern Ireland would play a major part, has the potential to ensure more transparency in the allocation of the Assembly's resources and better value for money for taxpayers and passengers. I posed the question in the consultation paper of how far and how quickly the public transport market should be opened up to private sector participation. No doubt I shall receive a range of views. Whatever the out-



come of the consultation, the timetable for introducing greater private sector participation is likely to be influenced by European Union liberalisation measures now in draft form. EU Regulations on public service requirements and the awarding of public transport service contracts are under consideration. If adopted, they will move us away from the virtual closed market model.

10.45 am

Challenging years lie ahead of us in implementing the agreed vision for public transport set out in the regional transportation strategy. Today's consultation paper outlines a bold new framework to help us to plan and deliver the modern transport services that the people of Northern Ireland deserve. We are faced with the real opportunity of shaping a new start.

I look forward to the paper stimulating a lively debate and encouraging a broad cross-section of the public to come forward with their views. It is my intention to publish the findings of the consultation process by the end of the year. Thereafter, I shall reflect carefully on the responses, and, in due course, I shall introduce a set of detailed proposals for consideration by the Assembly.

**The Chairperson of the Committee for Regional Development (Mr A Maginness):** The Committee for Regional Development has been kept informed of the Minister's views, and for that we are grateful. The nub of the statement is the creation of a new, dynamic, publicly owned operating company, Transport Northern Ireland, and the setting up of an independent public transport regulatory body. Both developments are to be generally welcomed. The detail is for discussion and careful scrutiny by the Committee.

Although the closed market makes people uncomfortable and has not worked to the advantage of public transport in Northern Ireland, many people fear the opening up of the market to private operators, given what has happened in England and elsewhere.

**Mr Speaker:** The Member must ask his question.

**Mr A Maginness:** Can the Minister assure the House that the introduction of the private sector into public transport will not affect the quality of service and will not undermine the publicly owned transport system in Northern Ireland?

**Mr P Robinson:** I shall consider the Committee's views with great interest when I receive them. Committee members may have the opportunity to speak to other stakeholders before making their own comments.

My purpose in introducing the proposals is to approve the public transport service. The principle of opening up public transport to private sector involvement is an attempt to move away from having the service that the provider decides is appropriate to one that is more responsive to the consumer — in this case, the passenger.

There should be no fear of the outcome. The purpose is to improve service delivery in a way that responds to user demand. The consultation paper's underlying principle is that we are not suggesting unfettered deregulation. We are considering a controlled environment. Worldwide evidence suggests that the best results are achieved in controlled circumstances. EU documentation shows an increase in public transport usage in areas with a controlled private sector involvement. It also shows a reduction in public transport usage when there was either total deregulation or total public ownership.

**The Deputy Chairperson of the Committee for Regional Development (Mr McFarland):** I welcome the paper, and although I recognise the good work done by Translink, it is clear that Northern Ireland needs a new management system for the twenty-first century. Private sector operators will be interested in the most lucrative routes, and that will affect the service on lesser-used routes. Translink subsidised the less valuable routes with the more lucrative ones. How does the Minister envisage private sector involvement dealing with that?

I acknowledge the good work of the General Consumer Council for Northern Ireland, but has the Minister given any thought to introducing an independent transport users' group to look after the interests of passengers and support the management of the proposed system?

**Mr P Robinson:** I will not rule anything out at this stage. The need for a users' group is a legitimate point that can be considered during the consultation exercise. The Deputy Chairperson of the Regional Development Committee will know from his interest in the subject that about 4% of usage on Northern Ireland's roads is by public transport. I stated that 32% of the proposed funding would be allocated to public transport. However, that allocation was increased to 35% between the draft and the final regional transportation strategy, so there is significant development potential in public transport under the regional transportation strategy and opportunities for public transport to progress.

The large scale of investment envisaged requires the Department to examine the model and make progress in institutional terms. I do not want to be prescriptive in how I envisage the handling of various routes, but section 4.5 of the consultation paper acknowledges that Translink can cross-subsidise uneconomic services from profitable ones. That is a key element that the regulator will have to consider, because it is only on the regulator's analysis that any decisions will be taken on the involvement of the private sector. The Department must ensure that the regulator can examine the data, analyse it and make recommendations. Those decisions will be the key to at least two issues — one of which the Deputy Chairperson has mentioned.

**Mr Hay:** The 10-year regional transportation strategy is a vital component of the regional development

strategy. The Committee for Regional Development has stated that new management structures are required to deliver the vision that all Members have for public transport. Does the Minister see any merit in consulting the private operator on the new structures and on the vision that the Department and the Committee have for the future of transport in Northern Ireland?

**Mr P Robinson:** Private operators will have an interest in the consultation exercise and will want to give the Department their views, which will be considered with all others. However, there is a range of possible permutations from the public sector operator to the possibility of introducing private investment through borrowing and the franchising of services to the private sector and thence right through to the private sector operator. There is a range of possible outcomes. Anyone who has been in my position will have respect for the role that Translink staff have played in difficult circumstances.

The immense new opportunities should be highlighted. The number of routes and trips on public transport will increase substantially, and that will provide a good future for the people who are involved. Public transport will not operate to the detriment of the people who are working in the system.

**Mr McNamee:** Go raibh maith agat, a Cheann Comhairle. Gabhaim mo bhuíochas leis an Aire as a ráiteas. I welcome the Minister's announcement of the consultation paper 'A New Start for Public Transport in Northern Ireland' and the proposals to improve the management of our transportation system. If we are to have the public transport system envisaged in the regional transportation strategy, we will need a new vision of how that is managed.

The Minister says that he proposes to proceed with his injection of private sector funding into the transportation system. Has he considered proposals that involve public sector finance? If so, can he assure the House that his proposals will represent good value for the spending of public funds? Has the Minister fully considered the long-term implications that private sector finance would have for his Department's spending of public moneys?

**Mr P Robinson:** One of the first conundrums that I faced in the Department was the issue of trains. I had visits from the Northern Ireland Transport Holding Company and from Translink. They wanted to lease new trains, but could not do so under the present arrangements. I am not going to be prescriptive about the extent of private sector involvement.

There is a danger that, the more questions I answer, the more it might seem that my mind is closed on the issue. That would reduce the effectiveness of the consultation process. My mind is not closed; I am avoiding responding to some questions simply to leave the issues open, because legitimate views will emerge on a range of issues.

There is a qualification in the statement and in the consultation document in relation to the injection of private sector interest and involvement, which is the extent to which the community in Northern Ireland felt comfortable with it. The key gauge for the consultation exercise is to find out how much the community believes the issue should be opened up.

My experiences of travelling outside Northern Ireland are that the private sector has become increasingly involved in public transport and that higher standards have been created through that competition. That is to the advantage of the consumer, and more people are now using public transport. That is a key objective in the regional transportation strategy. Much of the process flows directly from the regional transportation strategy and its objectives to encourage the use of public transport and to make Northern Ireland transportation less dependent on the car.

**Mr Close:** Can the Minister guarantee that proposals such as that in section 4.7 of the consultation document would not lead to the further demise of public transport through the closure of uneconomic routes?

In my constituency of Lagan Valley, people are conscious that an axe hangs over the Knockmore railway line. It is ironic that the Minister can talk about a new start while contemplating the closure of some lines. I hope that this is not an extension of a closure policy and that the Minister, who referred to rationality and objectivity, will ensure that lines are kept open, rather than introduce the private sector and allow it to close more lines.

11.00 am

**Mr P Robinson:** I never cease to be amazed at Mr Close's ingenious inclusion of the Antrim-Knockmore line in every question.

If a consultation exercise were to result in the recommendation that routes be opened up to private sector involvement, that option would be scrutinised by the regulator. Experience has shown that regulators, such as the water industry commissioner, Alan Sutherland, in Scotland or the electricity regulator, Douglas McIlldoon, are friendly to the consumer. Mr Close will find that the regulator is an independent champion of the consumer. I would have thought, therefore, that he would have been applauding me from the Benches for adopting an approach that will surely assist the consumers' case.

**Ms Morrice:** Undoubtedly, the service is in dire need of a shake-up. I therefore welcome the long-awaited attempt to make a fresh start. However, the Minister admitted that he is the public owner, the policy maker and part regulator of public transport, so he must be responsible for the mess that it is in.

First, how much will the regional transportation strategy cost? Secondly, how long will it take to implement, and, in the meantime, what will he do to ensure that the buses

in Bangor link up with the trains and that the trains run on time?

**Mr McCartney:** Jawohl, mein Herr.

**Mr Speaker:** That should be “meine Dame”.

**Mr P Robinson:** I did not confess to operating the trains and buses, so Ms Morrice has reached an unwarranted conclusion. However, she said that the service is dire and in need of a shake-up, and the General Consumer Council for Northern Ireland made remarks about the attractiveness of the service. Even if the Member and the Consumer Council had not made those comments, it is clear that services in Northern Ireland could be improved.

The increased funding, the institutional changes and changes in arrangements, which I proposed in the regional transportation strategy, are precisely intended to give the service a shake-up. However, as to who is responsible for the mess, the Member ought to recognise that the mess did not start in December 1999. It existed before I took responsibility for the Department.

The Department is trying to draw in private finance, thereby reducing the amount of public expenditure required. Until I know what model will be adopted, I cannot say what the reduction in public sector funding might be. The costs of providing the type of public transport system that we require are set out in the regional transportation strategy document, which I am sure the Member has read in detail.

**Mr McCartney:** I welcome the aspirational aspects of the Minister’s statement — I use the word “aspirational” advisedly, and in no way as a criticism of the Minister. Yesterday, when the First Minister presented the working group’s review of the opportunities for public-private partnership, he said that there was a major deficit in public investment that would require £6 billion over the next 10 years.

Last Monday, the Minister for Regional Development, when answering questions about water and sewerage, indicated that £3 billion would be required over the next 20 years — or £1.5 billion over the next 10 years. If my arithmetic is correct, his Department will require £5 billion over the next 10 years for water, sewerage and transport. That leaves £1 billion for the major spending Departments — Health and Education.

Does the Minister agree that whether the money comes from public-private partnerships, Treasury loans or elsewhere, the capital and the interest on that money must be repaid? Does he envisage that that repayment will come from increasing the rates, with a tap tax on water or possibly a toilet tax on effluent? If not, where will the money come from to meet what the Minister — properly and correctly — described as a major requirement? Are we back to the position where there is no way we can reasonably fund, without screwing the people of Northern Ireland,

the terrible deficit left by the British Government, which was accepted by those who negotiated the agreement?

**Mr P Robinson:** My Department requires £3 billion over the next 20 years. Over 10 years, that is £0.5 billion more than we might get through public expenditure normally, if one were to extrapolate the figures over that period. It is not an additional £3 billion over 20 years — that is the amount we require over 20 years. Therefore, in the next 10 years it would be only £0.5 billion, rather than £3 billion, that would be counted in the £6 billion mentioned by the First Minister yesterday.

The underlying message, however, is accurate: there is no free money. If one borrows from, or involves, the private sector, there is a payback. The private sector is not renowned for being so altruistic that it provides the public sector with services without getting a return. The Minister of Finance and Personnel — and I had better be careful to get my facts right because he is in the Chamber — will tell you that, if the reinvestment and reform initiative is used, a new stream of income must be identified. Therefore, that would be additional to the regional rate.

If a PPP is used, that can be covered under the departmental expenditure limit to the extent that there is room for manoeuvre with regard to additional expenditure. Undoubtedly, if the reinvestment and reform initiative is used, an additional stream of income will be required. Therefore, an increase in rates may be required.

**Mr Byrne:** I welcome the Minister’s statement, particularly the proposals to set up a single transport company in Northern Ireland and to establish a new regulatory body.

There will be anxiety among the employees of the bus and rail companies, and they need some reassurance. Their fear would be that we might have privatisation of bus and rail by the back door. Can the Minister assure us that that is not his primary intention and that there is a commitment to retain a substantially publicly owned transport system?

Does the Minister favour a controlled competition system for Northern Ireland, so that all areas of the region can enjoy some level of public transport provision? How can the number of passengers using public transport be increased, and will clear targets be set for the new company?

**Mr P Robinson:** I made it clear in the statement that there would be a public transport company, which would be opened up to private sector involvement. I understand the concerns of those employed in public transport. There is always a concern when someone proposes the consideration of something new. However, if those involved look at the regional transportation strategy and the consultation paper, they will see that there will be an enormous uplift of employment prospects in public transportation.



Expenditure on public transport has significantly increased in the regional transport strategy. Although it accounts for 4% of road usage at present, it has taken about 16% of public expenditure over the past 10 years. That was increased to 32% in the draft and to 35% in the final document. With regard to expenditure, therefore, there has been a massive uplift in the potential of public transport.

If I worked in public transport and saw that the percentage of spend would more than double, that the number of routes in the Province would increase, that the frequency of journeys would improve and that a new rapid transport system had been proposed, I would see opportunities rather than doors closing behind me. There are real opportunities, and people who work in public transport should not be afraid of the document. They should grasp the challenge and the opportunity that it presents and move forward to the advantage of public transport users here.

**Mr R Hutchinson:** I welcome the Minister's statement and especially his recognition that Translink has had a difficult time during the past 30 years and has made the best of a bad job. How will the new transport body be appointed?

**Mr P Robinson:** I have views on how it could happen. However, how it will happen is a decision that will be taken after proper consultation. I want to hear the Member's proposals and those of others.

If the new arrangement that he refers to is the overseeing body, Transport Northern Ireland, I expect that it will be established through ministerial appointment. Ministerial appointment has always involved those who are closely connected with public transportation. At present, I am delighted with the equality on the new Northern Ireland Transport Holding Company (NITHCo) board. We have managed to bring in expertise from areas where the interest in public transport has been much wider at a higher level. That body of people immediately responded to the challenge of a new start and has been prepared to embrace it.

If the arrangement that the Member refers to is the regulator, I believe that that body will, at first, be set up in shadow mode under the Department. As the statutory basis of the regulator will go through the House, clearly he will have to be at arm's length from the Department.

**Lord Kilclooney:** I welcome the Minister's statement and his praise for those who worked in Northern Ireland's public transport services during the troubles, to which must be added the name of the chief executive, Mr Ted Hesketh. I share the concerns of the hon Member for North Down about where the finance for the proposals will come from. We look forward to hearing about that in the months ahead. However, it is great to see new thinking being directed towards our public transport system.

I have, for many years, been interested in the resumption of a rail system linking Dundonald, Comber and Newtownards. I welcome, therefore, the proposed establishment of a public transport regulatory body. I know that it will be a shadow body at first. However, can the Minister give the House some idea of when it will become a separate independent body to which Members will be able to feed their thoughts on new routes that are required in Northern Ireland?

**Mr P Robinson:** I welcome the Member who is visiting the Assembly today. We are always delighted to have him in the Chamber.

**Lord Kilclooney:** It was the hon Member for North Down who was not here yesterday. I know that he hinted that that should be mentioned.

**Mr P Robinson:** The Member for North Down was here yesterday — I had the pleasure of having a conversation with him then.

**Mr McCartney:** I voted as well.

11.15 am

**Mr P Robinson:** Having read the Member for Strangford's newspaper, which is going around the constituency, I hope that he will not use the next issue to take credit for this initiative, in the way that he took credit for my decisions on free fares for senior citizens, the Comber bypass and Castlebawn. *[Laughter]*.

**Mr Speaker:** Order.

**Mr P Robinson:** However, the Member rightly draws attention to the significant role that the workforce at every level of Translink has played over recent years. One is apt to forget, or it may diminish in one's memory, the very difficult role that the workforce has had to perform in the past 10 or 20 years to keep a public transport system going amid the level of conflict on our streets. The community has much to be proud of in its public servants and has much for which to commend the workforce at Translink.

Sadly, the difficulties that the workforce faces continue, with regular attacks on bus and train drivers. I know the view of the House in its condemnation of such activity. I join the right hon Gentleman in welcoming the honour received by Ted Hesketh recently. The CBE was a fitting reward for his services to public transport and to the community in Northern Ireland.

The Member mentioned the prospect of a rail line between Dundonald and Newtownards or Comber. The future for that entire area best lies in the development of a rapid transit network. If a decision is eventually taken to run rapid transit down the Comber railway line from Dundonald into Belfast, there must be opportunities for Newtownards or Comber to link into that line. That is much more viable than any heavy rail options for those areas. There are massive opportunities for people in those areas to benefit from rapid transit should it run from Dundonald into Belfast.



## HARBOURS BILL

### First Stage

**The Minister for Regional Development (Mr P Robinson):** I beg leave to lay before the Assembly a Bill [NIA 5/02] to confer functions on the Department for Regional Development in relation to the regulation of certain harbour authorities; and for connected purposes.

*Bill passed First Stage and ordered to be printed.*

**Mr Speaker:** The Bill will be put on the list of pending business until a date for its Second Stage has been determined.

## FAMILY LAW (DIVORCE ETC.) BILL

### Second Stage

**The Minister of Finance and Personnel (Dr Farren):** I beg to move

That the Second Stage of the Family Law (Divorce etc.) Bill (NIA 01/02) be passed.

The Bill deals with two aspects of family law. The first is divorce, which is a sad reality of life for many in Northern Ireland. The second concerns three outdated and anomalous provisions of the law on family property, which I shall deal with presently.

The Executive, in their Programme for Government, are committed to supporting children and their families. The Executive's children's fund has been created to develop services that will help children and their families in Northern Ireland. The Children's Commissioner Bill is another example of our concern for children. Supporting families should be one of our main concerns. However, support comes in many forms, and we must face reality. Sadly, marriages do break down, and all sorts of families are affected by breakdowns that occur for all sorts of reasons. Experience shows that people in Northern Ireland do not enter into divorce lightly. I can assure the Assembly that research commissioned by the Office of Law Reform shows that couples tend to divorce using the separation facts and over a relatively long period. In contrast to the position in England, our divorce rate is around the European Union average. Divorce rates have remained almost the same over the last decade, although, as the statistics show, the numbers fluctuate from year to year.

Divorce law has evolved over many years to cater for the needs of society. In the nineteenth century, industrial injury and the perils of childbirth meant that most marriages were short-lived — often they did not last beyond 10 or 20 years. For those whose marriages broke down, divorce was available only at great cost by a private Act of Parliament. Parliamentarians felt that divorce should be made difficult and expensive to keep it out of the hands of the so-called feckless poor.

Despite that policy, marriages broke down, and people sought different ways of handling the situation. Men in particular simply deserted their families and started a new life in another part of the country leaving their wives and children to be cared for by the local poor law committee. However, society has evolved since then and is no longer prepared to allow people to act in that way. Although marriage breakdown is not a new problem, divorce law must be periodically reviewed to ensure that it meets modern-day requirements and protects people. The Bill follows wide consultation with people across Northern Ireland and is informed by long and detailed research on how people here use the divorce system.

The research and consultation processes showed that the divorce system here works fairly well most of the time. However, there is room for improvement. In particular, the system could do more to promote good post-divorce relationships for the sake of the children and to minimise, in so far as primary legislation can, the bitterness and acrimony of divorce. Children could, and should, be more central to the system, and the law could be made easier for users to understand.

The Bill does not make divorce easier. It seeks to refine the divorce system so that it can better achieve its objectives. It strikes a balance between fears about maintaining family life and ensuring that no one is left outside the law's protection during a difficult period.

The Law Commission for England and Wales made a famous statement in 1966:

"A good divorce law should aim to save saveable marriages and to ensure that where a marriage has irretrievably broken down, the empty legal shell should be destroyed with the maximum of fairness and the minimum of bitterness, distress and humiliation."

I would like to add to that. A good divorce law, like a team of paramedics, is called upon in the aftermath of the disaster of marriage breakdown. It does not cause the disaster, but it will be judged on how well it deals with the aftermath and on how it facilitates the resumption of normal life.

Although some acrimony is unavoidable, an effective divorce system can help to lower the tension between the parties. In many cases, after they cease to be husband and wife they will still be father and mother. A good divorce system does not worsen relationships between them so that they are unable to maintain a relationship as parents for life.

The Bill, therefore, fine-tunes the procedures for divorce in Northern Ireland. I want to ensure that those procedures do not make a difficult situation even harder for the parties and children affected by the breakdown of a marriage.

In the main provisions of the Bill, clause 1 sets out a statement of principles. That is designed as an interpretive aid for the court and for any persons exercising functions under the divorce legislation. The principles are that where a marriage has irretrievably broken down and is being brought to an end, it should be done with the minimum distress to the parties and children affected; that questions should be dealt with in a manner designed to promote as good as possible a continuing relationship between the parties and children affected; and that in those cases where there is a risk of domestic violence, it should be removed or diminished as far as is reasonably practicable.

Currently, the only ground for divorce in Northern Ireland is the irretrievable breakdown of marriage. The Bill does not seek to change that. Under the present law,

irretrievable breakdown of marriage is proved by using one of five facts. Those are adultery, unreasonable behaviour, desertion for a continuous period of two years, two years' separation with the consent of the respondent, or five years' separation. Three quarters of Northern Irish petitioners use separation facts, in sharp contrast to England where three quarters of petitioners use fault facts. When people in Northern Ireland use fault facts, they are most likely to use unreasonable behaviour.

Our research showed that the most common behaviours complained of were violence and alcoholism. Although many consultees felt that separation was an appropriate basis for divorce, there was also a strong feeling that the law must protect those who had suffered during their marriages because of their spouses' behaviour. A fault fact, therefore, had to remain available.

Clause 2 of the Bill, therefore, retains irretrievable breakdown of marriage as the sole ground for divorce in Northern Ireland, as evidenced by three facts: two years' separation with the respondent's consent; three years' separation; and unreasonable behaviour.

The periods of separation balance the need for enough time to prove irretrievable breakdown with the need to avoid delay for an unreasonable time in accessing financial remedies and arrangements for children. Consultees thought that the existing two-year period with the respondent's consent was appropriate, and I concur. A wider range of views was taken in relation to the five-year fact, but there was a strong feeling among consultees that five years was too long to deny people remedies from the divorce courts. I have, therefore, chosen three years. That period is long enough to demonstrate that the marriage has indubitably died, but not so long as to deny access to court.

11.30 am

As consultees identified, some petitioners require divorce to be on the basis of fault for religious reasons or because they suffered greatly while married. Some actions so destroy the soul of a marriage that as a result a reasonable person would conclude that the petitioner could not be expected to live with his or her partner. Present law formulates that sentiment as:

"The Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with him/her".

In legal shorthand, that is referred to as "unreasonable behaviour", which is broad enough to cover the variety of behaviours that can cause a marriage to break down. I intend to retain that definition as the fault ground.

Members should not be concerned that the adultery fact will no longer appear in the primary legislation. Adultery strikes at the heart of marriage and cannot be tolerated. It is not my intention to detract from the

seriousness of adulterous acts or to belittle their effect on the wronged party or on the trust that is the foundation of marriage.

The legal definition of adultery is limited. In the law only the act of full, penetrative vaginal intercourse counts as adultery, and proof of that act is required. Other forms of sexual infidelity are not legally regarded as adultery. Providing proof of adultery is prurient, difficult and often degrading for the petitioner. Under the Bill, adultery will still appear in the divorce petition, but the petitioner could also include any other connected behaviour that he or she had to endure, such as unexplained absences, changes in mood and sums of money spent in mysterious and unexplained ways.

The substantive law, therefore, has not changed. Adultery is still grounds for a divorce. The law takes sexual infidelity seriously and condemns it. Including adultery in the “unreasonable behaviour” fact will make the law easier to understand and will remove the technical and illogical legal differences between acts of sexual betrayal.

The Bill removes the legal fact of desertion, which is infrequently used, complex and difficult to prove. In all but the rarest cases, a petitioner who can rely on the fact of desertion could also use two years’ separation with consent or unreasonable behaviour as grounds for divorce. The exceptional and, perhaps, hypothetical petitioner who cannot rely on those grounds will be able to obtain a divorce using the three-year separation fact.

In line with proposals for divorce, the Bill amends the grounds for judicial separation to maintain parity. To maintain consistency throughout family law, it also amends the grounds on which a maintenance order may be obtained in the domestic proceedings court.

Clause 3 provides that in certain strictly judicially controlled cases, the oral hearing for divorce may be dispensed with. That would be available only in separation cases where arrangements for children are settled and where the respondent consents to that course of action. Consultees indicated that in some cases hearings are a stressful and unnecessary part of the process. However, the correct checks and balances must be put in place to ensure that the system protects parties and their children, especially those whose parents have not settled and made sensible decisions about their future. That is why the court is given discretion to decide whether a case is suitable for the no-hearing route, taking into account the respondent’s consent as well as the children’s interests.

There is also a catch-all provision, which has always existed, that allows a judge to dispense with oral testimony for special reasons; for example, if the petitioner is seriously incapacitated and unable to attend court.

Clause 4 allows the decree absolute, which is the final decree that dissolves the marriage, to be automatically generated after six weeks. That removes the onus from

the petitioner to apply to the court office. However, the decree can be delayed by an application by either party under the Children (Northern Ireland) Order 1995 or by the respondent for financial provision in separation cases.

Clause 5 makes provision for suitable cases to be adjourned for mediation. That process enables parties to meet a trained individual and work through the remaining issues in the marriage, such as finances or arrangements for children. It is not reconciliation; it is an alternative dispute-resolution method that is helpful to some, but not all, couples. That is why the court is given discretion to adjourn cases for the purpose of referral to mediation. That power is extended to judicial separation cases and to those under the Domestic Proceedings (Northern Ireland) Order 1980.

Clauses 6 and 7 concern the grounds of application for financial provision under the Matrimonial Causes (Northern Ireland) Order 1978 and the 1980 Order. The present fault grounds will be amended to reflect the divorce grounds in the Bill. The “failure to maintain” ground will be amended in order to sound less adversarial by adding the words

“ought in all the circumstances of the case”.

That takes into account the applicant’s need and the respondent’s ability to pay, and is designed to reduce the acrimony of the proceedings without changing the outcome of the case.

Clauses 9 to 11 address three anomalous areas of family law that must be amended so that the United Kingdom can ratify protocol 7 to the European Convention on Human Rights. The three anomalies are: the presumption of advancement; the common-law duty of a husband to maintain his wife; and the rule on housekeeping moneys. Since protocol 7 requires equal treatment in the law between husband and wife, those technical areas must be changed.

The presumption of advancement between husband and wife is a legal doctrine that affects property ownership between them. If a husband gives property to his wife, it is deemed to be a gift. However, if a wife gives property to her husband, she retains an interest in it, and her husband holds it in trust for her. That doctrine does not always reflect the intentions of the parties and can lead to unfair results in some cases. The Bill abolishes that presumption and will, therefore, allow the parties’ intentions to determine where property ownership lies.

The Bill will abolish the common-law duty that a husband should maintain his wife. That duty has been usurped by more modern primary legislation, such as the 1980 Order, but was never explicitly removed from the common law.

The rule on housekeeping moneys can lead to unfair results. Currently, any housekeeping allowance that a husband gives to his wife remains his property, including

property that is purchased from the allowance. Even lottery or pools winnings that the wife wins using housekeeping money will theoretically belong to the husband. Again, that does not generally reflect modern conditions or the intentions of the parties. Clause 11 states that in the absence of any agreement to the contrary, money derived and property acquired from the allowance shall be treated as belonging to each party equally.

The remainder of the Bill's clauses and its schedules are technical in nature and deal with amendments and repeals of the existing legislation. They also contain provisions in relation to interpretation and commencement.

The provisions of the Bill will have an effect on court procedure, so commencement will depend on making new court rules, which are the statutory instruments that govern court procedure. My Department will liaise closely with the Northern Ireland Court Service on this.

The Bill is a reflection of the ever-changing nature of society and the need to review the law periodically to reflect society's needs. It will not bring about root-and-branch reform but will refine and hone existing legislation and make the law easier to understand for those who use it.

Divorce is not a pleasant subject. It is not an option that any of us want to face or have our friends or family members face. However, it happens for all sorts of reasons and to all sorts of people. I want a divorce system that supports people as much as possible during a difficult period in their lives, and I consider that the Bill will achieve that. I commend it to the Assembly.

**The Chairperson of the Committee for Finance and Personnel (Mr Molloy):** Go raibh maith agat, a Cheann Comhairle. I thank the Minister for his statement and his explanation of the Bill. Its general principles and objectives include an aspiration to minimise the distress to the parties involved and their children.

The Bill's intention to promote good post-divorce relationships between parties and between them and their children and to remove any risk of domestic violence to one of the parties in the marriage or to the children is to be welcomed. The Bill provides practical measures to support those aspirations and includes a provision to make it easier to change a fault-based divorce to a separation-based divorce and thus reduce acrimony. It also empowers courts to adjourn cases to allow mediation and enables couples to agree future arrangements for their children and their finances. The procedural changes enable some people to choose not to have a hearing. In addition to that, the Bill provides for several anomalies in the family property law to be addressed to enable the British Government to ratify protocol 7 of the European Convention on Human Rights.

The Office of Law Reform has briefed the Committee for Finance and Personnel on the principles and details of the Bill. There has also been departmental consultation.

The level of pre-introduction consultation is welcomed, and the Office of Law Reform's treatment of the Bill is a good example for the future.

We all have personal views on the permanence or otherwise of marriage and the issue of divorce. The law permits divorce on the grounds of the irretrievable breakdown of marriage, and that is a reality. Given that, any measures to reduce the associated acrimony and bitterness should be recognised and welcomed.

The Committee for Finance and Personnel will examine in detail the key issues arising from the Bill and will take evidence from interested groups. If the Bill passes the Second Stage, the Committee will place a public notice in newspapers inviting written submissions.

The Committee is concerned about the permanence of marriage and its perception of the ongoing effort of some groups to undermine the sanctity of marriage. The Committee wishes to be reassured that the intention is not simply to provide a facility for quicker divorces but to reduce the inevitable distress and hurt experienced when a relationship irretrievably breaks down. The Committee wishes to see greater efforts made to strengthen the concept of marriage and to support couples in difficulty.

The Committee will examine the Bill and its provisions in detail, report its findings and make recommendations to the Assembly.

**Dr Birnie:** I welcome the opportunity to speak on the Second Stage of the Family Law (Divorce etc.) Bill.

The aims of the Bill, as expressed, for example, in clause 1, which deals with the effect on parties and any children, are laudable. However, I am concerned about what may be the unintentional by-products of the Bill and their possibly negative social consequences. My concerns relate mainly to the so-called facts — the factors that the courts must consider to establish whether a marriage has broken down irretrievably.

*11.45 am*

I wish to pay particular attention to clause 2, which replaces article 3(2) of the Matrimonial Causes (Northern Ireland) Order 1978. The proposed new paragraph 2(b) reduces the required separation period without consent from five years to three years. Whatever may be argued to the contrary, that will make it easier to get a divorce, and it will increase the incidence of divorce.

A second change to the facts is made in the proposed new paragraph 2(c), where the categories of so-called fault — adultery, desertion, and so forth — are amalgamated under the single category of unreasonable behaviour. This implies a diminution of the seriousness of the emphasis placed on individual responsibility for actions that may grossly undermine a marriage.



It will be argued that the Bill represents a change to the law as it operates in England and Wales, other Commonwealth countries, and perhaps elsewhere. However, as England has the second-highest divorce rate in the European Union, care and due caution must be exercised with regard to imitating that example. The Minister rightly emphasised the fact that Northern Ireland's divorce rate is substantially lower than that of the rest of the United Kingdom, which leads me to question the need for this series of major changes to the so-called facts that determine irretrievable breakdown. Apart from any consideration of the intrinsic merits of marriage and its permanence, I am concerned by the wider and negative social consequences of any further increase in the divorce rate in the Province. I am sure that that concerns all Members.

Even if the Bill succeeded in its stated intention of reducing the friction between adults who are, sadly, involved in a divorce process, there would remain a legitimate concern that the children involved would have a different experience. There is much evidence to support that concern. In 1994, 'The Exeter Family Study: Family Breakdown and Its Impact on Children' suggested that children involved in a divorce situation often experience more psychological distress as a result of the divorce process than as a result of any conflict between the parents during their time together. That point is made in other similar pieces of research.

I recognise the Bill's good intentions, and, as the Minister rightly said, there is a requirement that certain laws be changed, given various human rights and European considerations. However, with regard to the facts, the Bill contains a fundamentally unsound assumption that it is mainly the divorce process and how it proceeds that determine the degree of acrimony in the marriage breakdown. Surely it is the acrimony that predates and causes the breakdown.

I am pleased to have had the opportunity to highlight some of my concerns about the Bill, and I trust that the Committee will consider these late points.

**Ms Lewsley:** I welcome the opportunity to speak in support of the Second Stage of the Bill. The Assembly has a duty to provide essential public services and to make provision on essential everyday living issues. It has already been stated, and reiterated by the Chairperson of the Finance and Personnel Committee, that divorce is a sad reality in Northern Ireland, and we have a duty to do all that we can to ensure that people faced with difficult circumstances are protected legally and are supported in rebuilding their lives as painlessly as possible.

Members have raised some concerns, and there are also concerns in the wider public, that, in introducing the Bill, divorce is being made easier. The Minister should clarify whether the Bill does make divorce easier. He should also reassure the Assembly that, in the drafting of the legislation, individuals and relevant groups had a full

say on the Bill's contents. Can the Minister outline the type of consultation undertaken, and how wide that was?

The Executive have said that they are committed to promoting the family and to protecting the rights of children. I welcome the inclusion in the statement of principles of the fact that children's interests are important in divorce proceedings, during which the focus is mostly put on the husband and wife. Children are often overlooked. The Minister should tell us what his Department is doing to ensure that mediation is put in place specifically for children caught up in a divorce.

While facilitating those people faced with divorce, we should continue to strive to promote marriage. Can the Minister tell Members what the Executive are doing to promote marriage? I support the Bill.

**Rev Dr Ian Paisley:** We gave notice to the Minister, when discussing the Marriage Bill, that the Family Law (Divorce etc.) Bill would be more controversial. The Minister is well aware of the controversy that this Bill, and other Bills regarding marriage, is bound to raise.

The Minister has made clear his views on some matters today, but they are not matters that can be brushed aside by saying that the legislation should proceed because of the needs of the people. What are the needs of the people? My opinion is that the needs of the people are not served by legislation that will weaken the sanctity of marriage. The need of the people is to strengthen marriage, not to undermine marriage or to make it easier to depart from the solemn obligations entered into by those who are married. The need of this hour is not legislation for easy divorces, or using legislation to say that something is just a fault when it is far more than that. The current need is to strengthen marriage, and my party would be dedicated to the strengthening of the marriage bond and dedicated to the sanctity of marriage.

It is interesting to note that in the unfallen world, before sin entered and ruined mankind, there were two great ordinances: the ordinance of marriage and the ordinance of the holy day of God. These two ordinances are under savage attack in the world in which we live, and that indicates the sad departure of people from that which is right, true, and divinely revealed. Many people will disagree vigorously with what I am saying, but that matters not. We must realise that in this world we have two great pillars, which I believe are very important. Today, we are discussing the pillar of marriage. When we look at the laws on the statute book regarding marriage, we see how far we have departed, and how we will depart further if the Bill is accepted.

According to page 109 of the third edition of 'Words and Phrases Legally Defined', edited by barrister John B Saunders of Lincoln's Inn:

"Marriage, in its origin, is a contract of natural law; it may exist between two individuals of different sexes, although no third person existed in the world, as happened in the case of the common ancestors of mankind: It is the parent, not the child, of civil society."

That is an important statement for all of us to consider. Marriage is the parent, not the child. The child can be defended properly only if proper defence is given to the parent.

The quotation continues:

"In civil society it becomes a civil contract, regulated and prescribed by law, and endowed with civil consequences. In most civilised countries, acting under a sense of the force of sacred obligations, it has had the sanctions of religion superadded: It then becomes a religious, as well as a natural, and civil contract; for it is a great mistake to suppose that, because it is the one, therefore it may not likewise be the other. Heaven itself is made a party to the contract, and the consent of the individuals, pledged to each other, is ratified and consecrated by a vow to God. *Dalrymple v Dalrymple*"

I will quote from the case of *Bethell v Hildyard*:

"I am bound to hold that a union formed between a man and a woman in a foreign country, although it may there bear the name of a marriage, and the parties to it may there be designated husband and wife, is not a valid marriage according to the law of England unless it be formed on the same basis as marriages throughout Christendom, and be in its essence 'the voluntary union for life of one man and one woman to the exclusion of all others'."

Marriage deals with different sexes; it is a union between a man and a woman. I have listened to the attacks made on marriage in the House of Commons, and I have been disgusted by some of the remarks that have been made there on this issue in the attempt to take away the sanctity of marriage.

Amendments must be made to the Bill. I, and others in my party, will be doing that, and we hope to sponsor important amendments in the Finance and Personnel Committee.

I do not support the Minister in taking away the importance of adultery in the present divorce legislation. He is not right when he argues that he can do that and not weaken marriage. The question of adultery goes to the very heart of marriage. Marriage should be a relationship that ties the man and his wife together in such a way that they two become one flesh. When that is violated it is not a fault but a crime, as much as the others delineated in the Ten Commandments of the law.

If it is wrong to do other things, then adultery is certainly wrong. No legislator should think that, with a simple line in a Bill, he can lessen the seriousness of that matter.

12.00

I am glad that divorces in Northern Ireland are fewer than in the rest of the United Kingdom. We should be glad of that and should aim at strengthening, rather than weakening, marriage. That is a matter to which we should all attend. This Bill deserves the closest possible

scrutiny of every Member in the House. There should also be a thorough examination of some of the implications that will naturally flow from it.

Changing the five-year period to three years has been mooted. That is also a very serious matter. If parties are unable to come to the courts to deal with their divorces on the basis of the law that we are about to pass but, by default, as it were, wait the current five years, it is a break-up. If they must instead wait only three years, that will release the pressure on them. Those matters need extremely careful consideration.

There is a great difference between the view taken by the Bible and by our Lord Jesus Christ on marriage and that which is common in this country today. That is sad, for a happy country is one with happy and permanent marriages. I have been involved in pastoral work in Belfast for 56 years; what a delight it is to celebrate with those who have been married for 50 or 60 years. Their marriages have stood the test of time, and their families have benefited. I agree with the Minister that we must think of the children of broken marriages, for no one suffers more than the child.

We should aim to mend marriages and put our weight behind the movement that we need in our land to re-establish the sanctity and honour of marriage and the solemn obligation of those who marry. The common idea that, if things do not work out, a person can get a divorce, is not the way to enter a marriage. The couple should enter marriage to make it work.

All of us who have happy marriages know that we must work at them. Marriages do not run smoothly, because of the many weaknesses in human nature. However, we should all work to see that we keep one of the most precious commodities in the world, one which means much to the future of our nation because of its effect on the children whom we bring up and train in the ways of truth and righteousness.

I look forward to the amendments that my Colleagues on the Committee for Finance and Personnel will move, to reading the record of the debates in that Committee and to a time when we return to the House to deal with this matter again.

**Mr Close:** As one who is, if I might use the phrase, firmly wedded to the concept of marriage and the belief that it is the union of one man and one woman, voluntarily entered into to the exclusion of all others for life, I have difficulty with any alternative procedures that might undermine its importance. Marriage, and thus the family, forms the very basis — the nucleus — of any society. It therefore goes without saying that the destabilising of that institution has a profound impact on society itself.

We have only to look around us in today's imperfect world to see the relevance and the truth of that state-

ment. If we further undermine the institution of marriage, future generations will be all the poorer for any failure to adhere to the clear definition, meaning and understanding of what marriage is about.

Having been happily married for more than 24 years, I have some experience of the importance and meaning of marriage, and its immeasurable benefits. Having said that, I recognise that we live in a real and imperfect world. As Members of the Assembly, we have to address unpalatable facts in an impartial manner. With that in mind, I look forward to the line-by-line scrutiny of the Bill and the amendments that have been suggested.

In recognising the unpalatable law of the land that permits divorce due to the irretrievable breakdown of a marriage, we must ensure that bitterness and acrimony are minimised. Although the intent of the Bill may be to reduce bitterness and acrimony, and ensure that any children of a marriage that breaks down irretrievably suffer less hurt, I do not need to remind the House of the old saying that the road to hell is paved with good intentions.

I am conscious that Northern Ireland has a lower divorce rate than other parts of the UK and Europe. I shall, therefore, seek to ascertain why, if that is the case, we want to change the legislation, particularly through clause 2, which could be interpreted as making divorce easy. We have heard the expression “quickie divorce”. We do not need quickie divorces: they are not in the interest of the people of Northern Ireland, for whom we should be ensuring a better future.

Clause 2, which lowers the separation requirement from five years to three, causes me concern. I also share the concerns expressed by Dr Birnie and Dr Paisley about the amalgamation of fault. It is subject to interpretation. How can the great fault of adultery be minimised, dismissed and amalgamated with other problems? That is a gross underestimation of the seriousness of adultery, and, in so doing, the Bill undermines the importance of the state of marriage. That issue must be carefully scrutinised and sorted out.

I do not have any particular problem with clauses 8, 9 and 10, which deal with housekeeping money and duty of maintenance. Many of those matters are anomalous and probably obsolete but do not cause the same concern as clause 2.

In looking forward to the examination of the Bill, I assure Dr Paisley, who has made a plea that it should receive close scrutiny, that as a member of the Committee for Finance and Personnel, Close will be giving scrutiny to the Bill.

**Ms McWilliams:** I am glad that Seamus Close recognises that some things are obsolete and must be changed. The spirit of the Family Law (Divorce etc.)

Bill involves looking at what real marriages are like today and trying to provide for them in legislation.

As regards the irretrievable breakdown of marriage, perhaps some Members have not read the Bill. It does not remove adultery from the law — a divorce granted on the grounds of irretrievable breakdown can still be obtained on proof of an act of adultery, just as it is under present law. The Minister, in his opening statement, said that as there are so few people proceeding on grounds of adultery that it does not seem reasonable to make that one of the main grounds for divorce. Most petitioners now cite unreasonable behaviour as the cause of the irretrievable or irreconcilable breakdown of their marriage.

In past years, unreasonable behaviour was something that people kept behind closed doors — as the title of a book on domestic violence once said, ‘Scream Quietly or the Neighbours will Hear’. Those suffering from domestic violence are no longer prepared to scream quietly but prefer to use the courts and the law of the land.

There are 3,500 cases of common assault by one partner on another in Northern Ireland every year. There are on average five murders every year. There is a case of actual bodily harm or grievous bodily harm on one partner — usually the wife — in Northern Ireland every day. Those are the police statistics. However, the police would argue that the figures — other than those for murder, which come to the public’s attention — are a gross underestimation. They estimate that it is more likely that there are about 10,000 cases of common assault in marriages every year in Northern Ireland.

Rather than the words we have heard from some Members about keeping the family together at all costs, they should be asking — for the sake of the children — at what cost should the family be kept together? Is it at the enormous cost of wives — and husbands — presenting to nurses and doctors in the accident and emergency departments of major hospitals with serious injuries sustained within marriage? It is to be hoped that, in addressing this situation, Members will provide the right for those so injured to be able to leave such an injured marriage. A marriage that causes such enormous grief ought to be ended because it is not a marriage of equality. That is what clause 2 is about.

Members who have done any work in this area or who have interviewed those affected will know why the Bill seeks to reduce the five-year requirement to three years. As public representatives, they will have had women in their constituency offices telling how their husbands have said, “If I can’t have you, no one else will”. When those women seek justice and redress through the law they have to wait five years because respondents will not permit them to have their marriages ended after two years. Possessiveness, jealousy, control and power over the partner are exercised, and the law is used accordingly.



That is why many petitioners in Northern Ireland — and in Northern Ireland alone — have had to wait five years.

Why should people who could live independently, walk free from such violence, and raise their children in peace, be made to live like that for longer than they need to?

That is why the terms have changed from five years to three. The condition of consent as it applied in the Matrimonial Causes (Northern Ireland) Order 1978 will remain in the new Bill, but three years of separation will now suffice in its absence, on the grounds that it should not be held over the partner who seeks that redress of the court.

12.15 pm

Anyone who suggests that the notion of fault has been removed should read the Bill, because it still allows the petitioner to go to court on the grounds of fault. Research shows that three quarters of Northern Ireland petitioners do not argue fault; they are probably so stigmatised that they cannot publicly talk about why their marriages broke down, and they find other reasons such as the fact and duration of separation. Perhaps the time has come to allow people to come before the courts to speak about what has gone on behind closed doors.

In response to Dr Birnie's concern about the children of divorced parents, the same research points to the fact that they have been enormously disturbed if the marriage continues and if there is violence and abuse. Children studies have said that they can go to bed and sleep in peace at night now, rather than lying awake wondering if they could save their mothers from further injury or death.

**Dr Birnie:** Such research shows that, on average, children deem that they suffer less psychological distress in the continuing marriage than the reverse. The Member is arguing about the sad and hard cases, which I accept.

**Ms McWilliams:** I am glad that the Member accepts that. I wish that we could use the word "hard", but that is no longer the case. The children said that the emotional and psychological damage was often as bad as the physical and that it takes more years to recover from what was said than what was done. We are introducing the concept of psychiatric injury into law today to recognise the experience of mental harm as well as that of physical harm.

The requirement for oral testimony to be dispensed with is also a positive step. Research has shown that petitioners have felt no benefit from giving oral testimony where there has been consent. The Bill still allows the court to have discretion. Why are there no savings as a result of that? The changes proposed in the Bill will cost £117,736, but a great deal of money could be saved if there were no longer any requirement for oral testimony, which endures only in Northern Ireland. Most people who have gone through that process agree that it is a waste of money.

Are the figures before us the maximum savings or a rough estimate? The explanatory and financial memorandum states that the right to mediation, as outlined in clause 5, will be cost neutral. However, I warn the Minister in his finance capacity that it will not be done well if there is no cost or if it is cost neutral. People will need to be well trained in mediation skills as it is now written into the legislation. I am glad that it has been recognised that mediation may not be a useful tool where there has been domestic violence. I urge those involved in the clause-by-clause scrutiny of the Bill to recognise that, because it is often very late in the court proceedings before there is a right to say that domestic violence has taken place.

I welcome clauses 10 and 11, which improve equality of opportunity. Clause 11 replaces the outdated laws relating to housekeeping allowances. The inequality that once existed is summed up by an old Russian proverb:

"I thought that I saw two people, but it was only a man and his wife".

The legislation recognises that the reverse applies: clause 10 addresses the automatic assumption that a husband has a common law duty to maintain his wife, and clause 11 abolishes the husband's right to keep the entire housekeeping allowance. As Mr Close said, the Bill recognises that the law upholds some obsolete practices that must be changed.

Finally, the Minister must address the human rights issue. The explanatory and financial memorandum states:

"In relation to the question of separate representation of children in private law proceedings affecting them (UN Convention on the Rights of the Child Article 12) the Law Reform Advisory Committee is currently seeking the permission of the Minister for Finance and Personnel to consider this matter."

Has that matter been considered seriously? The right of the child to be represented separately is argued in the courts with increasing frequency, especially in acrimonious divorce proceedings.

**Mr Weir:** I have certain concerns about the Bill. In passing, however, it was brave of a Finance Minister to state that spending money "in mysterious and unexplained ways" could constitute unreasonable behaviour.

The Bill contains several aspects to which I have no objection. Clause 1 contains good statements of intent regarding children and domestic violence. There is no objection to clauses 5 to 8, which deal with grounds for mediation and the use of less pejorative language with regard to financial provisions. Similarly, no one objects to the changes to antiquated legislation detailed in clauses 9 to 11. However, I have severe reservations about clauses 2 and 4.

The DUP recognises that marriages break down and that the state must intervene on occasion. However, it does not suggest, as Ms McWilliams did, that marriage



should be upheld “at all costs”. No one from these Benches used that phrase. It would be wrong for the Member to put words in the mouths of some of the people who expressed concerns. The DUP supports the institution of marriage. It believes that society has a duty to support the family unit and the sanctity of marriage. Ms Lewsley posed the key question when she asked whether the Bill would make divorce easier. Undoubtedly, clause 2 will make divorce easier.

Two aspects have been highlighted in particular. The removal of adultery as a separate ground for divorce sends out the wrong signal. I take issue with what Ms McWilliams said; no one on this side of the House has suggested that fault-based grounds have been removed completely. However, the three grounds for divorce have been rolled into one. In this Bill adultery is no longer accepted as a direct cause for divorce. It may be a contributory factor, or an action that might constitute unreasonable behaviour. In essence, the Bill downgrades the seriousness of adultery. That sends out damaging signals to society about morality.

As a barrister with experience of working on divorce cases, I disagree with the Minister’s implication that adultery is a high hurdle. It is not next to impossible to prove, as has been suggested. To put adultery on a level with unusual spending habits is to downgrade its significance.

We will be seeking an amendment to reinstate adultery as a separate ground for divorce. We will not accept the downgrading of adultery, as it damages the concept of marriage.

Reducing the separation period from five years to three years will, undoubtedly, lead to more divorce. It makes divorce easier. At present, there is the option of two years with the consent of both parties, which is continued in the Bill. However, if the divorce is opposed by one party, simply adding on another year renders that consent meaningless. There must be a significant gap between divorce with the consent of both parties and divorce where the desire of one party, however motivated, is to save the marriage. Reducing the separation period will have a major impact on that.

I also take exception to clause 2. In clause 1 there is reference to violence against one of the parties. However, there is no reference to domestic violence in clause 2. It does not change the law on domestic violence by one iota. Preserving clause 2 as it stands will aid no one experiencing domestic violence. If it is passed unamended it will lead to easier divorce. Therefore my party will be seeking amendments to reinstate the grounds of adultery and to restore the five years’ separation without consent.

An amendment may be necessary to the change in the application for the decree absolute. At present, when a decree nisi is granted, a separate application must be made to obtain the decree absolute. A positive act on

behalf of the petitioner is required before a decree absolute is made. The Bill shifts the burden so that the petitioner must intervene negatively to stop the decree absolute being granted. It is clear that that will make divorce easier.

In conclusion, we will be seeking amendments on these matters. It is often said that we live in a disposable society — a throwaway society in which things are not valued. The Assembly should make it clear that marriage is not to be part of that throwaway society. We place value on marriage and, as such, some of those changes will diminish the sanctity of marriage. Therefore we will not accept the Bill as it stands.

**Mr Speaker:** Members have put a substantial number of questions to the Minister, and it would be inappropriate to ask him to respond at this stage, as there remains only a few minutes. I therefore propose that the House by leave suspend until 2.00 pm, resuming with the response from the Minister.

*The sitting was suspended at 12.28 pm.*

*On resuming (Mr Deputy Speaker [Mr McClelland] in the Chair) —*

2.00 pm

**Dr Farren:** I am grateful for the contributions that have been made during the debate. Many concerns have been expressed, and I hope, as the Bill progresses through the Committee Stage, and the other remaining stages, that departmental officials and I will have the opportunity to assuage some of those concerns as we explain in more detail the purpose of the Bill and the effects of its clauses.

None of us wants to see the breakdown of marriages that have started with so much hope and promise. Marriage is not usually entered into lightly, and family life forms vital foundations in society. However, in one way or another, all Members have acknowledged that divorce is a fact, however regrettable. Relationships break down to the extent that they cannot be retrieved. That is where the Bill comes in. It deals with a situation in which people's marriages have broken down irretrievably, and it endeavours to deal with the parties involved as humanely as possible.

Mr Molloy referred to the Committee for Finance and Personnel's forthcoming scrutiny of the Bill. I appreciated his acknowledgement of the work of the Office of Law Reform in the pre-introduction phase. The Office of Law Reform has welcomed the willingness of the Committee to engage with it as it moves through the pre-introduction process, and it affirms its commitment to early consultation.

Although Dr Birnie accepts that the aims of the legislation are laudable, he was concerned by what he described as the "unintentional by-products" of the Bill's proposals. Other Members shared his concerns about the reduction of the requirement of five years' separation to three years. After the consultation process, the Department's view was that, when a couple decide to separate, five years was too long a period to deny people access to a court to reorder their financial and childcare issues. Parties will usually have spent considerable time in coming to the decision to end their marriage. The three-year period does not start with the first disagreement. It is the beginning of a legal process, which may follow a significant period during which two spouses have been trying to reconcile themselves. Therefore, I consider that three years of living separately is long enough to establish that a marriage has irretrievably broken down. Once that fact is established, the parties can start to build a new life.

Dr Birnie, Rev Dr Ian Paisley and others expressed their concern that adultery is no longer included on the face of the Bill. In respect of the changes to the fault facts, the current law on adultery is complex, narrow, technical, prurient and difficult to prove. Adultery is, however, a serious matter, and the Bill's proposals do not make it any less serious. It does not remove adultery as a

fault fact. The Bill's formulation provides greater protection to the petitioner, and it is less onerous and humiliating for the petitioner with regard to what must be proved.

Dr Birnie and Prof McWilliams referred to strands of research into the effects of divorce on children. Different researchers have come to different conclusions about what is best for children, and I welcome the reference to the research that has been made in the debate.

However, the issue concerns individual family units. What is right in each case will vary. Families must find what is best in each of their individual situations. Marriage support services, the legal profession and the courts all have their role to play in finding the proper course in each case.

Ms Lewsley asked several questions, the first of which suggested that the Bill will make divorce easier. The Bill is not about making divorce easier or more difficult. It does not alter the ground for divorce, as many Members seem to claim. The ground for divorce remains the irretrievable breakdown of marriage. The Bill attempts to streamline procedures, which will help a couple whose marriage has irretrievably broken down to part as amicably as possible. Moreover, arrangements will be put in place for children.

Ms Lewsley asked a question about consultation. I am pleased to assure her that, as always, the Office of Law Reform consulted widely and received well-informed, substantive responses. We were especially grateful for responses from the Churches and the voluntary sector, as well as those from political parties and members of the public. The research commissioned by the Office of Law Reform, which informed its consultation paper, was based not only on an extensive questionnaire survey of the views of people who were in the throes of divorce but on face-to-face interviews with people who had gone through the process, as well as judges and legal and other professionals who operate the system. There was an extensive consultation process, which was supported by comprehensive and wide-ranging research.

I affirm to Ms Lewsley that support for children and their families is at the heart of the Programme for Government. The commitment to putting in place a children's commissioner and a strategy for children and young people demonstrates the value that the Executive put on children and on family life in general. The Bill makes provision for couples whose relationship has irretrievably broken down. The law on divorce already provides that a court can adjourn for attempts at reconciliation if it believes that that is a possibility.

Ms Lewsley raised an important point about children and the mediation process. I shall ensure that the officials who are examining the mediation process will take it on board.

I thank Mr Close for his comments; I hope that I have dealt with many of his points about the period of separation and adultery.

I thank Ms McWilliams for raising the issue of domestic violence. It is a scourge and a cancer in Northern Ireland, and I welcome any opportunity to raise its profile. I intend that the Bill will continue to raise the profile of domestic violence, therefore bringing it out into the open and allowing victims to break free from the cycle of violence and silence that frequently envelops their experiences.

Ms McWilliams mentioned cost savings. I appreciate her observations, but I certainly do not want cost saving to be seen as a purpose of the Bill. The change to the law on hearings will not reduce court scrutiny, which will take place in a different way. Many cases need a hearing, and some people want a hearing. Therefore, hearings must be provided in those cases.

Ms McWilliams also raised a point about the separate representation of children. She will be glad to know that the Law Reform Advisory Committee for Northern Ireland will consider separate representation of children in private law proceedings under the Children (Northern Ireland) Order 1995. I expect that the Law Reform Advisory Committee will consult, as is its pattern, on that issue, and I am sure that it will be pleased to receive Ms McWilliams's views.

I hope that my comments have dealt with Mr Weir's major points. I shall welcome hearing more of his concerns as to how the introduction of a new process for the generation of decrees absolute will make divorce easier. I regard that as a practical procedural initiative only.

The Bill is a measured response to the needs of society in Northern Ireland. It is not a root-and-branch reform, but an opportunity to review whether the Northern Ireland divorce system — 24 years after it was set down in legislation — has unnecessarily added to the stress and acrimony that accompany divorce. The Bill will support individuals as they face difficult times in their lives and will highlight the needs of children in the divorce process. Those are worthy aims for any divorce system, and the content of the Bill is to be commended.

*Question put and agreed to.*

*Resolved:*

That the Second Stage of the Family Law (Divorce etc.) Bill (NIA 01/02) be agreed.

## STATE PENSION CREDIT BILL

### Second Stage

**The Minister for Social Development (Mr Dodds):** I beg to move

That the Second Stage of the State Pension Credit Bill (NIA 4/02) be agreed.

The Bill will make provisions for Northern Ireland corresponding to those made for Great Britain under the State Pension Credit Act 2002, which received Royal Assent on 25 June 2002. Therefore, it is a parity measure.

As I said during the debate on accelerated passage for the Bill and during the debate on the Second Stage of the Social Security Bill, there has always been parity between Great Britain and Northern Ireland as regards social security legislation. I emphasise that that is how it should be. People in Northern Ireland pay the same National Insurance contributions and the same taxes as people elsewhere in the country, and it is right and proper that they should receive the same benefits at the same time and at the same rates. Moreover, parity legislation enables Northern Ireland to use Great Britain's computer systems, which is much more cost-effective than setting up a separate computer system here.

Parity covers the content of legislation and the timing of its implementation. New provisions have always been introduced here at the same time as in the rest of the country, and that arrangement should continue.

Pension credit marks the end of a fundamental unfairness in the social security system. From the early days of the modern welfare state, people who made provision for themselves were penalised for their efforts. I am sure that every Member has met pensioners living on modest incomes who have often struggled to put aside money for their retirement and who feel that they have been let down. They find that they are little or no better off than people who have saved nothing. Although it is necessary to concentrate on helping the poorest pensioners, those who have saved a modest amount for their retirement should be rewarded, not penalised, for their thrift and effort. In addition, the obstacles that put people off taking their pension entitlement must be tackled. Pension credit offers a solution that provides substantial sums to help the least well-off and tapers that help for pensioners at the higher end of the income distribution. Pension credit will tackle pensioner poverty in a precise way, and it will ease the disincentive to save that has been inherent in the social security system.

The State Pension Credit Bill will provide extra help for around half of all pensioners in Northern Ireland. Some 120,000 pensioners stand to gain an average of £400 a year, while some will gain up to £1,000 a year. With pension credit, the poorest one third of pensioners



will gain, on average, an extra £8·20 a week. Pension credit will add £50 million to the money that pensioners at the lower end of the income distribution are entitled to receive. By contrast, spending the same amount on increasing the basic state pension would result in a gain of only £3·20 a week, which would be £5 a week less. The least well-off pensioners will gain over two and a half times more with pension credit than if the money were spread thinly by raising everyone's pensions.

2.15 pm

At present, 75,000 pensioners receive a minimum income guarantee. That has increased the incomes of the poorest pensioners by at least £15 a week over and above inflation. Clause 2 sets out how the pension credit will build on that approach and lift pensioners out of poverty.

It is also necessary to ensure that it pays to save, and that is the purpose of the Bill. The pension credit will address a fundamental unfairness in the system. For the first time, we shall be able to tell people that if they save even modest amounts above the basic state pension, they will be rewarded for their efforts. It will pay to save.

The pension credit will work in two ways. First, it replaces the minimum income guarantee as the means to provide a floor below which pensioners' incomes should not fall. In 2003, pension credit will increase single pensioners' entitlement to a guaranteed minimum of £100 a week, or £154 for couples. Clause 2 also provides for a higher minimum income guarantee for carers and pensioners with severe disabilities: £140 for a single person, or £194 for couples. Secondly, and critically, the pension credit will provide an additional top-up to reward pensioners aged 65 or over who have saved for their retirement. Clause 3 will ensure that pensioners aged 65 or over who have a modest occupational pension or modest savings will receive more as a result of their thrift. It will give pensioners a cash addition of 60p for every £1 of their income above the level of the basic state pension, up to a maximum of £13·80 a week for a single person and £18·60 for a couple. The reward for savings ensures that those who have put something aside for their retirement will be better off for having done so.

Although pension credit may seem complicated, it is fundamentally a simple and straightforward concept. To ensure that Members have a grasp of it, and to illustrate the real gains to pensioners from the pension credit, I shall give an example of how it will work in practice. Pensioners with a full basic state pension of £77 a week will receive the maximum guaranteed credit of £23. Their total income will, therefore, be £100. As they do not have a qualifying income from savings or an occupational pension, they will not receive a savings credit. On the other hand, pensioners with the full basic state pension of £77 a week and an occupational pension of, for example, £12 will receive a guaranteed credit of £11 to bring their income up to the £100 maximum guarantee. The amount

of the savings credit will be 60p for every £1 of qualifying income above the basic state pension. In that case, therefore, a pensioner will receive a savings credit of £7·20, giving him or her a total income of £107·20.

The guaranteed minimum for carers and severely disabled people would be increased. A single, severely disabled pensioner, with £77 state pension and £10 occupational pension, would receive a guaranteed credit of £53 to bring his or her income up to the £140 personal guaranteed minimum. In addition to that, he or she would also receive a savings credit of £6, giving a total income of £146.

That is fairly simple arithmetic. However, as is the case with any pension entitlement, pensioners do not have to do the calculation. What is important is that they know that they are entitled to apply. In general, pensioners will qualify if their incomes are up to approximately £135 for single people or £200 for couples.

Many pensioners think that there is a stigma attached to receiving income support. The process of reporting changes in income puts many people off claiming that support. They therefore lose out and risk poverty. To tackle pensioner poverty seriously, an income assessment must be undertaken to help claimants. There is nothing new about that.

Under the current rules, pensioners must report every change in their circumstances from week to week. However, with pension credit, they will be asked for the information only when it is needed to work out their benefit. For example, we will only need to know about their savings that are over £6,000.

The pension credit capital rules have been designed to promote saving. The current rule, which excludes pensioners with savings of £12,000 or more, will be abolished. Also, the first £6,000 will be ignored, meaning that 85% of people who claim pension credit will not need to disclose their savings. For savings above £6,000, a notional rate of income will be assumed. It will be set at 10%, which is half the current assumed rate of income in the minimum income guarantee, which stands at approximately 20%. Therefore, if a pensioner saves £10,000, the current minimum income guarantee rules assume an income of £16 a week, whereas under pension credit, only £8 a week would be assumed.

With the introduction of pension credit, the weekly means test for pensioners will be abolished from the age of 65. Most pensioners will have their awards set for long periods, normally five years at a time, which will reduce the intrusion that many of them rightly complain about. It will encourage them to claim money that is rightfully theirs, and it will help to tackle pensioner poverty.

It is expected that between half and two thirds of the pension credit group will remain on benefit for at least five years. By the time pension credit replaces the minimum



income guarantee, it is estimated that 120,000 pensioners will be entitled to it.

When pensioners reach the age of 65, the majority find that their income is settled and their circumstances are stable. Therefore, there is no need to continue to impose on them the requirement to report every little change that may happen from week to week. They will be asked to report only major changes in their lives, such as the death of a spouse. However, they will be able to ask for their pension credit to be increased at any time, should their other sources of income be reduced.

Clauses 6 to 10 contain the principles of the five-year awards and the reassessment of income during that period. The Bill will provide more for the poorest pensioners and will help present and future pensioners to avoid poverty. It is a substantial reform that will benefit about half of pensioners in Northern Ireland. It helps to tackle poverty; it rewards thrift and saving; and it will benefit 120,000 pensioners by an average of £400 a year. Therefore, I commend the Bill to the Assembly.

*Question put and agreed to.*

*Resolved:*

That the Second Stage of the State Credit Pension Bill (NIA 04/02) be agreed.

## **SOCIAL SECURITY BILL**

### **Further Consideration Stage**

**Mr Deputy Speaker:** No amendments to the Bill have been tabled. The Further Consideration Stage of the Social Security Bill is, therefore, concluded. The Bill stands referred to the Speaker.

## **EMPLOYMENT BILL**

### **Committee Stage (Period Extension)**

**The Chairperson of the Committee for Employment and Learning (Dr Birnie):** I beg to move

That, in accordance with Standing Order 31(5), the period referred to in Standing Order 31(3) be extended to 18 October 2002, in relation to the Committee Stage of the Employment Bill (NIA 11/01).

The Employment Bill received its Second Stage reading on 5 June 2002 and was referred to the Committee for Employment and Learning on 6 June 2002. It is important legislation that will introduce a series of measures designed to help employees better balance their family life with their employment responsibilities, while taking into account the needs of businesses.

The measures include amendments to existing legislation to improve maternity rights, a provision for two weeks' paid paternity leave, adoption leave and pay for parents, and a duty on employers to consider seriously requests from parents with young or disabled children to work flexible hours.

The Committee is committed to ensuring that it carries out its responsibilities fully in rigorously scrutinising the Bill. Members have discussed the Bill at eight meetings, and we have received oral and written submissions from several interested parties.

Several proposed amendments have been debated, and to ensure that due and proper consideration is given to them, the Committee seeks an extension to 18 October to allow it sufficient time to consider the Bill fully and to report its findings. We intend to complete our work as quickly as possible, and I assure Members that we will not take any more time than is absolutely necessary to ensure that all the legislation is in place before the dissolution of the House. I ask Members for their support.

*Question put and agreed to.*

*Resolved:*

That, in accordance with Standing Order 31(5), the period referred to in Standing Order 31(3) be extended to 18 October 2002, in relation to the Committee Stage of the Employment Bill (NIA 11/01).

## HOUSING SUPPORT SERVICES BILL

### Committee Stage (Period Extension)

## HOUSING BILL

### Committee Stage (Period Extension)

**Mr Deputy Speaker:** As the next two motions relate to the extension of Committee Stages of housing legislation, I propose to conduct only one debate. I shall call the Chairperson of the Committee for Social Development to move the motion, and there will then be a debate on both motions. When all those who wish to speak have done so, I shall call the Chairperson to do the winding-up speech and will put the Question on the first motion. I shall then ask the Chairperson to move the second motion before putting the Question without further debate. If that is clear, I shall proceed.

**The Chairperson of the Committee for Social Development (Mr Cobain):** I beg to move

That, in accordance with Standing Order 31(5), the period referred to in Standing Order 31(3) be extended to 13 December 2002, in relation to the Committee Stage of the Housing Support Services Bill (NIA 23/01).

*The following motion stood in the Order Paper:*

That, in accordance with Standing Order 31(5), the period referred to in Standing Order 31(3) be extended to 13 December 2002, in relation to the Committee Stage of the Housing Bill (NIA 24/01). — [*The Chairperson of the Committee for Social Development (Mr Cobain).*]

The Housing Support Services Bill and the Housing Bill, both important pieces of legislation, which passed Second Stage on 3 July after some debate, presently stand referred to the Committee for Social Development.

The Housing Support Services Bill seeks to introduce a new method for funding the costs associated with providing housing support services for vulnerable people who live in supported accommodation. Although the Bill has eight clauses, the Committee is concerned that they are scrutinised fully. We are also anxious to examine that Bill in the context of the Housing Bill before reporting back to the Assembly.

Before the Housing Bill's belated introduction to the Assembly, there was great anticipation and much speculation about this long-awaited legislation. It is substantial in volume and content, having no less than 150 clauses and five schedules. It is the first piece of housing legislation to emerge in Northern Ireland for 10 years, and the Assembly has a duty of care to ensure that its wide-ranging provisions are given the utmost scrutiny.

It attempts to deal with a host of issues by introducing new provisions or amending existing legislation. The main areas to be addressed in the Bill include: the conduct of tenants of premises let by the Housing Executive or registered housing associations; the payment of grants for the renewal of private sector housing; caravan sites for members of the Irish traveller community; the rent register; the allocation of housing; and registered schemes for houses in multiple occupation.

2.30 pm

The Bill is likely to be remembered as the most important piece of legislation considered by the first mandate of the Northern Ireland Assembly. It is regrettable that we have so little time left to give the Bill the consideration that it deserves. However, it is important to acknowledge that the Committee had the foresight to conduct a major inquiry into housing matters in anticipation of the Bill's introduction. We received much evidence and called many witnesses during that inquiry, and two reports on the subject were published in the past year, all of which should prove invaluable as we carry out this enormous task.

I hope that the House will agree that the Committee will be unable to do justice to either Bill in the 30 days prescribed in Standing Orders. The Committee is mindful, however, that there may be a desire for a significant and long-running debate on the Housing Bill after its Committee Stage. Having carefully considered the matter, the Committee believes that it could fulfil its responsibilities only if it met at least twice weekly during September, October and November, in order to examine the detail of the Housing Bill and the Housing Support Services Bill, and subsequently to produce and present associated reports to the Assembly for its consideration.

In seeking extensions on both Bills until 13 December 2002, I recognise that members of the Committee will face increasing and competing pressures in the weeks ahead. I stress how important it will be that Committee members attend the meetings and that everything possible be done to accommodate their attendance.

**Mr Deputy Speaker:** Mr Cobain, there have been no requests to speak. Do you wish to make a winding-up speech, or will I put the Question?

**Mr Cobain:** Please put the Question.

*Question put and agreed to.*

*Resolved:*

That, in accordance with Standing Order 31(5), the period referred to in Standing Order 31(3) be extended to 13 December 2002, in relation to the Committee Stage of the Housing Support Services Bill (NIA 23/01).

*Resolved:*

That, in accordance with Standing Order 31(5), the period referred to in Standing Order 31(3) be extended to 13 December 2002, in relation to the Committee Stage of the Housing Bill (NIA 24/01).

## SEEDS (FEES) REGULATIONS (NORTHERN IRELAND) 2002

### Prayer of Annulment

**The Chairperson of the Committee for Agriculture and Rural Development (Rev Dr Ian Paisley):** I beg to move

That the Seeds (Fees) Regulations (Northern Ireland) 2002 (SR 257/2002) be annulled.

The entire Committee for Agriculture and Rural Development has endorsed my speech, so I speak not only as the Chairperson of the Committee, but on behalf of all the Committee members. The Deputy Chairperson of the Committee, Mr George Savage, asked me to apologise for his absence and to make it clear that he supports the motion. He has other urgent business to attend to.

My Committee does not want to pray against Statutory Rules — they are a prayerless bunch. However, the Committee believes that it has no option but to bring the matter before the House. This Statutory Rule, which increases seed growers' fees by 5%, came into operation on 2 September and is a burden that the agriculture industry in Northern Ireland should not be asked to bear at this time.

At its meeting on 24 May, the Committee discussed the proposed Regulations and agreed that it could not make an informed decision without knowing the number of people who would be affected by the proposed increase, and without knowing the outcome of the Department of Agriculture and Rural Development's consultation exercise. The Committee had an opportunity to consider the Department's response at its meeting on 28 June. Despite concerns raised by the Ulster Farmers' Union in its response to the consultation exercise, the Department was determined — even at that early stage — to proceed with the introduction of the Statutory Rule. The Department's response clearly demonstrates the reason behind that determination. It states:

“not to increase the fees would mean that those in Northern Ireland would be further out of line with those in GB, which would incur adverse comment”.

The Committee did not accept that the fear of incurring “adverse comment” — presumably from Mrs Beckett — was sufficient reason to add to the industry's financial burden. However, it reluctantly agreed that, given the relatively small number of seed growers affected, and the fact that fees in Northern Ireland would remain lower than those in the rest of the United Kingdom, the Department could proceed to make the Statutory Rule.

However, when the made and laid Regulations came before the Committee on 6 September, the situation for the agriculture industry had considerably, even drastically, worsened. In that meeting, the Committee resolved that the Deputy Chairperson and I should seek a meeting

with Mrs Beckett. The meeting was urgently required to discuss the impact of unprecedented wet weather on the industry and the need for the United Kingdom Government to apply for EC wet weather payments on behalf of Northern Ireland producers.

In June and July this year, Northern Ireland had 155% and 150% more rainfall respectively than for the average of those months between 1961 and 1990. With that in mind, the members present at the meeting on 6 September could not approve the Statutory Rule, because, by doing so, it would add to the industry's financial hardship. At a meeting on the matter a year ago, the Committee was adamant that, while the plight in the farming industry continued, it should not be asked to vote for an increase in payments from farmers.

My Committee wishes to send a clear message to the farming industry that it recognises its plight and will take action to help in whatever way it can. I call on the House to do likewise. I would be a happy man if I could say that problems will be over by a certain time, but the problems have yet to be solved.

Therefore, I call on the House to support the motion to annul the Seeds (Fees) Regulations (Northern Ireland) 2002 and put this matter on hold.

**Rev Dr William McCrea:** I concur with the remarks made by the Chairperson of the Committee for Agriculture and Rural Development. I find it strange that the Department's answer is that it is desiring to have the payments equal to those in the rest of the United Kingdom. On 16 November 2000 I raised a matter with the Minister on pre-basic seed potatoes and Northern Ireland inspection charges, which were not the same as in the rest of the United Kingdom. Payment was being demanded in Northern Ireland, but it was not being paid in the rest of the United Kingdom.

I have frequently written to the Minister, and I have got answers back. I have requested meetings with the Minister since November 2000, but those requests have been refused. I intend raising with the Speaker the fact that a Minister can refuse to have a meeting with a Member of the House on such a basic matter. If fees are supposed to be basic across the United Kingdom, but are not being paid in the rest of the United Kingdom, then the Department is trying to have a bite at both cherries — it wants it both ways, and I do not accept that.

The farming industry is on its knees, and everyone can see that the farming community is facing crisis after crisis. For reasons outside of their control, no sooner are farmers out of the depths of the slough of despond than they are driven back into the depths of despair again. The Chairperson, on behalf of his Committee, has outlined that now is not a time to be putting further weight upon an industry in which farmers, for all their labours, are not even getting the basic minimum wage. That is dis-

graceful, and the Department must rethink this matter. I hope that the Assembly has the guts to stand up to the Department and say that it will not go along with this rise. We will endeavour to do our part to alleviate the great suffering of the farming community.

I trust that the Minister will renege on her refusal to meet me. I have many letters from her Department on that, and I have made many telephone calls trying to get answers. I trust that, even yet, she will have the decency to speak face to face with people in the potato industry who are aggrieved. Even if the answer is the same, she should at least have the honour to speak to those who are suffering and to tell them the facts, rather than relying on a review that has been promised since 16 November 2000, and which is unfinished. Something is seriously wrong, and answers could easily be provided on this matter. The potato industry, which is suffering like the rest of the farming community, deserves at least that.

**Mr McHugh:** Go raibh maith agat, a LeasCheann Comhairle. Along with the rest of the Committee, I agreed on a position about this particular Regulation. This is little different to many Regulations that come through the Committee, but this is an issue on which the Committee took a stand.

We are looking here at costs that are continually being placed upon producers. Those producers have faced lower returns, a decline in their income and a decline in the entire industry on an ongoing basis over recent years. That is not the fault of the Minister, but it is caused by the fact that Britain, the member state, has policies that do not help farmers here. One of the basic problems is that the policies coming from Europe, or the member state — now led by Margaret Beckett — are damaging to the industry here. This Regulation would place additional costs on the producers of cereals; they have faced problems, as have the producers of milk or beef.

2.45 pm

They have faced BSE and foot-and-mouth disease; tuberculosis and brucellosis have had quite rampant effects in the border counties of Armagh and Fermanagh; and lower returns — especially on milk — have signalled meltdown to many of them.

Many small farmers — and large farmers who years ago would have been sustainable — are now thinking of leaving the farming industry because they see little future in it. We do not like to admit that that is the situation, but it has happened because of increased costs, outside competition and imports that are not subject to the same Regulations or costs as local produce. It is not a level playing field. The push towards world prices and the mid-term review of the common agricultural policy (CAP) taking place in October will put further pressure on the future of the industry in this part of Ireland.

The problem is that farmers are expected to pay every time, regardless of how much has gone before. The Minister may have difficulty with that, but it does not look well for the Committee for Agriculture and Rural Development to be adding more costs to farmers. The farmers question how much representation they have in Europe with regard to European Regulations and the fact that it is people such as Margaret Beckett who represent them in Europe and who have the final say. We must fight to be treated as a region with its own agriculture industry and priority. That will not happen while British Ministers represent us on farming matters. All Committee members, including the Members on my right, agreed the position on that, and I cannot see why they are becoming chummy with the Minister. We should not be increasing costs now. Go raibh maith agat.

**Mr Armstrong:** We should accept that there must be an increase owing to the extremely bad weather this year. Changes are made in all sorts of issues, because nothing in life ever stays the same. However, it could be postponed until a later date and no expenses put on the agriculture industry now. We should wait until after the growing season next year, and I ask the Minister to reconsider and hold off any expenses on the farming community until then.

**Mr Paisley Jnr:** It is always very difficult to follow a speech by Mr Armstrong, as he is so erudite, humorous and lengthy. His oratory has given me something to live up to.

Northern Ireland has had a terrible summer; appalling wet weather has affected the entire country in a very bad and unstable way. It has affected the farming community, who make their living by the land, in the worst possible way. On that basis the Minister should reconsider, and recognise that the potato sector is not grant-aided and does not get handouts like other sectors. It lives and falls by the marketplace, the sweat on the brows of men and women, and on what farmers put into and get out of the land. When that land has been saturated as a result of the wet weather we realise something of the problems and plight that the potato sector has had recently.

I hope that the Minister will accept that changes at this time are burdensome and ought to be rejected for that reason. I hope that she is prepared to stand down this bill, which will otherwise be sent out to potato farmers, and that she will grant them the assistance that they require so urgently. I support the prayer of annulment.

**The Minister of Agriculture and Rural Development (Ms Rodgers):** I have noted Members' comments and concerns on this matter, but I must oppose the prayer of annulment and ask for the Assembly's support in rejecting it. Although, having heard the views of the various parties represented, I think it highly unlikely that it will be rejected, I shall make my position very clear.



Like all Departments, my Department is required to recover costs from the beneficiaries of the statutory services that it provides. The requirement that fees cover the full cost of service delivery where a benefit accrues to an individual business has been a justified policy feature of the Treasury and, in our case, the Department of Finance and Personnel for some time.

Northern Ireland sets its own seeds fees, although traditionally those have always been set at the same level as those charged in Great Britain, even though they have not been sufficient to achieve the full recoupment of operating costs. Indeed, on this occasion, the Northern Ireland seeds fees were being increased by 5% instead of 18%, the level required to keep Northern Ireland in line with its counterparts in Great Britain. I was particularly conscious that a decision not to increase the seeds fees for a second year in succession would mean my having to fund the additional costs involved from my Department's resources again. I see no valid justification for rejecting the increase, and I wish to make that very clear. If I cannot gather fees in this way, the costs will have to come out of another part of my budget; something else will have to be cut.

On 13 May 2002 my private secretary wrote to the Clerk of the Committee for Agriculture and Rural Development apprising him of my Department's intention to consult bodies representative of the local industry on the proposed fee increases. The Committee Clerk responded on 27 May 2002, stating that the Committee had considered the proposal and had resolved to await the outcome of the consultation exercise before commenting. Members also asked for some additional clarification on the proposal.

On 21 June 2002 my private secretary wrote again to the Committee, advising members of the outcome of the consultation exercise and providing the additional information sought by the Committee members on various points. On 1 July 2002 the Committee Clerk replied, stating that the Committee had considered the proposals in the light of the Department of Agriculture and Rural Development's consultation exercise and the additional information provided. He said that members objected in principle to fee increases and also that a member's proposal to reject the increase had fallen by the narrowest of margins. However, the Clerk further stated that the Committee was content for the Department of Agriculture and Rural Development to make the Statutory Rule, having taken into account the small numbers affected, the relatively small fee increase and the information that fees payable in Northern Ireland would remain the lowest in the United Kingdom.

I sought and obtained the Committee's approval for the Statutory Rule and proceeded on that basis. The Regulations have already come into effect. An 18% fee increase would have been needed to achieve full cost recovery in 2002-03, but I decided to limit the increase to

5%. Even with that increase, our fees will remain lower than those in Great Britain. For instance, in the case of crop inspection, £12·90 a hectare in Northern Ireland still compares very favourably with £13·20 in Scotland and £13·55 in England. The figure of £12·90 a hectare amounts to an increase of 25p an acre.

My decision to increase those fees should be supported. Annulment of the Regulations will create an unwelcome precedent and will revoke the entire basis for such fees. A new Statutory Rule will be required to reinstate the 1999 level of fees, and that will mean a waste of time and resources.

I apologise to the Chairperson of the Committee for my absence at the start of the debate: the business of the House went faster than expected. However, I have listened to some of the remarks that have been made. I am well aware of the difficult circumstances facing the farming community. My officials, the unions and the veterinary association have apprised me of those circumstances, and on my visits to farms I have seen the damage that has been done and the costs that will be incurred this winter and beyond.

I have done everything possible to help the farming community. My officials and advisers have provided technical advice to farmers from the beginning. My Department is setting winter management options in motion, which will be rolled out from Hillsborough and throughout the North. Workshops will help farmers to manage their difficult circumstances. I have received permission to use set-aside land for grazing, and I am working hard to get permission from Europe to increase the amount of advance beef premium to help with farmers' cash-flow problems. I have also asked for a meeting with the Northern Ireland Grain Trade Association and the Northern Ireland Bankers' Association.

With regard to weather aid, the Committee for Agriculture and Rural Development and the House know that well before 1 July, when the Committee made its decision to go ahead, we were aware of the difficulties facing farmers. There was twice the normal rainfall in June. The Committee and the House knew that I had already asked the UK Minister, Margaret Beckett, to examine the possibility of seeking wet weather aid from Europe.

I do not wish to give false expectations to the farming community; the last thing they need is to be told things not as they are but as they wish them to be. We cannot begin to build a case for wet weather aid until we reach the end of the growing season. In June, I instructed my officials to monitor the situation so that if there were a case to be made, we would be able to make it. If we can prove that the loss fits the criteria that Europe requires, we will make that case for permission to have wet weather aid. However, there is no European fund to pay for that aid. I shall have to seek it from within the Northern Ireland block grant. I have already spoken to

the Minister of Finance and Personnel, who is aware of the difficulties. That is as far as I can go at the moment.

The farming community knows that I have its interests at heart, and that I am doing everything possible. I do not want to be lectured about what the farming community is going through as if it was something I was not aware of. At least Mr Armstrong's comments are always consistent and honest. Sneering at Members, or trying to put them down, is of no use to our purpose, which is to deal with the serious issues facing the farming community.

Mr McCrea, or should I say Dr McCrea — I can never remember these titles — talked about not having meetings with me.

I remember having at least one meeting with Mr McCrea. He will be aware of the serious hiccup in the agriculture industry between 2000 and the end of 2001 when much of its work had to be halted and the serious crisis addressed. Many matters were put on the long finger. I told him then that there was no point in having another meeting until the review was finished and I knew what proposals were being made to the Department. That still stands. I think that Mr McCrea is confusing the fees about which he wrote to me with the fees in question here.

3.00 pm

I do not accept that the Committee's change of mind was because its members suddenly realised that farmers were facing difficulties. I knew that the farmers would probably face a difficult time because of the awful weather in June; the Committee may not have been aware of that, but I knew it was a possibility by the end of June. The Committee said that it was "prepared" — I shall not say "happy" because nobody is happy, and the members said that they were not happy — to accept the small fee increase for a small number of people, but a few months later it changed its mind. It will not do anything to build a good working relationship or increase my confidence in dealing with the Committee if it changes its mind. When I get a view from the Committee I want to know that I can depend on it remaining the view while I go ahead and take action.

I ask for the support of the Members in rejecting the motion to save the Committee, if nothing else, from appearing ludicrous.

**Rev Dr Ian Paisley:** The Committee for Agriculture and Rural Development does not think it is ludicrous for its members to be fighting for the farmers, and the farmers are with the Committee all the way. If the Committee was divided and if members of the Minister's party were not supporting it, let them say so. However, that is not what was said to me, and that was not what I was to do as Committee Chairperson.

I bitterly regret the Minister's attitude and her implied threat that it will be hard for her to work with the Com-

mittee because its members take a different view to hers. This is a democracy. I am entitled to put the views of those whom I represent to the House.

**Ms Rodgers:** Will the Member give way?

**Rev Dr Ian Paisley:** No, I want to have my say and then the Minister can come in by leave of the House if she is granted leave.

I take what the Minister says as a threat, and I regret her attitude. I also regret that she implied that one member of the Committee was honest — I do not know what she thinks of the rest of us. Are we dishonest or a parcel of liars? She said at her party conference that I was a liar, so I can expect nothing less from her.

Minister, do not malign the Committee. I made it clear that the Committee had a change of heart. It is entitled to a change of heart, especially when farmers are committing suicide when their income is ludicrous compared with what is required to keep life and limb together. The Committee is also entitled to do what it can in Europe to make Mrs Beckett face up to her responsibilities, and it will continue to do that. The Committee has never raised the hopes in the hearts of the Ulster Farmers' Union or the Northern Ireland Agricultural Producers Association. We told them the plain truth in language that they understood. The Minister should not say that there are people going around and raising hopes.

The Minister says that the farmers should pay the fee. What about her cutting some of the salaries of the fat cats in the Department? Some £80 million are paid out in salaries in her Department. What about telling those people to take a salary cut? Do struggling farmers always have to pay for those cuts? Does the Minister not realise that the industry is on its knees? Does she want it to end up on its face? If the Minister is to have a cutting programme, she should start with her Department rather than with people who cannot even make a decent wage.

The Committee does not want to have to pray to the Minister in this way. It would prefer to argue the arrangements in Committee, but, in a time of dire crisis such as this, it is the responsibility of all Committee members to take their duty seriously. I am amazed that the Minister is stressing that this would cause a great deal of trouble: it is about time that the Department had some trouble. It is about time that the British Government realised that we are in trouble. It is about time that they got the message that farmers in Northern Ireland are not going to lie down any longer; they are going to get up and fight for their existence. What does it matter if the British Government get angry or if someone else gets angry? The poor farmers must be delivered.

I plead with the Minister to change her mind and to get the idea out of her head that everyone in the Committee is an enemy and that she has to fight them as

such. I smiled today when I heard that the Minister said that she would have no regrets about getting out of my hair. Well, I will not be in her hair any longer, but the whole Committee is in her hair today. I am only a spokesperson — do not kill the messenger. The Minister should start by killing off the people in her own party who have the same views as I do. She should turn her guns on her own side before she turns them on people who are only trying to do their jobs. I regret that this issue has had to come before the House today. I also regret that, in the midst of the farmers' dire plight, we are arguing over this matter today.

The Minister has every reason to support the Committee. Then she could face up to the row, which would be most profitable, because it would teach people that they cannot continue to whip farmers and not expect them to rise, dig in their heels and say that enough is enough.

I appeal to the House to support the Committee. It is up to Members as to how they cast their votes, but if they were in the same position as the farmers, I know how they would vote. Let us think about the farmers and about the suicides in their community. That is of great concern to me. Let us vote today to say that we are masters in our house, that we are here to help the farmers and not to obey the rules of some people who have never been in Northern Ireland and do not know what we are up against.

*Question put and agreed to.*

*Resolved:*

That the Seeds (Fees) Regulations (Northern Ireland) 2002 (SR 257/2002) be annulled.

## HOSPITAL WAITING LISTS

**Mr Deputy Speaker:** I wish to advise Members on how I propose to conduct the debate, which has been allocated two hours by the Business Committee. Two amendments have been selected and published on the Marshalled List. The mover of the motion will have 10 minutes to propose and seven minutes to do the winding-up speech. The proposer of each amendment will have seven minutes to propose and five minutes to do the winding-up. The amendments will be proposed in the order in which they appear on the Marshalled List. When the debate has concluded, I shall put the Question that each amendment be made in turn. If amendment No 1 is made, I shall put the Question on amendment No 2. If that is clear, I shall proceed.

**Mr Paisley Jnr:** I beg to move

That this Assembly notes with concern the most recent statistics on hospital waiting lists and calls on the Minister of Health, Social Services and Public Safety to put in place a policy that urgently addresses the needs of patients by reducing the number of patients and length of time spent on these waiting lists.

On 5 September 2002 the Minister of Health, Social Services and Public Safety issued a press release claiming that she “gets tough on waiting lists”. If her record in recent years is anything to go by, I would hate to see the results of a softly-softly approach to waiting lists, which appear to be totally out of control.

We are used to hearing the Minister make all manner of promises about healthcare — especially on the waiting lists crisis — and failing to deliver. Every quarter, before the publication of waiting list statistics, we hold our breath in anticipation of the ever-increasing numbers of patients on lists. Last March the Minister pledged to reduce the number of people waiting for hospital treatment to 48,000. That promise has never been fulfilled. Today more than 59,000 people are on the waiting list, which represents an increase of almost 9% since June 2001.

The Northern Health and Social Services Board has a massive waiting list; it is the highest outside Belfast. More than 9,000 people are queuing for the treatment that they deserve. Like many representatives, I am bombarded by queries from constituents and the families of patients about what is being done. It has become embarrassing to try to explain to them that I and other Members have voted more money than ever before to the Department of Health, Social Services and Public Safety. I will vote even more money to it this year, yet it will make no impact whatsoever on the surgical needs of my constituents' loved ones. It is embarrassing, because this place is getting the allocations wrong.

If the figures are staggering, consider how much more staggering they are in the light of the 28% increase in the excess waiting list, that is to say, the number of people waiting to get onto the priority list. Tens of thousands of people are waiting for urgent treatment — they are



waiting and waiting and waiting. Given the track record of the Minister's current policy, they will go on waiting.

Trends in waiting lists make an interesting source of study. In 1997 waiting lists decreased steadily. Since the Minister took over, they have risen consistently in every quarter except one. What concerns me most is that the Minister and her minions have no ambition to reduce the waiting lists. The press release of 5 September, which was issued together with the trends, states that her target is to "hold" the waiting lists at these unsatisfactory levels. By the words of her own press release the Minister is condemned.

This year's waiting list is unacceptable, yet the Minister will tolerate it for another 12 months with the weak ambition to "hold" the figures at that level.

**Rev Dr Ian Paisley:** I thank the Member for giving way. Wards in certain hospitals are closing because of infections. I was asked to visit Belfast City Hospital, and on the exit stairs I counted around 500 cigarette butts and saw tin cans and all sorts of rubbish. The wards open onto those exit stairs, which are an absolute disgrace. How can hygiene be maintained in a hospital where such conditions exist?

**Mr Paisley Jnr:** I thank the Member for his observation; it shows that money is being targeted incorrectly.

The Minister has adopted the bureaucratic speak of "acceptable numbers" on waiting lists that are thoroughly unacceptable. I will discuss the trends later. The scandal of waiting lists is somehow robbed of humanity when we speak only about stark statistics. It is only when we meet constituents day to day and hear about their personal trauma that we realise just how harrowing and appalling the situation is.

3.15 pm

I wish to mention two constituency cases. The first is a letter from Mrs W of Ballymoney, who wrote:

"I require breast surgery and went to see my GP in January 1998. I was referred to Coleraine Hospital on 1st February 1998 and seen by the specialist there on the 13th February.

I was seen again on 7th July 1999 and was told then that I would be put on the waiting list. The only contact I have had since then from the Ulster Hospital specialist has been a letter in January 2001 asking if I still want to be kept on the waiting list. On 20th June 2002 I was told that I was still on the waiting list."

That is an appalling example of what it means to be a statistic on a waiting list in my constituency. Yet it is being repeated, and I am sure that Members across the House, representing the four corners of Northern Ireland, would agree.

The second example is from a gentleman from Broughshane, who has written to the Minister's office about his concerns. In his letter to me he states:

"Due to multiple injuries received in a road traffic accident on 4th July 2001, I was transported by ambulance to the casualty department of Antrim Area Hospital. After a cursory examination it was deemed my injuries were not of sufficient serious nature and I was discharged. It was only by persisting with a complaint that I had difficulty breathing that, after a long wait, x-rays were taken. These showed that I had a punctured lung with my broken ribs. A chest drain was inserted and I was admitted."

One of his injuries persists, and he has told me:

"On 8th August I was referred for an opinion from an orthopaedic specialist. My consultant reviewed me again in November 2001. Having waited expectantly for an appointment date, and believing that the NHS was reasonably efficient, I was growing increasingly impatient when I continued to receive nothing, even by way of recognition that I was on a waiting list.

I cannot express adequately how shocked and horrified I was to find that the orthopaedic specialist had not received either of my referrals from my consultant. How can it be possible that two referrals within a few months of each other can fail to reach their destination? What sort of crass, bureaucratic inefficiency does it take to lose, not one, but two referrals?"

Let us be clear about one thing; it is no longer a question of money — the resources are there. More of our Budget goes to health than at any time before. In the words of Brian Patterson, the British Medical Association Northern Ireland representative:

"It is not enough to just pour money into the NHS. It must be targeted to where it is most needed."

If the Minister were called Barbara Brown — and I ask Members to consider setting aside all of the political divisions in the House for a moment — and spoke with an English accent and was here on behalf of the Labour Party or Conservative Party as a direct rule Minister, people would not get near Stormont Castle without tripping over Sinn Féiners calling for her to go because of the way in which the system has been managed. We should draw back and look at the situation from that perspective. We would not let an English Minister run the Health Service in this way, or pump up the waiting lists. Why then are we allowing a person from Northern Ireland, a devolved Minister, to do it? We ought not to; we ought to reject her. The silence of some parties on the issue has been deafening.

The Minister's policy is a disgrace; it has failed. She has turned a trend of decline in waiting lists in 1997 to a consistent increase. However, there is not a squeak from her party about her incompetence or that of her policy. The problems we face are a symptom of the political process. In any other Administration where a Minister had made such a significant mess of a portfolio they would, at best, be reshuffled elsewhere: the Cabinet or the Executive would see to it that such action was taken. This Executive lack the courage, and Sinn Féin the self-respect, to remove an incompetent Minister who has made a mess of a bad situation.

My party can, and will, be accused of many things, but at least our Ministers, all four of them to date, have



been quality Ministers doing an efficient job. If they were not up to it, the party, let alone the nominating officer, would see to it that changes took place. Sinn Féin does not have the guts to change the Minister, even though she should have gone a long time ago.

If the Assembly continues with the Government's health policy, the result will be a disaster. The Minister's pledges and words count for little. Her glossy reports, of which there are dozens, do little but delay, procrastinate and confuse the public. I have those reports in front of me, and I will refer to them later. The House must demand that matters are put right or the Minister should be put out.

There are two amendments to the motion. I studied the Alliance Party's amendment, and then I checked the statistics that have been provided. I believe that the Alliance Party's amendment has been accommodated, because in the appendix to those statistics are the inpatient waiting lists by speciality. Perhaps they should be broadened, but that is for another day. I appeal to the Alliance Party to withdraw its amendment for that reason.

With regard to the amendment that stands in the name of Mr Hamilton and Mrs Courtney, I do not doubt their sincerity. However, that amendment just expands upon what I have already said. Let us keep the focus on a single issue. Let us distil it to the real point, which is that the Government's policy has failed. Let us place the blame where it ought to be placed.

**Mr McCarthy:** I beg to move amendment No 1: At the end add:

"and to ensure that future statistics include waiting times for various ailments."

Every member of society is appalled at the continuing increase in waiting lists for healthcare. All Members must express concern at that rise and emphasise that those statistics represent thousands of people who are suffering physically and psychologically. Waiting lists tell us little about the services that are delivered by the National Health Service, because they tell us little about the care that patients receive while they are on them.

Waiting lists can distort clinical priorities. Doctors have always considered them almost meaningless, as they almost place the same importance on minor surgery as on life-threatening illness. There is much more suffering for one person waiting for a cancer operation than there is for 10 people waiting for treatment for a dermatological or other less life-threatening ailment.

Waiting lists are meaningless to people. However, waiting times have a meaning, as people know how long they will have to wait for their needs to be met. They give patients a time and date to have in their sights, and they do away with uncertainty. Waiting times are a common-sense alternative, and they give the National Health Service a meaningful measure of its progress on improving the service delivered to patients. Waiting times

are particularly crucial for more serious procedures such as heart and liver operations, cancer therapy, kidney transplants, brain surgery and so on, as they make the difference between life and death.

Last year the Scottish Executive announced that waiting times, rather than waiting lists, were to be the litmus test of progress in the Health Service. I cannot see why we should not do the same. That would show how much waiting time is due to major surgery on gravely ill patients being cancelled at the last minute for various reasons, causing great alarm to the patients and their relatives. All concerned must ensure that that extra burden on waiting lists is halted at once.

**Mr Hamilton:** I beg to move amendment No 2: In line 2 delete all after "waiting lists" and insert:

"and, recognising the problems of bureaucracy, lack of resources, wastage of present resources and total lack of decision-making within the healthcare system, calls for the implementation of an effective and co-ordinated strategic plan between the Department of Health, Social Services and Public Safety and the Health Boards and Trusts to help reduce the number of patients and length of time spent on these waiting lists."

I seek support for the amendment from all parties in the House. The reason for that is simple: I want to see real, effective action taken by the Minister. The Minister has told people repeatedly in Northern Ireland that she has put plans and measures in place to deal with the problem. However, this debate is evidence that her initiatives have, unfortunately, failed.

I congratulate Ian Paisley Jnr on tabling the motion. It is important that the House accept the amendment proposed by the SDLP and my party, because it will help to add more weight to the original motion and to expose the bureaucracy of the system. People want improvements on the ground. The amendment will help to make the Health Minister more accountable to the House and put more pressure on her to implement effective plans.

Two years ago, the Minister told us that her framework for action on waiting lists would help to solve the problems of recent years. It is obvious to everyone that her plans have not worked. It must be asked whether the Minister has the authority and vision to make a real difference to the problem of waiting lists. In a press release issued on 12 September 2000, the Minister said:

"Yesterday I issued a comprehensive framework for action. I am confident that the action flowing from that framework will immediately begin to address the problem, and will bring down waiting lists in the longer term."

Can the Minister be as confident now that the frameworks are having the impact that she intended? Is it not time that she admitted that her plans have been unsuccessful? Only yesterday, my Colleague Robert Coulter drew attention to delayed discharges and bed blocking in the Causeway Health Trust and to the link between bed blocking and waiting lists.

Through my membership of the Health Committee, I sincerely understand the Minister's problems. It is because of those problems that the House has been patient for the past few years and has given the Minister time to tackle the issues. We were told that things would not improve overnight. I agree — no one expected them to. However, the Minister has had more than enough time to make a serious start on improving waiting list statistics.

It was important that the amendment contain a specific phrase on the relationship between the Department, health boards and trusts. There is a growing public perception that the Minister lacks the authority to put effective measures in place. According to reliable health professionals, there seems to be a disjointed and unco-ordinated approach to that problem within the health system.

The Minister often tells us how the Health Service has suffered from underfunding over the past few decades. I do not doubt that there is some merit in that argument, but, enough time and tolerance has been given to the Minister since she took up her post. It is about time that action was witnessed, so that people can see the benefits of a locally elected institution.

I was interested to read the recent comments of Dr Brian Patterson of the British Medical Association, who said that it was not enough to pour money into the National Health Service and that money needed to be targeted to where it was most needed, within the context of a coherent plan. That has been the argument of the Ulster Unionist Party. That is why it has proposed the introduction of an independent health auditor within the health system. Currently, auditors appointed by the Department of Health, Social Services and Public Safety audit the accounts of health bodies in Northern Ireland.

We support the establishment of a robust independent audit of health services, with the Comptroller and Auditor General being appointed the auditor of all health bodies. That must be dealt with as part of the forthcoming audit and accountability legislation in order to best address the combined needs of Northern Ireland's Health Service and local taxpayers. It is no good throwing taxpayers' money into a massive black hole. We need to know that we are getting value for money and the maximum benefits possible. Money must be directed in the most effective way possible.

3.30 pm

I hope that the House will accept the amendment and that the Minister will admit to the failure of the present framework for action on waiting lists. That is not simply my view, but that of health pressure groups, such as the British Medical Association. Real, effective measures and immediate action are needed, not more consultations.

**The Chairperson of the Committee for Health, Social Services and Public Safety (Dr Hendron):** Mr Hamilton made a point about the Comptroller and Auditor

General, and that issue has been raised with the Minister previously. As I understand it, the Comptroller and Auditor General for Northern Ireland has responsibility for all Departments, with the exception of the Department of Health, Social Services and Public Safety. I am not sure whether that historical arrangement has changed, but the Comptroller and Auditor General should have responsibility for the Department of Health, Social Services and Public Safety just as he does for every other Department.

I welcome this opportunity to put the spotlight on the intractable problem of waiting lists. I acknowledge that this is a complex issue, for which there is no easy fix. I thank Mr Paisley for tabling the motion on this important issue and those who tabled the two amendments, which have encouraged serious and worthwhile debate.

The latest waiting list figures of almost 60,000 continue that depressingly familiar upward trend in quarterly statistics. The lists have gone up by an average rate of almost 10% since 1996. Our waiting lists are the highest per capita in the UK and are 60% higher than they are in England. Over 5,000 patients have been waiting for admission to hospital for longer than is acceptable under charter standards. Not surprisingly, those statistics play an important role in shaping a generally negative public perception of the Health Service in the Northern Ireland. There is an increasingly vocal public demand for those seemingly endless increases in waiting lists to be arrested as a matter of urgency.

We are frequently urged to look beyond the headline figures and consider the overall increase in the number of people being treated. Although some 7,000 more patients were treated in 2001 than in 1999, that will be cold comfort for the tens of thousands waiting anxiously for treatment, not knowing when they will receive it. It is completely unacceptable that patients with life-threatening illnesses sometimes have to wait years for treatments — that adds to their stress and increases the risk to their health. Regrettably, the wait will be too long for some. The many people who are waiting for cardiac bypass surgery can pay approximately £14,000 for private treatment. I do not oppose that — patients are entitled to opt for private treatment, if they can afford it.

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

**Dr Hendron:** I will give way shortly.

I object to a person having to use his or her life savings to pay for treatment. It is wrong that someone who may have only a few years left to live should have to pay that amount. Last week, in my capacity as a doctor, I dealt with someone in that situation.

**Mr McCartney:** Does the Member appreciate that, even with £14,000, it takes three months to have a bypass operation in the Royal Victoria Hospital? One must travel to Dublin.

**Dr Hendron:** I understand that to be the case, although the wait would be no more than three months. Not everyone can afford that; something is wrong.

The Committee for Health, Social Services and Public Safety has for some time monitored the alarming increase in waiting lists and has frequently questioned senior officials about the obstacles to reducing them and the steps taken to increase capacity in the system. The Committee has written to the Minister on several occasions expressing serious disquiet at the escalating numbers who are waiting for hospital treatment. Like many others, the Committee has demanded to know what practical steps are being taken to tackle the problem. There is no doubt that historical Health Service underfunding in Northern Ireland has contributed directly to the crisis. For example, cuts in health resources in 1995-96 led to a 30% reduction in elective surgery that year. The waiting lists for elective procedures have been a major problem in Northern Ireland for several years. The Minister's proposals in the recent document on elective surgery will be a positive step when they are implemented.

The problem has been compounded by a decrease of 18% in bed capacity over the past 10 years; however, inpatient surgery increased by 10% during that period. As a result, many hospitals are working to maximum capacity.

The Committee has the most profound respect for front-line doctors and nurses. We have visited every hospital in Northern Ireland and have seen how hard they and all other hospital staff work in accident and emergency departments and elsewhere. I pay tribute to their commitment, resilience and dedication, and I am sure that every Member would show them great respect and thank them.

The advent of devolution, however, provided a proper focus on health, which has been — deservedly — the Executive's main priority ever since. That has meant a welcome injection of additional resources to reduce waiting lists.

The consensus was that extra funding was required to support an increase in service capacity to meet the demand for elective procedures. An additional £5 million was allocated for that purpose by the Minister in 2000 to support her three-year programme of action to tackle waiting lists. That sum was consolidated in 2001-02, together with an additional £3 million for new actions to deal further with the problem. Some £2 million has been set aside for waiting list initiatives this year, and that has been targeted at protected elective admissions.

Those significant funding increases led to a guarded optimism that tangible improvements would begin to flow from the initiatives in the Minister's 'Framework for Action on Waiting Lists'. I am sure that the Minister will speak positively; however, judging by the figures, the framework for action has signally failed. The Department's

priorities for action have consistently included targets for increased capacity, improved access to services and addressing staff shortages. The plan for 2001-02 included a plan to reduce waiting list figures to 48,000 by 2002. However, given the latest figures, the less challenging target of keeping the 2002-03 waiting lists at the level of 2001-02 may seem overambitious.

**Mr Deputy Speaker:** Dr Hendron, I did not impose a time limit because of the number of Members who wish to speak, but I would be grateful if you would draw your remarks to a close.

**Dr Hendron:** I shall indeed, Mr Deputy Speaker. I warmly welcome the recent appointment of the regional co-ordinator, Ms Jill Anderson, to provide a focus on waiting lists. She will provide a central steer to trusts' senior managers, who were appointed to develop better management approaches in assessing activity.

The problem is complex. It is very much in the Minister's interests to reduce the waiting lists, and she wants to do that. However, all the structures in Northern Ireland need urgent examination. More must be done to attract trained nurses and doctors into orthopaedics. One of the problems in orthopaedics is that there is not so much a need for surgeons as for appropriately trained theatre nurses. That is a key point.

I have spoken for long enough.

**Mr Berry:** I commend my Colleague Ian Paisley Jnr for tabling such an important motion. Unfortunately, because the issue of waiting lists has been raised so often, we have run out of words to describe the deplorable situation that exists. The words "crisis", "meltdown" and "Third-World service" have been used before, and it is evident that, regardless of promises to deal with waiting lists, those lists get worse every day.

In 'Framework for Action on Waiting Lists' we read of commitment to reduce the numbers waiting. When the framework was published, a further £5 million was allocated in 2000-01 to deal with the problem. The usual press release trumpeted the great things that would be done. However, many of us would like to know how that money, and the other moneys that were given to deal with waiting lists, was spent. An audit should be carried out to determine where the money was siphoned off to and how much was really spent on tackling waiting lists.

The framework was a gigantic hoax. One of its great suggestions was that boards should describe the situation in their area and what they had done to alleviate it — which, regrettably, were facts that were already known. Further, they were to appoint a manager and submit quarterly returns to the Department. That is all tremendous stuff, but the end result has been that bureaucracy has increased year on year.

Many words such as "targets", "process" and "protocols" and grand phrases such as "strategic case mix planning"



and “slot systems” have been used. There was an action plan, followed by board action plans, followed by trust action plans, followed by managers appointed by each board. There has been much activity and paperwork, but waiting lists have still increased. I find it deplorable that the situation is getting worse, but, most of all, our constituents, who are suffering as a result, find it deplorable and disgraceful.

I had discussions with representatives from the Chartered Society of Physiotherapy, and, although debates such as this are important, it is also important that we submit ideas to the Department. The phrase “winter pressures” seems to be fading from the collective consciousness as Ministers and managers realise that waiting lists and bed blocking are ever-present problems. Even in a good winter, bed blocking is one of the biggest burdens on the Health Service. However, with good management the situation can improve. For example, physiotherapists in other UK regions have been quick to establish their position as key players in the battles against waiting lists and delayed discharges. A growing number of highly experienced physiotherapists now work in the front line of healthcare. Many of them in England, Scotland and Wales are extended-scope practitioners. Their role includes assessing patients; making clinical diagnoses; referring patients to other healthcare professionals; and treating and discharging patients without their having to see a doctor.

**Mr McCartney:** Is the Member aware that the acute bed blocking is caused, to a great degree, by the failure of the trusts to pay reasonable fees to nursing homes that could relieve the pressure at a fraction of the cost?

**Mr Berry:** I agree wholeheartedly with Mr McCartney's comments. The Health Committee raised that issue with the Minister. We asked her to provide temporary funding to enable nursing homes to care for elderly patients until they are fit to be discharged into the community.

Research has shown that more than 70% of patients referred to orthopaedic clinics do not need to see a consultant. In Sheffield, the introduction of an orthopaedic screening service, led by two physiotherapists working as extended-scope practitioners, has resulted in patients waiting an average of 32 working days for an initial appointment, compared to 11 months for a hospital appointment. The problem in Northern Ireland is that, although a national service agreement instructing trusts to make provision for extended-scope practitioner roles for physiotherapists was introduced in 1996, to date no trusts have fully implemented it. Like the Chartered Society of Physiotherapy, I believe that developing more opportunities for physiotherapists to work as extended-scope practitioners would provide more timely care for patients, reduce waiting lists and enable the Health Service to work more effectively.

3.45 pm

To develop those roles, the Department of Health, Social Services and Public Safety should firmly direct all trusts

in Northern Ireland to implement fully and wholeheartedly the national service agreement on grading for the professions allied to medical practice.

In the Southern Board area, over £2 million has been wasted as a result of non-attendance at hospital appointments. The elderly, for example, may forget about their appointments. More than £10 million has been wasted in all the board areas in Northern Ireland in that way. A system must be implemented to remind people of their hospital appointments closer to the time so that such a situation can be avoided. The information system on appointments must be investigated so that the people get a better service. I support the motion.

**Ms Ramsey:** Go raibh maith agat, a LeasChéann Comhairle. As a member of the Committee for Health, Social Services and Public Safety, I am aware of the needs of patients, staff, the elderly, children and the disabled. I am also aware of the community's concerns about waiting lists as well as the strategy that the Minister of Health, Social Services and Public Safety has implemented to tackle the problem. However, another member of the Committee for Health, Social Services and Public Safety is unaware of that strategy.

I accept that waiting lists are a concern for everybody and that they must be addressed as other Members have said. However, I cannot accept the amendment that has been tabled by two of my Committee Colleagues because it is disrespectful to those who work in the Health Service.

I assume that the accusation in the amendment that there is a

“total lack of decision-making within the healthcare system”

is a cheap jibe at the Minister. I am glad that she is here today and will be able to refute that accusation. I should also like to applaud the Minister for her commitment to tackling waiting lists. She has successfully gained funding to put 1,000 extra community care packages in place, which will undoubtedly free beds, and the last Member who spoke reminded us of the problem of bed blocking and how the elderly are kept in hospitals. That must be considered.

Incidences of elective surgery have increased, and the Committee was informed of that last week. That must also be applauded because, as the Chairperson said, we cannot tackle waiting lists in isolation without considering the Health Service as a whole.

I cannot support the amendment. Thousands of healthcare workers have decision-making responsibilities, and I object strongly to its wording on their behalf. People who work in the Health Service make decisions daily, whether they are doctors, nurses, or other hospital staff. They have increased the activity and efficiency of the Health Service over the past 10 years, despite serious underfunding. Statistics show that activity in hospitals has increased while funding has decreased. The accusation



that there is a total lack of decision-making in the Health Service is objectionable and an insult to medical workers.

We must take a more serious approach that looks at what has led to the increase in waiting lists, and the Assembly must act as a whole to tackle them. The Chairperson rightly pointed out — and someone of his calibre who has had years of experience in the Health Service will know — that waiting lists cannot be considered in isolation, because they are a complex problem.

One Member said that while waiting lists remain a concern, we can see from the June figures a slight increase, mostly as a result of the new fertility services that were previously unavailable on the Health Service. I can see some Members screwing their faces up at that. The welcome introduction of fertility treatment has caused a slight increase in waiting lists.

Tom Hamilton spoke about developing a strategy to examine where the money goes in the Health Service. The needs and effectiveness study that pointed that up seems to have backfired on the Office of the First Minister and the Deputy First Minister, as many people have stated that money cannot continually be thrown at the Health Service. The system must be overhauled. Bodies such as the National Health Service Confederation, the British Medical Association and the Health Committee have all stated that the Health Service is underfunded, and now the Office of the First Minister and the Deputy First Minister has published a study that proves it.

Some Members spoke about staffing and the problem of cancelled appointments. At last week's Health Committee I asked for the figures. Cancelled appointments and people not bothering to attend account for 25% of the total. There is also a shortage of staff, and it will take 10 or more years to fill the quota.

I accept that consultants work extremely hard; however, when annual leave is taken no one is trained to take their place. The acute services review 'Developing Better Services' calls for a single strategic regional authority with a workforce planning remit, which is the sort of change needed, and I commend the Minister on that. Boards and trusts must not take decisions outside their remit while not considering the hospitals or the acute sector as a whole.

Recently, the Health Committee was advised of the 100 additional beds to be provided for the Mater, Craigavon Area and Antrim Area Hospitals. I commend the Minister on that provision. Proposals are in place in the acute services review to reform management structures; the movers of the motion would do well to study them.

I thank Paul Berry for raising the matter of winter pressures, which place extra burdens on our hospital services. However, Ian Paisley Jnr should ask his Minister to grit the roads and footpaths properly this winter to ensure that the pressures on hospital services do not continue.

**Ms McWilliams:** The statistics for waiting lists are stark. The Department of Health, Social Services and Public Safety's press release of 12 June 2001 stated that there was a hope that waiting lists would be down by 25% to 39,000. That figure rose six months later to 57,000, and, as the Committee Chairperson said, they stand now at over 60,000.

I have no difficulty with Mr McCarthy's amendment, which calls for waiting times to be included in future statistics, but we already have accurate information on waiting times. I have been looking through the minutes of the Eastern Health and Social Services Board, which detail its plan. It will be interesting to hear from the Minister that these figures are the returns from some months ago and that there may be improvements since these plans have been introduced.

Last week in my constituency I was told of an elective surgery admission that was cancelled four times over four months. The admission was an urgent referral for a large bowel investigation. The patient had to wait four months for a barium enema, which resulted in an unacceptable delay in the diagnosis of bowel cancer and a consequent delay in treatment. In the case of bowel cancer, any delay is very serious, as a life could be saved by prompt treatment. Only yesterday, I mentioned a horrific case, where a woman had been prepped four times for a bowel cancer operation. Between June and 23 August, the woman had been sent home to fast every Wednesday night in preparation for an operation the next day. She had still not had her operation by 23 August.

These cases are the tip of the iceberg. It is a terrible message to send out that, even in the case of cancer, which is a priority in the Health Service strategy, intensive care beds are not available. A consultant wrote to me saying that he had had to cancel his list of patients waiting for breast cancer operations. The Eastern Health and Social Services Board stated that it hopes to bring forward 180 patients for breast surgery operations with the extra money for waiting lists. This is a serious situation, which is traumatic for people on the waiting lists who have been diagnosed with cancer but do not know when their operations will be carried out. If an operation can be done promptly, a life may be saved. The longer cancer is left, the less likely it is that that life will be saved.

The Eastern Health and Social Services Board attempted to address the matter and to enhance its elective day-care work by reserving a number of beds that were used for emergency admissions for that surgery. I hope to hear that that strategy is working in the Mater Hospital and the Lagan Valley Hospital. The board then had to decide whether to opt for extra activity by the current consultants, for a locum surgeon to carry out more operations, or for additional permanent surgeons. I was taken aback to find that some of the consultants were demanding £500 for each extra operation. That serious matter should be addressed.

The Eastern Health and Social Services Board decided on different solutions for different hospitals. It is good to see that it has provided a permanent surgeon in the Belfast City Hospital, which seems to have the highest waiting list figures. There are 5,460 on the list, with an overflow list of 1,375. Those are huge figures, and I do not know what impact one surgeon might make on those. Nevertheless, it is an attempt to reduce the figures.

It is good to see that the Northern Ireland Chest, Heart and Stroke Association's (NICHSA) regional services improvement co-ordinator, Jillian Anderson, has developed the waiting list handbook and the common management protocols. The fact that different trusts are doing different things is problematic. We need to know what Jillian Anderson has recommended to date. The centrally co-ordinated waiting list and the common management protocols must be prioritised to enable the transfer of patients. It will be good to see whether these protocols are beginning to make a difference.

We have heard from the NICHSA's chief executive, Andrew Dougal, on several occasions about the extensive waiting list for cardiac surgery. The Eastern Health and Social Services Board tells us that the figures for 2002-03 show that there are 268 people still on the list, despite the fact that 33 of those people were transferred outside Northern Ireland and that 44 of those 268 people have been waiting more than 12 months. Other Members have stressed that these extensive waiting lists mean that a long time passes between diagnosis and convalescence; we should set a target of no more than 12 months for that period.

The key is found in what I have said about management protocols, and most importantly, about co-ordination. This is not the first time that I have raised this matter in the House — it is probably the tenth time. The Member for North Down, Bob McCartney, mentioned community care. There is a demographical problem. The elderly are living longer, and nursing homes have closed, so we must find alternatives. I am told that 50 of the Causeway Hospital's 250 beds are taken up by delayed discharges — that is a fifth of the hospital's beds. Such figures clearly represent a crisis, and we must address that problem.

Between 65% and 80% of the 1,000 community care packages that the Minister released across all four health and social services boards went to the elderly.

The problem is clear: the elderly are in great need of these packages, but to distribute 1,000 of them was not enough. If the aim expressed today is to move patients out of hospital so that others can come in, and to increase intensive care capacity for those who require operations urgently, the number of community care packages must be increased.

4.00 pm

I agree with Ms Ramsey's comments about agreeing priorities in the Health Committee. It is with dismay that

I note that politics are being played in respect of health issues, but I can understand that. Mr Berry and Iris Robinson were in a difficult position because they felt that they had to deviate from the wording of the Committee's letter about increased funding, which referred to funding as "a priority" and not "the priority". The Assembly must give the clear message that funding is "the priority".

**Mr McCartney:** Six months ago, I stated in the House that the waiting lists in Northern Ireland were not only the worst in the United Kingdom but the worst in Europe. Since then they have got even worse. Two points must be made about the Minister responsible. First, I agree with Ms Ramsey that health is under-resourced — there is no doubt about that; however, I do not agree that the Minister has made the best use of the available resources, or that she has administered them in the most competent and effective way.

We must look deeper at the cause of the present dilemma in the Health Service. The growth of waiting lists and the general lack of morale in the Health Service are the product of the form of Government endorsed by those who signed the Belfast Agreement. The underlying failure of the entire system is demonstrated. The pro-agreement parties, not just Sinn Féin — it was not the biggest party — but the SDLP and the Ulster Unionist Party, signed an agreement that made no provision for filling the black hole of capital underinvestment and the under-resourcing of aspects of life here.

*(Madam Deputy Speaker [Ms Morrice] in the Chair)*

The core problem would exist regardless of whether the Minister of Health, Social Services and Public Safety were from Sinn Féin, the SDLP or the Ulster Unionist Party. The difficulty is that not only was there a failure to negotiate sufficient resources but there was a failure in the institutions. The undemocratic d'Hondt system means that no Minister is really accountable to the Executive, the Health Committee, or even the Assembly. Ministers can be wholly incompetent or ineffective, but only the parties that appointed them can remove them — and that is unlikely in the present state of affairs. The pro-agreement parties were so anxious to get power that they sold out the basic interests of the population in Northern Ireland that is in need of healthcare, whether Unionist, Nationalist or of any other denomination.

The pro-agreement parties in the Executive, including the SDLP and the Ulster Unionists, failed to pass on the extra cash that the Chancellor of the Exchequer gave out over the past couple of years as a share of national increases in health spending. They preferred to spend it on their own priorities — more staff, more offices, more bureaucracy and more Departments like the "Department of the Centre", whose two Ministers have more than 400 staff and advisers.

The Minister of Health, Social Services and Public Safety is not without blame, although there are some extenuating circumstances as regards resources. She has failed to administer her Department and to spend the available money efficiently. For example, there was the decision to close the Jubilee Maternity Hospital and the resultant massive overloading of the Royal Maternity Hospital, the failure to begin the promised new maternity hospital, and the perverse and ideological decision to scrap GP fundholding in favour of a centralised bureaucratic system that is still not properly in place and will probably never work. The GPs — respectable, dedicated doctors in the British Medical Association — are in revolt because the system is not working.

The Minister is also guilty of having a bizarre proclivity for launching inquiries at the drop of a hat, thereby wasting the precious administrative resources of her Department and the limited time she has as a Minister to make and implement decisions. Mr Berry has given Members a catalogue of committees and initiatives, all of which have produced absolutely nothing, except that the Minister's eyes have been taken off the main object, which is the healthcare of the community.

The failure of the Health Minister is just one prominent example of the failure of pro-agreement parties to deliver the joined-up government they promised in the referendum. If it was not so sad, something could be made of the fact that all those folk who promised the people of Northern Ireland more efficient, accountable and effective government have failed to deliver it, and the system has failed to deliver it.

We can talk from time to time, whether it is about health, the environment, roads, sewerage or whatever, of the failure of the respective Minister to deliver, but we must look at the basic system. Unless we have principled, democratic, efficient, accountable government, we get 10 independent warlords without any collective responsibility.

Madam Deputy Speaker, every other Member has been given seven minutes to speak, and you are demonstrating impatience when I am not anywhere near that.

**Madam Deputy Speaker:** The signs from the Chair were not impatience due to the time. I am aware that the Deputy Speaker has agreed that Members should speak for seven minutes, and I am prepared to go along with that. The subject of the motion is hospital waiting lists, and you were straying off the subject. That was why I was questioning you.

**Mr McCartney:** With the greatest respect, Madam Deputy Speaker, if the basic system of government that produces these waiting lists, inefficiencies and difficulties is not relevant to the waiting lists, it is difficult to see what is. Of course, there are many Members in the House who cannot see the wood for the trees, and who cannot see that the things that are debated in a superficial way

are the product of deep-seated constitutional failures to deliver effective government. That is the relevance.

I was going to say that I always find it amusing, if not tragic, to see that when one Minister is under the gun, every Member in the House attacks him or her. There is no question of collective responsibility. Today it happens to be the turn of the Health Minister. Let us blame the Health Minister for what she is culpable of, and remember that most of our problems are directly relevant to the system of government that the major parties that signed the agreement are responsible for.

**Madam Deputy Speaker:** Order. *[Interruption.]* Order, order. *[Interruption.]* Order. Given the number of Members who still wish to contribute to the debate, and the time that has been made available, I must ask Members to restrict their speeches to five minutes.

**Mr Shannon:** I support Mr Paisley Jnr's motion and wish to comment on waiting lists. Last week the press announced that they had been banned from entering the Ulster Hospital to ask patients and staff their opinions on the service that is being provided and to give an accurate portrait of what is really going on in the Health Service. Many people approached me and said that they thought that it was an absolute disgrace that the press were unable to ask patients and staff just what is going on so that they can get a fair idea of their problems. The hospital might have tried to withhold the information about long waiting times and people sitting on trolleys for more than eight hours at a time, but no one can hide that kind of dissatisfaction.

The statistics themselves speak volumes before one even begins to talk to those waiting for hip replacements or scans that could diagnose life-threatening conditions. It has been reported that some 140,000 people in the Province are "in the queue waiting to join the queue" for operations and treatment. People are waiting inordinate lengths of time to undergo relatively minor surgery that would have them operating on full power without the need for other forms of care. Patients such as those waiting for hip replacements are prime examples of that scenario. They usually need care packages while waiting for their surgery, but, on the whole, they would recover fully and be active and mobile members of the community were they to receive the surgery that they needed when they needed it. That would also save the system money.

The Health Service is full of people who need surgery, only to have it postponed. Therefore there is congestion, with people suffering pain and distress because they have been waiting so long. That drains resources from other parts of the NHS, such as community care and general practitioners. The waiting list system is a vicious circle, which the Minister and her Department must address. In last week's papers, it was incredible to see the plethora of advertisements selling insurance, private health policies and operations at private clinics on the



basis that the Health Service is so bad that it is failing to do its job. One of the captions read, "Worried about NHS waiting times? Phone this number".

I should not say that the country is worried about NHS waiting times. However, waiting times are becoming extremely frightening for those on the waiting lists, especially the elderly, who are now parting with their life savings to rid themselves of the very pain and suffering that they expect the Health Service to try to alleviate. What sort of society do we live in if the elderly have to wait to part with hard-earned cash so that they need not be burdened by pain and suffering at their time of life, when they should be using their savings to enjoy their retirement and to pursue activities that they could not when they were working? The elderly, and everyone else in this country, have to be told that the Minister and her Department will do something other than simply offer platitudes about how seriously they regard the situation or, at the end of this debate, sum up by saying that they agree with what has been said.

What is to happen? Is it not about time that the Minister stopped blaming the Conservative Government for what they did to the Health Service and showed us what she will do about the situation? The problem has reached somewhere beyond crisis point. Around 10% of the population are waiting to see a doctor, never mind have an operation or take their treatment further. The situation is indefensible, and something must be done about it, not in the next financial year but now, when thousands more have joined that same queue waiting for operations.

Several hospitals around the Province were closed down around five or six years ago so that the pooling of resources would benefit the country. The direct result, especially in the Ulster Hospital in Dundonald, was a bigger workload and not enough staff or hospital beds to cope with the larger catchment area that was created by closures elsewhere. Those same hospital buildings, which only five years ago had seen patients getting treatment and the proper level of care that they deserve, are for the most part lying empty.

Another reason that lists are so long is that patients are being sent home early to free beds and reduce the lists, only for them to return with complications that take longer to cure. As a result, they require more time in a hospital bed than the original surgery would have resulted in had the patient been allowed the appropriate post-operative rest time to begin with.

There is no doubt that we have the worst waiting lists in Europe. We are certainly outstripping other areas of the United Kingdom. The breach of charter standards has been going on for a long time, with many patients waiting more than two years for hip replacements when the maximum should be 12 months. Can we imagine how many people are living in pain daily? We see figures on a page that tell

us that there is a two-year waiting list for hip replacements, or a year or two for cardiac or orthopaedic surgery.

I urge Members to support the motion, which my Colleague, Ian Paisley Jnr, tabled. It is opportune and applicable, and people wish to see the waiting lists reduced now.

4.15 pm

**Mr Armstrong:** I welcome the opportunity to speak about the consistently high waiting lists, which are causing concern to many people throughout Northern Ireland. Our health system is cursed with the worst waiting lists in the United Kingdom and Europe. Given the size of the population, we are now the poor man of Europe as far as health provision is concerned.

The most recent statistics show that waiting lists continue to grow at an alarming rate. The rise in the number of people waiting for hospital treatment, whether inpatient or outpatient, started in 1999, around the time that the Minister of Health, Social Services and Public Safety took office. In a recent press statement, the Minister said that hospital trusts were being put on notice to deliver on waiting list targets. Surely she should take responsibility for this disgraceful situation that she has presided over as Minister.

Every Member knows of the long-standing effects of gross underinvestment in the Health Service during direct rule. The Health Service has been under the leadership of the Minister for three years now, but the situation has far from improved; indeed, it has spiralled out of control. What is the Minister going to do to reduce the number of patients on long waiting lists? How is she going to reduce the bureaucracy in the Department of Health, Social Services and Public Safety? Her past decisions have done nothing to alleviate wastage and reduce waiting lists.

The number of people waiting for inpatient services grew by nearly 9% in the past year alone. The number of people waiting for more than the recommended time increased by 22% in the past 12 months. The number of people with serious health conditions waiting for treatment increased by one fifth in one year. One of my constituents, who was due to have an operation for a cancer-related illness, was told a few days beforehand that it had been postponed. I had to intervene to have the appointment reinstated. The general public is disillusioned with the health system here. Over the past years, many have seen hospital services decline, not improve.

Last year the Minister made a pledge to reduce waiting lists to 48,000, and she was given an extra £224 million to help her to keep that promise, which has since been broken. The waiting list now stands at a disgraceful 59,000. It is not only inpatient waiting lists that have increased. Outpatient figures have soared to over 140,000 persons, which is another shameful statistic. Each statistic represents an individual suffering, often facing anxiety



and unable to get on with his life because he has to wait for an operation.

The waiting list crisis is summed up by the recent comments of the vice-chairman of the British Medical Association's Northern Ireland council. Dr Brian Patterson said that doctors were

"impeded by bureaucracy, lack of resources and a total lack of decision-making within the healthcare system".

As elected representatives, we cannot afford to ignore the views of the representative bodies of doctors, nurses and other health professionals. The Minister has shown a marked lack of leadership on the issue of waiting lists. No amount of consultation documents can take the place of firm decision-making. The crisis is such, as illustrated by the highest waiting lists in Europe, that the Minister of Health, Social Services and Public Safety should abdicate from her position, as she has failed in her duties.

The Minister told us in March that there would be a reduction in waiting lists, which has not happened. The public have grown tired of broken promises and failed initiatives. We need more beds, more doctors and more nurses in our hospitals.

**Madam Deputy Speaker:** The Member will draw his remarks to a close.

**Mr Armstrong:** There must be a way of monitoring how taxpayers' money is spent and there must be a measure of accountability in the health system. The people of Northern Ireland should not be made to wait any longer.

**Mr J Kelly:** Go raibh maith agat, a LeasCheann Comhairle. Members have heard much about waiting lists, not only today but over several weeks. It is worth looking back. On 13 March 2002, the Department told the Health Committee that

"Waiting lists for elective procedures have been a problem in Northern Ireland for a number of years. Cuts in resources for health in 1995/96 led to a 30% reduction in elective procedures that year. There has been a subsequent downward spiral, in spite of substantial non-recurring funds directed into elective surgery."

That was in 1995.

"Over the last 10 years bed capacity has decreased by 18%, while inpatient surgery has increased by 10%; 2001 saw a 9% increase in general medical emergencies, which had a knock-on effect on non-urgent electives."

The report goes on — statistic after statistic. Members could argue all afternoon about statistics.

I listened to Bob McCartney — I see he has left the Chamber — and for the first time he acknowledged that the responsibility for the waiting lists was not all down to the Health Minister. Sinn Féin been saying that since the Minister was appointed. For some Members, the Department of Health, Social Services and Public Safety is not a health issue, but a political issue. They manifestly continue to treat health as a political football, and not as

something that affects their constituents. They use it as a political weapon against the Health Minister because she is a Shinner — a member of Sinn Féin. That is the basis of their attack on the Health Department, just as it was on Martin McGuinness's Department. That is the fundamental reason why some Members are being destructive, rather than constructive, in relation to health and education.

It is interesting to note the factors about waiting lists. According to the Office of Health Economics:

"Consultants working in both the public and private sectors have a vested interest in maintaining lists to ensure that some patients will choose to be treated privately."

There are vested interests in the medical profession at GP level. The British Medical Association has been mentioned by several Members as the sounding board or benchmark against which a good or bad Health Service can be judged. I ask the British Medical Association and Brian Patterson what constructive input they have made towards reducing waiting lists. What co-operation have they given to the Department to reduce waiting lists? It goes back to the vested interest and to the impact of vested interests on the Health Service.

Since health is being treated as a political football, Members are entitled to ask what influence those who made it so have used on their friends in the trusts and boards to block the system, cause difficulties and use the same kind of politics that they use in the Assembly. The Minister cannot be accused of being solely responsible for the regrettable state of the waiting lists. All Members regret it.

No one can say that the Minister is clapping her hands because there are waiting lists. Are Members suggesting that she encourages waiting lists and is not taking sufficient action to reduce them? Did the Minister not appoint Jill Anderson — whom no one could accuse of being a Shinner — to attempt to reduce waiting lists? That was a positive action by the Department and the Minister to address the waiting lists in a serious, coherent and cogent way.

Unfortunately, Bob McCartney blamed the Good Friday Agreement for the failure of the Health Service. However, the failure is in the reluctance of a major section of the Assembly to accept Sinn Féin Ministers, and their continual attempts to reduce their effectiveness by back-door tactics and by making areas such as health into political footballs rather than something for the good of the community.

**Mr Foster:** I welcome the opportunity to speak on this important issue, which must be one of the Assembly's priorities. I support the amendment tabled by my Colleague Tom Hamilton and the SDLP's Annie Courtney. Although it would be incorrect to say that all is well in the Western Health and Social Services Board, where I live, I must

acknowledge the board's recent initiatives to try to reduce the waiting lists. The board has the lowest percentage of ill people on waiting lists in Northern Ireland, and the new day care unit in the Erne Hospital in Enniskillen has contributed to that reduction. Such a move makes the Erne Hospital a valuable asset in the Fermanagh area, and its services to the community could never be dispensed with.

I concur with many Members' comments that this issue is one of the Minister's main priorities and, therefore, that one would expect to see an improvement. However, instead of progress, the waiting lists now have approximately 60,000 people on them. It is easy to quote numbers and statistics, but we must remember that each figure represents one patient. Sometimes we lose sight of that. Each of those patients is suffering unnecessarily because of inefficiency and disorganisation in the Department of Health, Social Services and Public Safety. It is worrying to note that we have the longest waiting lists in the United Kingdom, and, more worryingly, in Europe.

The Minister has said that this is one of her main priorities. Two years ago, she established the 'Framework for Action on Waiting Lists'. Although that led to improvements in other services — 200 people had cardiac surgery outside Northern Ireland in the past year — the Minister's plan failed to address the underlying problem of longer waiting lists. Will she now have the honesty to admit the failure of that policy? More importantly, will she set in place a coherent, strategic, effective plan that will make a real difference to people's lives?

An overwhelming majority of people believe that the present structure of the Health Service only complicates matters. There is an overburdened bureaucratic structure instead of an effective decision-making process that is accountable. There are great expectations and greater demands on the health services, but there are also too many areas of administration to contend with. That becomes time-consuming and blocks progress to get a job completed. I acknowledge that this is a complex problem, but enough time has passed for us to see some improvement in the statistics.

An additional £5 million was allocated in 2000, and £2 million was allocated for waiting list initiatives this year. I totally support the call by the Ulster Unionist Party's health representatives for an independent health auditor. It is possible that the health system is under-resourced, but not as much as some people, including the Minister, would like to make out. Too much taxpayers' money is being wasted, and we need an autonomous body to help to regulate the money that is channelled into health. I will be interested in the Minister's comments on that.

**Ms Ramsey:** Will the Member give way?

**Mr Foster:** No, I do not have the time. People are weary of hearing excuses for hospital waiting lists not being reduced. The Minister has been in office long enough

to implement effective policies. We do not need more PR spin; we need action so that people can see improvements. Good health is vital, and society demands it now.

With reference to John Kelly's remarks, does he accept that many of the problems in the Health Service are a residue of the terrible injuries inflicted on people over 30 years of trouble and strife?

**Madam Deputy Speaker:** I call Mr Hussey, and I ask him to restrict his speech to four minutes.

**Mr Hussey:** I congratulate Mr Paisley Jnr on tabling the motion, but he will understand that I am supporting the amendment. I am struck by the similarity of this motion and that proposed by Mr McGrady on 18 September 2001, which stated:

"that this Assembly views with concern the ever-increasing waiting lists for medical and hospital treatment in our local health services, and requires immediate action to remedy this unacceptable and growing problem."

4.30 pm

We must ask what action has been taken in the past year, and whether the unacceptable and growing problem has been remedied. The answer to the second part of that question must be an emphatic "No". I await the Minister's answer to the first part. As a layman, I cannot see what action has been taken by the Department to stop the growth of hospital waiting lists and cut them back.

In December 1999 there were nearly 46,500 people on the waiting list in Northern Ireland. That figure has risen to just under 60,000 in 2002. It is true that the total number of people waiting at any given time does not tell the whole story, as Mr Shannon said. The length of time spent on the waiting list is probably more important. The situation in that respect is extremely bleak.

We do not need a repeat of the 2001 motion. We must concentrate on action to improve the services. That is why I support the amendment.

Nearly 9,000 people in Northern Ireland are categorised as excess waiters, defined as those who have been waiting more than 12 months for cardiac treatment or more than 18 months for other specialities. The National Health Service Patient's Charter is being routinely breached in this part of the United Kingdom.

Behind the statistics and jargon lies human pain and suffering. I have a big, strong friend at home who is suffering from a hernia. He is being gradually incapacitated by that medical condition, which is not being dealt with by the Health Service.

The problem is not only the number of people on the waiting list, but also the length of time that they must wait. The situation is exacerbated by the ageing population; staff shortages; lack of trained doctors and nurses; fewer hospital beds; delayed discharges caused by the lack of available community care packages; and, in some cases,

growing disillusionment among those who are under so much pressure in the Health Service.

The picture that other Members have painted is bleak. I await with interest the Minister's description of her Department's strategy for reducing waiting lists and times. I assume that there is one.

I note that her expectations have been radically downsized. At one time she promised large reductions in the waiting lists. However, her Department's press release of 5 September 2002 states:

"Our target this year is to hold waiting lists at their present levels".

I do not want the buck to be passed. In previous debates the Minister has blamed the Tories, the Chancellor of the Exchequer, the Barnett formula, the Brits in general and other Members of the Executive Committee, especially the Finance Minister. Her latest press release points the finger at the chief executives of the health trusts.

Given the priority that health has been given in budgetary allocations, and the extra money that has been put into the Department in recent years, the buck must stop with the Minister. I note that her attire today is sombre, in contrast to the colourful dress she wore yesterday. She still stands indicted at the scaffold. The onus is on her to account to the Assembly and the people of Northern Ireland for the crisis in the Health Service —

**Madam Deputy Speaker:** Order. The Member will draw his remarks to a close.

**Mr Hussey:** — represented by the waiting list she presides over.

**The Minister of Health, Social Services and Public Safety (Ms de Brún):** Go raibh maith agat, a Cheann Comhairle. Tá mé buíoch de na Comhaltaí ar fad a labhair sa díospóireacht inniu. Dhírigh an díospóireacht ar cheist ar cúis mhór inni í do go leor daoine. D'éist mé go fíorchúramach leis na pointí agus chuir mé an-suim iontu. Tiocfaidh mé ar ais chucu i gceann tamaill.

Aontaím nach féidir glacadh leis go mbeadh ar dhaoine breoite fanacht ar feadh tréimhsí fada le cóireáil. Aontaím go bhfuil tuilleadh infheistíochta de dhíth inár n-ospidéal. Aontaím go gcaithfidh a chinntiú go bhfaighimid an luach is fearr ar ár n-airgead ó na hacmhainní a chuirtear isteach sna seirbhísí sláinte agus sóisialta.

Tharraing Comhaltaí aird fosta ar chúrsaí taobh amuigh dár n-ospidéal. Ní lú sin de chúis inni domh. Tá go leor daoine ag fanacht sa bhaile leis an tacaíocht atá de dhíth orthu lena neamhspleáchas agus cáilíocht a saoil a choinneáil. Is daoine scothaosta go leor acu seo. Mura bhfaighidh siad cúnamh pras oiriúnach beidh ar chuid acu dul isteach san ospidéal. Beidh moill ann ag cur daoine ar ais chun an phobail mura mbíonn na seirbhísí ann le tacaíocht a thabhairt dóibh.

I am grateful to the many Members who contributed to the debate, which focuses on an issue that is of deep concern to many people in our community. I have listened carefully, and with great interest, to the points that have been made, and I will address them.

I agree that it is unacceptable for sick people to have to wait long periods for treatment. I agree that our hospitals need more investment and that we must ensure that we get the best value for money from the resources being put into health and social services.

Members have also drawn attention to the situation beyond our hospitals, and that is of equal concern to me. Large numbers of people — many of whom are elderly — are waiting at home for the support they need to maintain their independence and quality of life. Without prompt and appropriate assistance some will end up in hospital, and there will be a delay in returning people to the community after hospital care because services may not be in place to support them.

We must view health and social services as a continuum of care. We cannot think in terms of one sector's pre-eminence. All four sectors — acute, community, primary care and public health — have to work together, and a shortcoming in one becomes a drag on the others.

Waiting lists must be viewed in context. Over the past five years, hospital activity has increased by 10%. During the same period there has been a 27% increase in the number of community care packages. That pressure might have been manageable in a service that had the investment it needed. However, since the early 1980s, the equivalent of £190 million — in today's terms — was taken out of health and personal social service's baseline budget. It was only this year that significant additional resources became available for reinvestment.

It is a fact that I inherited a service in which the number of hospital beds had been drastically reduced to the point where we have too few beds to cope with demand. Many hospitals are working at over 90% occupancy, and that is not tenable in the long term.

As Paul Berry said, our community services are also underfunded, leading to inappropriate admissions to hospital and delayed discharges. I am addressing those issues urgently together with my Colleagues in the Executive. However, as I have said, we started with a very low baseline, and it will take some time to put things right.

Demand for hospital services is increasing all the time. The number of GP referrals increased by over 4% between 1997-98 and 2001-02. One factor is, undoubtedly, our ageing population; another is the rapid advances in medicine, which offer new therapies for previously untreatable conditions. More people are being referred for treatment than ever before. However, there is no single cause for the increase in referrals.



One of my first actions as Minister was to set out a long-term plan for dealing with waiting lists. The issue has been one of my key priorities ever since. The plan, which involved getting the extra resources that I needed so that hospital and community capacity could be built up, improving the management of the system and putting best practice into effect, is the only way that the problem will be overcome. Currently, that plan is being implemented.

To address the issue of capacity, I have already announced plans for significant expansion in hospital capacity at the Mater, Antrim and Craigavon hospitals — over 100 extra beds. I have also announced plans for a new day procedure unit for the Erne Hospital and for new theatres at Musgrave Park. When those new developments come on-stream, they will be a major factor in getting more people treated more quickly. The number of renal dialysis stations will also be increased this year to meet growing demand.

The units at the Mater Hospital, for example, will involve the creation of a 14-bed elective unit, which is estimated to deliver some 1,500 cases a year. The Lagan Valley Hospital proposal will deliver about 600 cases a year, initially targeting patients seeking routine elective surgery in general and vascular surgery. Alongside those schemes, significant investment is also going into equipment that will have a direct impact on the length of time that patients have to wait. For example, the new linear accelerators going into Belvoir Park Hospital will increase throughput and reduce waiting times. New diagnostic imaging equipment at Musgrave Park Hospital will boost the regional orthopaedic service.

Alongside that expansion of hospital capacity, it is important to improve the way that existing capacity is used. At present, a significant programme of work is under way to tackle that. In April, I appointed a regional service improvement leader to drive the waiting list agenda and to ensure improved access to services. That individual has a great deal of experience in that area of work within the National Health Service, and she is already making a difference.

Improvements are being made in the way that waiting lists are managed. I have made it clear that I expect the service to deliver on waiting lists. For example, at the end of September, chief executives of boards and trusts are being brought together to examine the key initiatives on validation and waiting list management. Staff have been appointed to support, lead and contribute to all aspects of local action on patient access improvement initiatives. Plans are in place for trusts to allocate staff to make the management of waiting lists in hospitals more efficient.

It is important that the service be encouraged to learn from what works well elsewhere. To that end, I have asked boards and trusts to develop several protected elective facilities. Those facilities will not be affected by day-to-day

pressures on the service, which will mean that more people will get their treatment on time instead of — as often happens at present — operations having to be postponed because of the pressure caused by emergency admissions. Plans for those facilities are now at an advanced stage, and their effect will be seen in the months and years to come. That is a prime example of people here already making a difference and showing that the things that they have put in place make a difference. Other trusts throughout the North are taking those lessons on board and are driving forward similar plans in their areas.

Members have referred to the recent statistics for the June quarter, on which the debate is based. I want to make several important points about those figures. First, it is worth pointing out that the increase in the number of patients waiting for inpatient treatment was the lowest quarterly increase since 1998, despite the fact that compared with the same quarter in 2001, the service treated over 1,000 more patients. Secondly, the increase was accounted for mostly by the gynaecology speciality. It contributed almost 75% of the overall inpatient increase, primarily because patients waiting for in vitro fertilisation treatment were included on the inpatient waiting list for the first time. Thirdly, the great majority of patients are still being treated promptly throughout the service. No less than 74% of inpatients treated between April and June this year had been waiting for less than three months. Of inpatients admitted for treatment during the June quarter, 94.8% had been waiting for less than 12 months.

The present position needs to be seen against that background. I have made the point before, in the Assembly and elsewhere, that there are no instant solutions to the problem. What is needed is increased investment, more hospital capacity, more capacity in community services, extra specialist and nursing staff, and more effective and efficient management of the service.

There is strong evidence of progress in that area, but it takes time for the initiatives to build.

4.45 pm

It is also important to restate that hospital waiting lists cannot be viewed in isolation. Primary and community care services have a significant role to play in keeping those people out of hospital who do not need to be there and in getting patients discharged as early as possible.

I welcome Paul Berry's appreciation of the need to invest in a wide range of services in the community as well as in acute hospitals in order to address waiting lists. Such developments will cost money, and I look forward to Members throughout the Chamber supporting me in addressing the financing of services in forthcoming debates on funding.

Tom Hamilton suggested that there was an uncoordinated approach to waiting lists. That is simply not



the case. All boards are working to a common approach, and trusts are working to the template that I set out in the framework for action.

Monica McWilliams mentioned consultants asking for more money for extra sessions. I have made it clear to boards that I expect the new protected elective facilities to be provided on a normal contractual basis, and staff are now being recruited. In advance of the new arrangements, there have been some discussions with clinicians about temporary initiatives. In some cases, staff may have to work through their holidays. I expect boards to consider carefully any proposals to ensure that all costs can be justified, taking appropriate account of agreed rates for such activity.

Sue Ramsey and others mentioned people not attending appointments and who are designated as “DNA” (do not attend). The outpatient rate for non-attendance is 13%. The inpatient rates are suspected to be much lower, but there is no firm evidence of that. All boards are very aware of the problem of people not keeping appointments. Measures are being considered to ensure that reminders are issued and that checks are made that people still need appointments. The possibility of rerunning a publicity campaign is also being considered.

Monica McWilliams quoted the Eastern Health and Social Services Board minutes concerning people waiting more than 12 months for cardiac surgery. The minutes state that, of 52 people waiting more than 12 months in March 2002, 42 had refused an offer of treatment elsewhere, eight had had treatment but were not yet off the list and two had received a date for future treatment elsewhere. However, I accept that people on waiting lists will not always choose to be treated elsewhere.

Ms McWilliams said that the 1,000 community care packages will not be sufficient. I assure her that there is a bid for future rises in funding to increase the number of people who we want to help in community settings.

I agree with Joe Hendron’s point that waiting times, rather than overall numbers, are important. Indeed, one of the key issues that Jillian Anderson is addressing is the more effective management of waiting lists. I expect that her work will lead to reductions in waiting times. The management of waiting lists, which was mentioned, will be a key performance management objective for the service this year.

Billy Armstrong mentioned the ownership of waiting lists. I have developed an approach that has three components: targeting waiting list money for specific activity; a co-ordinated initiative to review and tighten the management of waiting lists in each trust; and, in collaboration with the Executive, putting additional resources into increasing capacity in community services and several key hospitals.

I, of course, am working to target waiting list money in collaboration with my Executive Colleagues. I look to the service to deliver on the co-ordinated initiative to review and tighten the management of waiting lists. I am working closely with the boards and trusts to ensure that each component is well targeted and closely monitored.

I recognise Members’ desire to reduce waiting lists. I too want shorter waiting times for procedures and treatment that will improve people’s lives. I am very much aware of the effect that waiting times have on the individual waiting for treatment. Two years ago, when I issued the ‘Framework for Action on Waiting Lists’, I said that only management action focused on the long term, coupled with new investment in the service, would improve the waiting lists. That remains my position. It is disingenuous not to recognise that a plan, a policy and a clearly thought out approach exist. Waiting lists are a key priority for me and my Department. I have already taken significant action to build a solid foundation to tackle the waiting list problem. I have secured additional resources for the service this year, although that investment can be only a beginning; much more will be needed to build the necessary capacity for a modern service. I look to Members, especially those who have taken part in the debate, to support the endeavour to get the necessary resources.

I have set in motion a long-term programme of work to ensure that health and social services make the best use of the resources allocated and to strive to improve performance in the key areas that make a difference. We must recognise — as Members have today — that until we get resourcing of health and social services right over a sustained period, the improvements that the public want, and which I have been working to achieve, will simply not be deliverable.

A foundation has been laid, but it cannot bring results overnight. However, we are making a difference. Our approach, which I have again explained in detail today, can, and will, bring dividends and ensure that we tackle the problem and that we deal with its effect on those who want easy access to health and social services.

**Mrs Courtney:** I welcome the opportunity to speak to the amendment moved by Mr Tom Hamilton. I also congratulate Mr Paisley on bringing this timely debate to the House. Neither Mr Hamilton nor I wish to dilute the debate. We hope that Mr Paisley will accept our amendment, the purpose of which was to strengthen and put in place resources and strategies to make the Department more effective and more accountable to the Assembly.

I worked in the Health Service for more than 20 years. Sue Ramsey, a member of the Health Committee, claims that the amendment contains a cheap jibe at the Minister and that people are trying to get at her. The only people who have made a political football of this debate are Sue Ramsey and her Colleague. It is disgraceful that

she has accused Tom Hamilton and me of wording the amendment in such a way as to cause offence to staff. Her remark should be withdrawn.

**Ms Ramsey:** Will the Member give way?

**Mrs Courtney:** No, not at the moment.

I worked in the Health Service for over 20 years; I was a theatre sister for most of that time. I stood at the operating table night after night, not because of waiting lists, but because of the bombings, shootings and killings on the street. The following day health workers had to suffer the indignity of listening to people who supported such actions. Night after night, we came out to help voluntarily and then went to work the next day. We received no extra money for it, for there was none. I strongly resent the attitude of the two Sinn Féin Members to our amendment, and I hope that the House shares that view.

Mr John Kelly asked what GPs are doing. The GPs at the coalface have suffered throughout. They are the people who have had to try to get patients into hospital. Dr Brian Patterson pointed out that any waiting list meant that someone was waiting for surgery.

There is evidence that the Executive and the Assembly are committed to the Health Service, but we do need to know how the extra £687 million — almost a third of the Executive budget — was spent. We have a responsibility to ensure good management and accountability for the use of resources. Some trusts were able to manage their budgets, while others were allowed to run up large deficits — perhaps to the detriment of their colleagues. They were given an extra £18 million by the Department of Health, Social Services and Public Safety. How was that money spent, and what was the origin of the deficits? The Minister must address those issues and respond.

Also, we must see the progress of the Executive. The Department produced 'Framework for Action on Waiting Lists' in Autumn 2000. We have not yet seen that report.

I warmly welcome the appointment of the regional co-ordinator, who will focus specifically on waiting lists and times. The Committee for Health wants to assess the effectiveness of the resources used in tackling waiting lists and to see precisely where the money has been spent. I agree with Mr Hamilton that an audit trail is necessary. It is almost impossible to obtain answers. The money goes into the Health Service, and no one is too sure where it comes out. For that reason, we need answers and an audit trail. Thus, I hope that the mover of the motion will accept our amendment in the spirit in which it is intended. It is not meant to dilute what he said. I welcome his comments and all the constructive comments that have been made today.

It is also necessary to find extra skills and training to assist staff. As I said earlier, I worked for so long in the Health Service that I resent some of the remarks made today. Yes, it is possible that in the past there was

wastage in the Health Service. It is also possible that the Health Service was taken for granted.

**Madam Deputy Speaker:** Will the Member draw her remarks to a close.

**Mrs Courtney:** Madam Deputy Speaker, I understood that we had seven minutes to wind up.

**Madam Deputy Speaker:** It is my understanding that the Deputy Speaker made it clear that the mover of each amendment would have seven minutes to propose and five minutes to wind up. Those were the instructions. I shall give the Member leave to finish her last line.

**Mrs Courtney:** Thank you for that, Madam Deputy Speaker.

I also welcome the commitment of the Minister to address the issues in an effective and coherent manner. With regard to amendment No 1, we find that it is too vague to be of any assistance in tackling waiting lists. It will impose extra bureaucracy on the Department and trusts.

**Mr J Kelly:** On a point of order, Madam Deputy Speaker. Is it not in order that if a Member is named in a contribution to debate, that Member has the right to reply? The Member refused to give way.

**Madam Deputy Speaker:** Order. The naming of a Member, as the Member is well aware, happens often on the Floor of this Chamber. Certainly, it is absolutely the choice of the Member who is on his or her feet whether to give way.

**Mr Ford:** I welcome this debate, and I support amendment No 1, which strengthens the original motion put down by Mr Paisley Jnr. We support that motion from the Benches, although we do not necessarily support all of the words used by the mover.

I also welcome the Minister's recognition of the continuum of care, which extends from primary care to community care, and of which acute services are only a part. I assure the Minister that, like Paul Berry, I will, wearing my retired social worker's hat, continue to remind her of those facts.

5.00 pm

The point of our amendment, which was dismissed so fleetingly by Mrs Courtney, is to focus the Assembly's attention on the relevant statistics. The number of people on waiting lists is irrelevant; the issue is how quickly they receive treatment. That is why the Scottish Executive have adopted the concept of waiting times rather than waiting numbers as the basis on which statistics in Scotland are compiled, which is a more meaningful way of expressing concerns.

Individuals do not care whether there are 40,000, 50,000 or 60,000 people on a waiting list. They want to know how quickly people are treated. In particular, a statistic that includes various specialities and varying

degrees of seriousness of ailments is meaningless. Serious, worrying, life-threatening illnesses are mixed with many other matters. The Minister should give urgent attention to determining a better way of presenting statistics.

At the moment, rather than concentrating on life-threatening illnesses that are of greater concern to the community, the statistics provide consultants with a perverse incentive to treat minor ailments that can be dealt with quickly and cheaply, thus removing one person from the waiting list. That is why we sought to strengthen the motion by referring to “waiting times”, not “waiting numbers”. I trust that if the proposer of the motion cannot accept amendment No 2, he can at least accept amendment No 1.

Although the Minister was unhappy with all criticism of her Department, which is her right, Mr Paisley Jnr’s motion is a moderate, reasoned and sensible method of addressing the issue, just as one would expect from him at times such as these. It is a pity, however, that the words that he used when proposing the motion were anything but moderate, sensible and reasoned.

I am concerned by amendment No 2, which seems to propose merely to tack on at the beginning of the motion a “let’s bung in all we can to make it sound nasty” few words. For anyone who is taking the issue seriously to suggest that there is a total lack of decision-making, when we have heard that people have been appointed to deal with the matter, is rather over the top, and for two Back-Benchers from the parties of the First Minister, the Deputy First Minister and the Minister of Finance and Personnel to propose an amendment that refers to the lack of resources, which is a problem for the Minister of Health, Social Services and Public Safety, as opposed to the Executive, is a slightly thin argument. Members on these Benches, therefore, have no intention of supporting amendment No 2, which merely adds political diatribe without recognising the problems that we face.

Mr Hussey said that the Minister of Health, Social Services and Public Safety previously blamed the Chancellor, the Barnett formula, the British Government and the Brits in general. Fundamentally, many causes exist, and it is illogical for Ulster Unionist and SDLP Members to pretend that it is the fault of the Minister alone.

The Minister must accept her responsibility, and her Executive Colleagues, who are also concerned with the allocation of resources, should accept their responsibilities as well. That is why the motion, with the addition of amendment No 1 to make the statistics more meaningful, puts realistic pressure on the Executive, whereas amendment No 2 would detract from that entirely.

**Mr Paisley Jnr:** Whatever David Ford is on, he should perhaps find a dark corner, lie down, keep taking the tablets and, it is to be hoped, it will all be over by the morning. If there is a doctor in the House, perhaps he could

help him with his problems. I notice that Dr Hendron is not volunteering his services. The manner in which Mr Ford supported my motion was rather dubious but, if he keeps taking the tablets, it should all be over soon.

Mr Hamilton said that he supported the Comptroller and Auditor General’s view on what he should do. It is disappointing that that is not mentioned in the amendment; if it were, the Assembly could have supported it collectively.

However, I am drawn by the comments of Mrs Courtney and Dr Hendron. Dr Hendron is correct to say that the framework for waiting lists has failed. That has failed along with the other glossy reports that the Minister has published: ‘Building the Way Forward to Primary Care: A Consultation Paper’ — that has failed; the report of the acute hospitals review group, on which we have had incomplete answers, has failed; ‘Investing in Health’ has also failed; and ‘Developing Better Services’ has failed. In fact, the Minister has all the reports but none of the answers. That was proved in the Minister’s address — again we got no answers. If the situation was hopeless before the debate, it is even more hopeless now, because we have heard the same rigmarole and the same tired excuses from the Minister, and that is disappointing.

Mrs Courtney rightly targeted the Member for West Belfast, Ms Ramsey, and the Member for Mid Ulster, John Kelly, for what they said. Ms Ramsey set up a straw man by claiming that the debate is an insult to those working in the Health Service. That is absolute rubbish. In fact, if the debate had not occurred, those who put in the hours in the Health Service would be insulted that we do not care enough to debate the crisis.

**Ms Ramsey:** Will the Member give way?

**Mr Paisley Jnr:** No — I am winding up, and the Member is obviously getting wound up.

**Madam Deputy Speaker:** Order, order.

**Mr Paisley Jnr:** Ms Ramsey said that she wished to commend the Minister. If she and her party wished to commend the Minister, why did they not table an amendment that commended her for her work on the waiting lists? They are silent on that; they do not wish to commend the Minister because they dodge the issue every time. Indeed, I see that they are getting rather erratic. That is probably because, as John Kelly said, they are Shinnners.

I put it to the House earlier that if Bairbre de Brún were called Barbara Brown, if she had an English accent, or if she were a direct rule minister, we would be tripping over Shinnners at Stormont Castle demanding her departure because she was a disaster. I noted that Sinn Féin dodged answering that tonight. When we search our hearts, we know that the Minister has given us no hope or comfort that we can take back to our constituents, be they in West Belfast or North Antrim. The Minister has sold them out, and that is the stark reality for us all.



John Kelly's speech was a *pièce de résistance*. He said that it was the doctors' fault and specifically that it was Dr Brian Patterson's fault. Dr Patterson does more in one day than Mr Kelly will ever do in a year to help ailing people. He also went on to insinuate that it was the nurses' fault. The only thing that he did not say was that it was the patients' fault for being sick in the first place. It was ridiculous. All I can say to Sinn Féin is this: keep digging, because you are making a mighty big grave for yourselves.

There are fewer nurses working in Northern Ireland tonight than there were under Margaret Thatcher. That is the indictment on this Minister of Health, Social Services and Public Safety —

**Ms McWilliams:** Margaret Thatcher started it.

**Mr Paisley Jnr:** Ms McWilliams says that Maggie Thatcher started it. It is a pity that the Minister will not improve the situation; all we hear is previous Governments being blamed when this Government do not make any improvements.

I feel drawn back to John Kelly's comments because they were so imaginative. He slagged off the doctors. Dr Terry Magowan, a GP in Ballymena, was quoted in the 'Belfast Telegraph' on 13 September 2002. I will read this slowly so that John Kelly can understand. Dr Magowan said that, since the end of fundholding, his practice had more than 200 minor surgery procedures disallowed each year:

"Although our funding through the General Medical Services budget was only for 60 procedures, we were able to achieve funding for more than 200 additional procedures through the fundholding budget."

That is another failure by the Health Service. Even when it ends one service, the problem of waiting lists is not addressed. The Minister has lost her grip.

The situation should be put in a European context. Northern Ireland does not stand alone in this crisis, although we have the longest waiting lists in Europe. It would be different if we had long waiting lists and everywhere else had even longer lists. There are 15 countries in the European Union; 11 of them maintain national waiting list totals. Taking population sizes into account, all of them have shorter waiting lists than Northern Ireland. The four countries that do not monitor the national trends do measure how long patients have to wait for treatment. Northern Ireland comes at the bottom of the pile. Portugal's queue is 10,000 people longer than

Northern Ireland's, but its population is approximately six times higher.

**Madam Deputy Speaker:** The Member will draw his remarks to a close.

**Mr Paisley Jnr:** I have reservations on some points, but I will support amendment No 2 and will not vote against amendment No 1.

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

**Several Members:** Aye.

**Madam Deputy Speaker:** I shall repeat the Question, so that I am completely clear.

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

**Several Members:** Aye.

**Madam Deputy Speaker:** The "Ayes" — *[Interruption]*.

**Several Members:** No.

**Ms McWilliams:** On a point of order, Madam Deputy Speaker. The first time the Question was put it was very clear that there were no "Noes". Surely we should have taken that and moved on to the Main Question?

**Madam Deputy Speaker:** Thank you for that point of order. In the Chair, I was unclear as to exactly what the position was when the "Ayes" and "Noes" were made. It was not clear to me, and therefore I repeated the Question. I shall put the Question a third time so that I can be totally clear as to what the position is on amendment No 1.

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

*Question,* That amendment No 2 be made, *put and agreed to.*

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

*Resolved:*

That this Assembly notes with concern the most recent statistics on hospital waiting lists and, recognising the problems of bureaucracy, lack of resources, wastage of present resources and total lack of decision-making within the healthcare system, calls for the implementation of an effective and co-ordinated strategic plan between the Department of Health, Social Services and Public Safety, the Health Boards and Trusts to help reduce the number of patients and length of time spent on these waiting lists.

*Adjourned at 5.14 pm.*



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# NORTHERN IRELAND ASSEMBLY

Monday 23 September 2002

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

*Members observed two minutes' silence.*

## POINTS OF ORDER

### All-Ireland Football Championships

**Mr Speaker:** Two Members wish to make points of order. I will take Mr O'Neill's, and then Mr John Kelly's.

**Mr O'Neill:** Mr Speaker, would it be in order for you, as Speaker of the House, to send your congratulations to the victorious Armagh senior and Derry minor football teams on their magnificent successes at the weekend? Could I, as the Chairperson of the Committee for Culture, Arts and Leisure, arrange with you a reception to recognise those wonderful achievements?

**Mr Speaker:** Mr Kelly, does your point of order concern the same issue?

**Mr J Kelly:** Yes. Will the Assembly send a message of congratulations to the Armagh senior county team, since it is based in the First Minister's constituency, and to the Derry minor team? We must not forget that the Derry minor team won the all-Ireland minor championship yesterday. Will you send congratulations to both teams?

**Rev Dr Ian Paisley:** On a point of order, Mr Speaker —

**Mr Speaker:** Does your point of order concern the same issue, Dr Paisley?

**Rev Dr Ian Paisley:** Yes. People in this House are greatly saddened by what took place in Lurgan yesterday when the supporters, who were supposed to be celebrating their victory, not only attacked the police and the Protestant people, but, to add insult to injury, hung a tricolour on the war memorial. On the previous night, there was a savage attack on places of worship in Keady. The Orange hall was painted over, the gospel hall's windows were smashed, a beautiful stained glass window in the Presbyterian church was smashed, and the Church of Ireland church was also smashed.

**Mr Speaker:** Dr Paisley, I ask you to come to the point of order.

**Rev Dr Ian Paisley:** This should also be made public at this time.

**Dr O'Hagan:** On a point of order, Mr Speaker.

**Mr Speaker:** Is it on the same issue?

**Dr O'Hagan:** Yes, Mr Speaker.

**Mr Speaker:** It would be sensible to have whatever points of order there are on this issue at the same time. However, I must emphasise that we cannot turn this into a debate.

**Dr O'Hagan:** On a point of order, Mr Speaker, I wish to correct the erroneous statement made by the Member. I represent Upper Bann. I come from Lurgan and know the situation that occurred there yesterday. The fact is that GAA supporters were attacked by a Unionist crowd. The PSNI — *[Interruption]*.

**Mr Speaker:** Order.

**Dr O'Hagan:** We need to correct an erroneous statement. I come from Lurgan and know the situation on the ground. GAA supporters were attacked by a Loyalist/Unionist mob. The PSNI failed to protect GAA supporters in Lurgan yesterday.

**Mr Speaker:** Order. I must ask the Member to take her seat. Order.

It is quite clear that we have gone well beyond points of order and that we are now into points of disorder in the Chamber.

I will advise the House of my ruling on the issue. First, it is entirely in order for the Chairperson of the Committee for Culture, Arts and Leisure to bring to his Committee the question of whether it would like to hold a reception to celebrate this event. He knows from previous occasions that if the Committee wants to hold such a reception, but does not have the resources to do so, and he approaches the Speaker's Office, he will get the same positive response to this particular request, should it come from the Committee, as he had in respect of previous requests. That is the appropriate way to deal with this.

Responding to Mr Kelly's point of order, it is not possible for the Assembly to make such a gesture without having a motion for debate. The Member may wish to put down such a motion, but it would, of course, lose something in terms of the timing.

Dr Paisley mentioned some concerns, and Dr O'Hagan mentioned her concerns about the same point. I ask that Members compose themselves, not only on this matter, but also on the general business of the day. It is a funny old place here. I do not suppose I imagined that I would find Nationalists demanding that Stormont have orange flags outside it, and Unionists expressing a degree of concern about that. However, that would be the circumstance if the Armagh team were here celebrating.

I ask members of the Committee for Culture, Arts and Leisure to consider if that is the appropriate context in which to deal with this matter. If the Committee has a

view on this, and comes to the Speaker's Office, it will receive the usual generous reply that my Office tries to give to these matters.

**Mr Close:** On a point of order, Mr Speaker. Is it not wonderful —

**Mr Speaker:** Is this point of order on the same issue?

**Mr Close:** It is just an observation. Is it not wonderful how sport —

**Mr Speaker:** Order. I know the Member to be an imaginative and creative man, which is why I checked in advance.

**Mr J Kelly:** On a point of order, Mr Speaker.

**Mr Speaker:** Is it on the same matter, Mr Kelly?

**Mr J Kelly:** It is.

**Mr Speaker:** I am afraid I cannot take any further points of order on this matter.

**Mr J Kelly:** I was going to suggest that orange flags —

**Mr Speaker:** Order. The previous Member was close, but you are not. You are not getting a further point of order.

## **SPEAKER'S BUSINESS**

### **Assembly Commission Visit to Ottawa and Quebec**

**Mr Speaker:** I wish to inform the House that I will be absent from the plenary sittings of the Assembly next week.

**Several Members:** Aah.

**Mr Speaker:** Thank you. At the invitation of the Speaker of the Canadian Parliament, I will be leading an Assembly Commission visit to Ottawa and Quebec.

## **POINT OF ORDER**

### **Scheduling of Assembly Business**

**Mr P Robinson:** On a point of order, Mr Speaker.

**Mr Speaker:** I assume it is on a different point.

**Mr P Robinson:** I assure you that it has nothing to do with Armagh, though Armagh will be waiting to hear your response. On 2 September 2002, my Colleagues and I tabled a motion that called for the dissolution of the Assembly to enable an election to take place. We recognised then — as most of the House will recognise now — that the Assembly will lurch from one crisis to another because of the shenanigans in the Ulster Unionist Party.

I understand that to date, the Business Committee has set itself up to vote down the hearing of that debate simply on a political basis. As there is a statutory basis for the motion, Mr Speaker, surely you can use your influence to ensure that a large group of Members who wish to see a motion debated can have the opportunity to do so, and then we can move to elections, negotiations and the possibility of real, stable political structures in Northern Ireland.

**Mr Speaker:** It is clearly a matter for the Business Committee to decide what goes on the Order Paper as far as private Members' business is concerned. In the past, I have indicated that — [*Interruption*]. Order.

When motions are set down and have some statutory basis, which I think is the reference that the Member is making, if there is some reasonable chance of success as evidenced by support within the Business Committee to have the debate, one, as the Chairperson, might well urge the Business Committee to consider the matter. I cannot do more. I am the one member of the Business Committee who does not have a vote, and I do not seek to influence it politically in any way, except to do what is wise for the general well-being of the Assembly.

Of course, the Member's Colleagues are at liberty to raise the matter in the Business Committee, which will meet tomorrow to consider next week's business. Therefore, it will be a matter for the Business Committee to consider. I dare say that its members will consider the question, taking full account, as business managers, of what they judge to be the likely approach of their parties to the matter. That is not a wholly unreasonable way for them to consider the question.

**Mr P Robinson:** Further to that point of order, Mr Speaker. I am more concerned after listening to your response. Surely it can never be the Business Committee's role to make judgements either on the outcome of a motion or on the basis of whether it likes or agrees with the principles behind it. The Assembly has the right to consider matters and reject them if so desired. The

Business Committee does not have a veto in determining which particular political party policies should be allowed to be aired in the Chamber.

**Some Members:** Hear, hear.

**Mr Speaker:** Order. Nor did I suggest that that was the case. Since there is a long list of no-day-named motions, the Member is asking the Business Committee to put the particular motion from his party ahead of other motions. I am saying that as far as the Business Committee is concerned, I would certainly urge it to consider an extra degree of significance to motions that bear on the statutory basis of the Assembly. The Business Committee must make its own judgements.

However, I dare say that the Business Committee will make a judgement on the basis of what it believes to be the motion's level of support. For example, since no seconder is even necessary, it would be entirely possible for a single Member to table a motion that was on a statutory matter of the type referred to. The Member would judge it not reasonable that that on its own should take precedence over everything else. Of course the Member is saying that this motion does not involve a single Member, but a significant body. In other words, he is saying that the level of support is significant. That is simply all that I am pointing out also — the level of support is significant and not unreasonably so in the mind of the Business Committee when making a judgement.

It would be wholly inappropriate to bring the discussions of the Business Committee on to the Floor. I am simply ruling on the procedural question. I trust that the Member is at least clear on the question, if not entirely happy.

**Ms McWilliams:** On a point of order, Mr Speaker. I reassure the House that what you have said is exactly what happens. The Business Committee was unable to judge the level of support for the DUP motion because the DUP Chief Whip withdrew that particular motion —

**Mr Speaker:** Order. I interrupt the Lady at that point because she is about to discuss the conduct of the Business Committee on the Floor of the House. The Business Committee minutes — *[Interruption]*. Order.

The Business Committee minutes are on record and on the web site once they have been approved. It is inappropriate that further debate takes place on that issue.

12.15 pm

## DRAFT PROGRAMME FOR GOVERNMENT

**Mr Speaker:** I have received notice from the First Minister and the Deputy First Minister that they wish to make a statement on behalf of the Executive on the draft Programme for Government 2003-2004. Following a proposal from the First Minister and the Deputy First Minister the Business Committee considered the form in which the Programme for Government should be presented to the House and agreed that it should be presented in the form of a statement today. A motion to take note of the draft Programme for Government will be debated tomorrow.

The Business Committee agreed to a different form of statement. As the House is aware, statements are usually followed by a series of questions to the Minister, or Ministers, who make the statement. However, in view of the fact that the Programme for Government is a singular presentation, it was viewed as appropriate — and the proposal came from the First Minister and the Deputy First Minister — that party leaders should not be restricted to simply asking questions, but should have the opportunity to make a statement for up to five minutes, obviating the need for questions or response.

The First Minister and the Deputy First Minister will make their presentation, and all parties will have an opportunity, restricted to the party leader or a nominee, to make a response lasting five minutes. If that is clear, we will proceed.

**The First Minister (Mr Trimble):** The Deputy First Minister and I have pleasure in presenting to the Assembly, on behalf of the Executive, our draft Programme for Government covering the next financial year and beyond. At its meeting on Thursday 19 September, the Executive agreed a draft Programme for Government, supported by a draft Budget. We are laying that programme before the Assembly for scrutiny and for future approval after examination in Committees.

The draft Programme for Government sets out the Executive's plans and priorities for the next few years, and will be supported by the draft Budget to be presented to the Assembly tomorrow by the Minister of Finance and Personnel. The Programme for Government is a detailed and comprehensive document, and Members will know that it is not a quick and easy read. We could translate the document and merely present a series of sound bites taking up a few pages, but we believe that it is important that the Assembly and others should see our plans and priorities in some detail and understand the context in which they are to be taken forward. Members

should have the necessary information to carry out their role in scrutinising the document.

We have been keen to build on the progress already made as an Executive when developing this programme. We have the experience of developing and implementing two previous programmes that have been endorsed by the Assembly. We want to use that experience and build on our achievements to steer us through the months and years ahead.

We have achieved much, and there is much that we can be proud of. We have shown that we can work together across all four parties in the Administration to plan for, and deliver, good government. We have brought about real improvements in areas as diverse as education, infrastructure and the needs of children. We have demonstrated a commitment to accountability and a readiness to report openly on our progress that is unparalleled.

This is a time for commitment, not complacency. This draft programme demonstrates our commitment to deliver government that makes a real and positive difference to the lives of people here. Reinvestment and reform are the twin elements at the core of this programme; they must underpin our efforts to make a difference in the years ahead. We also want to deliver real progress in tackling social exclusion, promoting sustainable development and building stronger partnerships — partnerships with local government and the social partners in influencing the development of policies and programmes and their delivery. We have highlighted in our draft Programme for Government those key themes that cut across our priorities, and we will say more about them shortly. Members will have received a copy of the document, and the chapter on investing in the future sets out further details.

Another feature of this year's document is our wish to bring out more clearly than before the context in which our economic, social and environmental policies and programmes are developed and implemented. We should not develop new policies or continue with existing ones without a clear understanding of the economy and society, and the challenges which the Executive and Assembly face. Chapter 2 of the document sets out the current position on some key indicators, the improvements which have occurred and the problems which continue to exist. The Executive's programme needs to address the challenges identified.

I wish now to focus on our commitments in this draft Programme for Government on investing in our infrastructure and promoting sustainable development. I also want to say something about our plans for modernising and developing public services. The Deputy First Minister will later pick up the theme of reform and also outline our work to tackle social exclusion and build partnerships.

This draft Programme for Government makes clear our commitment to delivering new and substantial investment

in infrastructure. We know from the work on examining the opportunities for public-private partnerships that we have an estimated £6 billion investment deficit in that infrastructure. We must try to remedy that deficit over the next decade. The need to address that problem has been raised by Members, most recently in the debate last Monday.

Tackling that deficit is not just about bricks and mortar, it is also about standards: the standard of education in our schools; the quality of treatment in our hospitals; the quality of our drinking water and the ability of our transport network to carry people and goods safely and effectively. It is about improving the infrastructure to improve the services that we all use.

In May 2002, we announced details of a new reinvestment and reform initiative designed to address the infrastructure problems that we have identified. In July 2002, we made a start in implementing the initiative. At that point we allocated £270 million to improve key areas of infrastructure. The draft Programme for Government reflects the work to date and our plans for the years ahead. We hope that in the first year covered by the programme, we shall have a new strategic investment board in place to assist us in improving the state of our infrastructure significantly.

For example, the draft Programme for Government states our commitment to investing in the road network. We shall work to eliminate 75% of the road maintenance backlog over the period of the regional transportation strategy. We shall undertake improvements to our major routes, in particular building on our earlier commitment to upgrade the trans-European network from Larne to Newry.

We shall strengthen our energy infrastructure. The draft programme contains our proposals in those areas. We are also determined to improve the health and education estates. We have already announced our plans for the new cancer centre — a development that should result in better diagnosis, treatment and care for those living with cancer. The draft programme signals our intention to increase capacity in hospitals, providing 100 more hospital beds by March 2005 to help ease the worst pressure points.

We also set out our proposals to start more major capital improvements to primary and post-primary schools and to deliver a programme of investment to improve the state of our further education colleges. We shall also bring about improvements to our public library network.

One of the big challenges in taking forward this programme of investment is making sure it is sustainable. We have a duty and a responsibility to ensure that the improvements we make to meet our needs now are not at the expense of future generations' ability to meet their needs. That message came across very clearly at the recent world summit in South Africa.



For that reason, we identify promoting sustainable living as a theme which cuts across all the Executive's work — in improving infrastructure and public services and in tackling poverty and social exclusion. In the draft programme we set out many commitments, which reflect that theme — for example, through investing for health and in our approach to securing a competitive economy.

On planning, for example, we wish to develop a more co-ordinated and efficient planning process that integrates our economic, social and environmental needs. That is why the draft programme commits us to modernising the planning process. We are also concerned about transport — and the draft Programme for Government highlights our determination to introduce measures to support public transport.

We recognise the need to reduce waste and tackle issues surrounding its disposal. For that reason, we have restated our intention to promote the recovery, or recycling, of 25% of all household waste by 2006.

If the principles of sustainable development need to underpin our work to address the infrastructure deficit, so too do they need to be reflected in our work to improve public services. The simple provision of more resources to improve our infrastructure will not result in the scale of change that the Executive want. That is why the focus in this draft programme is not just on reinvestment, but also on reform.

We want to deliver reform on several levels.

**Mr Speaker:** Order. There is a general hubbub in the Chamber, which is unhelpful to Members who wish to listen to the statement. Members should restrain themselves or have their conversations in the Lobby.

**The First Minister:** First, we want to examine how to finance our work to improve infrastructure and the delivery of public services. Secondly, we want to examine how to improve public services and public administration. Thirdly, we want to reform how the public sector operates, identifying new ways of working that will create real changes.

Of course, change for change's sake is never effective. We are determined that our driving force will be reform that brings real and measurable improvements that people can see, feel and experience. The draft Programme for Government sets out a challenging and ambitious programme that, when implemented, will bring about real change for the better. It contains many specific commitments that are supported by the draft Budget, which the Minister of Finance and Personnel will present to the Assembly tomorrow. It reflects our continuing focus on delivering progress across our five priorities in the context of the Executive's key themes.

The programme is in draft form; it is not set in stone. We want to consult on its content with the Assembly and more widely. We look forward to hearing the views

of Members in tomorrow's debate and over the coming weeks.

**The Deputy First Minister:** The draft Programme for Government represents another step forward in delivering accountable government that meets people's needs.

We launched a consultation on the Executive's position report on 5 June to seek views on this year's programme. We have received responses from Committees, the Civic Forum and other interested bodies, which have helped us to develop this draft. Based on those comments, the Executive concluded that the five priorities adopted before remain valid and should be retained. They are: growing as a community; working for a healthier people; investing in education and skills; securing a competitive economy; and developing relations.

We also identified relevant sub-priorities and specific proposed actions to support our priorities. Any commitments will have to be budgeted for in the draft Budget. It is right that, in all our priorities and at the heart of this Programme for Government, we focus on reinvestment and reform. We want to deliver modern, efficient public services. That will require investment and change.

I wish to outline the areas for reform identified in the draft programme. I will also comment on our commitments on social exclusion and our work to build stronger partnerships.

The draft programme makes it clear that we must take a more innovative approach to managing and financing our infrastructure programme. The reinvestment and reform initiative has already demonstrated our desire to think differently and to challenge the traditional methods of public sector financing. We want to continue in that vein. The new strategic investment board will ensure that investment in our strategic infrastructure is planned and delivered in a way that makes the most of the resources and the expertise available to us.

Our consultation on public-private partnerships (PPPs), which ended recently, is helping to shape our thinking on how to make best use of opportunities for PPPs in financing our future.

*12.30 pm*

The creation of Executive programme funds has been another important innovation, and we will continue to use them to support actions to deliver progress in the five priorities. The draft Programme for Government makes it clear that there is other work to be done. Agreement must be reached on a fair rating system for Northern Ireland after the rating policy review, and we must continue to press for reform of the Barnett formula to ensure that our resources meet our needs.

We have underlined the importance that we attach to modernising government and to reform. The Executive intend to develop departmental plans to reform service

delivery, including efficiency improvements and the use of assets. Those plans will be completed in the coming weeks and will feed into the departmental service delivery agreements to be developed later this year.

We want to improve the quality of our public services and the structures for delivering them and to ensure that our efforts are targeted at those most in need. The draft Programme for Government sets out several commitments that the Executive are ready to make. We will continue our work to improve health and promote healthy lifestyles, modernise our hospital services and introduce new standards of clinical governance — all the while directing resources to those most in need and most vulnerable.

The Department of Education will introduce new curricula in primary and post-primary schools that reflect the needs of our economy and society. We will also take action to ensure that young people leave school with the highest possible standards of literacy and numeracy. We will reduce the proportion of pupils in schools serving the most disadvantaged communities who leave school with no GCSEs and the number of poor attenders. The Executive intend to make changes to how the education system deals with children with special educational needs and to make sure that they can share equally in the planned improvements. The draft Programme for Government underlines the Executive's commitment to having pupils with special educational needs educated, where possible, alongside their peers in mainstream schools.

Another important focus will be welfare reform. The Executive want to play their part in implementing reforms to the social security and pensions systems. The draft Programme for Government commits us to joining up our jobs and benefits services. By March 2004, we will have extended a new jobs and benefits service to 20 combined social security and jobcentre offices across Northern Ireland. In line with a focus on putting work at the forefront of the benefits system, we want to improve services for those seeking work. In particular, we plan to take action to tackle poor literacy and numeracy in adults by helping an extra 2,500 learners to update their essential skills.

The Department of Agriculture and Rural Development is already implementing an ambitious programme of modernisation, focusing on the needs of farmers and the agrifood industry, e-government and the delivery of research and education. We will also implement the recommendations of the vision exercise.

The Executive want to ensure that Invest Northern Ireland provides a new opportunity to improve competitiveness and encourage investment and enterprise. The draft Programme for Government sets out our plans in that area.

We also have key decisions to take over the life of the draft Programme for Government. We must reach agree-

ment on the right structures for our acute hospitals and post-primary schools. We want to make sure that our decisions bring about positive improvements in the quality of service.

We must also reach agreement on the structures of public administration. The draft Programme for Government conveys our intention to introduce by the end of next year a new model for public administration. Our proposals will be driven by a desire to improve the delivery of public services.

The draft Programme for Government also sets out our commitment to improve community relations and tackle division. The need to support the capacity of local communities to deal with matters of dispute or division is particularly important. Our experience in north Belfast and other areas has shown that improved relations can only develop when elected and community representatives work together. By the end of next year, we want to have in place a new policy and strategy on good relations, which will include actions and targets. We also want it to include action focused on local areas with acute community difficulties and action to support the capacity of local communities to deal with issues such as sectarian flags and graffiti.

If we are to facilitate improvements in relations and an end to the trouble on our streets, we need to focus on delivering equality of opportunity for all. One of the greatest inequalities in Northern Ireland is that which exists between the affluent and the most disadvantaged. The draft Programme for Government emphasises, therefore, our determination to tackle poverty and social exclusion. It sets out our work to evaluate and improve our policy on targeting social need. It also highlights our determination to take action to root out child poverty.

The development of a children's fund demonstrates our commitment to supporting children in need and young people at risk, a commitment which is restated in the draft Programme for Government. It also demonstrates the value of a partnership approach: working across sectors to do the best we can for children.

The draft Programme for Government represents what we can achieve by working in partnership in Government. However, we also need to build partnerships between the Government and social partners. It is not enough simply to change the form of government: our goal must be to change the face of the Government, the face of politics and the face of our society. Nor is it sufficient to have the social partners as passive consultees. They must be active participants in the development of policy. It is only by harnessing our collective energies and insight that the soundest solutions to our problems can be found.

The promoting social inclusion initiative and the work of the Economic Development Forum show the value of involving social partners not only in consultation, but

in policy formation. We must consider how that can be extended as we consult further and, ultimately, implement the Programme for Government. The draft programme indicates our readiness to do that.

As in previous years, we are also presenting the latest public service agreements (PSAs) for the eleven Departments. The PSAs will support the Executive's priorities and commitments by setting out what is to be achieved from the Budget allocations. They reflect our commitment to openness and accountability to the Assembly and the public, and they focus on improving public services. The PSAs are in draft form, and we invite the Assembly and the Committees to examine them during the consultation period.

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

The draft Programme for Government is a manifesto for reinvestment and reform, a pledge to improve public services. In moving forward, our guiding principle must be the desire to deliver a better service to the public. We need to focus on delivery, on the end result and how that can be improved. However, as the First Minister has emphasised, it is a draft Programme for Government. It represents the Executive's current thinking on their plans and priorities for the years ahead. That thinking should now be debated, discussed and, where necessary, challenged inside and outside the Chamber. On that basis, we commend the draft Programme for Government to the Assembly.

**Dr Birnie:** The draft Programme for Government is an impressive document, not least because it provides a comprehensive analysis of the problems facing Northern Ireland before attempting to outline solutions.

Page 10 shows that unemployment has fallen dramatically in the past decade, although an employability issue remains. Chart 3 on page 11 reveals a crucial economic and social problem: our level of gross domestic product (GDP) per head continues to lag seriously behind the United Kingdom and European Union averages. However, one technical but significant point is that the chart almost certainly exaggerates the extent to which the Republic of Ireland's living standard improved compared with that of Northern Ireland and the rest of Europe in the same period.

The reinvestment and reform package mentioned in paragraphs 3.9 to 3.12 must be a driver to deal, at last, with the long-standing backlog in infrastructure investment, which amounts to around £6 billion. By attempting to deal with the problem, the initiative represents an act of political courage and financial wisdom.

Sub-priority 8 of 'Growing as a Community' identifies a role for museums. I hope that they will be able to show what is distinctive about Northern Ireland and its history, while recognising the substantial east-west links with the rest of the United Kingdom as well as the North/South aspect. I note also the Department of Culture, Arts and Leisure's proposal to implement an archives policy.

My party is pleased that the Department of Culture, Arts and Leisure will provide support for implementing the football strategy from April next year and that new training facilities will be provided in at least seven sporting areas by March 2006.

Sub-priority 1 of 'Securing a Competitive Economy', which deals with improving and developing infrastructure, is immensely significant for the reasons that I have already given, especially the backlog in investment that developed during the direct rule period.

That chapter's sub-priority 2 deals with modernising the planning process. Hitherto, our planning process satisfied no one. On the one hand, developers argued that economic progress was held up by undue backlogs in the system. On the other hand, residents felt that their vital interests were being overridden. A general debate about planning processes is taking place across the UK, so Northern Ireland's problems are not unique. However, some aspects are peculiar to this region. The Ulster Unionist Party is pleased that the planning process will be modernised.

Paragraph 1.5 of the document points out the progress and achievements made in several areas that were highlighted in previous Programmes for Government, including the expansion of higher and further education and the provision of free public transport for the elderly.

The Ulster Unionist Party supports the draft Programme for Government in the hope that it, and future programmes, will support further achievements.

**Mr Dallat:** The guiding principle of this draft Programme for Government is "making a difference". Let us reflect for a moment on what that means and how it can be implemented. It means building on what the Assembly has achieved in the past four years. It means no return to the corruption that occurred during the three decades of direct rule, when deals were struck in smoke-filled rooms, and millions of pounds worth of contracts were issued without tenders, or issued to companies that did not tender the lowest bid.

It means a fundamental change to the Senior Civil Service and non-departmental public bodies. It means an end to the soirées and the flagrant abuse of credit cards. However, it means more than that: it means building on the good work of Seán Farren and Carmel Hanna to end the scandal whereby one in four people have poor levels of literacy and numeracy, so that everyone can hold his or her head high when applying for a job or seeking promotion.

*12.45 pm*

I am glad that the Programme for Government addresses also the needs of students in serious debt, who are at the other end of the scale. In the past four years, access to colleges of further education and universities



has been widened substantially. The threshold above which parents must pay fees has been raised and will continue to increase as a fundamental principle of the SDLP. Pressure will be continued on the British Government for improved central funds.

Will we allow those and other possibilities to be wiped out because a few weeping willows in the “No” camp, particularly the DUP, do not have the stomach to face the challenges of the future and have no alternatives to the Good Friday Agreement? Are we to turn our backs on the Health Service, which is in crisis? Are we to forget about our commitment to decentralisation and cross-border bodies, which bring untold benefits, particularly in west Belfast, Strabane, Derry and other unemployment black spots? I should think not. Those who connive behind closed doors to bring down the Assembly must rethink their actions. It does not seem to matter to them that they are creating a political vacuum, which gives the kiss of life to killer gangs that are long past their sell-by date.

The SDLP will not abandon the people to whom it made a firm promise in the Good Friday Agreement. We will fight for an extension to the free transport scheme for people over 60 years old. We will back our Minister of Agriculture and Rural Development in radically reforming the industry to secure the future of new and existing farmers. We will support her efforts to develop a new vision for agriculture, to improve animal health and to show the British Government that they can no longer treat farmers as they do. However, none of that will be possible if members of the Saturday morning fur-coat brigade continue to vote like turkeys for Christmas. The “No” campers do not give a damn about equality, social inclusion or unemployment black spots. *[Interruption]*.

**Mr Deputy Speaker:** Order.

**Mr Dallat:** They seem to believe that they can turn back the clock to the good old days when they reigned supreme. We are not going back to those days: there will be no cap in hand, no begging bowl, and no subservience to our absentee landlords. Will we be left to do it alone? Those who fooled themselves at the weekend that they could turn the clock back should get real with the electorate and begin to tell them the truth. The world is moving on, and so are we, whether they like it or not. Dismantling the political structures to stop the clock is not an option. In a global world, and in a European context, partitionist politics are as dead as a dodo. Let us face the future together, rather than trying to lift the ball and run away with it. It is no longer theirs, but ours to share. If Armagh and Derry can do it, so can the Assembly.

**Rev Dr Ian Paisley:** Having listened to the interesting statement of the petty comic, we should now get down to business. Do the First Minister and the Deputy First Minister really think that they can bluff the people of Northern Ireland with the documents that they presented

today? The First Minister’s constitutional position is in jeopardy, and his party is stating, in the strongest possible manner, that things will change. We are told that the last date will be 18 January.

The First Minister told us that he was presenting his priorities for the next few years. It is quite interesting that an attempt is being made in this House to sweep the reality of the situation conveniently under the carpet and pretend that all is well when it is not.

As for Mr Dallat, he may have no respect for the electorate, but the electorate will not go away. In fact, the electorate or a Sinn Féin member in his own constituency may tell him to go away. Mr Dallat made as good a speech as any Shinner could have made in the days of absentee landlords and little fairies at the end of an Irish garden.

The report says that the First Minister and the Deputy First Minister will apply themselves to dealing with the troubles, but the Deputy First Minister did not have the honesty to say that the trouble lies with one member of the Executive, an active member, who takes his seat with us. The Deputy First Minister did not have the honesty to say that that member’s party is dedicated to keeping this country in turmoil. It has the arms to do it, and it has been producing the goods.

The Deputy First Minister says that they will declare war on sectarian flags. I will ask him a straight question: does he think that the Union flag is a sectarian flag? Of all the flags, it has been the Union flag that has been most attacked and removed. Is that what he is after? The people of this country know what is wrong. They have a right to demand the right to live, the right to be free from gangsters and paramilitaries, from whatever side they come, and the right to maintain their place in a democracy.

It is quite amusing to hear the Deputy First Minister talk about equality of opportunity for all. There is no equality of opportunity in our new police service because of his party’s policy that the Roman Catholic minority must have a majority over Protestants. The 50% share that is given to Protestants must also include Jews and Hindus and everyone else. There cannot be equal equality of opportunity for all, yet he unblushingly said that that great target has been set.

This House had better realise that sooner or later, no matter about the dodges of the Business Committee and no matter about the First Minister. I read carefully a statement from the First Minister that said that this would not be a fudge but that there might be flexibility. That was a good get-out. No doubt, he will have to run for shelter and quote that. We are not running for shelter. We believe in direct confrontation with the electorate. Let the electorate speak.

**Mr McLaughlin:** Go raibh maith agat, a LeasCheann Comhairle. We have only had a limited opportunity to



consider the draft Programme for Government in detail and, regrettably, even less opportunity to study this morning's statement.

They can only be properly considered in the context of the draft Budget, the content and detail of which we await. In the past couple of years, we have become familiar with the thematic content of the Programme for Government. In fairness, most people are content with that approach. The devil is in the detail. However, it is time for the Executive to demonstrate clearly their ability to translate the identification of priority areas such as health, education and transport into "deliverables". That is how the draft programme and the accompanying Budget will be judged. The litmus test for the Executive will be their ability, or otherwise, to set aside party political interests and, on a truly collective basis, bring together and deliver on proposals for meaningful change that will make a tangible difference.

It is ironic — some may say surreal — that we are being asked to consider how the Executive propose to make a difference when they are under a cloud and in the midst of the contrived crisis into which the Ulster Unionist Party is driving the political institutions. It is difficult to reconcile what appears in the draft Programme for Government with the general political context being shaped by those in the Ulster Unionist Party who are opposed to change. How do we square the commitment to ensuring that the transfer of political power to our political institutions makes a real and positive difference to our economic and social life with the fact that one half of the Executive now wants to collapse those institutions? How do we reconcile the commitment to tackling the underinvestment that is part of the legacy of direct rule with the Unionist half of the Executive marching down the road to nowhere? How do we square the Executive's strategic objectives to achieve equality, partnership, sustainability and prosperity with the political objectives of half of the Executive, which are based on exclusion? How should we view the commitments contained in section 8 of the draft Programme for Government? Paragraph 8.4 states:

"The Agreement provided a unique framework to develop relations within the island of Ireland."

Yet the First Minister has declared that he will, with immediate effect, act in a way that will significantly damage those institutions. Paragraph 8.4 also says that the Executive will focus on

"developing North/South relations and realise the potential for enhanced co-operation".

Paragraph 8.5 begins

"We will continue to work together with the Irish Government to realise the full potential of enhanced cross-border co-operation for mutual benefit. We will take forward co-operation through the North/South Ministerial Council and in particular through the agreed areas for co-operation — (Agriculture; Education; Environment; Transport; Health; and Tourism)."

That was agreed last Thursday. Some 48 hours later, David Trimble contradicted that commitment. He negotiated and agreed with his partners on the Executive while he had in his pocket a proposal to wreck the all-Ireland institutions. When half of the Executive has adopted the policies and politics of the "No" camp, it is time for the public to ask questions.

Those are only some of the questions that will spring to people's minds when they read the detail of the draft Programme for Government — they will think of cloud cuckoo land. When we debated the draft Programme for Government last year, it was clear that it had been developed through agreement between all the political parties against a backdrop of serious political difficulties. However, at least there was a collective approach. Today's draft Programme for Government comes 48 hours after yet another Ulster Unionist Council meeting and against the backdrop of yet another Ulster Unionist Party threat to walk away from the institutions.

Let us be clear: Unionists are fighting a concerted campaign to frustrate and delay the required changes to our society with regard to the equality agenda, the human rights agenda, the all-Ireland agenda, criminal justice, demilitarisation and policing. Unionists have attempted to delay and dilute the progress in all those areas, which are the cornerstones of the Good Friday Agreement. However, my greatest concern is whether the Executive's Programme for Government will be able to deliver on the agenda for change in the light of the political cowardice of the Unionist political leadership.

**Mrs Bell:** I thank the Ministers for their statement. Like other Members, I received a copy of it late this morning, so I have not had time to read it or the draft Programme for Government. However, I wish to make a few comments that I will expand on in tomorrow's debate.

1.00 pm

There have been real achievements in children's issues and in health matters, such as the cancer centre. Although I do not want to undermine those achievements, the Alliance Party is once again disappointed that, in the key themes of the draft Programme for Government, community relations, which will make our society more tolerant and build on those achievements, are not apparent. I have direct experience that, over the years, community relations projects have contributed greatly towards mutual understanding and tolerance, which is tragically missing in Northern Ireland.

Stronger partnerships must be built, and not only with local government and social partners. Sub-priority 2, which should have been a full priority, states:

"We recognise that we have to deal with the very deep and painful divisions in our society after decades of conflict and that we must tackle the scourge of sectarianism, racism and intimidation."

That sub-priority also states that elected and community representatives must work together. Community relations projects and personnel should be included in that.

A community relations strategy has been delayed time and again, and the draft Programme for Government does not make it clear when, or how, the strategy will be announced or when the consultation process will begin. That must be dealt with in tomorrow's debate. The building of a strategy must be a priority, together with the efficient allocation of resources to community relations councils to ensure that all citizens will benefit from their projects.

No clear account has been given of money allocated, and no questions have been asked about the benefits to the entire community. Four years after the signing of the Good Friday Agreement, people are still being intimidated, terrorised and exiled by men and women of violence who wage their campaigns with ease. That should not be tolerated. It is not solely a matter for the Executive or for the Assembly, and my party and I believe that sufficiently strong, decisive local political leadership has not been shown. That must not continue.

Social inclusion, social exclusion and New TSN are good foundations to help disadvantaged ordinary people. However, those ordinary people deal with dreadful situations every day, and they must be supported and encouraged to come together in a viable and informed way. That can be done only by working with community relations organisations, which have their own confident and sustained strategy. That support and encouragement should be evident in all elements of the draft Programme for Government, which represents a manifesto for reinvestment and reform and a pledge to improve public services. I agree with those sentiments, and I have no doubt that they will be carried through. However, the basic safety and livelihoods of our people, together with their confidence, must be a priority.

I thank the First Minister and the Deputy First Minister for their statement this morning, to which my main remarks have been addressed. Tomorrow I shall refer to the draft Programme for Government, and I look forward to the debate.

**Mr C Wilson:** As the Unionist community views the proceedings today, it may be bewildered or bemused by the spectacle of the First Minister presenting a draft Programme for Government to the House. He referred to the length of time that it will take for the programme to come to fruition.

However, in Government partnership with Colleagues, as they are referred to by Mr Trimble, are members of the Ulster Unionist Party and the Democratic Unionist Party who represent the Unionist community. They are, by their outward pleadings and statements, declaring that they recognise that the Unionist electorate do not support the

institutions. Furthermore, they are exhibiting signs of nervousness as they approach next year's elections.

It is on that basis that Mr Trimble beats his chest and declares that he will not sit in a power-sharing Administration with Members who continue to be inextricably linked with those who are actively involved in terrorism. However, if Mr Trimble, his party and the DUP really were representing those who elected them to the Chamber, they would not sit in the Executive for one more day with those whom they are committed to removing. Mr Trimble will find it difficult to remove himself from his position because, like all his Ministers and those from the DUP, he is pledged under annex A, strand one, of the Belfast Agreement, to

"participate with colleagues in the preparation of a programme for government".

That is what we are here to consider today.

Despite that pledge, Mr Trimble knows that he has no mandate, and he knows that people supported the DUP because it pledged to use the Assembly to bring down those institutions it believed to be undemocratic. Mr Trimble has now demonstrated that he also believes that, given the Assembly's track record and the undemocratic structures that are in place, if he were to present his party to the electorate next year, he would face meltdown. However, it is only that prospective situation that is causing concern. There is no degree of recognition that those who front paramilitary private armies on the Republican and the Loyalist sides should not have been allowed to sit in government over the people whom they terrorised.

Mr Trimble also stands indicted of hypocrisy because of his new-found realisation that he cannot sit in government with those who front paramilitary organisations. Of course, he is the same Mr Trimble who walked into the negotiations at Castle Buildings flanked by representatives of Loyalist terrorist organisations and who continues to nominate those people to bodies such as the Civic Forum, to which he recommended a person who is inextricably linked to a Loyalist organisation. At the same time, he has representatives on the Loyalist commission.

Mr Trimble knows well that ordinary, decent people — Catholic, Protestant, Unionist and Nationalist — do not want those people to serve in the bodies and institutions. Also, the Secretary of State has come up with the silly notion of a monitor to determine whether those people are still engaged in acts of terrorism and intimidation and holding the communities to ransom. Ordinary, decent people know what is happening; they do not need a monitor to translate the actions of paramilitary organisations: they want to see an end to them. They want the paramilitaries on both sides put out of business. Mr Trimble's problem is that, although he beats his chest and pretends that he has had a road to Damascus experience in relation to opposing terrorists in government, he continues to sit

in government with them, putting off the day on which he will pull the plug on that unseemly gathering of rogues. I appeal to the DUP to lead the Unionists out of the Executive and to leave Mr Trimble isolated.

**Mr Ervine:** It amazes me how hard people will work to be seen to be even-handed, even though everyone knows that they are not. I have some difficulty with the draft Programme for Government, and, indeed, I have some difficulty with how it was presented this morning. Have you noticed, Mr Deputy Speaker, how two parties spoke from prepared scripts, while the rest of us have to wing it? Two stooges stand up and tell their party leaders that they are wonderful. We keep falling into that trap; it has almost become a form of convention, and it does us no favours at all. The Opposition, for what they are worth, are small, weak and lacking cohesion. They do not even get the chance to have a look at what will be put in front of Members, and they often get only ten minutes' notice about statements that will be made. The stooges with prepared scripts then come out. There is something inherently wrong about that.

However, let us move on. The First Minister and the Deputy First Minister said that there is a search for stronger partnerships. The Executive are superb role models for stronger partnership: we have a dysfunctional Executive talking about creating stronger partnership. That Executive have plunged themselves very quickly in the direction of PPP — perhaps soon to be PFI — without being remotely inventive about other possible options for raising finances following the disinvestment here caused by the Conservatives handing us their policies by the back door or by default.

In my constituency, 1% of children will go on to further and higher education, and when I read the draft Programme for Government I wonder how long it will take to destroy the iniquitous process of denying children higher education opportunities. I wonder when the Executive will truly invest the resources necessary to make a difference to those who live in the postal address areas that suffer discrimination every day, whether they are Protestant or Catholic.

When the weekend debacle occurred, we saw the frightened offering the controls of the machinery again to the frightening. Instead of forging ahead with politics that might work by genuinely building partnerships along lines that can build common purpose, we saw an illusion, similar to the decommissioning illusion, in which we hand the throttle, the clutch and the brake to the paramilitaries in Northern Ireland. When will we learn that one should not offer the controls to the lowest common denominator? When will we learn that there has to be a way to get over our fears? That is what this is about — you cannot be seen to be too close to those with whom you are in Government, because one side will shout that you are selling out. Both sides play that game.

How many times have we seen one element of the Executive opposing the very decisions made by the Executive because it is popular to do so? That has happened with issues such as pay rises and office cost allowances. On numerous occasions collective decisions have been made, and individual Ministers have opposed them in the Chamber. Everybody wants to be the Opposition, rather than to take responsibility for decisions.

We are kidding ourselves about this process. The wording, while good in parts, is creating illusions for the people. There is the illusion that the Executive Ministers are going to deal with each other in a way that can make a difference; the illusion that they are going to deal with sectarianism and the illusion that they will deal with the crass and serious circumstances of poverty and disadvantage. Never has the community sector been so weak at a time when the Executive are talking about capacity building and making communities stronger. There are more groups scurrying about, hoping and begging to get some share of the funding provided by the Executive than ever before. We should end those illusions and get on with the practical work.

1.15 pm

**Ms McWilliams:** Given the decisions made at the weekend, it is difficult to anticipate what will happen as regards some of the programme's targets, the legislative framework and our expenditure plans. I am full of questions.

It is good that the document is aspirational while trying to be practical. However, like David Ervine, I wonder where we go from here. The draft programme announces plans to introduce great new legislation on housing, planning and other issues, which people here awaited for years. Until now, we did not have our own Ministers and legislation to take account of local circumstances. The document carries a good message also as regards how we will provide for our children.

However, Members, who are to deliver the programme, must ask what will happen between January and the Assembly election. What will happen if we do not meet the targets for December, as in the case of community relations? Will those targets go to the wall? We may not be able to deliver the whole programme. Let us get real.

We need a contingency plan for the period until January, so that employers will know whether they must make redundancy plans for staff. The gap between the provision of Peace I and Peace II funding resulted in a situation similar to that which we are creating today: plans could not be made, and people could not be told what would happen in the next month, never mind the next three years. We must be fair by telling people that the targets may not be met and that they should continue



as before rather than try to meet some of the programme's objectives.

When community relations were discussed in the House two weeks ago, the First Minister and the Deputy First Minister guaranteed that they would carry out a strategy, talk to parties and build partnerships. Members have not even built partnerships in the Chamber, never mind outside it. Parties who wish to be involved in the development of a community relations strategy, including Members with experience of working at interface areas, still await an invitation to participate in the discussion.

If there are plans for December 2003 — and I do see such a target — much work must be done to take account of what we did not get right and to put something different in place.

Major problems exist in communities, where the focus is mostly on paramilitary groups; however, we must focus also on the depoliticised, politically homeless young people who live there too. What kind of targets should we set? Two pages of targets have been set for schools; however, the text of the programme's objective for youths is longer than the target set. The sole aim is to increase, over the next three years, participation in youth organisations by 2%. That is a sad indictment, given our communities' problems.

Surely we could have many more imaginative projects and programmes, such as those listed under the targets for the Department of Health, Social Services and Public Safety. There should be a greater link between the projects of that Department and the Department of Education to help young people who do not attend youth clubs and who need to be involved in the community. Good projects and practice that are not funded should have been taken on board. In both its projects on educational disadvantage, and in its document launched last week, 'Could do Better', the Civic Forum described some such good practice models.

When discussing exclusion, partnership and sustainability, we should take a hard look at what can be delivered between now and January.

**Mr McCartney:** When I was listening to the Ministers' statement this morning, I was tempted to think of the ship of state sailing along, all sails set and loaded to the gunwales with goodies for the future, while, up on deck, the captain and his mate, the First Minister and his Deputy First Minister, fight over the steering wheel about which rock — be it Scylla or Charybdis — they will crash the ship of state on. The presentation was a cross between 'Alice in Wonderland' and a Brothers Grimm story. Not since Orwell's animals decided to take over the farm has there been such a declaration of aspirations. One could hardly think of anything — apart from zip-fasteners on bananas and self-peeling oranges — that is not promised in this great document.

The truth is that there is something in what Mitchel McLaughlin said about the document being long on talk, and very short on "deliverability" — a word I think he must have got from David Ervine. Delivery is the essential issue: what are these people going to deliver, and how will they deliver it? It is said that there is a black hole of underinvestment of £6 billion for the next decade, but the true figures are probably nearer £12 billion to £15 billion. Where is the money going to come from? Any sensible businessman, taking over a company, would get his accountants to look at the books to check the debts and deficits, and his engineers to look at the equipment. Nothing of that nature was attempted by those who negotiated the Belfast Agreement.

**Sir Reg Empey:** You ran away from it.

**Mr McCartney:** This talk about running away is like a broken record. It comes from a man who wept in 1992 because he thought that he was going to be excluded from office, and that he might not get his sticky fingers on the levers of devolved power. I am very glad I ran away from that.

**Mr Deputy Speaker:** Order.

**Mr McCartney:** The First Minister and the Deputy First Minister are promising all these goodies, but how are they going to be paid for? Perhaps they will be funded by public-private finance. However, those who would supply the money for that finance would borrow it on the market and make their profit from the additional interest that they would charge those who are going to involve themselves in a form of high-level hire purchase. Future generations will be burdened by repayment of that debt, because neither the capital nor the interest will be repaid out of the Barnett formula money.

Alternatively, the services may be financed with the new money that the First Minister and the Deputy First Minister are going to borrow from the British Government. Again, the capital will have to be repaid with interest. Where will they get the money to make the repayments? They will get it by screwing the population with a vast hike in rates, including a possible tap tax on water, and a possible effluent tax on sewage. All of this will be done to make good their inefficiency at the beginning.

I welcome all the aspirations of the draft Programme for Government. However, the fact is that Mr Trimble is once again telling the canard and the untruth that Sinn Féin signed up to deliver decommissioning by 22 May 2000. He knows that it did nothing of the kind. The burden imposed upon it was the same as that imposed on all other parties, which was to use its best endeavours to bring about decommissioning by that date. He knows better than anyone else that Sinn Féin threatened to walk away from the negotiations if they were obliged to give any other undertakings. This is not some sort of excuse for Sinn Féin, whose performance has been disgraceful, and whose alleged decommissioning is a farce.



We must tell the people the truth. We must stop telling them fairy tales about the future, such as those encapsulated in this draft Programme for Government. We must remind ourselves that the duty of any Assembly is to serve the interests of the people, and not to delude them with false promises that their children or grandchildren will have to pay for.

## AUDIT AND ACCOUNTABILITY BILL

### First Stage

**The Minister of Finance and Personnel (Dr Farren):** I beg leave to lay before the Assembly a Bill [NIA 6/02] to provide for access by the Comptroller and Auditor General to information for the purposes of audits and examinations; to transfer to the Comptroller and Auditor General responsibility for the audit of certain public bodies; to provide for the re-organisation of the administration of local government audit; to confer additional functions on the audit committee of the Assembly in relation to the appointment of the accounting officer and the auditor of the Northern Ireland Audit Office; and for connected purposes.

*Bill passed First Stage and ordered to be printed.*

**Mr Deputy Speaker:** The Bill will be put on the list of pending business until a date for its Second Stage has been determined.

## HEALTH AND PERSONAL SOCIAL SERVICES (QUALITY IMPROVEMENT AND REGULATION) BILL

### First Stage

**The Minister of Health, Social Services and Public Safety (Ms de Brún):** Go raibh maith agat, a LeasCheann Comhairle. Molaim go dtugtar a Chéad Chéim don Bhille Sláinte, Seirbhísí Sóisialta agus Pearsanta (Cáilíocht, Feabhsúchán agus Rialachán).

I beg leave to lay before the Assembly a Bill [NIA 7/02] to establish the Northern Ireland Health and Personal Social Services Regulation and Improvement Authority; to make provision for the registration and regulation of certain establishments and agencies and to make provision relating to the quality of health and personal social services and to adoption, fostering and children under 12; and for connected purposes.

*Bill passed First Stage and ordered to be printed.*

**Mr Deputy Speaker:** The Bill will be put on the list of pending business until a date for its Second Stage has been determined.

## AREAS OF SPECIAL SCIENTIFIC INTEREST BILL

### Second Stage

**The Minister of the Environment (Mr Nesbitt):** I am not exactly firing on all cylinders today, so I beg the indulgence of the House. I have a slight flu, to say the least, and perhaps I should not even be here. I am trying to breathe directly ahead so that I do not spread any germs.

I beg to move

That the Second Stage of the Areas of Special Scientific Interest Bill (NIA 02/02) be agreed.

Areas of special scientific interest (ASSIs) are the jewels in the crown of our diverse and rich landscape. They are special places, rich in all forms of wildlife, and almost 200 such areas have been declared to date. I want to see these sites properly safeguarded so that they can be appreciated by future generations. That is why I am introducing the Bill.

The Bill meets the commitment in the Programme for Government to have a policy and legislative framework for the protection and management of ASSIs in place by July 2003. It will also help to address the requirements of the EC Directive on habitats by ensuring that Northern Ireland can better protect sites that, in addition to being ASSIs, have also merited designation under European legislation. I believe that the Bill will avoid the current threat of infraction proceedings from the European Commission and any potential fines that could result.

For some years my Department has been aware of the shortcomings in legislation pertaining to ASSIs, and those shortcomings were also recognised by the Assembly in the debate held on 23 January 2001 when there was strong support from all parties for better legislation. The Bill is the result of an extensive consultation process, which began when my predecessor, Mr Foster, launched the consultation paper 'Partners in Protection' on 2 March 2001.

*1.30 pm*

It set out 20 key issues pertaining to the protection and management of ASSIs and sought public comment on how best to deal with those issues. Responses were received from a wide range of organisations with strong support for new legislation. On the basis of the comments received, my Department drew up several proposals, which were subject to a further round of public consultation in November last year. There was further strong support for those proposals, so, in bringing forward the Bill, we have endeavoured as fairly and equitably as possible and accommodate the wishes and concerns of all parties that contributed to the consultation process.

The Bill replaces the existing provisions for ASSIs in the Nature Conservation and Amenity Lands (Northern

Ireland) Order 1985. It builds on many of the features of the 1985 Order, but it also incorporates the new proposals that were the subject of the public consultation exercise.

The Bill has several key features. First, we are improving some of the procedures associated with declaration. For example, by allowing greater flexibility in the ways that amendments to site boundaries or citations can be introduced, we want landowners to be better informed about the declaration in general, so the Department will be required to provide a statement on how it considers the land can best be managed in the interests of conservation. Public bodies, including Departments, must also play their part. The Bill contains provisions that will ensure that the discharge of responsibilities complies with the need to conserve and enhance these valuable sites.

The Bill also contains measures to ensure more effective protection of ASSIs, with measures to address damaging operations that are undertaken by owners, occupiers or so-called third parties and our current inability to react appropriately and in a timely way to these concerns. Neglect or inappropriate management can be equally damaging. We must be equipped to deal with such occurrences, which are, thankfully, rare.

These measures may give some people cause for concern, particularly those in the farming community who feel that they place additional burdens on them. Let me assure them that I do not intend that to be the case, nor do I believe that it will be so. The vast majority of ASSI declarations over the last 16 years have proceeded without difficulty. Good working relationships have developed between my Department and the farming community. My aim is to ensure that the Bill, together with the other measures that I will be introducing, further strengthens those relationships.

Many of the measures contained in the Bill are needed for the small number of landowners who wish to carry out activities or operations that could irreparably damage these valuable sites. That is particularly important for sites whose importance is further recognised by designation under European legislation. The threat of infraction already hangs over the United Kingdom. The European Commission perceives that the UK has failed to implement fully the requirements of article 6 of the Habitats Directive, and the Commission has issued a reasoned opinion letter against the United Kingdom. Action to address that has already been taken in England and Wales through provisions in the Countryside and Rights of Way Act 2000, otherwise known as the CROW Act. The measures in the Bill will address the shortcomings in Northern Ireland and ward off the threat of infraction and potential fines.

There are also safeguards built into the Bill for landowners, including the right of appeal to the Planning Appeals Commission against a decision made by the Department.

Another feature of the Bill is the provision to ensure better management of sites. Good management of ASSIs is a fundamental principle of the partnership approach that we have fostered over the past 16 years. There are presently over 250 management agreements in place between the Environment and Heritage Service and ASSI landowners or occupiers.

The measures contained in the Bill create the right climate to encourage and support the beneficial management of ASSIs. They will reinforce the change to positive management agreements that the Environment and Heritage Service has introduced recently. Our consultation paper 'Partners in Protection' recognised the importance of encouraging and rewarding beneficial management of sites rather than merely preventing damage.

We also said that we would introduce our own scheme for the positive management of ASSIs. I am delighted to announce today that a scheme is now in place, and available to all landowners and occupiers in ASSIs, called "MOSS", which stands for "management of sensitive sites". It is an acronym that I hope everyone will find easy to remember. MOSS acknowledges that the wildlife value of sites is the result of sensitive management of the land by both past and present landowners. It aims to build on that by encouraging farmers and landowners to adopt management practices that sustain and enhance the special features of an ASSI. In return, landowners will receive payments calculated to redress income foregone. I appeal to all those involved in the management of land within ASSIs to take advantage of this important initiative, so that the Department, in partnership with the landowners, can further protect Northern Ireland's most important wildlife sites for the conservation of biodiversity and the benefit of society at large.

In conclusion, the Bill can meet the needs and concerns of the wide range of interested parties who are stakeholders in this matter. It will achieve our Programme for Government target for better legislation. It will also bring Northern Ireland into line with comparable legislation elsewhere in the United Kingdom, and it should also meet our EC obligations. The Bill strikes the right balance between the need for effective protection of ASSIs — sites that are vital to the well-being of all our diverse natural heritage — and allows for the continuation of established and sustainable land practices.

I speak especially to the more than 5,000 ASSI landowners across Northern Ireland, who have worked in partnership with the Department over the last 16 years to safeguard those valuable conservation sites. I stress to them that it is my wish that that continues and is further strengthened. There is a need for partnership among the landowners and those in the Administration who give the protection. This Bill will help achieve that aim, and I commend it to the Assembly.

**The Chairperson of the Committee for the Environment (Rev Dr William McCrea):** I thank the Minister for introducing the Bill. Given that the Committee is

already scrutinising four substantial Bills, the Minister will understand if that thanks is somewhat guarded. Despite their workload, members of the Committee are looking forward to discussing the specific terms of the Bill at Committee Stage, and, therefore, I will keep my comments relatively short.

The Minister will be aware that the Committee has already received several detailed representations on the consultation exercises that preceded the Bill. That demonstrates the importance that the Committee gives to this legislation — indeed, to all legislation — and the Committee's clear determination to come to terms with the details of what, in many instances, is a complex Bill.

There is no doubt that legislation in respect of ASSIs must be updated. Although ASSIs are vital for the delivery of nature conservation and provide real protection for rare and important species of fauna and flora, as well as for those geological and earth science features present in Northern Ireland, it would be wrong to pretend that there have not been problems. Indeed, the Committee considered a letter at its meeting last week that highlighted the problems that 39 landowners in County Tyrone were having in challenging the proposed designation of a huge area of land around Newtownstewart as an ASSI.

Although the Committee will give no opinion on whether the proposal is right or wrong, that letter demonstrates quite clearly how this subject can have an impact on the community. However, I thank the Minister for his assurance to the House that it is his intention to ensure that there is a strengthening of the relationship between the farming community and his Department and that they work in partnership.

In March 2001, the Department issued an initial and broad-ranging consultation document called 'Partners in Protection'. Following a number of presentations and discussions with the Department's officials, the Committee made a formal response in June 2001. The Department received a total of 35 responses to that consultation document. To the Department's credit, that paper was followed by a further consultation exercise in November 2001 on the specific policies on ASSIs that it proposed to take forward. The Committee in turn responded to that consultation paper in February 2002. The outcome of that consultation was to form the basis of the Bill before the House.

My Committee will be particularly interested in how the Bill will seek to address a range of issues such as changes in ownership, powers to refuse potentially damaging operations and to make management orders and the level of fines. The maximum level in some circumstances in the Bill is £20,000, a figure that the Committee has already considered too low to act as an effective deterrent in two other Bills which have come before it.

In March 2002, the Minister appeared before the Committee, and we discussed a proactive approach to

co-operating with him to deal with certain Bills from his Department. At that time, my Committee gave assurances that it would co-operate fully with the Department, subject to its being fully satisfied with the specific terms ultimately adopted in the Bills. I affirm that this remains the intention of the Committee. However, I can assure the Minister that, as he would expect, it will be diligent and thorough in examining the details of the Bill and will come back with any amendments necessary at the Consideration Stage.

**Mrs Carson:** I welcome the Minister's statement that he wishes to ensure the preservation of all our important areas. To ensure that ASSIs are effectively managed, it is important that new owners or occupiers of land be made aware of any conservation designations in place. The Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 could be amended to include a requirement that an owner or occupier notify his or her successor.

I also welcome the Minister's statement that the Department will supply each owner and occupier with a site management statement outlining the conservation objectives and indicating the appropriate management. I very much welcome his new MOSS designation whereby owners will receive payment, and I hope that owners of such sites and areas will take advantage of that. We must have legislation in place so that the Environment and Heritage Service can refuse consent for notifiable or potentially damaging activities. There is a gap in the current legislation that means that ASSIs do not afford protection against acts of deliberate damage by landowners or occupiers, and I hope that it can be plugged.

I agree with the Chairman of the Committee for the Environment, Rev Dr William McCrea, that the present deterrents for wilful damage to ASSIs are much too lenient. I hope that there will be increased fines for those causing or permitting damaging operations and new penalties for those who commit intentional or reckless damage or disturbance — that must be covered.

I look forward to the Minister's providing the Committee with some more information and to a fruitful completion of the next stage of the Bill.

*1.45 pm*

**Mr Byrne:** My party fully appreciates the need to protect and conserve our natural and physical environment. However, the proposals, as they stand, could have a negative effect on the farming community and on industrial and residential development in rural areas, especially where ASSIs are sited near to villages and smaller towns.

The Chairperson of the Committee for the Environment mentioned a designated ASSI in Newtownstewart in west Tyrone. That designated ASSI has caused great concern to the local community. The issues raised by the Newtownstewart example will have relevance to the Bill's implementation. Many in the community fear that

the proposed Deer Park ASSI will restrict landowners and farmers in the daily management and cultivation of their land at a time when the agriculture industry is experiencing serious economic difficulties. Furthermore, the Newtownstewart community is concerned that the Deer Park ASSI will restrict the land that can be used for industrial or residential development, mainly because the current proposal almost encircles Newtownstewart. It falls right inside the town's inner designated limits.

The Department of the Environment has acknowledged that the Deer Park ASSI includes good quality, productive agricultural land and areas of commercial forest, so it is important that the procedures by which the Department declares an ASSI should be revised to take into consideration the quality of the agricultural land that an ASSI covers. An ASSI can be effectively declared and preserved only if there is proper local consultation, so that communities can work with the Environment and Heritage Service to protect the agreed ASSI in future.

Once an ASSI is declared, objections must be made within three months. As the residents and landowners of Newtownstewart have found, that gives little time for concerned parties to make formal representations to the Department. The three-month time frame must be extended to allow for wider consultation with the community that is affected by the declaration of an ASSI.

In the Newtownstewart case, the Department of the Environment has acknowledged the need to clarify and simplify the list of notifiable operations and those for which consent is not needed. The Environment and Heritage Service has, therefore, agreed to re-consult its statutory advisory body, the Council for Nature Conservation and the Countryside, on that. That underlines the fact that the Bill must give greater clarity on the matter; it must state to what extent an ASSI declaration will affect normal farming activities.

The concept of designating carefully chosen ASSIs is a good thing. We should be concerned about protecting our natural environment, especially those parts of our region that have significant and special physical features. The purpose of the Newtownstewart ASSI is to preserve a unique glacial feature of that area. However, people who wish to live and work in rural areas must not feel that the imposition of ASSIs, as determined by official bodies, is a conspiracy against them to hinder rural-based development, whether for residential or farm-related business activities.

I welcome the Minister's announcement of the MOSS initiative. That is a step in the right direction.

**Mr Shannon:** Many concerns about the consultation process have been intimated to me and to others. The Minister outlined a consultation and appeal process. However, ASSIs have created much concern and interest among landowners and farmers. Will the Minister assure us that



nothing will take place before consultation with landowners and farmers? People who have businesses in ASSIs are also concerned, especially those who own caravan parks.

I am concerned that this designation comes before consultation, with the result that caravan park owners do not feel that they are part of the process. The caravan industry is geared towards leisure. Designation of ASSIs may mean that caravan sites, which are traditionally by the seaside and involve water-based activities, will be restricted. Caravan site owners, tenants and lessees of the caravan sites will therefore be unable to continue with their businesses.

In the light of all the obvious concerns and obstacles, can the Minister assure the House that the Department of the Environment will adopt a cautious attitude in its approach to ASSI designation? Will he also assure Members that the views of landowners, farmers, caravan site owners and all those who will be affected by ASSI designation will be taken on board? Can the Minister also assure the House that there will be full, positive, transparent consultation with everyone concerned before any designations are made and that their views will be endorsed and encompassed in the Areas of Special Scientific Interest Bill?

**Mr Molloy:** Go raibh maith agat, a LeasCheann Comhairle. I welcome the Minister's statement. All Members welcome the idea of good legislation to deal with the protection of heritage. However, I share the caution of other Members. The farming community, in particular, should have been consulted with, listened to and provided with relevant information. Farmers in my area feel that they have not been involved and that some of the earlier designations have been made with little or no consultation. People feel that the designation of ASSIs are being imposed on the countryside. The Bill mentions "owners", but people feel that they own very little land when the Department decides that it wants to do something with it: the Department makes the decision and the farmer faces the consequences.

Although designation can cause the devaluation of an area, adequate compensation has not been provided. That has been the case in the Cookstown/Kildress area where sand extraction has taken place over recent years. It is an area rich in sand deposits, and the rest of the country has benefited from that in the past. However, because of farm diversification, that area is a honeypot for people to develop and expand a business, and a small area of conservation in the middle of it can be detrimental to those trying to develop it. If it is only a small area, the rest of the land can be landlocked, with damaging effect on the area to be preserved. Therefore, Members must look at the nature and purpose of the conservation and consider what they want to see the Bill develop and protect.

Clause 1(1) mentions the consultation between the Department of the Environment and the Council for Nature

Conservation and the Countryside. Consultation must be wider than that. There must be proper consultation with farmers and the entire rural population. If policies are to be implemented to bring about ruralisation, and rural proofing, as the Minister of Agriculture mentioned, informative consultation must take place. It is hoped that the ASSIs will be properly managed. Members must also look at farm diversification and bear in mind that farmers in some areas do not have any other means of support.

The Environment and Heritage Service played an important role in the drafting of the Bill, but decisions should be made in partnership with the farming community. Decisions should not be imposed on the farming or rural community as they have been in the past. With some exceptions, the rural community has been the best protector of heritage. If you point out the special nature that you are trying to preserve, people will work in partnership with you. It is to be hoped that the measures in the Bill will be used in the proper manner and that decisions will not simply be imposed from the top.

The issue of right of appeal is also important. Those who want to pursue the right of appeal should have proper access and be given support. There should also be a back-up service to ensure that people get a fair hearing. In the past, too many tribunals have merely been about people making representations, while Government Departments have all the legislation and legal and administrative back-up to ensure that it is they who succeed. Those who want to appeal decisions need support to ensure that they have all the information. I welcome the opportunity for further discussion in the Committee and for debate in the House.

**Mr McCarthy:** I give a general welcome to the Bill, but it is a disgrace that Northern Ireland is so far behind Europe and the rest of the UK in implementing environmental Directives. The Bill is overdue, and the Alliance Party is keen for it to be placed on the statute book as soon as possible. Other Members have spoken about consultations — that is the name of the game. However, the Department has failed dismally to consult properly with landowners and farmers. Some years ago Strangford Lough was designated as an ASSI. There was almost a revolt because landowners were not given the correct information and were being dictated to by the Department. There was a similar situation last year when Grey Point to Ballyquintin Point in Portaferry was to be designated as an ASSI. There were, again, lapses, despite my representation to the Department at a meeting of Ards Borough Council to ensure that consultation was the name of the game.

**Mr Deputy Speaker:** Order. Dr McDonnell, it is extremely discourteous to turn your back to Mr McCarthy and continue a conversation when he is on his feet.

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

Some landowners were informed only by second or third parties, and that does not help the process. Everyone must get involved.

The Alliance Party also welcomes the requirement for the Department of the Environment to provide a statement on the management of the land as stated in clause 1(2). That should be of major benefit to the owner/occupier of the land as well as improve conservation. Another important point is the provision for management agreements, as stated in clause 7, which includes costs being met by the Department. It is wrong that many landowners who care for valuable natural sites do so at their own cost. We also welcome clauses 11 to 13 with regard to the statutory duty on public bodies to promote conservation. However, in some respects, it is less robust than the requirements on private owners.

In paragraph 19 of the explanatory and financial memorandum "modest additional resources" are mentioned, yet the Bill provides for management agreements and payments where consent is withdrawn. Paragraph 2(2) of schedule 1 requires a full management declaration, as in clause 1, for all existing ASSIs within five years. Can the Minister assure us that this can be done with "modest additional resources"?

**The Deputy Chairperson of the Committee for Agriculture and Rural Development (Mr Savage):** I have listened attentively to all the Members who have spoken, and I cannot disagree with the comments that have been made. I welcome the Minister's statement, especially with regard to the management of sensitive sites.

I am concerned that many people who live in sensitive areas do not want to sign up to the MOSS scheme. What is their situation under the legislation?

2.00 pm

I urge the Minister and his Department to be careful and to try not to force the issue. As Mr Molloy said, if the Department consults with the farmers it will find that they are sensitive to what happens in their areas. No one knows more about the issue than the farmers because they live in the rural areas. Although they understand what the Department is trying to do, they will not be pushed into doing something that they do not want to do.

I hope that consultation takes place. The Department must understand that it is entering into a partnership with the farming community. The last thing that farmers want is to have people turning up on their premises telling them what to do. I am not suggesting that the Minister will take that sort of attitude. However, as a farmer, I know that they will consult the Department if asked to do so. We are talking about a working relationship that will survive only if both partners work together.

Many issues affect rural areas at present, and agriculture has been going through a difficult patch. All

those issues now come together. We must introduce a Bill that will protect the farmer as well as the sensitive sites, and that will take on board good farming practices. We are entering into an arrangement that will work, and, provided there is goodwill, it will survive.

The Minister must take all the issues on board. For example, he must address matters such as the farmers who do not want to have people tramping over their land. However, if there is a will, there is a way to address the issues, and I wish him success.

**Mr Wells:** I remember clearly the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985, because it was one of the pieces of legislation that took a long time to pass through the Assembly that sat between 1982 and 1986, and it attracted an almost record number of submissions.

A main point of that legislation was the issue of areas of special scientific interest. The law has come full circle, because, 16 or 17 years later, we are examining proposals to strengthen the protection of such areas. There is much to be welcomed in the Minister's statement.

In many respects, the Assembly passes some types of legislation because it has no choice. The Countryside and Rights of Way Act 2000 covers England, Scotland and Wales and has greatly strengthened sites of special scientific interest (SSSI) legislation. We must introduce similar legislation in this part of the United Kingdom in the interests of parity.

There is also the matter of European legislation. We are signatories to many international conventions, such as the Ramsar Convention on Wetlands, the Bonn Convention on the Conservation of Migratory Species and European Directives on special areas of conservation and special protection areas for birds. There is a panoply of legislation and European Conventions. As part of the European Community, we are duty-bound to implement legislation that will protect such areas whether we like it or not.

As the Minister stated, the European Community is concerned that the United Kingdom is not doing all that it can to conserve habitats. A European Union policy, Nature Europa, obliges member states to designate areas representative of nature conservation among the top European sites. The Irish Republic and, to a lesser extent, Northern Ireland are a fair bit behind in meeting their obligations under that policy. It is in that context that the Minister finds himself having to amend and update legislation on ASSIs.

As a civilised, western industrialised nation, we would be hypocritical were we to criticise the Indians of the rainforests or the tribes of Africa for destroying their habitats and important wildlife areas if we have not put our own house in order. The main mechanism that we have to protect our environment is ASSI designation, which

is important for nature conservation. That is particularly relevant because we do not have national parks as in Canada or the United States. That being the case, it is incumbent upon us not only to designate all the areas that meet the standard but also to ensure that they are adequately protected. The proposals go a long way to achieve that, particularly in dealing with third-party damage. In my constituency of South Down, ASSIs have been damaged not by the owner or occupier but by fly-tippers who damage sites without the consent of the landowner.

A point that has been overlooked in the Minister's statement and which deserves a fair hearing is the MOSS proposals. They propose grant aid for farmers and other landowners to assist them in the management of ASSIs. That is positive, because we all know farmers' desperate situation. Their incomes are at an all time low, and anything that provides more money for them is to be welcomed. It will change people's perception of ASSIs. Instead of regarding ASSIs as negative and restrictive, farmers could see them as an opportunity to reach management agreements with the Department to work together with the Environment and Heritage Service to manage these important areas and to bring in much needed income. Some farmers would rather have the positive income that MOSS provides than lose perhaps £15 for every sheep they produce.

Mr McCarthy, Dr Birnie and other Members must remember that ASSIs cover only 6% of Northern Ireland. Even when all the sites have been designated, they will probably still cover less than 10%. Therefore 90% of the Province could be farmed in the normal way without any restriction.

It is worth having the special designation, but it is more important to have the funding to reach the agreements. I hope that sufficient finances are made available to the Department of the Environment so that the agreements can become widespread and positive. His constituents might even plead with Mr McCarthy to have their land designated as areas of special scientific interest so that they can avail of the funding.

Strangford Lough is in the constituencies of Strangford and South Down. There was much opposition to designating Strangford Lough as an ASSI. However, there has been little mention of it in the past three or four years, as landowners have realised that it is not the bogeyman that they assumed — it is positive. We owe it to future generations to preserve the 6% or 8% of the best of our nature conservation habitats in Northern Ireland so that they can enjoy these wonderful areas.

**The Minister of the Environment (Mr Nesbitt):** I thank Mr Wells for his beautiful words of help for me. He was not in the Chamber when I said that I look for assistance because I have the cold. I shudder to think what assistance he would have given me if he had heard

me ask. Nonetheless, he spoke some wonderful words of support for what I am trying to do.

I thank all Members for their contributions and for their interest. Mr McCarthy and Mr Savage gave the farming point of view. We heard from Mr Shannon, and Jim Wells made a genuine point about the opportunity to protect our habitat. I will respond to some of the comments made. The departmental officials will scrutinise Hansard, and any of the detailed questions that have not been answered will be addressed in due course.

I thank Rev Dr William McCrea for his comments. The legislation requires updating. I entirely agree that it would be wrong to pretend that there are no problems — this very debate has shown that there are. I note the letter he mentioned from 39 landowners. The Member welcomed, as Mr Savage did, the strengthening of the relationship between the Department, in administering ASSIs, and the farming and landowning community.

I will answer three of Rev Dr William McCrea's points. He mentioned powers of refusal. The Department will have entry powers and power to refuse consent for operations that would damage special features of ASSIs. The Department will also issue management notices that will address neglect. That may be viewed as a stick, but it satisfactorily complies with human rights legislation.

The Bill provides for an appeal mechanism for the various aspects where the Department has authority. We must ensure that the powers are not abused, but we, as the public sector custodian, must also have the appeal mechanism and be seen to be using it correctly.

Rev Dr William McCrea mentioned management notices. We want a theme of agreement and partnership. We want to exhaust all possibilities in trying to seek agreement between those who must work the land and those who want to designate an ASSI. The safeguard of the right of appeal remains available if we do not get it quite right.

The Member also mentioned that the maximum level of fines in some cases in the Bill is £20,000. However, as the Member has said before, fines in other Bills have been higher. There is now a parallel. Where a maximum fine was £5,000, it has been brought up to £20,000. A fine of £30,000, which would reflect inflation, has been suggested. We are conscious of that and have been negotiating on it. I also remind the House that that is the figure in the lower court.

As projected under another Bill that the Environment Committee and the Department are considering, there are unlimited fines in the higher court. That will take care of the fines aspect, but I take the Member's points about the £20,000 fine versus the £5,000 and the £30,000 fine, which features in another Bill.



We want fines to be an appropriate deterrent. Like the Chairperson of the Environment Committee, we believe that the current fine is an inappropriate deterrent. That answers Mrs Carson's point about increasing fines.

Mr Byrne mentioned the negative impact on the farming community. He mentioned the deer park at Newtown Stewart. I do not want to address that specific area now, so my officials will address it directly with the Member. I have often said that the farming element is important. Mr Savage said that he is a farmer. I said that I come from a farming background. I empathise with farming and farmers. There are farmers in my family and in my constituency. Therefore, I try to empathise and understand the points raised by the farming community.

2.15 pm

We do not want to place unnecessary burdens on the farming community. Many of the 5,000 people who own the 200 ASSIs are from the farming community, and we need their co-operation. The vast majority of owners work well with us — there are exceptions, but we try to deal with them. Mr Wells said that not enough attention had been paid to the management of sensitive sites. Again, I thank him for raising that point. I see from Mr Wells's facial expression that he is concerned by the fact that I am commending him again.

**Mr Wells:** It might be in the papers.

**Mr Nesbitt:** It might well be in the papers. However, it must be noted that I am commending him for commending me.

**Mr Dodds:** That is even worse.

**Mr Nesbitt:** That is true.

We will offer payments in return for managing land, and for the purpose of conservation. Thus we hope to give landowners the satisfaction they need. The Bill will provide for the compensation, through management agreements, of landowners who are unable to continue certain activities.

We do not want another management scheme — that is provided for in existing legislation. We would prefer to have an agreement, but, if we cannot do so, we will use management notices, which could be viewed as “the stick”. We prefer to work in partnership, and it is essential that we do so.

Mr Shannon urged caution and sought assurance that nothing would take place until there had been further discussion. We recognise that we must work in partnership with those who manage the ASSIs.

Mr Molloy mentioned sand deposits and farm diversification, which we must examine to see how they can fit in with ASSIs. If land were not part of an ASSI, what would the farming community do with it? In economic

terms, what would be the opportunity cost? What would be lost if land were designated as an ASSI? That opportunity cost needs to be considered when making decisions about compensation. Mr Molloy warned that decisions should not be imposed on the farming community. I have tried to convey the message that we do not wish to impose from the top. I disagree with Mr McCarthy's remark that the Department failed dismally to consult with farmers and landowners.

**Mr McCarthy:** Yes, dismally.

**Mr Nesbitt:** Two full consultations were carried out, and we tried to reflect their outcome in the Bill. The Bill will go to the Committee Stage, which will involve further consultation and deliberation, before it comes back to the Assembly. We will try to consult and work in partnership with those who will be affected by the Bill.

I apologise for not catching all of Mr McCarthy's point about resource implications. We have sufficient resources to start the implementation work set out in the new legislation, partly because of the recruitment of additional staff, as provided for through the spending review of the Budget 2000-01. Of course, when resources are not available, I will bid for additional resources to ensure the fullest implementation of the work. However, to place a bid is not to guarantee its success. I can but hope, and shall wait to see how the spending rounds go.

The final contributors, Mr Savage and Mr Wells, encapsulated what I had already said. At the beginning of my winding-up remarks, I mentioned tension. Mr Savage spoke of partnership, saying that telling farmers what to do would not work. Both parties must work together. No one tells the farmers in my family what to do; instead, they should be asked to work together to get things done.

Mr Wells spoke of the “panoply of European Union legislation and conventions”. It is our bounden duty — like it or not — to implement those. European Union Directives to protect the environment cannot be disregarded, otherwise we face infraction proceedings. The Bill takes account of the legal imperative, of European Union desires, and the need for partnership with the community in creating areas of special scientific interest. The Bill will bring Northern Ireland into line with the rest of the United Kingdom. I hope that it will be fair to all the interests involved, to those who seek further measures to safeguard the natural heritage, to what EU Directives require of us, and to the owners and occupiers of the land, who continue to use it in a sustainable manner. I hope that it will be fair to the community as a whole, whether land-users or users of those areas of special scientific interest that need protection.

I commend the Bill's Second Stage and look forward to the comments of the Committee for the Environment.



*Question put and agreed to.*

*Resolved:*

That the Second Stage of the Areas of Special Scientific Interest Bill (NIA 2/02) be agreed.

**Mr Deputy Speaker:** The Bill now stands referred to the Committee for the Environment.

## COMPANY DIRECTORS' DISQUALIFICATION BILL

### Consideration Stage

*Clauses 1 to 27 ordered to stand part of the Bill.*

*Schedules 1 to 4 agreed to.*

*Long title agreed to.*

**Mr Deputy Speaker:** That concludes the Consideration Stage of the Company Directors' Disqualification Bill. The Bill stands referred to the Speaker.

## STATE PENSION CREDIT BILL

### Consideration Stage

*Clauses 1 to 21 ordered to stand part of the Bill.*

*Schedules 1 to 3 agreed to.*

*Long title agreed to.*

**Mr Deputy Speaker:** That concludes the Consideration Stage of the State Pension Credit Bill. The Bill stands referred to the Speaker.

## SOCIAL SECURITY BILL

### Final Stage

**The Minister for Social Development (Mr Dodds):** I beg to move

That the Social Security Bill (NIA 3/02) do now pass.

I thank Members for their consideration of the Bill and the speed with which the deliberations took place.

*Question put and agreed to.*

*Resolved:*

That the Social Security Bill (NIA 3/02) do now pass.

## DRAFT FIXED TERM EMPLOYEES (PREVENTION OF LESS FAVOURABLE TREATMENT) REGULATIONS (NORTHERN IRELAND) 2002

## PART-TIME WORKERS (PREVENTION OF LESS FAVOURABLE TREATMENT) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2002

**Mr Deputy Speaker:** Before I ask Ms Hanna to move the motion, I remind Members that a draft Statutory Rule that is subject to approval by resolution requires the approval of the Assembly before it can be made by the Department.

*(Mr Speaker in the Chair)*

**The Minister for Employment and Learning (Ms Hanna):** Mr Speaker, these two regulations are closely linked. With your permission I propose to move them at the same time.

**Mr Speaker:** I am content for you to do that.

**Ms Hanna:** I beg to move

That the draft Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2002 be approved.

*The following motion stood in the Order Paper:*

That the Part-Time Workers (Prevention of Less Favourable Treatment) (Amendment) Regulations (Northern Ireland) 2002 (SR 286/2002) be approved — [*The Minister for Employment and Learning (Ms Hanna).*]

I express my appreciation to Dr Birnie and the Committee for Employment and Learning for considering the Regulations so promptly. I regret the short time available to the Committee, but, once policy had been settled as to how best transpose European Council Directive 1999/70/EC concerning the framework agreement on fixed-term work in the UK, my officials had little time to process the Northern Ireland draft Regulations.

The fixed-term Regulations will implement European Council Directive 1999/70/EC concerning the framework agreement on fixed-term work. They will also prevent pay and pensions discrimination against fixed-term employees. Most statutory employment rights already protect employees on fixed-term contracts. Part-time workers, however, enjoy additional protection from being less favourably treated than comparable full-time workers.

The new fixed-term Regulations have been designed to give similar rights to fixed-term employees by ensuring that, because of the nature of their contracts, they are not treated less favourably than comparable permanent employees, unless that treatment can be objectively justified. In short,

the Regulations' key aims are to prevent discrimination against fixed-term employees and to place a limit on the use of successive fixed-term contracts to prevent abuses arising from their use. Fixed-term employees will be able to compare their conditions with those of employees who are not on fixed-term contracts and are employed by the same employer to do the same, or broadly the same, work.

I realise that there may be occasions when employers may have objective reasons for treating a fixed-term employee differently from a similar permanent employee, and the Regulations provide for that. In particular, they state that different treatment is objectively justified, providing the fixed-term employee's overall package of conditions is not less favourable than those of a comparable permanent employee. Employers will not, therefore, be prevented from giving a fixed-term employee a higher salary to compensate for their not having other benefits, such as access to a pension scheme.

A core aim of the EC Directive is that member states take measures to prevent the abuse of successive fixed-term contracts. The Regulations aim to achieve that by limiting the use of successive fixed-term contracts to four years, unless the use of further fixed-term contracts is justified on objective grounds. For the purposes of that area of the Regulations, service accumulated from 10 July 2002 will count towards the four-year limit.

2.30 pm

There is no limit on the duration of the first fixed-term contract.

**Mr Speaker:** Order. I fear I must interrupt the Minister in full flow, but Standing Orders do require me to interrupt at 2.30 pm for Question Time. After Questions to the Assembly Commission, which come after Questions to the Ministers, the House will, return to the debate on the two Statutory Rules as requested by the Minister. Other Members who wish to speak may do so, speaking on either or both. The Question will then be put on each Statutory Rule in turn.

*The debate stood suspended.*

## Oral Answers To Questions

### FIRST MINISTER AND DEPUTY FIRST MINISTER

**Mr Speaker:** I wish to advise the House that questions 1, 2, and 5 in the names of Mr Gibson, Mr Fee and Mr John Kelly have been withdrawn and will receive written answers. Question 8, in the name of Mr McGrady, has also been withdrawn.

### OFMDFM (Staff Numbers)

3. **Mr A Maginness** asked the Office of the First Minister and the Deputy First Minister to detail how the numbers working in its Department compare with the numbers in (i) the Prime Minister's office and (ii) the Taoiseach's office. (AQO 154/02)

**The Deputy First Minister (Mr Durkan):** We welcome the opportunity to clarify the distinction between a private office and a Department. Thirty-one staff are employed in our joint private office, including our private secretaries, special advisers and administrative support as well as a team that handles the large volume of correspondence that we receive.

Our Department has a wide range of functions that have been conferred on it by statute or that have been added by the Assembly from time to time. The Department's responsibilities go far beyond those of the Prime Minister's office or that of the Taoiseach. Our Department has a unique role and remit, covering equality and community relations policies and programmes, economic policy and European matters. It also supports the Executive as a whole and, indeed, supports and facilitates the work of the full range of Departments and Ministers. That is clearly shown in relation to the North/South Ministerial Council, the British-Irish Council, the work of the Executive secretariat, the Economic Policy Unit and the Executive information service.

On 2 September, 417 staff were in post in the Department. Some 383 are directly engaged in the Department's work, and the remainder are posted to those independent bodies for which the Department is responsible for providing staffing support, such as the Planning Appeals Commission and the International Fund for Ireland. A more detailed summary has been placed in the Assembly Library.

**Mr A Maginness:** It would appear from the Deputy First Minister's answer — and I invite him to agree — that the number of staff employed means that the people of Northern Ireland are getting value for money. The staff are targeted, deal effectively and efficiently with their work and are by no means disproportionate to the needs of the First Minister and the Deputy First Minister.

The Chairperson of the Committee of the Centre has called for more resources for the Department. Would the Deputy First Minister like to comment on that?

**The Deputy First Minister:** The Member is correct that the Chairperson of the Committee of the Centre has made the point on several occasions that insufficient resources are being committed to the OFMDFM. He has made that point in relation to e-government and European policy matters. Indeed, the Committee of the Centre observed in a report that more staff and financial resources are necessary.

We must also remember that some people who work in OFMDFM are working on, for example, the review of public administration. Many of those people have been brought in from elsewhere in the public service and will be on our payroll only for the duration of that review.

People misunderstand the comparisons made about OFMDFM, the Taoiseach's office and Downing Street. A fair comparison might be made between the central co-ordination functions of OFMDFM and the Cabinet Office, which has a staff of more than 2,000. The Equality Unit and a range of other services have to be provided for somewhere in the Government, and the Assembly agreed that they would be assigned to OFMDFM.

**Rev Robert Coulter:** Would OFMDFM's responsibility for functions beyond central co-ordination be better sited elsewhere, leaving a leaner, slimmer Department to discharge its primary all-important function of co-ordinating Government?

**The Deputy First Minister:** The composition of Departments and the distribution of their functions are determined by the Assembly, having been proposed by the First Minister and the Deputy First Minister. When departmental functions are reviewed, it is conceivable that some responsibilities that are currently in the remit of OFMDFM could be reassigned to other Departments. However, some OFMDFM functions support the Executive as well as the work of Departments and their impact on other bodies such as the North/South Ministerial Council and the British-Irish Council. The Executive are working not only to support the First Minister and the Deputy First Minister but to facilitate the work of all Ministers and Departments. Some units lend themselves naturally to central office, such as OFMDFM's role in providing Executive support, while units that deal with other Government work or specialist areas could be considered for reassignment. However, those units and functions will not disappear: many existed before the creation of OFMDFM; some, such as the Equality Unit, are new and required new resources and commitments. Many Members have pointed out that such areas require more finance and additional personnel.

**Mr S Wilson:** Members will be surprised by the Deputy First Minister's defence of the £13.2 million spent on

the creation of jobs for David Trimble's cronies and on UUP election failures.

Is the Deputy First Minister aware of panic in the OFMDFM as staff frantically search through the jobs columns of newspapers at the prospect of being out of work by 18 January 2003, as the First Minister yet again gets tough on the IRA? Or have OFMDFM's employees taken the same cynical view as the rest of the population with regard to another deadline — yet again given before an election — which is never carried through? That deadline will go the same way as the deadlines given before the Assembly elections, the local council elections and the Westminster elections.

**The Deputy First Minister:** The staff of OFMDFM and the relevant pay and rations bill, involves many civil servants. The Member refers to a budget of £13 million and suggests that it is connected to cronies of either the First Minister or the Deputy First Minister. That suggestion is entirely misplaced. The majority of jobs in OFMDFM existed before the establishment of that Department; it was a matter of which Department those jobs would be located in. The setting up of the Executive, new structures and equality responsibilities meant that new jobs had to be created, which had to be assigned somewhere. There is an argument for a dedicated Equality Unit, which would require many staff. The issue should be treated fairly. Today in OFMDFM people were reading the excellent newspaper coverage of the fantastic success of the Derry minor team and the Armagh senior team rather than panicking and searching frantically for new jobs.

**Mr S Wilson:** So they do not believe David Trimble either.

**Mr Speaker:** Order.

### Police Training College Location

4. **Mr Paisley Jnr:** asked the Office of the First Minister and the Deputy First Minister if it has met with the Chairman of the Policing Board to discuss the location of the police training college, and if it intends to support the Policing Board recommendation to locate the college at the site of HMP Maze. (AQO 125/02)

### Discussions with Chairman of the Policing Board

9. **Mr Poots** asked the Office of the First Minister and the Deputy First Minister what discussions it has had with the Chairman of the Policing Board. (AQO 159/02)

**The First Minister:** With your permission, Mr Speaker, I will take questions 4 and 9 together. There have been several informal discussions between Ministers and the chairman of the Policing Board on the location of the police training college. We are aware of the board's

interest in the Maze site. However, our use of that site is subject to the terms of our agreement with the Treasury, which cover all the sites to be transferred to the Executive, free of charge, under our reinvestment and reform initiative. Those terms include an undertaking on our part to plan the development of each site strategically, with a view to maximising the benefit of the economic and social regeneration of local communities. To this end, members of the reinvestment and reform initiative project board have recently visited all the sites, and we look forward to receiving their advice. In the specific case of the important site at the Maze, we must also take into account proposals for the development of the adjacent Ministry of Defence site at Long Kesh. As far as I am aware, there have been no discussions with the chairman of the Policing Board on any other matter.

**Mr Paisley Jnr:** The First Minister deliberately failed to answer the part of the question that interests most people. Does he support the proposal to locate a new police training college at the Maze site? That is critical, given that his party unanimously endorsed that position at a Policing Board meeting. Is it the case that, at a meeting over the summer months with the chairman of the Policing Board, he suggested that the Maze site was worth £1 million per acre and that, as a result, he could not justify giving that land to the board? Does he now stand as the impediment to progress in the creation of a first-class, twenty-first century training college for police officers in Northern Ireland? Will he now commit himself to locating a police college at that site?

**The First Minister:** I am afraid that, yet again, Junior is misinformed. I have had no meeting with the chairman of the Policing Board. There was a telephone conversation. I did not make the comment that he attributed to me. I do not know who may have said it, but I certainly did not, and I do not know where that invention came from.

I refer the Member to my original answer. The Maze site was transferred to us free of charge. If the Member thinks about that for a moment, he will realise the enormous problems we would face if we subsequently transferred to the Northern Ireland Office property that was given to us free and for a purpose. Clear conditions are attached to the use of the property. We would experience considerable difficulties with the Treasury if we departed from them.

There is a further factor to be considered. The total area, including not only the Maze site, but the Ministry of Defence property, amounts to more than 300 acres. The site is centrally located at a strategic point in Northern Ireland. It is clearly irresponsible to deal with this in a piecemeal manner without considering how to maximise the benefit in the broader sense, not only financially, but socially, for Northern Ireland as a whole. I would have thought that the Member's colleague in the Department for Regional Development would want to reconsider strategic plans in view of the significance of

this site rather than fritter the opportunity away. Of course we want to see a first-class police college there, but the Member should be more responsible and not propose to squander significant assets in such a way.

**Mr Speaker:** Order.

**Mr Poots:** The First Minister made a very convincing argument for placing the police college at the Maze site. It is strategically placed, in a central location, and there is an abundance of land. Those are all good reasons to support locating a police college there. Is Mr Trimble saying that he is opposed to setting up a police college on a central site? People want more police officers on the streets, and his office is holding back better policing by delaying the opportunity to develop a police college.

2.45 pm

**The First Minister:** The reason for the delay in establishing a new police college, one of the few proposals in the Patten Report that we favoured, is the Treasury's failure to provide the appropriate finance. That is a reserved matter for the Northern Ireland Office. I support plans for a first-class police college, but its provision is a matter for the Northern Ireland Office and the Policing Board. Many sites in Northern Ireland could be considered. Mr Poots might wish to seek the views of his constituents in the Maze area.

**Ms Lewsley:** The First Minister must find it at least ironic, and at worst contradictory, to answer a question on a site for a new police training college two days after he threatened the Police (Northern Ireland) (Amendment) Order 2001, to which his party Colleagues on the Policing Board contributed. Is the Policing Board seeking to use the Maze Prison site, the Ministry of Defence site, or both?

**The First Minister:** I am sure that Ms Lewsley is very glad that on Saturday we managed to save the agreement, to give it another chance to succeed and to prevent it from collapsing, which it otherwise would have done. We need to put that in context.

In response to Ms Lewsley's question, we have only the Policing Board's press release to go on. The board stated that the new police training college could be located on the Maze site, and it made reference to "the extensive site at the former prison". No reference was made to the adjacent Ministry of Defence site at Long Kesh. Any use of part of the Maze site would have to take account of the whole area. The Office of the First Minister and the Deputy First Minister has not made a decision on the matter because it is unable to do so. However, we have asked the reform and reinvestment initiative project board for its advice, and we think that the matter should be considered strategically.

**Mr Speaker:** Question 6, in the name of Mr McNamee, has been withdrawn. Questions 1 and 5 were fully withdrawn and will not receive written answers.



## EPCU and Republic of Ireland's EU Policy

7. **Mr McElduff** asked the Office of the First Minister and the Deputy First Minister to detail its European Policy Co-Ordination Unit's (EPCU) efforts to ensure that the best interests of the people of Northern Ireland are taken into account in the formulation of the Republic of Ireland's EU policy. (AQO 137/02)

**The Deputy First Minister:** In December 2001, the North/South Ministerial Council agreed that a working group should be set up to consider the arrangements to give effect to paragraph 17 of strand two of the agreement. Three meetings of the working group, which on the Northern Ireland side were led by the EPCU, have now taken place, and the North/South Ministerial Council has endorsed a progress report. That commits each sector to consider at its next ministerial meeting whether any EU issues require attention, and an assessment will be given at the next plenary meeting.

Future deliberations of the working group will consider how the views of the Council can be reflected appropriately at relevant EU meetings. Provision is also made in the common chapter for joint initiatives, and responsibility for promoting and monitoring that work falls to the Special EU Programmes Body, which will produce a progress report next year.

**Mr McElduff:** Go raibh maith agat, a LeasCheann Comhairle. Gabhaim mo bhuíochas leis an Aire as a fhreagra. Does the Deputy First Minister agree that it would be in the best interests of the people of the Six Counties of Ireland were treated as a single economic unit of a wider European Union? Can he confirm or deny whether the Office of the First Minister and the Deputy First Minister has met, or intends to meet, Mr Dick Roche TD, Minister of State for European Affairs.

**The Deputy First Minister:** The North/South Ministerial Council has been examining EU issues in its plenary sessions. In addition, the different sectoral bodies will consider any EU issues that arise. Those matters will be the subject of a further report to the North/South Ministerial Council. Further meetings, involving a variety of Ministers, possibly the First Minister and me, may arise from that. I hope that Mr McElduff appreciates that I am reluctant to get involved in meetings outside the North/South Ministerial Council in circumstances in which a threat or question mark may be placed on the Council format.

We best serve the entire community's interests by maintaining the type of democratic arrangements that we have here, by pursuing our opportunities for North/South and east-west co-operation on a whole range of policy matters and by addressing those EU policy issues that concern us on that sort of co-operative basis. We hope to continue to work in that way and to work for positive development in the EU itself, which the Member may not favour so strongly.

**Mr Byrne:** Further to the Deputy First Minister's answer, does he agree that all parties in the Executive committed themselves to implementing all parts of the agreement, including the North/South Ministerial Council, which is a vital part of the agreement? Does the Deputy First Minister agree that it would be illegal not to nominate? Can he confirm how he plans to handle the nomination of Ministers to future meetings of the North/South Ministerial Council?

**The Deputy First Minister:** In the 'Declaration of Support' all the parties involved committed themselves to the full operation of all the arrangements under the agreement. Those arrangements include the North/South Ministerial Council. There are other institutional arrangements — the Assembly, the Executive and the British-Irish Council. There are also other arrangements established under the agreement, such as the Policing Board. I recognise that the agreement committed me, and my party, to all those arrangements. As Deputy First Minister, I continue to discharge those commitments in full.

A schedule of meetings for the North/South Ministerial Council exists. I will play my part in providing nominations for those North/South Ministerial Council meetings. Should there not be nominations for those meetings, we know that that has been a matter of legal consideration previously, and we are also aware of the judgement in that case.

## Community Relations Discussions with NIO

10. **Mr Beggs** asked the Office of the First Minister and the Deputy First Minister to detail any recent discussions with the Northern Ireland Office on the subject of community relations. (AQO 147/02)

**The First Minister:** At a meeting on 13 August involving Minister Haughey, Minister Leslie and Des Browne, the Parliamentary Under-Secretary of State at the Northern Ireland Office, Mr Browne outlined progress on his initiative on interface violence. That has involved a series of meetings with political parties and other key interests. Subsequently, on 12 September, Mr Browne issued a press release summarising progress on those meetings.

**Mr Beggs:** Does the First Minister agree that the actions of paramilitaries, both Loyalist and Republican, are fomenting community conflicts and have undermined efforts to improve community relations in both interface areas and the wider community? Has he highlighted to the Northern Ireland Office the adverse effects that paramilitary actions have had on community relations and on public confidence in the democratic process?

**The First Minister:** There appears to be significant evidence to indicate that community division, particularly in interface areas, is now greater than it has been at any point in the last quarter of a century. The deterioration of

the position, which is contrary to what one would have expected subsequent to the agreement, is wholly attributable to the actions of Loyalist and Republican paramilitaries at those interfaces. There is no doubt that the conflict that we have seen at interfaces during the summer has had a dramatic impact on community confidence; that is true to such an extent that as a result of the behaviour of paramilitaries, the future is not good, and these institutions are at risk.

I am sure that the Member listened with me in disgust to Mitchel McLaughlin this morning crying crocodile tears over the threat to the institutions when it is his colleagues and their nocturnal activities who pose the greatest threat.

**Mr S Wilson:** And you who sit in government with them.

**The First Minister:** You too.

**Mr Speaker:** Order.

### Review of Public Administration

11. **Dr McDonnell** asked the Office of the First Minister and the Deputy First Minister to outline what progress has been made on the review of public administration. (AQO 146/02)

**The Deputy First Minister:** Since the launch of the review of public administration on 24 June, the review team has made significant progress. An initial pre-consultation process with a range of stakeholders began in late August and will conclude on 11 October 2002. That involves more than 60 meetings with representatives of local government, public bodies, health bodies, education bodies, the Civic Forum, organisations that look after the interests of public sector staff, the community and voluntary sector, rural interests, political parties and the business sector, et cetera. It is a listening exercise that will help to inform the development of a formal consultation document that will be published later this year.

The team has initiated a major programme of research. During the summer it commissioned several briefing papers on topics such as accountability, public sector reform and subsidiarity. Those papers will be made available to the public on the review team's web site by the end of the month.

Other elements of the research programme include a major exercise to map the public sector, attitudinal work and focus groups.

**Dr McDonnell:** The Deputy First Minister has outlined some aspects of the pre-consultation process. However, when does he plan to implement the more public aspects of the consultation, as it is important that we get to that point as soon as possible? Many people who are not members of the bodies to which the Deputy First Minister referred may want to have an input.

**The Deputy First Minister:** As I have said, the team is already meeting with a range of stakeholders. It is conscious of the need for meaningful engagement with the end-users of public services and, along with a panel of experts, is actively considering the best way to carry that out at each stage of the review. At this early stage, the team is gathering initial public views through the Northern Ireland Omnibus Survey and through the establishment of a focus group project. The formal consultation will then be drafted on the basis of those initial soundings, and that should proceed on the timetable that was outlined when the review was launched in June.

**Mr Speaker:** I have no further requests for supplementary questions to the First Minister and the Deputy First Minister. However, as we are a little before the time assigned for questions to the Minister of Culture, Arts and Leisure I suggest that the House takes its leisure — culture and arts to the side — until 3.00 pm.

*(Mr Deputy Speaker [Mr J Wilson] in the Chair)*

3.00 pm

## CULTURE, ARTS AND LEISURE

### Football Strategy

1. **Dr McDonnell** asked the Minister of Culture, Arts and Leisure to outline (a) the status of his football strategy and (b) when he hopes to see the strategy fully implemented. (AQO 162/02)

**The Minister of Culture, Arts and Leisure (Mr McGimpsey):** In my statement to the Assembly on 25 June 2002, I called for a commitment from the Irish Football Association (IFA) to sign up to a package of measures consistent with the recommendations contained in the advisory panel's report, published in October 2001. Since then the IFA, with support from the Sports Council for Northern Ireland and in consultation with others, has been working on the preparation of a long-term development plan for the game. I understand that the plan was discussed by the IFA council on Monday 16 September 2002. I have not yet seen a copy of the development plan but look forward to seeing one in the very near future. Subject to the time frame contained in the IFA's development plan, I anticipate that implementation will take place over the next five to 10 years.

**Dr McDonnell:** I know that we cannot second-guess or pre-empt the plan, but, if the Minister hopes to see it implemented over a five- to 10-year period, could he give us some flavour of what general progress and advances he would hope to make?

**Mr McGimpsey:** The progress which we hope to make is the development and advancement of the game. A key thing that the development plan must have is the backing of the wider football community. There must be

opportunities and benefits for all levels of football. It is not simply about the international team or senior football but the sport at all levels right down to the grass roots, including boys' and women's soccer and disability sports. It is essential that it be based on fundamental principles of fairness, inclusiveness, accountability, leadership and transparency. That is the goal and the vision that we seek. The advisory panel published 150 recommendations. When I finally get the IFA's plan, I shall carefully examine it to see the correlation with our own strategy; I hope that there will be a very close match. If there is not a close match, I shall have to consider the next step.

**Mr Shannon:** The Minister has confirmed that there has been a delay on the part of the IFA in responding to the football strategy. Given that delay, does he feel that the football strategy can still be delivered in the reduced timescale and within the lifetime of this Assembly?

**Mr McGimpsey:** The strategic plan outlined by the panel looks far into the future for implementation. Time is getting short for an IFA decision to support the strategy, and the Member is quite right to point to the fact that the lifetime of this Assembly is drawing to a close. I asked the IFA to give me a response by September. I understand from press reports that it now has a development plan, but it has not yet given it to me. I have not seen it; the Department has not seen it. I should have thought that I might have received it by now. I look forward to getting it, at which time I shall carefully scrutinise it. I shall probably also return to the original panel to seek its advice.

One of the key things that I shall be seeking is support from the wider football family. Only if the entire football family in Northern Ireland is prepared to back the strategy can we make it work.

**Mr Foster:** In commending the Minister for the initiative and drive he has shown in his football strategy, which contains a great many good and meaningful measures, I trust that the small junior football clubs will not be forgotten in any way, enabling them to survive and so provide encouragement and decent facilities for junior footballers. Such clubs are the heartbeat of soccer throughout Northern Ireland; their survival is vital for football in general to succeed.

**Mr McGimpsey:** I endorse what Mr Foster has said about junior soccer. As I said in my answer to Dr McDonnell, I see the strategy including the entire football family, with a strong concentration on youth, and on the junior and grass-roots levels as well as the senior game. A sum of £1.6 million has already been made available for youth development, which will provide opportunities for the development of centres of excellence. Nineteen centres have already been announced; there are four more to come, making a total of 23. That shows our desire to concentrate on the grass roots and develop the game not from the top down but from the ground up.

## Public Library, Lisburn

2. **Mr Poots** asked the Minister of Culture, Arts and Leisure to provide an update on progress towards providing a new public library in Lisburn. (AQO 160/02)

**Mr McGimpsey:** Before I answer the question, I shall take the opportunity to congratulate Lisburn and Newry on being awarded city status in the Queen's Golden Jubilee year.

When I updated the House in March, I said that the South Eastern Education and Library Board was exploring the provision of a new library for Lisburn under the private finance initiative (PFI) and that the project board had initiated the PFI procurement process. That process is continuing and is at the evaluation stage. I am pleased to say that the project is within the indicative time frame.

**Mr Poots:** Although I am pleased to hear that progress is being made on the Lisburn library, we have been waiting for some 25 years for a library in the area that suits the city of Lisburn. Can the Minister give us more concrete information about when a decision will be made to offer the contract to the company involved? When will work start on the new library?

**Mr McGimpsey:** The process was initiated by another Administration. It has been a long process, and there have been difficulties about the Linen Hall site. However, the Department funded the purchase of the site, and a project board has been set up. The Department approved the outline business case in February 2001, and a PFI procurement process was initiated. That process is currently at stage 10 of the 14 stages of the process. I did not design the PFI process. It was appropriate that we continued with it as it had been started before we took office. The process appears to be nearing conclusion, and, all things being equal, the project will start in the spring of 2003. In anticipation of that, the Department has agreed to provide additional funding for the library's running costs.

**Mr B Bell:** At long last it seems that building work on a new library in Lisburn will start next year. However, the city of Lisburn covers a wide area, and there is also the issue of the public libraries in Moira and Dunmurry. At what stage are the plans for those two libraries?

**Mr McGimpsey:** There are several libraries in the Lagan Valley constituency, and Billy Bell has highlighted two that are in poor condition in Moira and Dunmurry. The South Eastern Education and Library Board, which is responsible for the provision of libraries, with the support of the Department, is progressing economic appraisals on both those libraries, which will take place in 2003 and 2004 for Dunmurry and Moira respectively. Those are the next two steps that the board is taking with regard to the provision of capital. We recognise that the libraries in Moira and Dunmurry are in poor condition and that they require capital investment.



**Mr Deputy Speaker:** I do not see Mr Gibson in his place to put question 3.

### Football Stadium Projects

4. **Mr Hilditch** asked the Minister of Culture, Arts and Leisure to give his assessment of the proposed new-build football stadium projects announced at various venues in the Province. (AQO 164/02)

**Mr McGimpsey:** I have been aware for some time of the problems facing soccer and the need to upgrade many sports stadia, especially soccer stadia, in Northern Ireland to modern standards. I have already taken steps to address some of the problems through the interim safe sports grounds scheme, but this proposal prioritises safety issues. Against that background, I welcome the news that some local football clubs are beginning to negotiate partnerships with local authorities and the private sector, not only to develop more modern stadia but to make them more commercially viable.

**Mr Hilditch:** Does the Minister agree that, to date, the refurbishment of sports grounds has only been a sticking-plaster job and has not been successful, even though it has dealt with health and safety? With new interest, especially from the private sector, does the Minister agree that there is a need to review the funding provided through the safe sports grounds scheme?

**Mr McGimpsey:** I do not agree that the refurbishment programme is a “sticking-plaster job”. The Executive have devoted £6 million to sports grounds in the past two and a half years. That indicates the support that major sports grounds receive — and, I hope, will continue to receive — from the Executive. That money has been spread across several sports such as soccer, Gaelic football and rugby.

It is important that those involved in football look beyond receiving a Government handout and a Government cheque. That is why I welcome the moves that some soccer clubs are making to find private support and sponsorship, and local authority support. Ballymena United is a prime example of partnership between a football club and its local authority. Bangor FC is looking at a possible partnership with North Down Borough Council to obtain land for a football stadium, and Ards Borough Council has given a portion of land to allow Ards FC to build a new Castle-reagh Park. Those are the types of steps that must be taken.

The problem will not be solved by Members coming to the Chamber and asking for money. Resources are scarce, and money should come from a cocktail of resources. It is pleasing that football is beginning to move forward; it gives a sense of anticipation for better and more family-friendly stadia, which is what everyone wants. Therefore, considering what has been invested, it is unfair to describe the refurbishment programme as a “sticking-plaster job”.

**Mrs Nelis:** Go raibh maith agat, a LeasCheann Comhairle. In the light of the recent sectarian death threats against Neil Lennon and the sectarianism associated with some football grounds, does the Minister agree that any planned projects should proceed only if there is a guaranteed anti-sectarian strategy in place.

**Mr McGimpsey:** Anti-sectarianism policies are a key part of the grants and revenue scheme that was announced under the safe sports ground scheme. Within that scheme, funding will be available under three programmes: safety management; urgent (first-aid) works; and major works. Soccer, Gaelic football and rugby clubs availing of that support are required to have anti-sectarian policies in place.

Sectarianism is one of the evils — if not the evil — of our society. It has been, and continues to be, the engine for so much misery for our people. Therefore, society, the Assembly and the Executive have much to do. It is wrong to characterise sectarianism and say that it is football’s problem. It is not only football’s problem; it is Northern Ireland’s problem. Problems that appear in football are a reflection of society. They appear in other areas, and the Assembly seeks to address those problems.

Football is a key sport that could heal the problem because it is an interface sport that both communities play and through which both communities meet. However, when they meet, there are occasionally disgraceful and appalling scenes. What happened twice to Neil Lennon was disgraceful, and everyone condemned it without question. However, by and large, that sort of thing is rare. Football is a way of bringing society together, and that is one of the reasons why the Executive and the Assembly are seeking to invest in it and in other sports.

3.15 pm

**Mr Armstrong:** Does the Minister agree that Northern Ireland could have benefited from the joint Ireland/Scotland bid to host the European Championships in 2008, if it were not for the poor standard of the local stadia? Does he further agree that a national stadium is desirable and necessary soon?

**Mr McGimpsey:** I was quoted in ‘The Observer’ yesterday regarding the bid to host the European Championships in 2008, but I did not make a statement to that paper, and the quotes ascribed to me are not entirely accurate. Northern Ireland was not in a position to join that bid because it does not have an international stadium with 30,000 seats. Therefore, if we want to get involved in that tournament, our next opportunity is 2012. However, Northern Ireland cannot do it alone; there would have to be some form of partnership. Scotland was going to make its own bid, but then it decided to seek partners, and it joined up with the Irish Republic. It seems, however, there are difficulties in the South in respect of the delivery of large stadia, so their bid is in question.



The next opportunity for Northern Ireland will be in 2012, but it costs a great deal of money to host that type of tournament, and Northern Ireland would have to find its share of it. If we had that sort of sum to invest in sport, would we want to invest it all in a tournament that lasts a couple of weeks in 2012? We will not even be at first base until we have a stadium of international standards with 30,000 seats. I agree that that is essential.

### Football (Offences) Act

5. **Mr Neeson** asked the Minister of Culture, Arts and Leisure to outline discussions he has had about extending the Football (Offences) Act 1991 to Northern Ireland.

(AQO 167/02)

**Mr McGimpsey:** My departmental officials and I have had discussions with the Sports Council for Northern Ireland, the Irish Football Association and the Police Service about the practicalities of extending the Football (Offences) Act 1991 and related legislation to Northern Ireland. The discussions have included consideration of the type of legislation that might be appropriate for Northern Ireland to control spectator behaviour in football grounds, which is the main purpose of the GB Act. Those discussions have also taken place in the context of wider deliberations on the soccer strategy process.

**Mr Neeson:** Once again, the Neil Lennon saga shows the scourge of sectarianism in football in Northern Ireland; unfortunately, it made headlines across the world. The Football (Offences) Act 1991 largely deals with race, but it could be adjusted because it has been shown to be effective in other parts of Great Britain and Scotland.

In reply to a previous question, the Minister recognised that many Irish League football clubs want to improve their grounds and build new stadia. In the Department's efforts to encourage clubs to develop football as a family sport, will the Minister agree that there is an urgent need to deal with all aspects of hatred and sectarianism, not only in football but in all sports?

**Mr McGimpsey:** As I said in a previous answer and on previous occasions, I was appalled by the Neil Lennon affair. It was disgraceful. I condemned it then, and I condemn it now.

Sectarianism is not simply a problem in football, nor can football on its own solve sectarian problems. Sectarianism is not confined to football. Every activity in Northern Ireland can be marred by sectarian behaviour. Anti-sectarian measures must cover all sports.

The Football (Offences) Act 1991 (c.19) contains regulations against hooliganism and racism. Three of the offences listed are: throwing an object at or towards the pitch or spectators, taking part in indecent or racist chanting and going onto the pitch without lawful authority. The Act was subsequently amended to allow banning orders to ban certain spectators from domestic and international

matches, and racist or indecent chanting was specified for acts abroad.

It could be argued that the Act is one person's solution to another person's problem. Northern Ireland has public order legislation matching that of Great Britain but which also outlaws sectarian behaviour. Therefore there are weapons on the statute book to deal with sectarianism.

In addition, my Department has had discussions about football with the Sports Council for Northern Ireland and with the Irish Football Association (IFA). However, there are problems across the board; therefore any solution must cover sport in general.

The Department is considering legislation that would incorporate the experiences of the mainland as far as the Public Order Act is concerned. It will examine how to tackle sectarianism at all sporting venues in Northern Ireland — not just at football matches. Widespread consultation has begun, and we will try to create suitable legislation. I must stress that legislation alone will not solve the problem and that legislation dealing with sectarianism in football only will be inadequate. Although the events surrounding Neil Lennon hit the headlines, sectarianism occurs at other events and venues, and the solution must go right across the board.

**Mr B Hutchinson:** Does the Minister agree that the football authorities in Northern Ireland have done an excellent job in resolving some of the problems in football? Who will pay for enforcing the new measures if we introduce legislation similar to the Football (Offences) Act 1991? Will it be the clubs? My understanding is that, under the new policing arrangements, the police could not afford to pay for it.

Is the Minister happy with the arrangements between the IFA and the police? Will the police stay outside the grounds and let the clubs' stewards monitor activity inside?

**Mr McGimpsey:** First, order in the grounds is primarily a matter for those who organise the games, and the police will be called in only as a last resort. Secondly, the Department is some way from deciding the funding to implement any legislation, but it will be examined in the consultation.

I have said several times that steps have been taken to address the issues. It is wrong to think that nothing has been done. Northern Ireland's public order legislation goes further than that of Great Britain by outlawing religious hatred. It is an offence to arouse fear on the basis of religious belief and nationality. My Department is involved with the IFA's football for all strategy, which includes a code of conduct for spectators, professionals, stewards, closed-circuit television provision and the appointment of an IFA community relations officer.

The IFA and the Sports Council take that seriously. I commend the work of both organisations, and the IFA have done an excellent job so far. I also commend the police, and how they regularly manage large crowds.

However, there is an argument that they may need further provision through legislation, and we will look at that. We will discuss the expense through consultation, look at revenue consequences as part of that process and satisfy those in due course.

**Mr S Wilson:** Will the Minister elaborate on the likely cost of such legislation to clubs in Northern Ireland, after his discussions with the police? Will he confirm that it will not only be football clubs, but GAA clubs and others that would be covered by such legislation?

Sinn Féin, the SDLP and the Alliance Party are usually vociferous about sectarian behaviour at football matches. Will the Minister comment on their silence about the sectarian violence perpetrated by those celebrating Armagh's win in the all-Ireland final, or whatever it is called? Will he condemn the attacks launched on Protestant churches, Orange halls, police stations and individuals who were perceived as Protestants, by GAA supporters over the weekend?

**Mr McGimpsey:** I confirm that the legislation will embrace all sports venues — not just football. As I mentioned in previous answers, it is not a football-only problem; it goes across all sport and all of Northern Ireland society. As I said in my answer to Mr Hutchinson, with regard to cost, we are in the early stages, and we will work out the revenue consequences through that consultation process.

The Armagh team is to be congratulated on its achievement, which is considerable, as is the junior team of Derry. It has been 54 years since two Northern Ireland teams won both titles. It is sad for Gaelic athletics that the success was besmirched by the activities of a minority of fans who behaved disgracefully in Lurgan. I have spoken to officials in Gaelic athletics, and they have no time for that. That type of fan does Gaelic no good, and Gaelic — as with all sports in Northern Ireland — neither needs nor wants them. I also condemn all attacks on Orange halls, police stations and Protestant churches.

### All-Ireland Arts Promotion

6. **Mr McElduff** asked the Minister of Culture, Arts and Leisure to detail the nature and extent of all-Ireland co-operation and partnership in promoting the arts.

(AQO 143/02)

**Mr McGimpsey:** The Arts Council of Northern Ireland and its counterpart in the Republic jointly fund many projects, organisations and individuals. Those include opera, drama companies, poetry publishers, music schemes, art magazines, writers' centres, storytelling, literature, festivals, individual artists and research programmes.

**Mr McElduff:** I thank the Minister for his assurances of all-Ireland partnership in promoting the arts. However, I digress to his responsibility for sport. Does the Minister

have any plans to formally recognise the achievement of the Armagh team?

**Mr Deputy Speaker:** Minister, you can reply extremely briefly, or give the Member a written reply in due course.

**Mr McGimpsey:** The arts in Northern Ireland are organised by the Arts Council, and the arts in the Irish Republic are recognised by their respective counterpart.

Those bodies meet twice a year to discuss issues. It is important that Mr McElduff does not attempt to politicise the arts. The arts are specifically excluded from all-Ireland bodies.

3.30 pm

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

## AGRICULTURE AND RURAL DEVELOPMENT

### Food Body

1. **Dr McDonnell** asked the Minister of Agriculture and Rural Development to update the Assembly on the suggestion that a food body should be established in Northern Ireland; and to make a statement.

(AQO 145/02)

**The Minister of Agriculture and Rural Development (Ms Rodgers):** If it is in order, I wish to place on record that I have publicly condemned the actions in Lurgan last night. I want to put the record straight. It was a very small minority of fans, with whom the rest of the GAA supporters are disgusted.

The vision group recommended the establishment of a food body, as there was broad support for it in principle during consultation on the vision report. In March 2002, I established a working group to review the case for a food body, to advise on the possible structure, responsibilities and remit of such a body, and to make recommendations on funding, including the balance between industry and Government funding and the extent to which a body might subsume the activities of existing organisations. Janet Trewsdale, acting chairman of the Northern Ireland Economic Council, chairs the working group, which includes representatives of the main stakeholders. The working group is close to completing its work, and I expect to receive the report shortly.

**Dr McDonnell:** The Minister said that there would be questions about the food body's structure, responsibility and remit. Can she provide more information on the food body's exact remit and how it might function?

**Ms Rodgers:** I cannot confirm the remit of any food body until I have considered the working group report, which I expect to receive within a week. I notice that the clock has stopped for some reason. Is that an omen?

**Dr McDonnell:** There will still only be an hour and a half to answer questions.

**Ms Rodgers:** The vision group report identified food marketing and supply chain issues as the main work areas for a food body, but I cannot give any further confirmation until I have received the report.

**Mr Shannon:** The Minister mentioned the priorities of the vision group's proposals. How wide-ranging will the consultation with different bodies on those priorities be? Will it be contained in the action plan that is scheduled for November 2002?

**Ms Rodgers:** Does the Member mean the consultation on the food body?

**Mr Shannon:** Yes.

**Ms Rodgers:** There will be extensive consultation with all stakeholders and interested parties on the proposals about the food body. Consultation on the vision document is complete. I shall give my views when I receive the report on the food body. I shall then consult the Committee and other interested parties.

**Mr Savage:** Would it not be more relevant to farmers if the Minister established a fair price commission to ascertain exactly where profits in the agrifood industry are going? In the light of its findings, a commission could create a fair price tag for goods with farmers and producers being paid a fair price.

**Ms Rodgers:** A fair price commission is a reserved matter and not one for the devolved institution, so that is not for me to consider. As the Member said, there are great difficulties, concerns and mistrust in the agrifood industry. Farmers feel that they are not getting a fair price for their produce.

That can be resolved through greater co-operation in the chain. The Committee for Agriculture and Rural Development, of which Mr Savage is the Deputy Chairperson, and the Competition Commission, investigated the matter and found no evidence of price-fixing or unfair practice. I would be concerned if evidence were uncovered. However, competition matters are reserved.

**Ms Gildernew:** Go raibh maith agat, a LeasCheann Comhairle. Would the Minister see merit in an all-Ireland food body?

**Ms Rodgers:** A working group has been set up to examine the viability of a food body and to consider how it should be financed and what its remit should be. It would be inappropriate of me to comment on the matter while the working group is still considering it. When I have seen the report, I will give my views on it.

**Mr Deputy Speaker:** Question No. 6, in the name of Mrs Annie Courtney, has been withdrawn and will not require a written answer. Question No. 10, in the name of Mr Fee, and Question No. 20, in the name of Mr

Eddie Mr Grady, have also been withdrawn but require written answers.

## Agricultural Colleges

2. **Mr Hamilton** asked the Minister of Agriculture and Rural Development whether she intends to prevent the absorption of the Province's dedicated agricultural colleges into the further and higher education sector, as proposed in the O'Hare Report. (AQO 131/02)

**Ms Rodgers:** The O'Hare Report's recommendations are the result of a review by an independent panel of the existing arrangement for agrifoods, research and development and education. Among the panel's wide-ranging recommendations is the transfer of the teaching function of the Department of Agriculture and Rural Development's colleges to the further education sector. I have not yet decided on my response to the report's recommendations. I received the report at the end of April and immediately put it out for public consultation. The consultation period ended on 31 August, and I received more than 180 responses, which I am studying. However, in July, I told the Rural Stakeholders' Forum that a strong case would have to be presented before I would consider integrating the Department's colleges with the further education institutes.

**Mr Hamilton:** Does the Minister agree that the absorption of the agriculture colleges into further and higher education colleges could jeopardise agriculture education in much of the Province, since further education colleges tend to decide on the viability of courses strictly according to their budgetary requirements?

**Ms Rodgers:** I am aware of the importance of agriculture colleges to the industry, and their interaction with it, so a strong case would have to be presented to me before I would consider integrating them with further education institutes.

## On-Site Testing System

3. **Mr Bradley** asked the Minister of Agriculture and Rural Development what assessment she has made of the rapid on-site testing system used by the agriculture research service of the United States Department of Agriculture when dealing with suspected disease outbreaks in the national herd. (AQO 126/02)

**Ms Rodgers:** My officials have been in contact with the research service of the US Department of Agriculture to discuss its work on the development of a rapid on-site testing system, which can be transported to the site of a suspected disease outbreak by truck or by helicopter. It combines the speed of the latest disease diagnosis techniques of molecular biology with advanced mobile communication technology. In the event of an outbreak, rapid diagnosis can be carried out on the farm, and the results are immediately transmitted back to the



control centre. The system is particularly suited to the diagnosis of major outbreaks of exotic diseases where speedy action is essential. I expect that such advance and the methods available to deal with major outbreaks of disease will deliver benefits in the next few years, should we need them.

**Mr Bradley:** I thank the Minister for her research into the apparatus used in America. I learned that the time between the test and the result is 90 minutes. Here, the same result took three days. Will the Minister tell us why that system was not deployed here during the 2001 outbreak of foot-and-mouth disease?

**Ms Rodgers:** It would have not been appropriate to use this system last year because international authorities for the diagnosis of foot-and-mouth disease approved neither the system nor the technology on which it is based. The Office International des Epizooties (OIE) foot-and-mouth disease reference laboratory at the Institute of Animal Health, Pirbright has tested the performance of the diagnostic element of the system. Its reports contain reservations about the system and its use as a portable facility, although it remains positive about the potential of this type of rapid diagnostic technique. One of the problems with portable systems is the real danger of cross-contamination during such an exercise.

### Wet Weather Payments

4. **Mr Poots** asked the Minister of Agriculture and Rural Development what progress has been made in achieving wet weather payments for farmers.

(AQO 163/02)

### Wet Summer Conditions

7. **Mr McElduff** asked the Minister of Agriculture and Rural Development to detail any special measures and actions taken by her Department to assist farmers following the wet summer weather conditions; and to make a statement.

(AQO 139/02)

### Deteriorating Climatic Conditions

11. **Mr K Robinson** asked the Minister of Agriculture and Rural Development, in the light of the deteriorating climatic conditions in Ireland, what assessment she has made on the impact this has had on agricultural production and what actions she proposes to address this impact

(AQO 132/02)

### Impact of Bad Weather

19. **Mr Coyle** asked the Minister of Agriculture and Rural Development, in the light of the impact the bad weather is having on production this year, if she will be preparing a dossier for submission to the European Union.

(AQO 155/02)

**Ms Rodgers:** With your permission, Mr Deputy Speaker, I shall answer Questions 4, 7, 11 and 19 together. I am acutely aware of the difficulties experienced by farmers as a consequence of the very wet weather over much of the growing season. I have monitored the situation very carefully. Over the summer, my advisers were active, providing technical advice and assistance to producers. Furthermore, an extensive advisory programme is planned for the coming months, starting later this week with open days at the Agricultural Research Institute at Hillsborough.

As well as that practical assistance, I have worked hard to secure a relaxation of European Union grazing rules on set-aside land and achieved a satisfactory outcome last month, together with an increase in cattle subsidy advance payments. The possibility of wet weather payments remains open; however, to release the necessary funds, any such scheme must first secure European Union state aid approval and the agreement of the Executive. In both cases, concrete evidence will be required to support the argument for financial assistance, and such evidence cannot be gathered until the end of the growing season. My officials have made arrangements to meet the European Union Commission to explore the options in the light of the evidence, and I have written to the Executive to brief them on the situation.

**Mr Poots:** The growing season is coming to an end, the cereal harvest is almost finished, and most farmers say that their cereal crops have been significantly reduced. The potato harvest is about to commence with low expectations from potato farmers. Will the Minister assure the House that as soon as the crops have been harvested, her Department will seek financial assistance for the farming community? Many farmers have suffered greatly over the past few years as a result of foot-and-mouth disease and BSE, and the weather this year has been a terrible blow to the farming community.

**Ms Rodgers:** I assure Mr Poots, as I did in my first response, that my officials and I have been monitoring the situation. If there is a case to be made to the European Commission we will begin to build it as soon as the growing season ends. However, we shall not seek financial assistance from Europe. In the first place, we will seek state aid approval from Europe; if that is granted, I must find the resources in our own block budget and get the Executive's approval. I have already spoken on this matter to the Minister of Finance and Personnel and to the Executive, and they are aware of the farmers' plight.

There was very wet weather during the 1999 season in the Orkney Islands, yet by the time the case had been made, the EU state aid approved and resources allocated, it was the following June before payments were made to farmers. Farmers should not expect financial assistance before the end of the year. It will take some time for the money to become available.

In the meantime, through measures such as the winter management workshops, the Department is doing every-



thing possible to help farmers cope. I recently visited a farm. I am, therefore, aware of the damage that has been done to the ground by poaching and of the loss and additional costs that farmers will incur if their feed bills increase.

3.45 pm

**Mr McElduff:** Does the British Secretary of State for Environment, Food and Rural Affairs, Margaret Beckett, understand the unique circumstances and difficulties faced by farmers in the Six Counties after the wettest growing season in years, while England enjoyed considerably better weather conditions? Does she understand the massive water shortages and high meal costs in the summer months and the lack of extra fodder available to farmers in other parts of Ireland?

**Ms Rodgers:** Funding for wet weather payments is the responsibility of the EU Commission. In June 2002, I alerted Mrs Beckett to the situation in Northern Ireland, and I wrote to her in July to update her. If, therefore, we have a case, Mrs Beckett, as the UK Minister to the EU Commission, will make it for us.

**Mr K Robinson:** Does the Minister agree that the changes to the weather and seasonal patterns seem to be becoming the norm, rather than the exception? In the light of that, does she agree that the Department of Agriculture and Rural Development's planning and the pattern of grants on offer may have to change? Will she consider the impact of the changing conditions on the vulnerable rural and urban areas along the east Antrim coastline in the boroughs of Newtownabbey, Carrickfergus and Larne?

**Ms Rodgers:** I cannot comment on climate change; it is somewhat beyond my remit. The impact of the changing conditions is, however, a growing problem, but, given that the grants and subsidies come from Europe, it is not in my competence to change the payment system.

**Mr K Robinson:** Will the Minister comment on east Antrim?

**Ms Rodgers:** Some issues, such as flooding, are in my remit through the Department's Rivers Agency. However, many other issues fall in the remits of the Department of the Environment and the Water Service. A mechanism has been initiated whereby, with the Department of the Environment, the Rivers Agency and other relevant agencies, the Department provides a rapid response team that ensures that, if people have a problem with flooding, they can contact the correct agency and will not be passed from pillar to post. The Department of the Environment is responsible for planning, building and developing flood plains.

**Mr Coyle:** I recognise that the Minister and her Department have done much in the past to help the agriculture industry cope with the BSE and foot-and-mouth disease crises. The bad weather is compounding

the difficulties faced by the farmers who are recovering from those problems. Does the Minister agree that the farming community requires much more help? What questions is the Commission likely to ask regarding the state aid application?

**Ms Rodgers:** The Commission will wish to verify that the level of loss incurred exceeds 30% in the lowland areas and 20% in the less-favoured areas, which are the minimum thresholds specified in the state aid guidelines. The Commission will also want to be satisfied that any proposed aid is accurately targeted at those losses and that there is no risk of overcompensation or market distortion.

**Rev Robert Coulter:** The Minister has acknowledged the damage caused by the prolonged period of wet weather, particularly to dairy farmers' land. Will she agree to the introduction of a reseeded scheme to improve the quality of grazing land for next year?

**Ms Rodgers:** The allocation of any grant, including a reseeded grant, depends on EU state aid approval. I have seen the fields, and I am aware of the problem, but we must go through that mechanism.

## Tagging Scheme

5. **Mr M Murphy** asked the Minister of Agriculture and Rural Development to detail any discussions she has had with ministerial colleagues in Britain or the Republic of Ireland about the possible introduction of a Northern Ireland tagging scheme. (AQO 175/02)

**Ms Rodgers:** The European Union determines the legislative requirements for tagging cattle and sheep. The cattle-tagging provisions have been in place for many years, and the tags must include letters that identify the member state of origin. European Union proposals on sheep identification are to be brought forward shortly. Pigs are not required to be tagged, although they must have an identifying mark or tattoo before leaving their premises of birth.

My officials have raised with the European Commission the possibility of having letters that identify the region of origin included in the cattle-tagging arrangements. Hitherto, the Commission has not accepted that. I will continue to seek that provision for cattle, and for sheep if necessary, and to seek support from ministerial colleagues in Britain and the Republic of Ireland as appropriate.

**Mr M Murphy:** Why has the Minister not made a stronger case for tagging beef from Northern Ireland? That case should be pushed more strongly than it has been. Beef from Northern Ireland is tagged as British, and it should be tagged as having come from Northern Ireland. That would be of great benefit to the farming community. Why is the Minister not pushing for that in Europe?

**Ms Rodgers:** I am a little confused, because beef is not tagged — cattle are. Is the Member referring to cattle tagging?

**Mr M Murphy:** Yes.

**Ms Rodgers:** I shall, with the support of my ministerial colleagues in Britain and the Republic, seek to secure the European Commission's agreement to have letters that identify the region of origin included in the ear tag. Indeed, I have already raised that. However, the introduction of a single ear tag for Northern Ireland is unlikely, as EU rules require the inclusion of letters in a tag to identify the member state of origin, which in our case is the UK. That is the rule in the European Commission; it allows only the member state to identify cattle. Marketing issues can be dealt with through the method of beef labelling that is eventually chosen, though we must abide by certain rules in that respect also. That is the current position. I have raised the issue, but I am reluctant to say that I have the power to change the European Commission's rules as easily as all that.

**Mr Deputy Speaker:** Question 7 was grouped, and we should move to Question 8. However, Mr Gibson is not in his place.

### Cattle Imported from the Republic of Ireland

9. **Mr Armstrong** asked the Minister of Agriculture and Rural Development to make a statement about the regulations that allow the import of weaning cattle from the Republic of Ireland, cattle subsequently labelled as "Quality British Beef", and the timescales involved in this practice. (AQO 168/02)

### Date-Based Export Scheme

12. **Mr Byrne** asked the Minister of Agriculture and Rural Development to make a statement on the European Commission's decision to relax the date-based export scheme rules for Northern Ireland. (AQO 156/02)

**Ms Rodgers:** Beef cattle that are born in the Republic of Ireland cannot be labelled as "Quality British Beef". Under EC beef-labelling rules, only beef derived from animals that are born, reared and slaughtered in the UK may be labelled as British.

**Mr Armstrong:** Does the Minister have any plans to introduce a marketing label device, which will admit weaned cattle imported from the Irish Republic? It was tradition, prior to the establishment of this Assembly, for farmers to buy store cattle from the Irish Republic for fattening. Those cattle came up as weanlings at around six months of age. Would it be possible for such cattle to be labelled for marketing purposes as British beef?

**Ms Rodgers:** That is a marketing and a commercial issue, and not one for the Minister to address. I am aware of the problem, and I discussed it with the industry. Beef

labelling must state where the animal was sourced, slaughtered, and so on. It is a commercial issue as to whether such beef is regarded as British or Irish beef.

**Mrs E Bell:** Following the French relaxation of the ban on beef from Great Britain and Northern Ireland, will the Minister make representations to the French Minister of Agriculture, Food, Fisheries and Rural Affairs to see if we can get orders in France?

**Ms Rodgers:** The Member asked if I would be making representations to whom?

**Mrs E Bell:** Will the Minister make representations to the French Minister of Agriculture, Food, Fisheries and Rural Affairs or the relevant Department?

**Ms Rodgers:** I hope that the French market will now be available. We expect, on foot of the decision taken by the French food standards agency, Agence Française de Sécurité Sanitaire des Aliments (AFSSA), that the French Government will move very quickly to remove the ban. The indications are that that will be the case. I expect that we will then be in a position to export beef to France under the new date-based export scheme (DBES) rules. I will do all in my power as Minister to encourage support for Northern Irish beef in the French market — within the rules of competition, of course. My officials have been in discussion with some of the meat factories, which are anxious to begin exporting, especially to France, as there is a market for our beef there. That is good news for the farmers.

**Mr Byrne:** Bearing in mind the Minister's answer to question 9, and noting my own question 12, what percentage of cattle, slaughtered for human consumption, is eligible for the date-based export system, and what steps are the Department taking to improve the percentage of eligible animals?

Finally, does the Minister expect to see an increase in beef and sheep-meat prices to farmers, given that export processors should now enjoy a wider range of markets?

**Ms Rodgers:** I will take the last part of the Member's question first — yes, I hope to see an increase in prices for the farmers because of wider markets.

In relation to the number of cattle eligible for the date-based export scheme, about 50% or 60% of cattle in a typical month are export eligible under the scheme. Many more cattle would be eligible if notification of animal births and movements were made on time by herd keepers. I am committed to ensuring that the EU rules of cattle identification and traceability are fully implemented. To that effect, I am phasing in additional control measures, including individual animal and herd restrictions for cattle identification and movement irregularities, as required by EU Regulations. Better compliance with animal identification and movement rules should, in turn, increase the date-based export scheme eligibility in the future.

**Mr Deputy Speaker:** Mr John Kelly, Mr Hilditch, and Mr Conor Murphy are not in their places, so we will move to question 16.

4.00 pm

### Delays — Vision Report Action Plan

16. **Mr Kane** asked the Minister of Agriculture and Rural Development to make a statement on the series of delays which have occurred in the delivery of the vision report action plan. (AQO 166/02)

**Ms Rodgers:** I note that none of those Members are from Armagh, so there is no excuse for their being absent today.

I consulted widely on the vision group report, after its publication in October 2001. In March 2002, I announced 11 measures, addressing 30 of the vision group's recommendations, which could be implemented without additional resources. My original intention was to release the full vision group action plan at the end of June 2002. However, I decided to delay its publication until November 2002, so that account could be taken of the mid-term review of the common agricultural policy. I emphasise that the delay in announcing the vision group action plan will not cause any delay in the implementation of the recommendations. In addition to allowing me to make adjustments in response to the mid-term review, the delay will enable me to bring all my proposals together in one announcement, which, among other things, will deal with my response to the food body working group.

**Mr Deputy Speaker:** Minister, your time is up.

### ASSEMBLY COMMISSION

**Mr Deputy Speaker:** Mrs Eileen Bell will respond on behalf of the Assembly Commission. Mr Paisley Jnr is not in his place, so we will move to question 2.

#### Information Leaflet

2. **Ms Morrice** asked the Assembly Commission if it has any plans to publish a public information leaflet on the workings of the Assembly. (AQO 128/02)

**Mrs E Bell (Commission Member):** The Assembly Commission has agreed a wide-ranging information strategy that addresses not only the information needs of the Assembly but the needs of the public for information about the Assembly and its business. The strategy is in the public domain by way of the Assembly web site. The strategy recognises the need to produce and present information in ways that best meet the needs of different groups, such as schools, special interest groups, academics, Departments and the public in general.

In order to implement the information strategy, the Executive Information Office has recently recruited two education officers to develop an information and education programme about the Assembly and its work. As part of that programme, a series of public information leaflets dealing with various aspects of the Assembly's work will be produced. Proposals for the design and content of the first of those leaflets will be put to the Assembly Commission for approval in the next few weeks.

**Ms Morrice:** I am pleased to hear that, finally, something is being done. I hold in my hand the Scottish Parliament's information leaflets, which have been available to the public for many years. They contain everything from information on the devolved Parliament and guidance for witnesses giving evidence to Committees, to how to approach MSPs. It is an excellent educational information brochure. Given the value of the work being done by our colleagues across the water, I am disappointed that the Assembly Commission did not make it a priority to get information to the public sooner.

Why has it taken so long to produce an information strategy? Will leaflets of the same type and quality as the Scottish Parliament's be available at least before the end of the year? Will the Assembly Commission consider setting aside a budget for educational and/or information tools for younger primary schoolchildren who, after a tour of the Building, leave totally empty-handed? That is not the case in some local councils, where children who visit leave with pencils or rubbers. Will the Commission agree to set aside a budget for such a valuable educational tool for everyone, and especially for young people?

**Mrs E Bell:** On a personal level, I agree with everything that the Member has said. The Assembly Commission has been considering all aspects of information strategies for young people and the public in general. Education officers will consider some of the aspects relating to young people that you mentioned. We have decided to implement the simple strategy of giving children a pencil. Plans are in the melting pot at present, but we will inform the Assembly of our work as it progresses.

I agree that the Scottish pack is a good idea. I have given the Assembly Commission samples of it, because it hopes to produce a similar pack. Members' points will be noted in Hansard and taken on board as part of the discussion exercise.

**Ms Morrice:** Will that happen before Christmas?

**Mrs E Bell:** The Commission has discussed the matter, but I cannot give the Member a timetable.

#### Press Access

3. **Ms McWilliams** asked the Assembly Commission whether it has any plans to review press access arrangements to Parliament Buildings. (AQO 127/02)



**Mrs E Bell:** Before devolution, a press liaison group was established to discuss matters of mutual interest, including media access and facilities in Parliament Buildings. A press lobby system to facilitate access was proposed, but the press did not find that proposal appropriate.

Earlier this year, after a meeting between media representatives and the Assembly Commission, it was agreed that the Commission would consider proposals to enhance press access in the Buildings. It was agreed that media representatives would reconsider the proposal to establish a press lobby and then offer its views to the Commission. To date, that has not happened.

A key consideration of the Commission is the facilitation of Assembly business and the provision of a safe working environment for Members, staff and the visiting public. The Commission values the role of the press in promoting a better understanding of the Assembly and its Committees, and would welcome proposals for improving press access.

**Ms McWilliams:** I was disappointed at the press fallout after the Queen's visit and other occasions. The Assembly has managed to make an enemy rather than a friend of the press. Media facilities and access do not appear to be a problem in other devolved institutions. I cannot understand why the liaison committee never met; perhaps it could be re-established urgently. I ask the Commission to take the issue seriously, so that the apparent lack of communication as regards press access during the Queen's visit does not arise again. The same approach should apply to press access during visits by other dignitaries, and to the provision of information that we wish the press to report. The Assembly seems to have fallen foul in that regard, and the press seem to end up reporting negatively on it.

**Mrs E Bell:** I agree; however, the Commission and the press have met to discuss proposals many times. We are considering their proposals for access and better information, and I hope that they are considering ours. The press conference arena in the basement of the Building is rarely used. The Head of Security, the Speaker, and other Members who deal with the press met representatives, and the Commission also met the Chairpersons' Liaison Group. I hope that proposals will result from those meetings.

I take on board the Member's comments; however, the Commission has already tried the approach that she suggested. I hope that the Assembly will be able to establish a better relationship and better communication with the press. The Commission shares the Members hope that the problems that arose in the past do not happen again.

## **DRAFT FIXED TERM EMPLOYEES (PREVENTION OF LESS FAVOURABLE TREATMENT) REGULATIONS (NORTHERN IRELAND) 2002**

## **PART-TIME WORKERS (PREVENTION OF LESS FAVOURABLE TREATMENT) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2002**

*Debate resumed on motion:*

That the draft Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2002 be approved. — [*The Minister for Employment and Learning (Ms Hanna).*]

*The following motion stood in the Order Paper:*

That the Part-Time Workers (Prevention of Less Favourable Treatment) (Amendment) Regulations (Northern Ireland) 2002 (SR 286/2002) be approved. — [*The Minister for Employment and Learning (Ms Hanna).*]

**Mr Deputy Speaker:** I remind Members that the Minister has grouped the motions on the draft Fixed Term Employees Regulations and the Part-Time Workers Regulations for debate. When all who wish to speak have done so, I shall call the Minister to do the winding-up speech and put the Question on the first motion. I shall then ask the Minister to move the second motion before putting the question without further debate. If that is clear, I shall proceed.

**The Minister for Employment and Learning (Ms Hanna):** I shall continue where I left off.

I am aware that fixed-term contracts are used in sectors ranging from higher education to the hospitality industry. In some instances, sectors or organisations may wish to tailor the mechanism limiting the use of successive fixed-term contracts to suit their needs better. Therefore the Regulations provide for employers and employees to increase or decrease the four-year limit or to agree a different way in order to prevent the abuse of successive fixed-term contracts by collective or workforce agreements. Those agreements could, for example, specify allowable reasons for renewing fixed-term contracts beyond the statutory limit.

It is important that the law does not permit fixed-term employees to be treated less favourably than permanent employees. Therefore these Regulations also amend provisions in certain parts of some Orders, which, unless amended, would allow some or all fixed-term employees to be treated less favourably than permanent employees. For example, the Employment Rights (Northern Ireland) Order 1996 permits fixed-term employees to waive their right to redundancy payments. The Fixed Term Employees (Pre-



vention of Less Favourable Treatment) Regulations (Northern Ireland) 2002 will remove that redundancy waiver.

The modest costs associated with these Regulations are more than offset by the advantages that they bring in fairness and the ending of the potential for discrimination. The regulatory impact assessment commissioned by my Department estimated costs to the private sector of about £1 million to £4 million. The Regulations will create an even playing field for employers of fixed-term contract employees. However, it is right that fixed-term employees should be treated no less favourably than permanent employees.

I now turn to the two amendments to the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2000. These Regulations make it unlawful for employers to treat part-timers less favourably than comparable full-timers in their terms and conditions of employment unless different treatment can be justified objectively.

Under the present Part-Time Workers Regulations, part-time workers must compare themselves to full-timers employed under a similar contract. The amendment will allow part-time workers to compare themselves with full-time staff on both permanent and fixed-term contracts. That will ensure that part-time workers on fixed-term contracts are not treated less favourably than permanent workers.

The second amendment also aims at bringing the Part-Time Workers Regulations into line with the Fixed Term Employees Regulations. At present, if an industrial tribunal upholds a complaint from a part-time worker about equal access to an occupational pension scheme, the remedy awarded may not exceed a limit of two years' worth of employer contributions. That reflects the House of Lords ruling in February 2001 in the case of *Preston and Others v Wolverhampton Healthcare NHS Trust and Others*. The amendment Regulations remove that restriction.

Compliance costs are estimated to be low. Those employers who treat their part-time workers equally to their full-time staff will experience no direct costs. The days where most of the labour force worked nine to five in a job for life are past. It is widely recognised that a more flexible approach is not only good for employees, but it can also enhance competitiveness. In this context, it is particularly important to protect the rights of the growing numbers on fixed-term and part-time contracts. Fixed-term and part-time work allows people to participate in the labour market who, perhaps due to family or other commitments, may not wish to accept permanent or full-time employment.

For their part, employers should see the benefits of greater loyalty and commitment among their fixed-term and part-time staff. Overall, the draft Fixed Term Employees

(Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2002 and the Part-Time Workers (Prevention of Less Favourable Treatment) (Amendment) Regulations (Northern Ireland) 2002 contribute to improving employment rights in the workforce, and I commend both sets of Regulations to the Assembly.

4.15 pm

**The Chairperson of the Committee for Employment and Learning (Dr Birnie):** I appreciate the Minister's comments about the late delivery to the Committee of the Statutory Rule relating to part-time workers. As Chairperson of the Committee for Employment and Learning, I support both sets of Regulations.

With reference to the draft Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2002, the Committee considered the pre-draft Statutory Rule at its meeting on 9 May 2002 and had no objections to the policy implications of the proposed legislation at that stage. The Committee noted that the equality impact assessment on the proposed Regulations indicated that there would be no adverse impact on any of the section 75 groups. The Minister referred to the regulatory impact assessment, and the Committee noted that it estimated a net cost to employers ranging from £1.5 million to £7.6 million, with about half of that falling on the public sector. It was expected that very little cost would fall on small businesses.

The Committee considered the Statutory Rule at its most recent meeting on Thursday 19 September and supported its key objectives, especially the prevention of discrimination against fixed-term employees.

On behalf of the Committee, I urge support for the Part-Time Workers (Prevention of Less Favourable Treatment) (Amendment) Regulations (Northern Ireland) 2002 (SR 286/2002). These Regulations amend the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2000 (SR 219/2000) and are due to come into force on 1 October. As with the previous Statutory Rule, the original date for implementation was 1 July 2002, but the Department of Trade and Industry in London requested that further time be given to the UK to implement the EU Directive on fixed-term work.

The Committee considered the Statutory Rule at its meeting on 19 September 2002 and supported the key objectives outlined by the Minister. The first is to maintain consistency with the EU Directive on fixed-term work, and the second is to comply with the judgment made by the House of Lords in the *Preston and Others v Wolverhampton Healthcare NHS and Others*.

**Ms Gildernew:** Go raibh maith agat, a LeasCheann Comhairle. I support the motion. Given that the amendments have been taken as part of an European Directive, and the fact that many women have to take part-time or fixed-term work due to family commitments, I am glad

to see that the prevention of less favourable treatment has been taken on board by the Minister. Could we not do more, above and beyond what the EU suggests, to make working conditions for part-time and fixed-term workers even more favourable to the needs of working parents?

**Ms McWilliams:** I also welcome the introduction of the Statutory Rules. As Michelle Gildernew said, they originated from European Directives. The people concerned were once commonly known as atypical workers, but the days when we had the typical worker from nine to five on a permanent contract are long gone. Many employees now have atypical working patterns, so the more inclusive our legislation, the better, especially with regard to the prevention of less favourable treatment.

I remember when part-time workers began to secure some rights along the same lines as full-time workers. The first thing that employers did was make their part-time workers redundant, since, they said, they could not implement the Regulation without considerable cost to themselves. Clearly, equality issues were involved. I know of some dispute involving Queen's University Belfast and the University of Ulster. In particular, the University of Ulster's fixed-term employees think that they will lose their jobs before the legislation comes into force.

When the legislation comes into force, what will happen to the employer of a person who has been working for four years on a fixed-term contract — I believe that that is the term in the legislation — if he or she decides to replace them? What are the employee's rights if he or she wishes to take that employer to court or to a tribunal because of unfair dismissal? Those of us who are familiar with labour relations know that many part-time workers did not benefit from previous legislation; they simply lost their jobs as a consequence.

**Ms Hanna:** Today's workforce is an increasingly diverse entity. I firmly believe that such enhanced flexibility brings considerable benefits to employers and workers alike. It is therefore important that those who wish to work on fixed-term or part-time contracts are not discouraged from doing so by the threat of less favourable treatment. I welcome the remarks of the Chairperson of the Committee for Employment and Learning and his acceptance of reassurances.

We are dealing with specific issues in the legislation, but Members are probably aware that an employment status review is under way. I hope that issues outside the legislation will be taken up through that. That probably does not answer the specific question regarding Queen's University, but I do not think I could answer that now, nor would it be appropriate for me to do so here. However, I shall most certainly do so in writing.

The Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2002 and the Part-Time Workers (Prevention of Less Favourable Treatment) (Amendment) Regulations (Northern Ireland)

2002 will protect the rights of the increasing number of individuals on fixed-term, or part-time, contracts who might otherwise suffer detrimental work habits compared with their permanent or full-time colleagues. Such workers have an important role to play in helping to meet organisations' needs for more flexible labour solutions which contribute to the creation of high-performance workplaces.

*Question put and agreed to.*

*Resolved:*

That the draft Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2002 be approved.

*Resolved:*

That the Part-Time Workers (Prevention of Less Favourable Treatment) (Amendment) Regulations (Northern Ireland) 2002 (SR 286/2002) be approved.

## PLANNING (AMENDMENT) BILL

4.30 pm

### Committee Stage (Period Extension)

**The Chairperson of the Committee for the Environment (Rev Dr William McCrea):** I beg to move

That in accordance with Standing Order 31(5), the period referred to in Standing Order 31(3) be extended to 29 November 2002, in relation to the Committee Stage of the Planning (Amendment) Bill (NIA 12/01).

The Committee for the Environment formally began its scrutiny of the Planning (Amendment) Bill on 25 June 2002. Members will know that it is the Committee's practice to seek the views of all key stakeholders, as well as those of groups most likely to be affected by any legislation.

This is an important piece of legislation. Consequently, the Committee has canvassed the views of all 26 councils and 17 other bodies, such as the Construction Employers Federation, the Royal Town Planning Institute and the Woodland Trust. Seventeen responses have been received to date. As expected, some have raised interesting and valid concerns, and these were passed to the Department for comment. Over the past weeks, the Committee has received presentations from departmental officials responding to those points, and that process is ongoing.

During the Second Stage of the Bill, some Members spoke of the need for third-party appeals. The Committee has already obtained a commitment from the Minister that his Department will commence a full public consultation on the way forward for third-party appeals by Christmas of this year. The Committee is concerned about the Planning (Amendment) Bill in relation to third-party appeals.

*(Madam Deputy Speaker [Ms Morrice] in the Chair)*

Although full details will be provided in the Committee's report on the Bill, Members will be pleased to learn that the Committee has persuaded the Minister to take other important issues forward. Two of those require the Secretary of State's approval; namely, increasing the maximum fine from £20,000 to £30,000, and introducing a new offence of commencing development before planning permission is given. Those are significant steps forward and highlight the Committee's hard work on the Bill.

There are more issues for the Committee to explore that will require due and proper deliberation. Consequently, the Committee has considered it necessary to ask the Assembly for an extension. As always, it is the Committee's hope that its work will be completed by an earlier date.

*Question put and agreed to.*

*Resolved:*

That in accordance with Standing Order 31(5), the period referred to in Standing Order 31(3) be extended to 29 November 2002, in relation to the Committee Stage of the Planning (Amendment) Bill (NIA 12/01).

## LOCAL AIR QUALITY MANAGEMENT BILL

### Committee Stage (Period Extension)

**The Chairperson of the Committee for the Environment (Rev Dr William McCrea):** I beg to move

That in accordance with Standing Order 31(5), the period referred to in Standing Order 31(3) be extended to 29 November 2002, in relation to the Committee Stage of the Local Air Quality Management Bill. (NIA Bill 13/01).

With your permission, Madam Deputy Speaker, I will explain to the House why the extension is being sought. The Committee for the Environment began its formal scrutiny of the Bill on 18 June 2002. Members who have read the Bill will appreciate that it is complex, of a technical nature and requires close scrutiny.

The Committee heard presentations from and held discussions with departmental officials. This included a structured clause-by-clause presentation of the Bill on 20 June 2002. The Committee has also canvassed the views of all district councils together with 12 other interested bodies, such as the Council for Nature Conservation and the Countryside, and the Royal Town Planning Institute. To date, seven responses have been received and, as expected, they have raised some pertinent and legitimate concerns which have been submitted to the Department for its comment and consideration.

It was also agreed that the Department would consult with key stakeholders to ascertain their views on the terms of the Bill. That consultation has taken longer than expected, and the Department has indicated that it will shortly be in a position to come back before the Committee on this Bill. It should prove to be a valuable exercise for all concerned, and it will require due and proper deliberation by the Committee. Consequently, the Committee has considered it appropriate to ask the Assembly to grant this extension of time.

*Question put and agreed to.*

*Resolved:*

That in accordance with Standing Order 31(5), the period referred to in Standing Order 31(3) be extended to 29 November 2002, in relation to the Committee Stage of the Local Air Quality Management Bill. (NIA Bill 13/01).

## ENERGY INQUIRY REPORT

### **The Chairperson of the Committee for Enterprise, Trade and Investment (Mr P Doherty):** I beg to move

That this Assembly take note of the response from the Minister of Enterprise, Trade and Investment to the Committee's Report on Energy (03/01R).

Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister for his full and comprehensive response to the Committee. May I take this opportunity to congratulate the Armagh team on its fine victory yesterday; perhaps the Chamber is so empty because Members are all down celebrating in the county.

The Committee wishes to see energy remain at the top of the political agenda, so it decided to stimulate a further debate on the energy report and the issues contained in it rather than deal with them by correspondence alone. We hoped that that would afford other Members the opportunity to contribute to this area of public policy. The Committee is looking forward to having a closer look at some of the relevant issues when considering the energy Bill later in the session.

As there are 45 recommendations, I do not have enough time to deal with each one and the Minister's response to them. I will concentrate on two issues which Committee members feel strongly about. I was pleased that many of the Committee's most important recommendations were accepted by the Department: recommendation 3 on consumer protection; recommendation 4 on cross-subsidies; recommendation 14 on Coolkeeragh; and recommendation 40 on postalisation of costs. However, I remain disappointed that Departments were not prepared to think outside the box in some cases. Some responses were negative and lacked imagination, and I will deal with them later.

The Committee made three recommendations regarding the eradication of fuel poverty. It has been said in previous debates, but it is worth repeating, that it is a scandal that 170,000 homes in the North are considered to be fuel poor. The Executive must make every effort to deal with the problem. The Committee recommended that the Government match, pound for pound, the money raised through the energy efficiency levy — £600,000 per year. If such funds cannot be directly obtained from the Treasury, they should be found from the Executive funds. That would reduce the time taken to eradicate fuel poverty from 10 to five years.

Some £600,000 is a small price to pay. The knock-on benefits to the Department of Health, Social Services and Public Safety's budget, for example, would be enormous, as it would reduce the cases of illnesses related to fuel poverty such as flu and chest infections and other chest-related illnesses by a huge amount. It would be money well spent.

The Committee was pleased to note that the Minister for Social Development is committed to producing a fuel poverty strategy, and we look forward to examining his proposals. The Committee was also pleased to note that the regulator is introducing plans that will make the energy efficiency levy process more accountable and transparent so that the public can see exactly how and where the funds are being spent.

On the question of renewable energy, the Committee is encouraged with the progress on developing the potential offshore wind farm off the north coast. I agree with the Minister that that development will be crucial if renewable energy targets are to be met. I hope that the Minister will agree that the misinformation being used against the development is extremely unhelpful and that it only serves to breed fear and confusion. The Committee is disappointed that the Minister could not agree with our target of having 15% of electricity from a range of renewable sources by 2010 but has instead opted for 10%. I accept that the majority of respondents to his consultation exercise agreed that 10% was appropriate, but the Committee believes that a target of 15% will encourage greater imagination in research and development of the necessary technologies. That target is challenging, but it is achievable if we put our minds to it. The Committee made various recommendations that sought to encourage greater demand for green electricity. We are deeply disappointed that the Departments responsible for dealing with those recommendations could not be more positive in their responses.

In recommendation 27, for example, the Committee stated that local area development plans should include provision for the location and development of renewable energy sources. The response that we received may have been technically correct, but it did not attempt to address the real issues, which are about helping to plan ahead for the development and use of renewable energy sources.

Recommendation 28 called for the planning and building control bodies to be proactive in the encouragement of low-energy buildings and renewable energy. The response saying that current strategies and legislation do not cover this point is simply not good enough. If the Executive want to take their obligations under the Kyoto protocol seriously, they need to demonstrate joined-up thinking on the encouragement, stimulation and development of renewable energy sources and technologies. It is unacceptable that Departments appear to be unsupportive of one another on the matter.

The Committee is pleased that the Minister and his Department are trying to develop the renewable energy industry in response to recommendations 34, 35, 36 and 37.

The Committee intends to keep plugging away at the issues raised in the energy inquiry report. I am glad that the report will help to stimulate public debate, and I



hope that the Minister will be encouraged to look afresh at points raised today.

**The Deputy Chairperson of the Committee for Enterprise, Trade and Investment (Mr Neeson):** I welcome the Minister's response to the Committee. The energy inquiry was an in-depth investigation that lasted longer than the Committee anticipated. The Committee will soon consider the draft energy Bill, which is very detailed. I assure the Minister that the Committee will approach the task with the same interest that it took in the original investigation.

The major issue is the high cost of electricity in Northern Ireland. In addition, the Assembly must consider long-term contracts. The Committee recently met Jamie Delargy and Sir George Quigley to discuss bonds financing as a possible means of buying out the contracts. Only two weeks ago, I met senior officials from Northern Ireland Electricity to discuss their proposals. The Committee has not decided how it will proceed with the matter. It will examine those, and other, proposals. It must focus on its aim, which is to lower the cost of electricity in Northern Ireland.

I welcome the fact that the natural gas pipeline will go ahead, not only because it will benefit the north-west, but because of its benefit to the South/North pipeline. I sincerely hope that natural gas will benefit domestic consumers as much as businesses and that it will create a level playing field for all consumers in Northern Ireland.

I am still dismayed that people inside and outside the Assembly are trying to impede the project's development. One of the first all-party delegations that met in the Assembly dealt with the provision of natural gas to the north-west. Every party was represented before we even had devolution. Natural gas has widespread support across the political boundaries. I am delighted that the projected commissioning date of autumn 2004 has been agreed for Coolkeeragh power station, which will be one of the main beneficiaries of the pipeline to the north-west.

We must not put all our eggs in the one basket. We must remember that the new combined cycle gas turbine (CCGT) power station at Ballylumford will be commissioned soon. I, and local representatives, will visit that power station in a week or so.

4.45 pm

Combined cycle gas turbine will also power Coolkeeragh, so we must be careful not to put all our eggs in one basket. The future energy uses at Kilroot must be different from natural gas. If Kilroot goes ahead with phase two of the power station, it could use gas, but there must be some diversification.

The Committee took considerable interest in the development of renewable energy, and we welcome the Department's commitment to it. However, I agree with

the Chairperson that the larger target of 15% by 2010 is preferable.

It was remiss of me to leave out postalisation when talking about the natural gas pipeline. It is important that all consumers pay the same price for natural gas, regardless of where they live in Northern Ireland. The Committee has a major challenge ahead in dealing with the energy Bill, but we will approach it with the same determination with which we approached the original report.

**Mr Armstrong:** As a member of the Committee for Enterprise, Trade and Investment, I am well aware of the challenges facing consumers and businesses with regard to the higher cost and lower availability of energy resources in Northern Ireland. I commend the energy inquiry report to the Minister; its numerous recommendations can provide a cheaper, greener service for energy consumers, and they suggest means for transforming waste into energy.

When the industry was privatised in 1992, long-term contracts were introduced that will continue until 2012; these have benefited only stakeholders at the expense of consumers. The report recognises the failings in the energy sector and seeks to improve consumers' lot — the ordinary men and women for whom energy is a basic need.

The report recognises the need to make consumer protection a priority when determining arrangements in the energy sector. That is why we suggest that the General Consumer Council be given stronger powers to represent consumers' rights to cheaper, diverse sources of energy.

Some 170,000 householders in Northern Ireland are classed fuel poor. I welcome initiatives, such as the warm homes scheme, which seek to redress people's difficulties in affording energy. The report's recommendation to increase the energy efficiency levy to £5 per customer is one way of eradicating fuel poverty, and the Minister should consider that more closely.

Increasing the efficient use of energy is one way of reducing cost to the consumer. Efficient appliances are vital, as they use energy sources with more care. However, the report also suggests ways in which the price per unit of electricity and other costs can be reduced. It is unacceptable that a 306% rise in output per generation worker has translated into only a 15% productivity gain to consumers. It is unacceptable that consumers are expected to fund long-term contracts while shareholders make large profits at their expense.

The importance of the environment in any future energy strategy is recognised in the report. I suggest that alternative sources of energy should receive assistance through Government funding. The report mentions the recently established biogas scheme in Fivemiletown. I am in favour of such schemes that convert waste products, particularly farm waste, into useful sources of energy. There is great potential for locating biogas digesters

throughout Northern Ireland to reduce waste storage difficulties and to provide power for local schools and communities. The Minister will recall that I have written to him on this, and I hope that he will fully consider it.

Northern Ireland depends on traditional energy sources. Much more needs to be done to promote the use of renewable energy. Some 60% of our electricity is produced from gas, as opposed to 38% in the UK as a whole. With volatile worldwide markets for oil and, perhaps soon, gas, we must act immediately to redress our energy deficit. We are aware of the huge potential to generate electricity through harnessing wind power. However, that must be sensibly managed to preserve the natural beauty of our landscape.

Especially in the face of international obligations, the Northern Ireland energy sector must undergo significant changes in the next few years in order to comply with obligations on renewable energy. In the Republic of Ireland, one company supplies green electricity generated by wind at a lower price than electricity generated by fossil fuels. I support an eco-energy tariff that does not impose additional charges on customers who opt for green energy.

It is vital that all parties concerned are encouraged to adopt environmentally friendly measures to generate energy. I hope that the Minister will further consider funding biomass schemes, such as the one at Brook Hall Estate in Londonderry. Willow coppice is a feedstock for producing electricity from biomass. The benefits of introducing such a scheme on a more widespread basis include an aid to rural development in addition to further diversifying the energy mix. There is also the further side benefit of reducing waste because biomass acts as a bio-filter.

I hope that the Minister of Enterprise, Trade and Investment will seriously consider the importance of increasing the range of energy sources used to generate power. The report recommends that planning and building control bodies should also show greater awareness by encouraging low-energy buildings to reduce energy consumption.

In planning for the future fuel-energy market, we must give particular consideration to fuel poverty in rural areas. There are no plans at present for the alternative energy source of gas to be extended outside Belfast and the north-west and south-east of the Province, so I hope that the Minister will consider the importance of promoting and funding alternative energy sources, such as anaerobic digesters, in rural areas. The Minister should also endorse postalisation so that more dispersed rural communities can also benefit from renewable energy sources.

**Dr McDonnell:** Discussions on energy are always timely — we could probably discuss energy once a month. As I said in a debate a few months ago, the

future of energy is one of the most important issues that we face. It is a lifeblood of our society not only socially, but economically. We shall have to keep returning to the matter.

Although I disagree with one or two points, I broadly welcome the Minister's response. It is only appropriate that I should pay tribute to the sterling work of the Committee for Enterprise, Trade and Investment. The Chairperson, Pat Doherty, the Deputy Chairperson, Sean Neeson, and my Colleagues on that Committee should be thanked for the massive amount of work that was put into the original inquiry.

Several issues must be addressed, including financing debt at a lower cost. We must buy out the stranded costs and do what we can to reduce the excessive charges that were tied up in the original scandalous contracts. The legislation must contain, or new legislation must be enacted to provide for, low-cost borrowing mechanisms in the energy industry that will allow for the servicing of debt and for the burden of debt to be reduced. That in itself would create small but significant savings for customers.

I am told that if lending institutions were allowed to use customers' credit ratings, they might rate customers as more creditworthy than do NIE and would charge lower rates of interest, which would benefit the customers. There seems to be no great desire to include a low-cost financing option in the forthcoming energy Bill, but one must be included. If that option is not included in the original Bill, it must be included at Consideration Stage.

My Committee Colleagues have already touched on the scandal of fuel poverty. The Committee Chairman, Pat Doherty, cited the 170,000 homes — 28% of our people — that experience fuel poverty. I welcome the Minister's support for the increase in the energy levy to an average of £5 per customer. The extra money that that will generate will be of great value to the homes affected by that scourge and will go some way towards eradicating it.

However, I also agree with recommendation 10. The Department of Enterprise, Trade and Investment and the Department for Social Development must together develop an aggressive and effective task force on fuel poverty. It is not enough to take action such as raising levies in a passive or semi-active way; this problem must be dealt with aggressively and forcibly. The task force and the Executive must make the rapid eradication of fuel poverty a priority underpinned by legislation.

Like Mr Doherty, I believe that if the Exchequer cannot provide the necessary resources to eliminate fuel poverty, it behoves the Executive to find them as quickly as possible. The longer that that scandal pertains, the longer the Assembly will be ridiculed for not effectively getting to grips with government and the issues that affect people's lives.

Recommendation 38 proposes the consideration of the establishment of a renewable energy agency. If such an agency is established, it will help us to focus on and adopt a much more serious approach to renewables, especially in the light of the Executive's commitment to ensuring that 10% of energy will come from renewable sources. Like other Members, I am not satisfied with 10% — it should be 15%. A much greater commitment to developing renewable energy is needed. In many respects, we pay little more than lip service to it. It sounds nice, and it seems green, reasonable and user-friendly. However, as I told the House before the summer recess, an all-embracing energy agency is needed. I have let the matter rest until other issues have been debated, but if we do not return to it, we will never be in control of our energy resources. We can talk all we like, but there is no evidence that the Department of Agriculture and Rural Development is offering farmers effective incentives to produce renewable energy products. Until we have joined-up government that involves the Department of Enterprise, Trade and Investment and the Department for Social Development, and which pulls in all aspects of energy production, consumption and usage, we will not have the necessary grip on energy issues. The renewable energy debate must be renewed and engaged in with much more vigour than has been the case.

5.00 pm

The Department of Agriculture should be involved. There are problems in the agriculture industry and, if a few people knew that they could diversify into energy products if the market were stable, it would perhaps be a welcome respite. However, I see no great incentive to do that.

I welcome the question of creating an all-island energy market, which was raised in recommendation 42 and in other recommendations in the report. North and South, we are an island community of only five million to six million people. That is not a large number in relation to a stable energy supply from multiple sources, and it is not enough in respect of an all-island energy economy. Greater co-operation with the UK must be obtained, particularly with Scotland. The Moyle interconnector is an excellent example of that. It has been fully loaded and used, and has gone some way towards creating an opening in the market. An open energy market is not possible without the supply. Douglas McIlldoon said:

"The Moyle Interconnector, with a capacity of 500MW, has been developed as a strategic infrastructure project to link the previously isolated NI electricity system to the systems of Great Britain (GB) and the European mainland. The benefits of access to these larger systems for the NI electricity consumer include downward pressure on electricity prices from increased competition in generation along with enhanced security and diversity of supply."

Without adequate interconnecting capacity there can be no market. Our current problem, however, is that because the interconnector is fully used and fully loaded, there is

no spare capacity. Expensive as it may be, we may very well need a second interconnector to double the capacity between Northern Ireland and Scotland. We must have a freer, more competitive and relatively open market as quickly as possible. If that is not done, if there are closed shops and restricted supplies, opportunities and choice, we can talk all we like, but that will not bring about change.

I could make other points, but I shall not. Other Members referred to the scandalously high price of the privatisation of the power stations. One primary focus should be to concentrate on the liberalisation of the market to promote as much competition as possible, so that the price of electricity comes down and the economics begin to make sense. They do not make sense now.

**Mr Wells:** Once again, sadly, the debate on energy has not proved to be the hottest ticket in town. I am delighted that Mr Davis has appeared. At one stage, it looked as if Dr Birnie would be the only non-member of the Committee to take part in the debate, with the exception of the Minister. It is either a tremendous vote of confidence or a sign of apathy with regard to the work of the Committee. Members perhaps feel that the Committee has done such a good job and that the report is so watertight that it is not necessary to scrutinise its work, that it is a five-star Committee and there is nothing to worry about. Either that, or the level of interest in the crucial subject of energy is not what it should be. I am not sure of the reason, but on the three occasions on which this topic has arisen it has attracted very few Members. That said, however, it reveals a slight deficiency in the Standing Orders of the Assembly. There is no provision for a statement to be made by a Committee Chairperson. That provision existed in previous Assemblies and is a neat way of dealing with responses from Government Departments to Committee reports.

Of course, we are required to use the more unwieldy mechanism of a motion, which is often heard late in the afternoon, rather than during the morning's business. Having said that, the Minister has made a steady but positive response to the Committee's report.

If I were asked to describe the Minister in cricketing terms, I would say that he is more of a Geoffrey Boycott than an Ian Botham. Geoffrey Boycott tended to bat steadily and solidly, deflecting the bouncers and chalking up quite a few maiden overs, as opposed to Ian Botham, who nailed his colours to the mast and struck out with the bat. In reading the Minister's report, I realised that he has a deft way of saying no. He reminds me of a young lady whom I asked out many times. Rather than say "No, I think that you are the ugliest person in the school", she offered good excuses that did not upset me, such as "I am doing my hair", "I have to look after my maiden aunt", or "I have to go shopping". The Minister does the same thing. Nowhere does he say that the Committee's report is a load of nonsense or that it is extreme.



He always has a “no, but” reply to the recommendations, which, I suppose, is how Ministers attain the tacit support of Committees on many issues.

The Minister could have been bold and responded to the recommendation on nuclear power as follows: “It is not a transferred matter. It is for officials at Westminster, but my view is: nuclear power in Northern Ireland — over my dead body”. He could have nailed his colours to the mast, made a name for himself, and gained much support from the people of Northern Ireland, who are extremely worried about the health implications of Sellafield and nuclear power production. But, no, the Minister batted steady, sidestepping the issue by saying that it was not a matter for his Department — a neat answer but not, perhaps, the bravest.

The report recommends a radical rethink of the proportion of energy that will be produced by renewable fuel. Again, the Minister played with a straight bat, stuck to previous policy and stated that the proportion should be 10% — no more, no less. He could have said that although he would welcome an increase to 20% or 25% he must comply with the constraints, but, again, he did not comment.

I do not want to be negative, because the Department responded positively to several issues raised by the Committee. The Committee, the Assembly and the Minister are agreed on fuel poverty, an issue that unites the community. It is one of the few situations in which everybody would gain. If there were an adequate programme to tackle fuel poverty, we would lower carbon dioxide emissions, because less heat would be lost up the chimney and less fossil fuel would be used. We would also improve the health of the community, because fewer old people would contract serious diseases and die from cold-related illness. Those measures would result in a saving for the Exchequer, because less money would be spent on treating the ill and less would be wasted on social security payments to provide fuel.

The Committee supports strongly the recommendation to increase the levy to £5, especially as it learnt that the average levy would be £5 a household. The home occupied by Dr McDonnell, the hon Member for South Belfast, a man of numerous incomes, would therefore sustain a much higher levy than the home of a working-class person in east Belfast. The richer members of society will pay a much higher proportion of the levy than poorer people. The Committee also discovered that, as the levy is also taken from industrial and commercial users, it is not spread over 600,000 domestic consumers; it is spread over the entire community. In some instances, therefore, the levy could be as little as 75p a year for households that use little energy. If that is the case, it is a small price to pay to alleviate the scourge of fuel poverty in the Province, especially among the elderly. One of the main obstacles to the increase of the levy was that many

people felt that £5 a household was too much. That is not the case, and the fuel poor are not paying the lion's share. Therefore, the Minister's response was positive.

I am also glad that he left the door open on Orimulsion. There is no getting away from it: Orimulsion has been a controversial fuel in some parts of the world. Work on the energy inquiry led to one of the most beneficial and productive visits that any Assembly Committee has ever made; it was to the Orimulsion-fired power stations in Denmark. I was not part of the delegation because I had been there previously, but I can verify the Committee's findings on the efficiency and the high environmental standards of that plant in Zealand.

Indeed, on my visit, we quizzed the representatives of green organisations. I do not mean the SDLP but groups such as Friends of the Earth, the World Wildlife Fund, and so on and their equivalents in Denmark. Having investigated emissions from that plant and having examined the programme that was established to deal with spillage, those groups were extremely happy with the work going on at the plant, and they gave it their seal of approval. If Kilroot were converted to dual-fired Orimulsion and oil burning, it could go a long way to bridging the gap between generation costs in this part of the UK and in England, Scotland and Wales.

I am glad that the Minister kept the door open to the Committee's recommendation, and indeed, this is perhaps the one issue over which the Committee almost came to blows. From memory, the only two issues on which it disagreed were the name of Londonderry and whether the use of Orimulsion should go ahead at Kilroot. Both engendered a great deal of heat and required much energy, but they were both resolved.

The triple lock offered by the Committee gives the Minister a way forward to deal with this difficult issue — and there is no getting away from it, it is a complex matter — but it also ensures that the highest possible environmental standards will apply.

First, the Committee said that the use of Orimulsion should be subject to a planning application, which is, of course, only right. That planning application would be the subject of an inquiry or a similar mechanism that would allow the public to air their views. Secondly, the strictest of environmental impact assessments should be carried out in public, which will enable the public to see exactly what measurements are taken, what statistics are used and how the consultants arrive at their conclusions on the environmental issues.

Particulates and spillage are the two remaining unresolved, yet crucial, issues. There is no doubt that the conversion to Orimulsion burning will lead to a major reduction in greenhouse gas emissions from Kilroot. Sulphur emissions, when combined with flue-gas desulphurisation plant, will fall appreciably. Therefore, we have a win-win



situation as far as oxides of nitrogen (NOx) and oxides of sulphur (SOx), as they are called, and emission gases are concerned. However, questions remain about the fine particulate matter, cadmium and vanadium, as well as about the other particulates that can cause some respiratory problems. With flue-gas desulphurisation and electrostatic precipitation it is possible to eliminate the majority of those particulates from the atmosphere. However, there are remaining concerns about that, and the environmental impact assessment must examine it in detail.

More crucially perhaps, although only 11 or 12 tankers a year are likely to come to Kilroot from Venezuela, we must ask what would happen if any of those were to sink in Belfast harbour or along the coast of Northern Ireland. The environmental impact assessment must examine in detail any contingency plans to deal with that should it ever occur. Therefore, the second lock is the environmental impact analysis.

5.15 pm

Thirdly, the Assembly should make any decision on the production of power, because this is an important regional issue that, given those three provisos, should be taken seriously. In the response to the report, the door has been left open for that proposal. I came to the proposed use of Orimulsion with a cynical and jaundiced viewpoint. My impression was that Orimulsion was the last thing we needed in Northern Ireland. However, when I considered the facts, the use of Orimulsion elsewhere and read the literature, I concluded that there was merit in considering the proposal.

Dr McDonnell raised the issue of the lack of legislation to provide a low-cost borrowing mechanism to reduce the real cost to the consumer of the capital tied up in the power industry. A simple piece of primary legislation is needed, which some believe could be included in the energy Bill. It could be used to buy out the Ballylumford long-term generator contract.

The Committee is examining the energy Bill, and some members are minded to suggest an amendment to allow that provision to be included, not as a mandatory provision but as enabling legislation that would allow a proposal to be considered. The Minister would not be compelled to do anything. It would be a question of “may” rather than “shall”. At least the provision would be there if a realistic proposal were put forward.

As Dr McDonnell stated, in pure numerical terms the savings are small, one suggestion being that the figure would be between £1 million and £1.2 million. However, that saving, combined with tackling the long-term generator contracts, and perhaps moving to the use of Orimulsion, would go a long way to reducing the gap between Northern Ireland and the rest of the UK. If nothing else is achieved during the Minister’s short term of office, a series of steps would have been set in motion to bridge

that gap and the Minister would have made a significant achievement for Northern Ireland. If the Assembly is to mean anything to the people of Northern Ireland, something has to be done on this crucial issue.

The Committee for Enterprise, Trade and Investment is considering industrial derating, and some difficult decisions will have to be taken. Industrial derating was introduced because of the significant difference in electricity prices for industry in Northern Ireland. Many witnesses appearing before the Committee said that the abolition of industrial derating could not be justified until the problem of high electricity costs was addressed. There is much merit in that argument. That does not presuppose one or other decision on the matter, but the two elements are linked.

The energy issue is extraordinarily complex, and no one will pretend otherwise. However, the Committee’s report and the Minister’s response were a step in the right direction and, if we go forward together, many positive changes will be put in place for the people of Northern Ireland.

I welcome most of the response and understand the reasons for saying “no” and “perhaps”. No matter how tactful those responses are, I understand that those decisions have to be made.

We will get a second bite at the cherry when we debate the energy Bill, and these issues will reappear many times. As far as the Assembly is concerned, the book on energy is far from closed.

**Dr O’Hagan:** Go raibh maith agat, a LeasCheann Comhairle. Before I make my contribution to the debate, I send my congratulations to the Armagh team and the Derry minor team. I am being very parochial in relation to Armagh. It is disappointing that the erroneous —

**Madam Deputy Speaker:** Thank you; that issue has been covered.

**Dr O’Hagan:** I will not discuss all of the recommendations, as the report was substantial, and the response was very detailed. This is part of the continuing debate on energy, and I look forward to further discussion on the matter.

Recommendation 2 deals with the consumer bond. In addition to Orimulsion, this issue exercised the members of the Committee a great deal. There is growing recognition that bonds could be an effective way of reducing prices. The matter certainly requires full public debate and consultation. It appears that people are increasingly coming around to the idea that bonds are a low-cost borrowing mechanism for energy. However, the proposal needs detailed examination, debate and consultation.

Recommendation 9 deals with eradicating fuel poverty. The revised framework for the energy efficiency levy must ensure openness and transparency with regard to

how money is spent and the extent to which people are lifted out of fuel poverty. The eradication of fuel poverty must be considered from the inception of any scheme or project funded by the energy efficiency levy. The evaluation of the warm homes scheme will provide some valuable information on the levy contribution. We need a comprehensive, resource-based evaluation of the energy efficiency levy, and this should be formalised and implemented as quickly as possible.

Recommendation 10 concerns the establishment of a task force on fuel poverty. Although a fuel poverty strategy is very welcome, the Committee for Enterprise, Trade and Investment called for the task force in order to inject some political momentum into the situation. I would like to see that established as quickly as possible. The Assembly has demonstrated that there is cross-party support for tackling fuel poverty, but that needs to be harnessed and driven forward. The eradication of fuel poverty in the North of Ireland within 10 years would be a testament to the Assembly's work.

Recommendation 11 seeks greater transparency with regard to the use of the energy efficiency levy. For example, how does Northern Ireland Electricity (NIE) select projects to fund? What criteria are used? Are some organisations refused funding, and, if so, what happens to them? I would welcome clarity and openness on these matters. A panel of independent assessors could help NIE to assess projects.

Recommendation 24, which deals with a renewable energy target, has already been mentioned. I would like to see a more vigorous response from the Department on the promotion of renewable energy. The Committee set a target of 15% of all electricity to come from renewable sources by 2010. That is not impossible, and it would help to drive a more vigorous project forward. I look forward to the implementation of the strategy and to the Department of Enterprise, Trade and Investment's plans to promote renewable energy.

Recommendation 38 deals with the establishment of a renewable energy agency. I would like to see that done as soon as possible, in line with the Committee's recommendation.

With regard to recommendation 45, the consultation on the abolition of the Government royalty tax is to be welcomed. However, all parties recognise the need for an all-Ireland energy market. One of the key issues —

**Mr Wells:** On a point of order, Madam Deputy Speaker. Is it in order for the hon Member to mislead the Assembly? The recommendation refers to an all-island energy market, not an all-Ireland one. That is an important distinction, so what is being said is slightly misleading.

**Madam Deputy Speaker:** Thank you for guiding the Assembly in that way.

**Dr O'Hagan:** Go raibh maith agat, a LeasCheann Comhairle. Words are certainly important, but my preference is to use the term "all-Ireland energy market".

The promotion of an all-Ireland energy market should benefit consumers as well as businesses, so consumer issues should be a key consideration. I broadly welcome the Department's response. The ongoing debate is healthy and frank, and I welcome that. Go raibh maith agat, a LeasCheann Comhairle.

**Madam Deputy Speaker:** Given the limited time remaining, I must ask Members who still wish to speak in the debate to restrict their contributions to five minutes.

**Dr Birnie:** I am not a member of the Committee for Enterprise, Trade and Investment, but energy issues are so important that we should all take an interest in them.

A key issue in the report and the Minister's response is that of relative energy charges, particularly in Great Britain and the rest of the European Union. Along with Dr McDonnell and Mr Wells, I argue that consideration should be given to permissive legislation for so-called low-cost borrowing mechanisms. Several billion pounds worth of capital is tied up in the energy industry, so a relatively small reduction in interest charges on loans — even by 0.1% — could lead to tens of millions of pounds worth of savings for customers.

Primary legislation — for example, the forthcoming energy Bill — is needed to achieve that laudable objective. The Department of Enterprise, Trade and Investment, through the regulator, could commit consumers to repay on loans. Given that there are approximately 600,000 electricity users in the Province, the lending institutions such as the banks would view that as better security, given the current risk, albeit unlikely, of Northern Ireland Electricity's bankruptcy. Consequently, consumers could make savings, as the loan repayment would be at a lower interest rate. I understand that, in principle, the Confederation of British Industry and the Federation of Small Businesses support such permissive legislation.

It might be argued that the systems operator could levy charges on customers within the framework of existing legislation. However, that would not be enough to satisfy the lending institutions. They need assurance, in the form of primary legislation, that consumers would ultimately repay loans. I commend the report and the ministerial response. However, we need to act now to lower electricity prices through, for example, permissive legislation to provide for a low-cost borrowing mechanism.

**Mrs Courtney:** I welcome the Minister's response, which, for the large part, was positive. Most of the 45 recommendations fall within his remit.

Recommendation 14 relates to the Coolkeeragh development. As regards its support and implementation, all the necessary statutory consent for the construction of a combined cycle gas turbine station has been granted. The projected commissioning date for the project is autumn 2004.

5.30 pm

On 12 February 2002, the regulator granted a gas conveyance licence to Bord Gáis Éireann for the construction of a gas pipeline to supply the new generation station and downstream markets along the route of the pipeline.

The new power station will act as an anchor customer for the new natural gas pipeline to the North and north-west. Over 80,000 new domestic gas connections, including the city of Derry, Limavady, Ballymena, Antrim and Letterkenny, could be made possible in the years after the construction of the gas pipeline, facilitated by the power station.

Developing the power plant at Coolkeeragh will enhance economic activity in the north-west. The development of the new power station represents an inward investment of £150 million in the region, bringing jobs and other benefits. It will provide 600 jobs at the peak of the construction phase, and there will be 40 secure jobs in running the station when it has been built. The local economy is set to benefit significantly from the power plant development at Coolkeeragh. To facilitate local companies being given the opportunity to supply products and service to the main contractor, a unique supplier model initiative supported by Invest Northern Ireland and delivered by North West Marketing has been developed.

I support the report but, as I have a little time left, I would also like to commend recommendation 9 on eradicating fuel poverty. The energy efficiency levy is to be increased to £5 per customer. I also commend recommendation 10 on the setting up of the task force on fuel poverty. The Department for Social Development is already advancing the fuel poverty strategy. Recommendation 15 relates to the climate change levy, which is a reserved matter. We already have a derogation for five years, and I appreciate the Minister's assurance that he will seek a 10-year derogation.

I welcome very much recommendation 22 on waste minimalisation and the Minister's positive response to it. Recommendations 39 and 40 deal with gas to the north-west and the postalisation of costs. The fact that costs will be evenly distributed to all gas consumers must be welcomed. I agree with Dr Birnie, Mr Wells, Dr O'Hagan and my Colleague, Dr McDonnell, who spoke in favour of recommendation 45 — its implementation would undoubtedly benefit all in the electricity market.

**The Minister of Enterprise, Trade and Investment (Sir Reg Empey):** I am grateful to the Committee for the motion, which will help to keep the extremely important question of energy high on the Assembly's agenda. I have listened carefully to a very positive debate on energy, although I share Mr Wells's disappointment that we did not attract more Members. This issue affects every household and business in the Province, so it should be

high on the agenda. I will attempt to cover as many of the issues that were raised as possible.

The Committee Chairperson and many other Members spoke about renewable energy. I want to make it clear that the target has not yet been set. However, it will be set in the energy strategy, which will be published later in the year. I understand why the Committee feels strongly that we should have set a higher target, but Members are omitting one issue — most potential renewables will come from wind power. Mr Armstrong and others raised questions about biomass, anaerobic digesters and other forms of renewable energy. All have their place. However, if we are to reach a significant target of 10% or 15%, 95% of it will come from wind. That is the reality. We must also remember the huge cost involved.

A figure of 15% would cost the consumer a further £40 million. That excludes the cost of upgrading the network to distribute that energy, and that could be as much again. Wind energy generators are usually located in isolated areas, and the existing network for wind energy is not equipped to deal with intermittent sources of energy supply and would have to be radically upgraded and changed at a huge cost to the consumer. Members must understand that there is a double cost involved: it may be more expensive to produce, and the high distribution costs must also be taken into account.

My Department is committed to renewable energy. Mr Armstrong and other Members raised issues such as anaerobic digesters, and I am working closely with my Colleague in the Department of Agriculture and Rural Development to encourage such matters. However, it is not easy to set such a target. In any event, there is no point in setting a target that is not achievable, and I hope that can be avoided. Nevertheless, I take Members' points very seriously, and I know how sincerely held their views are on the subject.

Virtually every Member referred to fuel poverty. The figure of 170,000 people below the fuel poverty line is, in this day and age, a disgrace. However, that is primarily a matter for my Colleague, the Minister for Social Development, and I will draw his attention to the points raised. I have had experience of fuel poverty in my constituency. The staggering fact is that even though we were offering, through the fuel poverty pilot scheme, to convert and insulate properties, to provide modern, efficient gas boilers and to give other advice, an enormous number of people did not apply for it. I found that disturbing. Home helps have to light fires for people who cannot manage solid fuel, and, even though the scheme was available in certain areas and people could get new equipment, homes insulated and free advice, there was still an insufficient number of applicants. That is shocking.

**Mr Wells:** There were two schemes, one in the Beechmount area of west Belfast and one in Willowfield in the Minister's constituency. The Beechmount scheme was



incredibly successful with a very high take-up, but the Willowfield scheme was much less successful. However, that had more to do with the level of community organisation in the two areas rather than the attractiveness of the scheme.

*(Mr Speaker in the Chair)*

**Sir Reg Empey:** I accept that to a point. Nevertheless, even though significant efforts were made to draw the scheme to the attention of people in the area, I was disappointed with the take-up. I accept that we must all do more at community level. However, almost every Member has made the point about fuel poverty, and I will draw it to the attention of my Colleague.

Significant bids are being made in the Budget. The Minister for Social Development is bidding for substantial resources from the Northern Ireland block grant to back the increase in the OFREG levy. There is a real chance of making a significant difference on that.

The Chairperson referred to recommendation 27 on local renewable energy plans and recommendation 28 on planning and building control bodies. Again, some of those matters are the concern of the Department of the Environment, and I will draw Mr Nesbitt's attention to them as many Members found them significant.

Mr Neeson, Dr Birnie, Dr McDonnell and other Members raised the issue of the bonds. I am aware of the problem, and I am looking at it closely. A range of issues must be considered, including tax and state aid issues. However, Members have made it clear that they intend to raise the matter during the passage of the Bill. As the Executive approved the Bill at their meeting last week, we hope, with your permission, Mr Speaker, to introduce it this month. It will then move to Committee Stage, when Members will be able to discuss its provisions at some length — we shall see where that leads us.

Mr Neeson and other Members also referred to the high cost of electricity. I have now had two meetings with Sir George Quigley, one the week before last and one some months ago. I am acutely aware of all the major issues, and I assure the Member that not a week goes by without our trying to address them in the Department. They are very difficult and complex, and we shall continue to work at them, for each half point that we can shave off the cost is of advantage to the people of Northern Ireland.

Mr Neeson also referred to diversification; I am aware of the percentage of our electricity that we shall eventually produce with gas when Coolkeeragh comes on-stream and when the new combined cycle gas turbine starts to work. Of course, that will be a much more efficient form of generation; we shall use less gas at Ballylumford when the new power station opens than we use with the present facilities because of increased efficiency. Coolkeeragh, as Mrs Courtney is well aware, is a state-of-the-art,

highly efficient combined cycle gas turbine. I am aware of Mr Neeson's point, but at least now we have the interconnector. There is also interconnection with the Republic, so we are not as isolated as we used to be, and that is of significant satisfaction to us.

Dr McDonnell spoke about the all-island market. Of course, a population of five million is a small market for energy, and we all know that. That is why interconnection, both North/South and east-west, gives us a platform upon which we can play more effectively. We are working very closely with the regulators both North and South, who meet monthly. The two Departments have a high-level working group, and we had a report in 2001. These reports are accessible on our Department's web site, and one can see there what we are doing. The market is opening up because of the interconnection with Great Britain.

That brings us neatly to the nuclear option to which Mr Wells referred. He used some cricketing analogies, and at one stage he was in danger of putting us in some doubt about how he ever got married; but someone must have said "Yes" to him at some stage. We have an interconnection with Great Britain, and the electricity that flows through that interconnector can come from various sources, including the south of Scotland, which has access to nuclear plants.

I do not favour any such plants being built here, but Sellafield is of environmental importance to all of us, quite apart from the generation of electricity. There can be no guarantee of the source from which electricity comes when it passes through the interconnector; it is not possible to identify that.

Mr Wells also raised the question of Orimulsion. As he says, we are keeping an open mind, but the Member should not forget the significant environmental issues with that fuel. It sinks when it enters water, and I am satisfied that he has no desire to tarmac the bottom of Belfast Lough. We should bear in mind that there is only one source of supply in a very unstable part of the world — there was an attempted coup d'état there some months ago, and we must all take account of that.

*5.45pm*

However, I know that he and other Committee members were impressed by their visit to Denmark. We shall examine any proposal that comes to us. Apart from the environmental issues, the change in the generating regime will require the consent of the Department. There are other options, such as coal, and a range of issues has been designed to reduce costs. We must take a view based on our regulatory position.

The debate has shown that the Committee has taken a consistent interest; it has done more work on energy than on any other heading in the portfolio. That is important, because the issue affects what is in people's pockets and



has an impact on our industrial competitiveness, which is a key area in which the Committee and the Department are engaged.

Together we are involved in evolving policy. I have been able to take on board several recommendations, and when the energy Bill goes to the Committee for consideration we shall examine the consumer issues, which Dr O'Hagan mentioned, and postalisation, which is a huge matter for all of us.

I know that Mr Neeson has been angered by the reactions that we received from some quarters. However, we can post a letter anywhere in the Province for the same price. Every unit of electricity is sold to consumers at the same price, wherever they are. The principle of postalisation is already established. Would it be fair to charge a consumer in south Fermanagh the real cost of electricity that is produced in Larne and transmitted from there? It would clearly cost more than it would for a consumer in Carrickfergus. It would be insane to go down that road. No part of the Province, especially the rural areas, could hope to survive under that sort of regime.

I earnestly hope that the Committee and the House will support the Bill's postalisation element, because that is the only way to deliver what is, in cross-border terms, the largest single project that we have undertaken together since partition. I would like to think that that project could be delivered to benefit thousands of people in Northern Ireland who were denied access to fuel. We used to be the only region in western Europe with no gas supply to its main towns. I hope that we shall have support. I look forward to working with the Committee as the Bill proceeds, and I shall be keenly interested in the Committee's responses and suggestions.

**The Chairperson of the Committee for Enterprise, Trade and Investment (Mr P Doherty):** I wish to thank, a Cheann Comhairle, all my Colleagues on the Committee for Enterprise, Trade and Investment for making a thoughtful contribution to the debate. Those contributions represented our consensus on three different levels: a general consensus on the original 45 recommendations; a general consensus that we would broadly welcome the Minister's initial response; and a consensus that the more innovative recommendations that have been refuted should be pursued. I would also like to thank Esmond Birnie, who was the only non-member of the Committee to speak, for his usual thought-provoking words.

I shall deal with the Minister's points in some detail later on, but his general contribution was very solid and recognised the work in which the Committee has been involved. The Deputy Chairperson of the Committee mentioned bonds, which is an issue with which we are still struggling at times, because a huge amount of money is involved.

The Committee has yet to conclude its views on bonds, but it was right that Mr Neeson should highlight

that. Mr Neeson welcomed the work being done on the natural gas pipeline from South to North and the north-west, and he made some historical references to various all-party delegations that tried to bring it all about. He also made a clear reference to the need for postalisation and the work done by the Committee in dealing with the energy Bill.

Mr Armstrong mentioned the benefits of turning waste into energy, which the Committee saw on its visit to Denmark. He also stressed the need for cheaper electricity and energy, and that was what helped the Committee initially to focus on energy.

Every Member who spoke mentioned fuel poverty. Biogas is another notable source of renewables, and the energy savings that can be made by properly implementing building regulations were also mentioned.

Dr McDonnell spoke of the need for Members to debate energy constantly, such is its importance — particularly the cost of electricity and how to tackle it. He also referred to the ongoing discussions on bonds and their implications, and he had clear views on fuel poverty. There are 170,000 households in Northern Ireland living in fuel poverty. Members spoke of the levy paid by each customer, and Mr Wells made detailed reference to how well spread the levy could be if Dr McDonnell paid a bit more than the rest of us. Given the number of people and the enormity of the suffering involved, a £5 levy per customer per annum is very little to ask, and it would eradicate fuel poverty in five years.

The Assembly, the Committees and the Executive have been involved in many enormous projects that take a lot of strategic planning, time and money. However, the report states that another £1 million would wipe out fuel poverty in five years. That can be achieved; the money can be found. If the Exchequer will not give it, the Executive can surely find it.

Dr McDonnell also mentioned renewable energy, the all-island market and the Moyle interconnector which links us up not only with Britain but with the wider EU, bringing about security of supply and the potential for reducing costs. He also referred to the privatisation of power stations; that subject spills over into the issue of bonds.

Mr Wells was concerned about the small turnout for the debate, but I think he answered his own question when he said that the energy issue is so complex that very few understand it. It has taken the Committee over a year to cover all the associated issues. The Committee jokes about Mr Neeson promising an easy inquiry that would last six weeks after completion of the economic inquiry. However, we are still at it. We may not be experts, but we are much more knowledgeable now than when we started.

Mr Wells "praised" the steady and positive response from the Minister and the Department, and referred to

the Minister's straight bat response. He also said that the Minister should have said that nuclear power would be used in Northern Ireland over his dead body.

Mr Wells elaborated on fuel poverty. He dealt in huge detail with Orimulsion and said that the debate on the matter was ongoing. He also talked about the triple-lock mechanism, and the Minister dealt with those concerns in his response. The Committee had a huge debate on that, but the door has been left open, as we have not yet made a decision on it. Mr Wells also discussed the buying out of electricity contracts, which is tied to the issue of bonds. He talked about industrial derating, which will come before the House soon, and the fact that the Committee was considering how it would deal with the matter.

Dr O'Hagan, after praising the Armagh team for its fine victory, talked about the Minister's detailed response to the Committee's report. She dwelt on the issue of consumer bonds and the need for a full debate. She elaborated on fuel poverty, the energy efficiency levy and the Committee's target of generating 15% of electricity from renewable sources by 2010. Dr O'Hagan also mentioned recommendation 38 on the establishment of a renewable energy agency and recommendation 45, which would enable companies to trade in a fair and equitable all-island energy market. She also welcomed the Department's response to the Committee's proposals.

Dr Birnie talked about the low-cost borrowing mechanisms that are available and the need to conclude the debate on that issue.

Mrs Courtney expressed support for the Coolkeeragh project, about which the Committee has felt strongly since the beginning. She also spoke about the need for a fuel poverty task force.

I have lost my notes on the Minister's detailed response. He explained why it was difficult to push the target from 10% to 15%, outlining the cost factors, on which the Committee will reflect. The Committee was trying to put Northern Ireland at the cutting edge with renewable resources rather than leave it behind in the game with regard to European Directives and the activities of other countries.

I understand that aspects of fuel poverty related to other Ministries, but the issue could be resolved by means of a collective, all-embracing, cross-cutting response. Bonds and the cost-saving aspects of diversification were discussed. That reminded us that even an all-island market would be small and that energy could flow in more than one direction, for example, from an electricity interconnector linking us to Britain and the EU.

Mr Wells may have been told that nuclear plants were an option, but the Minister rejected that possibility. However, he highlighted the fact that he could not determine from which source energy would be manufactured.

The Minister responded to the question of Orimulsion, and it will feed into the Committee's thorough deliberations. We have had a lively debate on energy, and no doubt we shall return to the issue.

**Mr Speaker:** Order. Just in case the Member finds his notes, I draw his attention to the fact that only three minutes remain.

**Mr P Doherty:** Two minutes will suffice.

The Minister recognised the Committee's work, for which I thank him, and also how the Committee worked with the Department. It was an example of the right way for a Committee and Department to work together. The Committee did its best in that regard, because the issue is so serious. I was glad that the Minister said that the principle of postalisation has long been established.

The debate has been useful, although, as Jim Wells said, it was a pity that more Members were not present. However, as we continue to debate and promote the issues, and especially as the Committee scrutinises the draft Bill, everything will be dealt with.

6.00pm

I thank the Members and you, a Cheann Comhairle, for allowing me a little extra time.

*Question put and agreed to.*

*Resolved:*

That this Assembly takes note of the response of the Minister of Enterprise, Trade and Investment to the Committee's Report on Energy (03/01R).

*Adjourned at 6.01 pm.*

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# NORTHERN IRELAND ASSEMBLY

Tuesday 24 September 2002

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

*Members observed two minutes' silence.*

## DRAFT BUDGET 2003-04

**Mr Speaker:** I have received notice from the Minister of Finance and Personnel that he wishes to make a statement on the draft Budget for 2003-04.

**The Minister of Finance and Personnel (Dr Farren):**

With permission, Mr Speaker, I wish to make a statement on the Executive's public spending plans for the next three financial years. For the first time, the Executive have agreed spending allocations that will take forward our distinctive priorities for the next three years, with some radical changes from the pattern that existed prior to the agreement and devolution.

The theme of the draft Budget, which I am presenting on behalf of the Executive, is reform. Our intention is that the plans, alongside the reinvestment and reform initiative, should set a new and better basis for the development of effective public services. The draft Budget includes provision for the substantial cost pressures affecting the Health Service, which is the agreed priority of the Assembly, and for some vital improvements in its services. It provides for important new developments in education, sport and agriculture. We have developed a new way to ensure that Invest Northern Ireland (INI) has the resources needed for industrial development. The Budget also addresses the problem of underspend, and it will provide a better basis for the stable planning of public services.

However, that is not the entire story of all the opportunities that the Executive are creating. Later in the autumn there will be new plans, under the reinvestment and reform initiative, to address the infrastructure deficit. Those will be developed more in the light of our consideration of the points emerging from the review on rating policy and the "Financing Our Future" consultation exercise, which are concluding. This will be the main means of enhancing the remaining priority programme of roads and transport and the wider issue of infrastructure, which includes essential provision for water and sewerage services.

I will start by placing my statement in the formal context of the approach to planning that is set out in the agreement. The proposals are made on behalf of the Executive. We have had detailed and, at times, difficult discussions about them. Each Minister who has attended the Executive has participated in thoughtful and constructive discussion on the public services that we oversee. I also had helpful bilateral discussions with the Minister for Regional Development and the Minister for Social Development. The fundamental assumptions that underlie the proposals, and especially the approach that we are taking to the infrastructure issue, have been fully discussed with all Ministers.

In accordance with paragraph 20 of strand one of the agreement, the Executive agreed a draft Programme for Government, incorporating an agreed Budget, at their meeting on 19 September 2002. The spending plans have been designed to deliver the priorities and actions in the draft Programme for Government that was presented to the Assembly yesterday by the First Minister and the Deputy First Minister and which will be subject to debate later today. The programme has set the context for our budgetary decisions.

In line with section 64 of the Northern Ireland Act 1998, I am today laying the Budget for 2003-04 before the Assembly on behalf of the Executive, for scrutiny and approval after examination and debate in the Committees and in the Chamber. The draft Budget sets out spending plans for the three years from 2003-04 and shows how we propose to use the funding that is now available following the Chancellor of the Exchequer's announcement about the outcome of the spending review in July 2002.

Obviously, we cannot bind the next Assembly. As required by the 1998 Act, specific Budget proposals for the year ahead will continue to be brought forward each year. However, we hope that the three-year plans announced today will set a more stable framework for planning that will help Departments and other public bodies to make the best possible use of the resources that are available to them — subject to the process between now and December. The plans can, of course, be refined and amended in the light of changing circumstances.

As ever, we have had to live within the resources that are available to us. That means that we are not able to take forward all the areas of work that we would wish to. All Departments face serious pressures in meeting the demands and expectations of the public, and the Assembly, for high standards of public services. However, the choices that we have made will, I believe, provide a good basis for the future.

It is clear from the way that we have worked together on important issues over recent weeks that the institutions work, with strong commitment shown by all Ministers to the services for which they are responsible, including their Departments and the North/South bodies. The draft



Budget shows that the agreement and devolution can work, and that means that we can ensure that the decisions that matter most to the people of Northern Ireland are taken in the Assembly and in the North/South Ministerial Council. The Executive have taken a major step forward with the preparation of the three-year plans, the publication of which is a visible demonstration of collective working by a unique Administration. We must act radically to ensure that public services are being delivered as effectively as possible. Reform is a major theme in the draft Programme for Government published yesterday. It is at the heart of the Executive's draft Budget proposals.

The Assembly has enormous responsibilities to ensure that there are real changes in the way in which services are delivered. The agreement sets out some guiding principles that we must promote, such as real equality of opportunity for all in our community. We have to celebrate and sustain the dedication of the public sector and ensure that the contribution that we draw from the private sector is appropriate and that it is accountable. Our view of partnership includes working with the voluntary and community sectors to promote real benefits at local level in social and economic development. Every sector has expertise and commitment to contribute. We need to find ways of working that draw the best from all who can play a part, and motivate them to serve the public interest.

The reform agenda includes looking hard at the scope to cut out waste and reduce bureaucracy. Resources are never sufficient to meet the needs and aspirations of our people. We must manage programmes so that taxpayers can see that they are getting value for money. We need to pay attention to what the Public Accounts Committee says about the delivery of services. The Executive are zealous for action to be taken to improve and reform administration. A key part of the reform agenda will be the review of public administration, which will ensure that we act to modernise our structures and management of public services. That, alongside radical change within the 11 Departments, can and must streamline our ways of working. That is why every proposal in the draft Budget is subject to the preparation of satisfactory reform plans by all Departments by the end of October.

Let me be clear: the allocations for any programme could change upwards or downwards as a result of that further work. That includes the general testing for best value for money that always applies to any spending allocation — through the appropriate use of appraisals and business cases — to ensure that we make the most effective use of all the resources available. We recognise that Departments are already pursuing ideas and practices, but a step change is also needed. Preparing those plans will not be a problem when actions are being developed and pursued. Far from requiring a new bureaucratic exercise, I see that as a combination of new actions as well as a compilation of innovative and creative actions already under way — not least, action to make public

service agreements more effective tools to focus management on what the Executive and the Assembly want to see achieved.

I have my own ideas on how to promote the efficient and effective delivery of public services, and I will discuss those with Executive Colleagues in the near future. The approach to reform should include a better and more open definition of how services will be delivered to the highest possible standard by a better focus on outputs and outcomes. To emphasise the links, the targets in the public service agreements are set out in the draft Budget document for the first time.

The reform plans will have to include clear evidence that the problem of rising administrative costs is being addressed. Substantial increases were necessary, given the fundamental changes in the system with the creation of the new institutions and the major workload increases that resulted. We also need to recognise that substantial costs arise as a result of the demands of the Assembly and that some increases are vital as part of how we implement the services that we provide to the public. However, that needs to be examined rigorously, and I have set out clear plans for challenges to Departments on that front.

I, therefore, propose that we take a new approach. We need to differentiate between costs that arise, mainly in agencies, from providing services to the public or in support of those functions and the central functions within Departments that are about the conduct of policy, planning and accountability to Ministers, the Assembly and its Committees, and related support services.

*10.45 am*

In the case of agencies, we shall require all Departments to show what has been done to ensure that those business areas have become more efficient over the last three years and what is planned for the future, expressed in the form of clear targets. The Executive expect those to show improvements of at least 2% a year on an appropriate measure of efficiency, or significantly more in some cases. In some cases, however, there may be workload increases where savings are reinvested in service delivery.

For departmental cores, we must ensure that there are real improvements in the way we do business, without exacerbating the very real demands that have been placed on the system. The Executive have, therefore, on my recommendation, decided to ask Departments to examine the implications of a 1% reduction in the running costs of departmental cores.

The Executive have decided to take forward positively the opportunities presented by the reinvestment and reform initiative. Projects to the value of £270 million, using the initial funding available, have already been announced, and it is vital to continue the momentum. This draft Budget is the first time that there has been a real choice in how to address the infrastructure issue.



There can be no doubt that a way must be found to resolve the serious deficits that we have inherited. The sewerage system is simply inadequate for a developing society. The changes necessary in the health sector include major hospital developments. The regional transportation strategy sets out a major programme of investment, elements of which are essential to underpin the development of the economy, and too many schools remain in poor and decaying premises. Those are real problems that impact on the people we serve.

We looked hard at the cuts in recurrent services that would be necessary to start a substantial investment programme using only the spending power of the departmental expenditure limit (DEL), without borrowing under the reinvestment and reform initiative or the use of public-private partnerships (PPPs). It became very clear that such an approach was not realistic.

That alternative looked superficially attractive to the Department for Regional Development, in that the DEL would have been skewed significantly towards that Department, which has the largest infrastructure backlogs. It is clear, however, that substantially more could be done for transport and water with the reinvestment and reform initiative than without it.

It is a delusion to believe that we can solve those problems without the use of the reinvestment and reform initiative. Even if we achieve — as we must — substantial improvements in efficiency and delivery of services, and manage public assets much more effectively, the DEL on its own will not suffice.

Thus, a vital foundation for the draft Budget is that the necessary increase in infrastructure investment will come from the borrowing power available through the reinvestment and reform initiative and/or public-private partnerships. The Executive will consider shortly how PPPs, as one — but only one — possible means, can contribute to the solution, assuming that an acceptable policy framework can be set. Such a framework must also take account of the genuinely held concerns about the rights of transferred workers. The outcome of consultation must be considered before that can be taken any further. I am determined that we do not simply operate a hand-me-down PPP approach from London. Moreover, any decision must be based on a very careful consideration of the resources necessary to service PPPs.

Borrowing under the reinvestment and reform initiative will depend on generating sufficient revenue to provide the income stream to service the necessary finance. If the Executive and the Assembly decide to follow the route provided by that initiative, we must meet the Treasury's condition that there must be some change in our level of revenue. It would not, however, be fair to pursue that change through the existing domestic rating system, and, therefore, I reassure Members that the regional rate will not be increased above the pattern of

recent years unless, and until, a fairer system is in place. For 2004-05 and 2005-06, we must reflect carefully on the comments on the review of rating policy and determine a fair and appropriate means of securing access to borrowing to ensure that a realistic capital programme can be established.

It is not possible, therefore, to set definitive targets now for the levels of borrowing or for the use of public-private partnerships. Too many important issues of policy and practice need to be considered first. Hence, the draft Budget covers only part of our spending plans, albeit the largest part. Later in the autumn, with the assistance of the strategic investment body, and building on proposals from the Committee for Finance and Personnel, we will follow it up with a fuller Executive investment strategy that will draw upon the outcomes of the review of rating policy and "Financing our Future" consultation exercises.

Thus, the provision in the draft Budget for infrastructure for 2004-05 and 2005-06 is not sufficient or satisfactory, and the allocations shown in the draft Budget document should be seen in that light. More is needed for the capital programmes for roads, hospitals, water and sewerage, schools, further and higher education and economic infrastructure. However, more funds will be made available through the new opportunities created by the reinvestment and reform initiative.

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

Reform is also at the heart of the infrastructure programme. The First Minister and the Deputy First Minister will introduce legislation soon to create a strategic investment board. The board will secure innovation and expertise in the development and financing of capital programmes to support and sustain the Executive's most urgent strategic projects and priorities.

The draft Budget represents an important stage, because our foundation for setting priorities is much better than before. Two years ago, it was more difficult to break away from previous patterns, partly because we did not have the necessary analysis of the spending programmes. Last year, we began to chart our own course, and we carved out £125 million from the indicative allocations for 2003-04 to ensure that this year we would retain the maximum scope to set our own distinctive priorities.

Over the past months, the Executive have carried out a series of needs and effectiveness evaluations, covering health and social care; education; financial assistance to industry; housing; and vocational education and training. The relevant Assembly Committees have assessed the findings, and a further study is progressing on culture, arts and leisure. The studies were important in helping the Executive to judge the effectiveness of the delivery of our public services. They have also helped us to determine the extent to which the Barnett formula is meeting our

needs and have pointed to areas where there is scope for improving the way in which we deliver services.

Inevitably, there is a tendency to focus on the findings that emerge from these studies on how spending here compares to that in England, and we will provide updated figures on that shortly. However, I urge everyone to look at the other findings just as carefully, especially those that deal with effectiveness issues, and to remember that we have no intention of simply replicating English patterns of public service resourcing.

The needs and effectiveness evaluations help us to judge priorities and ascertain what must be done to improve effectiveness, and they will strengthen our work on reform. In the light of all the evidence, we have agreed that we should continue to prioritise health, education and transport, and we must also take full account of the urgent need to address the funding of water and sewerage services.

The settlement that we have received for the next three years is based on the Barnett formula. Our concerns about that are well known, and we presented a strong case to the Treasury during the spending review. Our case for reforming the Barnett formula rests on the fact that it does not give us sufficient resources to match the level of development of public services that is happening in England, especially in the present period of rapid growth.

However, we should not underestimate the importance of Barnett to the Treasury. We must be aware that many in England see it as far too favourable to Northern Ireland. Their argument is that our spending is the highest of any region, and the revenue raised is well below the English average. Our figures suggest that we will only fall behind English resource levels, when need is taken into account, over the years ahead. Given that, it is wrong to assume that making the case against Barnett is easy. Discussions are, of course, continuing, and I met the Chief Secretary to the Treasury, Paul Boateng, again last week during his visit to Belfast. I have also written to him, with the Executive's agreement, to press for further work to be done on some matters between now and the next spending review.

The spending power that is available for services here was largely determined in the Chancellor's spending review announcement of July. That announcement included additions through the Barnett formula of £127 million in 2003-04 for resources, rising to £809 million in 2005-06. There were also capital additions of £22 million in 2003-04, rising to £122 million in 2005-06. Those are the first spending plans to be set on the full basis of resource budgeting, with the opportunity cost of capital and depreciation included in the departmental expenditure limit.

The spending review outcome has provided for 5.9% annual average growth for the Northern Ireland Executive's departmental expenditure limit. While many of the costs that affect public services are rising at a faster rate than

general inflation, that builds on the allocation of 5.8% in 2002-03, or around 3% above general inflation, and the 5.5% real-terms increase in 2001-02.

We must leave no room for doubt that we are making the best of the resources that we have available. I have already explained our intentions for reform and review of administration costs. However, we can also act to make better use of assets and address the problem of underspending.

Departments and other public bodies have substantial asset holdings. We are working to bring together improved information about those to ensure that asset management is improved.

The strategic investment board will have a key part to play, and its work must begin without delay. The task will include preparing a useable summary of the asset holdings of Departments to provide a clear picture of all assets that could be recycled or used in different ways. With the assistance of the board, exacting targets will be set to ensure that surplus assets are sold and that Departments and their public bodies retain only those assets that are essential to their core business.

*11.00 am*

While that work lays the ground for a detailed examination of our asset holdings, action must now be taken to ensure that the scope to recycle assets sales is maximised in the shorter term. It has been agreed that targets for assets sales will be included in the draft Budget, amounting to £9 million in 2003-04, £10 million in 2004-05 and £12 million in 2005-06. Targets will be set for specific Departments in the revised Budget.

The problem of underspending must also be addressed. It has proved useful to have in-year savings to help address new pressures as they arise, such as winter pressures in the Health Service, or an outbreak of foot-and-mouth disease. However, the present pattern means that resources are being drip-fed rather than spent on a planned longer-term basis and thus cannot be used as effectively.

The draft Budget sets out a radical approach to the problem. First, the right priorities must be set to ensure stable plans. That has been achieved in the draft Budget this year, due to the improved foundations available from the needs and effectiveness evaluations. I previously placed before the Assembly the key actions the Department will be taking on underspending, which will include a tougher challenge to sectors where high percentage underspends recur.

A further key step is to recognise that a degree of underspending is inevitable. The Executive have, therefore, assumed that that will continue to some extent and have decided, when making allocations to programmes, to anticipate an underspend of at least £80 million in 2003-04 and £75 million in each of the following two

years. Spending plans will be set at a level that exceeds the spending power available through the departmental expenditure limits, in the knowledge that Departments will undershoot by at least those amounts. I have weighed this approach carefully and am satisfied that it is prudent.

We expect to have less room to manoeuvre in monitoring rounds, and there will be less end-year flexibility from now on. All Departments must, therefore, manage the resources that emerge from the Budget process on the basis that each allocation is a limit and that resources must be managed so as to avoid any risk of exceeding that limit. The positive effect is that priority programmes will have a better, more stable basis for planning and will not have to rely on a drip feed of resources via monitoring and end-year flexibility.

Before considering the proposals for each Department, I will say a little about the Executive programme funds, which are a key element of the Executive's determined strategy to ensure that spending plans are adjusted from previous patterns and that money is spent in line with the Executive's strategic priorities, as set out in the Programme for Government. The Executive programme funds are designed to promote cross-cutting work to enable proposals and initiatives to be brought forward for consideration by an appropriate group of Ministers, working together. The special allocations from those funds, managed and approved at Executive level, have made a real difference from previous patterns of expenditure.

In the draft Budget, we have decided that some key policy initiatives and developments should be funded from the Executive programme funds, ahead of the routine round of bids currently under consideration. Those include the vision group strategy for agriculture, new action on student support, some key interventions in the Health Service, and the Department of Culture, Arts and Leisure's sports strategy. We also agreed that some actions funded originally from Executive programme funds should continue to receive funds from that source in 2004-05 and 2005-06. Although that would leave less money for new proposals, we would seek to restore the Executive programme funds totals if new resources become available.

I now turn to the main features of the departmental allocations. The proposed allocations are driven fundamentally by the priorities that the Executive set, which were agreed by the Assembly, and by our essential responsibilities. The available resources fall short of Departments' bids and of the growth rate of expenditure in England. Although there is substantial growth in the departmental expenditure limit, the extra money is largely required to sustain basic services.

I shall keep my comments on each Department's position brief. More comprehensive details can be found in the departmental sections of the draft Budget document, which Members have received, and Ministers will provide further details in due course.

The proposed allocation to the Department of Agriculture and Rural Development represents an increase of 13% for 2003-04 on the allocations for 2002-03. The Executive decided to allocate amounts from the innovation and modernisation Executive programme fund, rising from £6 million in 2003-04 to £18.3 million in 2005-06 for the implementation of the vision group report. My Executive Colleagues and I are firmly committed to funding adequately the implementation of that significant strategic report. The Executive will consider further the precise details of the action plan for the vision group report later in the autumn, ahead of a fuller announcement by the Minister of Agriculture and Rural Development. The aim is to develop a secure, well-trained workforce and a focused agrifood sector that would enable the industry to compete more effectively. The proposals would also provide the Department with a more realistic baseline for its animal health responsibilities.

The Department of Culture, Arts and Leisure would receive £96.6 million in 2003-04 — an increase of 9.9%. The draft Budget would enable that Department to develop several key initiatives, including the implementation of its sports strategy, which is important to many in the Assembly. The strategy includes action on safety at sports grounds, measures to increase participation, and a new soccer strategy aimed at developing the game in Northern Ireland.

The proposed allocations for the Department of Education would see expenditure rise to £1528.6 million in 2003-04, an increase of 6.6% on the allocations for 2002-03. That figure includes allocations announced previously from the Executive programme funds and the reinvestment and reform initiative. The allocation would rise further to £1597.5 million by 2005-06. Given that the school population is falling significantly, that allocation shows that we continue to treat school budgets as a key priority.

Further support will be provided to improve the capacity of schools to achieve further improvements in pupil performance, and for the implementation of revisions to the Northern Ireland curriculum.

Recently announced allocations from the reinvestment and reform initiative will help address the backlog in schools' infrastructure needs. Indeed, our schools estate is expected to be a major beneficiary of future funding by the reinvestment and reform initiative.

The draft Budget would provide the Department for Employment and Learning with £669.8 million for 2003-04, representing an increase of 6.2% since 2002-03, and projected to rise to £714.7 million for 2005-06. The allocation would enable the Department to maintain existing commitments to higher and further education and student support, and employment programmes would be broadly maintained. It includes allocations from the Executive programme funds to meet the cost of the student



support review, beyond 2003-04, at the levels agreed by the Executive in 2000. The allocation would also provide for improved student support arrangements, to widen access to third level education for students from lower income families through changes to income thresholds and increases in the level of grants. This shows the Executive's commitment to improving equality of opportunity and to targeting social need as our key priority for higher education. We are also providing for further investment in the essential skills strategy, to tackle literacy and numeracy problems as identified in the work of the employability task force.

The Minister of Enterprise, Trade and Investment suggested a radical approach to the planning of resources for his Department, which we have adopted to reflect the reality that it is difficult to predict in advance its needs and opportunities for industrial development support. Instead of setting a single fixed budget for each year, the plans are expressed as a range.

The approach makes allowance for the fact that much of the selective/financial assistance business of Invest Northern Ireland is subject to volatility, which makes it difficult to fix precise budgetary allocations at the planning stage. This approach is intended to confirm that resources are, and will be, available if projects emerge for which financial assistance would be effective and beneficial, while removing the need to tie up resources that the Department of Enterprise, Trade and Investment may not ultimately require – that would have limited the scope to allocate adequate budgets to other priorities.

The range between the minimum and maximum figures will be £40 million in 2003-04 and £50 million in each of the two later years. For 2003-04, the high end of the range is higher than the budget for 2002-03, and is probably the maximum that could be required in the present economic climate. This commitment would be underpinned by the Department of Enterprise, Trade and Investment having a guaranteed first call on funding in-year up to the high end of the range, to support investment projects offering value for money that would not be otherwise affordable within the minimum Invest Northern Ireland budget. We are adopting a similar approach to the jobskills and New Deal budgets for the Department of Employment and Learning.

The budget for my own Department would provide funding of £165 million for 2003-04, rising to £184.6 million for 2005-06. This would enable the Department of Finance and Personnel to maintain service levels to the public and other Departments, meet inescapable increases in rent, rates and fuel costs, and maintain the overall office estate. It would also provide the resources necessary to ensure the continued effectiveness of key systems to meet the objectives of the Executive for modern public services and ensure fair and efficient systems for raising local revenues.

The largest single programme within our departmental expenditure limit is, of course, the Department of Health, Social Services and Public Safety. The draft Budget would see expenditure by that Department rise by 13.6% since 2002-03 to £3,060.9 million in 2003-04.

11.15 am

That includes allocations announced previously from the Executive programme funds and the reinvestment and reform initiative. This is undoubtedly the lion's share of the Budget and shows clearly the priority we have given to the Health Service. The year-on-year increase for health in England for 2003-04 is 10%, so we have acted to close the gap. This has meant adding very substantially to the resources read across from the Health Service in England via Barnett — by amounts rising from around £70 million in 2003-04 to over £100 million in 2005-06. This shows both the problem with Barnett and the extent of our commitment to health as a priority. With less, we have done more.

In 2003-04, this would provide an additional £365.4 million — *[Interruption]*.

**Mr Deputy Speaker:** Order. Mr McCartney, if you wish to indulge in a prolonged conversation, please do so outside and not in the Chamber.

**Mr McCartney:** Go away —

**Mr Deputy Speaker:** Mr McCartney, I will not speak to you again.

**Dr Farren:** In 2003-04, this would provide an additional £365.4 million in resources compared to 2002-03. That is a significant increase, most of which is needed to meet the particular cost pressures facing the Health Service in the coming year. The proposals would enable the Department not only to maintain its services, at an additional cost of £284 million, but also to invest in some key service enhancements, including major capital projects such as the building of the new regional cancer centre. In the future we expect that the Department will be able to make major inroads into tackling the historical infrastructure deficit throughout the health and personal social services and the Fire Authority estate through the reinvestment and reform initiative.

The plans earmark resources to tackle the problem of waiting lists and to invest more in intermediate care and primary care. That would help free up acute hospital beds, easing the pressure in the acute sector. Additional resources are being made available for the care of the elderly, for those with mental health problems and learning disabilities and for children's services. The message of the draft Budget is clear: The Executive are putting the Health Service very clearly at the top of their agenda.

As with other spending areas, the plans for health and personal social services will involve a major programme of reform. This will build on the recent policy and operational



proposals discussed by the Executive, including changes in acute hospitals, primary care, the board/trust structures and health promotion.

The draft Budget would provide an increase of 10% in 2003-04 for the Department of the Environment above the 2002-03 allocation. That would enable the Department of the Environment to advance work on the implementation of EU Directives, including those on waste management, thus reducing the risk of infraction proceedings. Increases to the district council resource grant enable the level of support to district councils to be maintained, particularly for those with low revenue bases. That will allow them to maintain services without unacceptable rises in rates.

The draft Budget would provide the Department for Regional Development with £591.2 million for 2003-04, an increase of 4.3% over the 2002-03 allocation. That includes the allocation for that Department announced in July from the first round of decisions from the reinvestment and reform initiative. The proposals for 2004-05 and 2005-06 are affected by the fact that we have not settled precisely how we will continue the reinvestment and reform initiative investment programme for infrastructure projects beyond 2003-04. The draft Budget assumes that the increases in the Department for Regional Development's capital investment requirements for 2004-05 onwards would be met substantially through the reinvestment and reform initiative. That would begin to address many of the pressures on the Department for the improvement of the water and transportation infrastructures.

The proposed allocations would allow the Department for Regional Development to advance some transportation infrastructure improvements in 2003-04 in support of the regional transportation strategy. It would also allow the Roads Service to enhance its Programme for Government targets for structural maintenance and to commence some minor road projects.

The draft Budget proposals would allow the Water Service to improve water quality and waste water treatment to meet public service agreement compliance targets, to construct a cryptosporidium barrier and to reduce water leakage. In the future, the reinvestment and reform initiative should enable significant extra resources to be made available for infrastructure, and I look forward to the outcome of the Minister for Regional Development's continuing study of the future needs and structure of the Water Service.

The Department for Social Development would be provided with resources in 2003-04 of £569.5 million, an increase of 4.2%, rising to £616.3 million by 2005-06. That substantial increase would enable the Social Security Agency and the Child Support Agency to proceed in parity with GB and to deliver the welfare reform programme, which includes the introduction of the new "card at the post office" arrangements for the payment

of social security benefits as part of the replacement of existing paper-based systems.

The Department for Social Development would be able to fulfil the requirement to augment its special needs management allowance budget to assist people who require support to live in their own homes. It would also be able to meet its target of new housing starts in the social sector and to make an in-depth study of how well the pilot group housing schemes meet the needs of travellers. There would be provision to help alleviate fuel poverty through the warm homes scheme, which is aimed at people in need in owner-occupied and private rented accommodation, in parallel with the similar initiative in the public sector that is already proceeding under the reinvestment and reform initiative.

For the Office of the First Minister and the Deputy First Minister, the draft Budget proposes departmental expenditure totalling £38.6 million in 2003-04, rising to £43.3 million in 2005-06. That would fund the review of public administration and enable the establishment of the office of the commissioner for children and young people with the roll-out of the 10-year strategy for children and young people.

It would enable the Office of the First Minister and the Deputy First Minister to meet the important Programme for Government commitment regarding the needs of victims and to take forward the single equality Bill and the additional duties imposed on the Equality Commission.

Some £3 million a year will be needed to take forward the emerging community relations strategy that deals with the acute problems currently faced in north Belfast. I am not proposing to set aside mainstream provision for that now, as many aspects must be clarified. However, I will be strongly recommending that the necessary resources should be provided from the Executive programme funds when they are required.

Finally, the Budget proposals include provision for the Northern Ireland Audit Office, the Assembly Ombudsman and Commissioner for Complaints and the Office for the Regulation of Electricity and Gas. Provision has also been made for the Assembly itself, though I have not as yet received a detailed breakdown of requirements across the three years. Accordingly, I recognise that some additional provision may need to be made for the Assembly within the revised Budget.

Those are the main features of the spending proposals. As well as the Treasury allocation for Northern Ireland, the plans are supported by the revenue from the regional rate.

This year the Executive agreed to keep increase levels in line with the pattern of recent years. Their proposed increases are 6% for the domestic regional rate and 3.3% for the non-domestic regional rate. That decision recognises that the cost of public services is rising much

faster than general inflation. However, it is in line with our commitment not to increase the rates above the pattern of recent years until we have considered in detail the outcome of the rating policy review.

This morning we begin the most important stage of consultation on the spending plans for the next three years. Once again, in response to recommendations from the Committee for Finance and Personnel last December, the Executive have fulfilled their commitment to make Budget proposals straight after the summer recess to maximise the Assembly's opportunity to fulfil its scrutiny role as envisaged in the agreement and in section 64 of the Northern Ireland Act 1998.

The First Minister and the Deputy First Minister presented the Executive's position report to the Assembly on 5 June. The Executive sought views from the Assembly and the community about the key issues affecting public services. Although the timetable has been tight, we received many thoughtful contributions, which influenced our thinking as we constructed the Programme for Government and the draft Budget. I am especially grateful to the Committee for Finance and Personnel for the attention that it paid to those issues. Once again, the Committee's commentary on the position report has been particularly helpful, and other Committees have commented extensively.

I am grateful for the positive contributions that we have received from social partner organisations and other interested parties. We will reflect carefully on the suggestions and look forward to further responses on the draft Budget.

Last year we received valuable input during this phase, and I look forward to further informed discussion, debate, and, in particular, Committee scrutiny of our spending plans and proposals as set out in the draft Budget. The Committee for Finance and Personnel has a role in drawing together and facilitating the consultation. That process will include opportunities for debate in the Chamber on the Programme for Government today, and on the draft Budget in a few weeks' time.

Today's statement is also the start of a wider consultation process. The draft Programme for Government and Budget will be circulated widely to the Civic Forum and our social partners in business, the trade unions and the voluntary and community sector and will be made available to other interested individuals and groups.

The draft Budget marks an important step forward for our new institutions. Our previous Programmes for Government and Budgets marked the beginning of a move from pre-devolution patterns and priorities. This Budget, with its emphasis on reform, represents a radical departure.

In conclusion, I reiterate the four main characteristics of this Budget. First, it is reform-driven. Secondly, it represents a radical departure from previous spending plans to meet the priorities established by the Assembly.

Thirdly, it is developmental. We are doing more than simply maintaining existing services; we are developing new services in key areas. Fourthly, the Budget recognises that we still have unmet needs and inadequate resources. I shall continue to make the case for a full and rigorous examination of the Barnett formula. Taken together, those four elements put in place a framework for our spending plans for the next three years and lay the foundations for the delivery of better services with resources directed where the needs are greatest.

We are determined to introduce and promote reform across Government. That will not be easy. It represents a real challenge, which we are pursuing with determination.

*11.30 am*

I commend the Budget proposals to the Assembly and invite Members to consider them carefully. I look forward to working with the Assembly to complete the process of settling the spending plans in December 2002. The proposals represent a major step forward for the Administration and are a clear manifestation of the benefits for local people that arise from the agreement.

The plans outlined in the draft Budget represent the outcome of the lengthy and intense process of discussion and negotiations that involve all ministerial Colleagues — those who do not attend Executive meetings as well as those who do. The process and the outcome stand in marked contrast to the negative rhetoric and pressure from anti-agreement forces in our society. The draft Budget offers a powerful challenge to negative forces in the House and to the paramilitaries and political wreckers on the outside.

Instead of flinching before both pressures, all pro-agreement parties should take confidence from what the Budget shows we can achieve together, and they should determine to build and develop partnerships that have brought us to this point. People on all sides are the beneficiaries of what we can achieve together. By working together, many thousands will benefit from improvements in the health and social services; children and their teachers will enjoy better accommodation and facilities in their schools; further and higher education students and trainees will have enhanced support to access educational and training opportunities; people of all ages will benefit from improved sporting and recreational facilities; and the farming and rural community will be offered new opportunities through the vision report.

**Mr McCartney:** On a point of order, Mr Deputy Speaker.

**Mr Deputy Speaker:** I shall not take a point of order when the Minister is speaking, but I shall after he has spoken.

**Mr McCartney:** He has finished his statement.

**Dr Farren:** I am entitled to comment on my statement. The travelling public will benefit from new and improved transport facilities and infrastructure; the homeless will benefit from better services and accommodation; and the unemployed will benefit from new job opportunities. To put all that at risk through a failure of nerve to persist with the Good Friday Agreement or through failing to meet obligations freely and willingly undertaken to rid our society of paramilitaries would be a profound betrayal of the hopes and aspirations that have been democratically expressed by the overwhelming majority of our people, who supported the Good Friday Agreement. I commend the draft Budget to the Assembly.

**The Chairperson of the Committee for Finance and Personnel (Mr Molloy):** Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister for his detailed statement on the draft Budget and for his explanation of his plans. I also commend him for the good working relationship that he has with the Committee, as shown during the preparation of the draft Budget. The Committee and the Minister have worked well together.

The draft Budget is one stage of the process, and it is important that each Department's Budget allocation be spread across every aspect of that Department. For example, the Department of Finance and Personnel has rural and urban considerations. It is important that investment be made west of the Bann to ensure that that area has proper facilities and services in future.

The Minister recognises that the draft Budget is not the complete picture. The reinvestment and reform initiative, the strategic investment body, departmental reforms and asset management still have to be implemented. To what extent will those parts of the jigsaw be in place in time for the revised Budget?

What actions will continue to be funded from the Executive programme funds? Are they cross-departmental? The emphasis in the draft Budget is on reform, but to what extent have the findings of the needs and effectiveness evaluations informed and influenced the draft Budget? There must be a major injection of funding for water and sewerage services. In what way has the Chancellor been influenced by the high expenditure that was allocated to water and sewerage services in England, Scotland and Wales? Was that allocation made in here before privatisation in England, Scotland and Wales? If not, was an allocation made to the Water Service here before privatisation in England in 1989? If that money was not spent on water and sewerage services in Northern Ireland, how was it spent? Areas that have been neglected in the past —

**Mr Deputy Speaker:** Mr Molloy, please draw your remarks to a close. This is an opportunity to ask questions, not to make a statement.

**Mr Molloy:** I am asking questions.

**Mr Deputy Speaker:** I remind you, Mr Molloy, that the Minister need answer only one question.

**Mr Molloy:** The Minister can choose that if he wishes, but I am quite certain that he will answer more than one question. The draft Budget now goes to Committees for consideration, and I ask the Minister to ensure that they receive all the information they need to enable them to respond.

**Dr Farren:** Once again, I express my deep appreciation to the Chairperson and members of the Committee for Finance and Personnel for the close co-operation and engagement that they have developed with me over the past months. I particularly appreciate the Committee's contribution to the position report.

Mr Molloy asked several questions. I assure him that all Departments are responsible for ensuring that there is a strong TSN element, and it is an obligation, under the Good Friday Agreement, to maintain that. Therefore, investment in programmes must be directed where the need is greatest, be that west or east of the Bann. Ministers are obliged to meet the needs identified in accordance with TSN and equity principles.

Mr Molloy asked about future spending plans, which are dependent on proposals in the reinvestment and reform initiative. Work is ongoing on the next set of allocations, and they will be presented to the Assembly and Committees before the revised Budget. At revised Budget stage, future spending plans for three years will be clearly identified, and Members will have had the opportunity for discussion and consultation.

The needs and effectiveness studies were used to inform our approach. There are many other considerations that we have to bear in mind, and they flow directly from the priorities set by the Executive and agreed by the Assembly to determine the precise nature of allocations. The needs and effectiveness studies are a new departure, and are currently being examined by Committees. I trust that both the needs and effectiveness elements will be considered carefully.

There has been considerable investment in the Water Service over the years, but it has been insufficient to provide the level of infrastructure needed for a water and sewerage service that complies with European standards. There is, therefore, a considerable deficit. We must address how we can meet those needs most effectively.

**Mr Deputy Speaker:** Before I call for the next question, I remind Members that one hour has been allocated for the Minister's statement. Please bear in mind that, if Members ask long questions, and the Minister delivers long answers, Members from smaller parties will have no opportunity to ask questions.

**Mr Beggs:** The Minister said that Sir Reg Empey, the Minister of Enterprise, Trade and Investment, suggested a radical approach to planning resources in his Department



by setting upper and lower limits. First, does the Minister of Finance and Personnel believe that the reform will reduce levels of underspending in Departments, thus making better planned use of public finance? Secondly, will the Minister clarify the exact amount of the welcome and significant increase in expenditure on health? He mentioned 13·6%, but the table in the draft Budget statement shows a figure of 11·8%, either of which is significantly above inflation.

Finally, the Audit and Accountability Bill will allow the Comptroller and Auditor General to become the independent auditor of the Department of Health, Social Services and Public Safety. Will the Minister confirm that that major reform will allow proper scrutiny of, and public confidence in, health spending?

**Dr Farren:** The proposals for a range of allocations specific to the Department of Enterprise, Trade and Investment developed following discussions between Sir Reg Empey and myself. He is satisfied that the current projected needs can be met. The range applying to Invest Northern Ireland is to allow project proposals that require support that cannot be met from the bottom of the range allocation to be allocated resources to meet their requirements.

New proposals often have a long lead-in time, so their requirements are unlikely to emerge as a sudden pressure on the Department of Enterprise, Trade and Investment. Therefore, that approach to budgeting for new investment seemed prudent, and it has the full agreement of the Minister of Enterprise, Trade and Investment. I am satisfied that the Budget framework will allow him to meet the requirements of any forthcoming projects.

The Member asked about the allocation to the Department of Health, Social Services and Public Safety. The draft Budget provides an uplift of over 13% in 2003-04 compared with this year's allocation. That includes allocations from the Executive programme funds and the reinvestment and reform initiative.

Accountability legislation is a matter for the Assembly to discuss when considering the Audit and Accountability Bill.

**The Chairperson of the Committee for Health, Social Services and Public Safety (Dr Hendron):** I congratulate the Minister on his draft Budget. I appreciate the value of the needs and effectiveness evaluations in helping to judge priorities. Therefore, my Committee and I welcome the fact that health is a top priority.

Will the Minister detail the percentage increase in healthcare spending and outline what new developments will be possible, over and above existing services? I am thinking in particular of the ongoing battle against diabetes in Northern Ireland.

11.45 am

**Dr Farren:** The first part of the Member's question relates to one from Mr Beggs, which I have just answered. The draft Budget provides for an uplift of 13% in 2003-04 from the 2002-03 allocation to the Department of Health. That increase should enable the Department to maintain a steady state with its current service provision.

I said that pressures are arising from cost increases, which must be met by the Department. Obviously part of the uplift to the Department is because of rises in costs. However, there will be an opportunity — and I think the Minister herself would agree — for a modest increase in service levels to accommodate the pressures from our growing population. The Minister can detail the improvements and developments which she will be able to take forward. It should also enable the Department to invest in key service developments in the areas of cancer, renal and cardiac services, waiting lists, the elderly, intermediate and primary care, best practice, best care, mental health, learning disability and services for children. On Dr Hendron's question on diabetes services, I refer him to the Minister for further information.

**The Chairperson of the Committee for the Environment (Rev Dr William McCrea):** I must raise concern at the increase in the Department of the Environment's budget on page 64 — this will hardly enable the Department to meet the inescapable pressures to fund the implementation of EU Directives. I also note that the Department's overall percentage increase in 2004 will dip dramatically to 1·8%. Can the Minister assure the House that the Department's increases will be sufficient to enable it to meet the costs of urgent implementation of the EU Directives?

I now speak as an individual Member. The Minister stated that

"we have agreed that we should continue to give priority to ... transport and also take full account of the urgent need to address the funding of water and sewerage services."

How does that sit with a 1·2% increase on the year 2003-04 while the Office of the First Minister and the Deputy First Minister receives a 14·5% increase?

**Dr Farren:** I hasten to assure the Member that the allocations to the Department of the Environment will, as my statement said, enable it to meet its ongoing responsibilities. Where new pressures arise, the Minister will quite obviously draw those to my attention and that of the Executive, and they will be given full consideration.

Regarding the pressures on transport, I said in my statement that the provision of facilities to borrow under the reinvestment and reform initiative will enable us most effectively and adequately to address the needs of the Department for Regional Development, which is of course responsible for transport. In my statement, and again in response to an earlier question, I said that spending

plans regarding allocations under the reinvestment and reform initiative would be brought before the Assembly and Committees in the course of the coming weeks.

**Mr Close:** I certainly welcome the title of the Budget statement, 'A Budget for Reform', and I look forward to the necessary reforms on behalf of the people of Northern Ireland. I welcome the three-year planning concept, which is essential in trying to get our public finances correct, and the other reforms and initiatives that are being examined and put into practice. However, it will come as no surprise that if the Minister stubbornly continues to insist on an inflation-busting increase in the regional rate, then I will continue to stubbornly oppose that, particularly on the domestic regional rate.

Will the Minister assure us that the reform plans will not be an added layer of bureaucracy, bearing in mind that we have public service agreements, service delivery agreements, and so on? I am not knocking the reform; I seek only assurance that it will not become another layer of bureaucracy.

Much emphasis has been put on the needs and effectiveness evaluations, which have been completed and reported to the Committees. Would it not have been helpful to debate the evaluations in the House so that we, as an Assembly, could have had input in assessing the priorities and ensuring that they were correct? Will the Minister advise whether the evaluations were used in his discussions with Mr Paul Boateng, Chief Secretary to the Treasury, as regards assessing our priorities and ensuring that the Barnett formula would be changed? Even a cursory glance shows that the evaluations demonstrate the needs of the people of Northern Ireland. The issues should have been debated on the Floor of the House.

**Mr Deputy Speaker:** I remind the Member that it is not an opportunity to make a speech but to ask questions.

**Mr Close:** Thank you for the reminder, Mr Deputy Speaker.

When does the Minister propose to have a debate on underspend, which he referred to in his statement? It is necessary that the House has a say on that.

**Dr Farren:** It comes as no surprise that Mr Close highlighted the first issue that he mentioned — and in the way that he did.

There would be an average increase of 26p a week for the domestic ratepayer: it may be more for some and less for others. However, people should consider the extra contribution in the light of the return that the Budget will make available. It will provide support for schools; it will make for a more effective, efficient and developed Health Service; it will provide additional support for students from low income backgrounds; and it will provide support for the rural and farming community. That community needs considerable investment, and it will be helped when the Minister of Agriculture

and Rural Development begins to implement her vision strategies.

There is a significant level of development. We are not at a standstill; we want to develop services. Members of the House echo and re-echo demands for improved and developed services. The people whom they represent would not deny an additional 26p a week to ensure that some of that development can be taken forward.

The intention with the reform initiatives — and I would like to think that it is obvious — is not to add to layers of bureaucracy, but to ensure that the administrative services which exist in the public sector are operating as effectively and as efficiently as possible, so that we can achieve the highest standard of service delivery.

The needs and effectiveness studies have been released to the Assembly for its consideration. Data is being updated to provide the most accurate figures possible. The Chairperson of the Committee for Finance and Personnel suggested that officials be made available to meet other Committees to discuss the relevant studies. There is no reason why there should not be a full debate. The studies need to be considered carefully and digested by Members so that debate is well informed.

The Assembly is beginning to consider the draft Budget, so every element, including the underspend proposals, is open for questioning, discussion and deliberation in Committees and in the Assembly.

**Ms Morrice:** Youth and community relations need greater attention, given the current climate. Page 38 of the draft Budget shows the Department of Education's budget for youth and community relations. It is useful to compare those figures to the information on page 31 of the Budget for 2002-03. Why is the budget for youth and community relations in the draft Budget so small? Why will it be cut by 2005, when the Budget for 2002-03 stated that the provision would increase to £25.5 million in 2002-03? It has decreased to £24.8 million in 2003-04 and will go down again to £23.6 in 2004-05? Does the Minister not agree that that area is in desperate need of attention?

**Dr Farren:** The Minister of Finance and Personnel does not determine departmental priorities; they are determined by the Ministers responsible for the services in question. It is my responsibility to discuss allocations with each Minister, which I have done. Over the past few months, I have had more than one meeting with nearly every Minister. During those lengthy and detailed meetings each Minister's overall spending requirements were examined. Ministers set priorities in their own Departments. The draft Budget provides for the maintenance of existing service levels and the continuation of provision that was allocated under Executive programme funds. There will be further opportunities to access resources under Executive programme funds if the Minister of Education has submitted bids that apply to the Youth Service.

I do not suggest that provision for young people is adequate, but, given the development of the office of the children's commissioner and other provisions, there is more than that single departmental allocation.

**Mr McCartney:** The Minister's statement seems to make clear that the Executive have limited resources, that there is a substantial deficit in capital investment and that the Barnett formula allocations are barely sufficient to cover year-on-year planning.

12.00

Paragraph 66 of the Minister's statement reads

"As well as the Treasury allocation for Northern Ireland, the plans are supported by the revenue from the Regional Rate."

If those spending plans were to be supported by public-private partnerships and the reinvestment and reform initiative, financial servicing for the payment of capital and interest would be required. Will the source of those payments be rates? Does the Minister agree that the present system allows for a 6% year-on-year increase? Does he further agree that the purpose of the rating review — although it has been said that it is to devise a fairer system — is to provide additional money to fund interest payments? How much of an increase would be necessary, under a fairer system or otherwise, to support his spending proposals?

**Dr Farren:** Significant deficits exist, and we must meet them. As I said in my statement, the Department for Regional Development would have responsibility for a large proportion of the required additional investment. Some of the investment needs are met out of that departmental expenditure limit. We could have chosen a different route and suggested that all the capital expenditure should come from within the departmental expenditure limit. However, that would have significantly reduced the allocations for recurrent expenditure. Mr McCartney seems frequently to misunderstand what is required and how the money will be provided. We could meet approximately half of our investment needs — approximately £7 billion or £8 billion — from within the departmental expenditure limit over the next 10 years or so. However, the extra expenditure requirements cannot be met from that source, and that has motivated us to seek out additional, available facilities. The additional £6 billion that is needed could be raised through the reinvestment and reform initiative and public-private partnerships, depending on how we decide to proceed.

Let me make it clear: like anyone who borrows money, we cannot shirk our clear responsibility to service that borrowing. The Executive and all Departments, including the Department of Finance and Personnel, have an obligation to ensure that all borrowing is prudent and that the need for it has been carefully assessed.

I have it made it clear to the House on several occasions that until we have a fairer rating system, there

will be no increases in current patterns, so borrowing will be sought from the resources available to us. It is up to the Executive and the Departments to agree on proposals to bring before the House. Ultimately, the House will decide how we proceed.

With respect to some of the major investment requirements, I indicated in my statement that I anticipate the advice and proposals from the Minister for Regional Development, particularly concerning the future needs and structuring of the Water Service. That Minister has already provided the regional transport strategy, which details his requirements and objectives over the next 10 to 15 years, and the same is awaited with regard to the Water Service.

**The Chairperson of the Committee for Regional Development (Mr A Maginness):** In general terms, I welcome the properly-titled 'Reform Budget'. There has been tremendous emphasis on the reinvestment and reform initiative in the draft Budget. With particular reference to water, does that depend on the Minister for Regional Development's ongoing study of the future needs and structure of the Water Service?

**Dr Farren:** The precise answer is yes. I have had discussions with the Minister for Regional Development in the run-up to the draft Budget, and I am aware —

**Mr Deputy Speaker:** Excuse me, Minister. Mr McCartney, having asked the Minister a question it is a gross discourtesy to move down there to join in a private conversation with Mr Close. I ask you to refrain from it.

**Dr Farren:** Thank you, Mr Deputy Speaker. I am aware that studies are taking place in the Department for Regional Development on the needs and future plans for the Water Service. How imminent is their publication? I do not yet know, but until proposals are brought to my attention, it will not be possible to meet any needs identified by going beyond the allocations made in the draft Budget and in the reinvestment and reform initiative allocations that were announced in June.

**Mr Weir:** There has been much rhetoric, but the Budget will be judged on whether it delivers better public services in practice. Regarding detail, what we have heard has been somewhat disappointing. If the aim is to improve efficiency in public spending, why has no significant change or improvement been envisaged in the amount of underspending in each of the next three years?

In respect of regional development, sewerage and transport have been identified as two of the most pressing priorities. Why has the Department of Regional Development the second-lowest level of expenditure growth? Why is reliance placed only on the reinvestment and reform initiative? That means that the Department will have to work out its spending plans without knowing what its allocation of resources will be and when it will get them.



Will the Minister indicate whether any provision has been made in the Budget for digital hearing aids? That would bring provision here into line with that in many United Kingdom trusts.

**Dr Farren:** I trust that Mr Weir listened to my comments on the provisions in the draft Budget for the Department for Regional Development. I understand that today's proposals do not match the allocations that he believes should be made to the Department from the reinvestment and reform initiative. However, as I stated, Members will have ample time to consider the revised Budget. Therefore, it must be anticipated that the Department for Regional Development will receive the support that Mr Weir feels is necessary for its investment needs. Nevertheless, we must have some sense of what those needs are and of what reforms, especially in the Water Service, the Minister wants to advance. There is no question that, having recognised the considerable need for investment, the Executive will not make every effort to meet the Department's needs. Therefore, I trust that Mr Weir will take the assurance that my words offer as an indication of the seriousness with which we approach the infrastructural deficit, for which the Department for Regional Development has major responsibility.

Mr Weir referred also to underspend. The Executive's plans assume that there will be less underspend this year.

*(Mr Speaker in the Chair)*

**Mr J Kelly:** Go raibh maith agat, a Cheann Comhairle. I welcome the Minister's unscripted remarks at the end of his statement. They were appropriate considering the weekend's events, which have left us in such an uncertain political climate. The Executive made health the priority in their Programme for Government. Does the Minister agree, therefore, that the increases of 13% for the Department of Agriculture and Rural Development; 9.9% for the Department of Culture, Arts and Leisure; 6.6% for the Department of the Environment; and only 13.6% for the Department of Health, Social Services and Public Safety; are adequate? Given the upcoming, long-awaited and long-overdue Fire Service pay increases, how much of that allocation will affect health in real terms?

I am concerned that in his reference to the allocation for the Department of Culture, Arts and Leisure the Minister made no mention of moneys being allocated for the Irish language.

The Minister also said in his statement:

"the key actions the Department will be taking on underspending, which will include a tougher challenge to sectors where high percentage underspends recur."

To which sectors does the Minister refer?

**Dr Farren:** All Ministers in attendance at Executive meetings agreed the draft Budget. That is not to say that all Ministers did not want additional allocations to be made to their Departments. In my statement, I acknowl-

edged that all of the submitted bids could not have been met; they would have exceeded the departmental expenditure limit. Therefore, last Thursday, after intense and detailed negotiations at ministerial and official level over the last few months, we agreed on the draft Budget.

12.15 pm

The increases that have been made mean that, since devolution, and until March 2004, the Executive will have made almost an extra £1.1 billion available for health, social services and public safety. The uplift of 13% for 2003-04, which I mentioned in my statement, is not insignificant. I acknowledged that a considerable proportion of that uplift results from cost pressures that arise from salary and wage agreements, and pressures that are associated with drugs and with essential facilities and services.

Over and above that, allocations are being made that will enable the health services to improve and to develop in several key respects. I have already rehearsed those areas in response to earlier questions, and they are recorded in the Budget statement. I would like to think that anyone who looks objectively at the Executive's determination to meet their responsibilities to health services over the past three years can only conclude that we have worked hard to ensure that health services remain a priority. The Executive also want to ensure that health's priority status is reflected in the additional allocations that we have been making.

The draft Budget provides for a funding increase of almost 9% for the North/South Language Body, a body for which the Department of Culture, Arts and Leisure is responsible.

**Mr Bradley:** I congratulate the Minister for putting his personal stamp on the evidence in the draft Budget.

In outlining allocations for the Department of Agriculture and Rural Development, the Minister mentioned funding increases for the agriculture industry. What does the draft Budget deliver for farmers? Will he tell the House what is the total allocation to the vision programme?

**Dr Farren:** The Executive are mindful of the pressures the farming community faces. Our response during the foot-and-mouth disease outbreak last year gave a clear indication of our determination to ensure that those pressures are dealt with effectively and adequately.

The draft Budget statement sets out the total allocation for the Department of Agriculture and Rural Development for the three years until the implementation of its vision programme. We begin with an allocation of at least £6 million this year, which will enable it to be launched. The vision programme will bring considerable hope for a more secure future to the agricultural and rural community. It will enable initiatives to be taken on diversification, and it will underpin a strategy that the entire sector has been anticipating and that will bring positive

results. That is a further indication of the Executive's determination to address the needs of the farming and rural community as effectively as possible.

**Mr Morrow:** I have listened with interest to what the Minister has said. He proposes to increase the health budget by 28%, the education budget by 14%, the roads budget by 11%, and the OFMDFM budget by 53·3%.

One could be forgiven for thinking that there is a staff shortage there but press reports give a different impression. It is also disappointing that the Minister has made only slight reference to savings by asking Departments to save 1%. Does he accept that money which could be put into services such as hospitals or into roads or education is being squandered? Will he undertake to take a serious look at the problem and carve out the wastage that has been going on here for years? It is very disappointing to discover that Departments are going to be asked about the implications of a 1% reduction.

Will the Minister also explain why he felt compelled to advise of an increase for OFMDFM? He stated that

"Some £3 million a year will be needed to take forward the emerging community relations strategy."

He continues:

"I am not proposing to set aside mainstream provision for that now, as many aspects must be clarified. However, I will be strongly recommending that the necessary resources should be provided from the Executive programme funds when they are required."

Is the £9 million proposed in the Minister's statement included in the draft Budget?

**Dr Farren:** With respect to the Member's points about OFMDFM, the proposals will provide for an increase of £5 million, or 14·5%, in the amount available during 2003-04 over the previous year, 2002-03. The proposals for 2003-04 will also provide £1 million to take forward the review of public administration — a short-term review, which is a new requirement. They will also provide £2·1 million for the office of the children's commissioner, which a significant majority of Members are anxious to see established, and £0·4 million to take forward the Executive's strategy for Europe. Members frequently ask that we intensify and develop our relationships with the EU. All of the additional provisions are legitimate and will fund the types of development that Members wish to see taking place.

With respect to Mr Morrow's remarks about squandering and wastage, the Executive and I, as Minister of Finance and Personnel, are anxious to have an effective and efficient Administration and to have our public service agreements delivered effectively and efficiently to meet the targets. I reject the suggestion that public money is being squandered or wasted. Perhaps the Member would bring examples of that to my attention.

**Mrs Courtney:** I congratulate the Minister on his positive and comprehensive report. As my party's spokes-

person on health matters, I would like to ask the Minister a question about the increase in the health budget. He, like his predecessor, has allocated extra resources to the health budget, and details of the total increase to the budget since devolution were given in answer to a previous question. What would that increase have been had he simply allocated the money according to the Barnett formula?

**Dr Farren:** Based on a simple read across, the Barnett increase would have provided no more than a 9% increase. As I said in response to several questions, the actual increase will be 13% or more, so we are clearly making determined efforts to put into effect our words about health being a priority.

**Mr Dallat:** I particularly welcome the announcement that £34·8 million will be made available over the next three years for the improvement of school standards. What will that mean for the one in four of the population who, in the past, were denied the basic right to literacy and numeracy?

**Dr Farren:** I recognise the concern that the Member frequently raises with regard to those with poor literacy and numeracy skills. If the Member examines the proposed allocations to essential skills programmes, he will see that strenuous efforts are being made to ensure the implementation of the strategy that Minister Hanna is developing in the Department for Employment and Learning. That strategy will be linked to initiatives being taken by the Department of Education to improve school standards.

Notwithstanding falling numbers of schoolchildren, the allocations to the Department of Education in particular will enable us to implement initiatives for the curriculum, and to ensure that efforts to improve standards continue and will be enhanced. When those are combined with Minister Hanna's initiative on essential skills, we will have a set of programmes that should ensure that we effectively address the scourge of low levels of literacy and numeracy, which is a real barrier to the realisation of potential and the achievement of career goals.

**Mr Byrne:** How will students' prospects be improved by the Budget? Will the Minister commit himself to continued support for students who wish to make progress in further and higher education?

**Dr Farren:** When I had responsibility for further and higher education and training, I was anxious to ensure that access would be enhanced, and that students from low-income backgrounds in particular would receive the maximum support. The student finance initiative that was undertaken two years ago bore its first fruits last year for students in further education, with the introduction of grants and bursaries for students at that level. That was followed this year with the introduction of similar grants for students in higher education. We did not stop there. We have continued to develop the support

provided for such students, and we are now in a position to raise the threshold below which grants will be payable from £15,000 to £20,000 residual income, and to raise the level of grant assistance from £1,500 to a maximum of £2,000.

Across the community, parents, students and aspiring students of our further and higher education institutions will see that as a major step forward, and as a clear indication that the Executive want to make further and higher education opportunities available to all who have the ability and wish to avail themselves of those opportunities.

My Colleague Carmel Hanna, like other Ministers, will make further announcements on the allocations to the Departments over the coming days.

12.30 pm

## POINT OF ORDER

### Ministerial Statements

**Mr Speaker:** It has been drawn to my attention that Mr McCartney raised a point of order as to whether ministerial statements may diverge from the published statement that is provided for Members in advance of the statement being made. Standing Order 18(1), of course, indicates that, where possible, a Minister shall make a written copy of the statement available as early as possible. But given that Ministers do, and I have to say in the majority of cases I think Ministers do try to ensure that statements are available as early as possible (they are not personal statements which do have to be cleared by the Speaker), it is not surprising, perhaps, that on occasion - and it does not happen very often - a matter may arise between the point when the statement is made available to Members and the point when it is actually being delivered, where the Minister may have something additional to add, or indeed to change, which may be in the interests of accuracy and of the Assembly. However, that being the case, I suggest to Ministers that it might be useful if, for all statements, there was the advice to "check against delivery". There would then be no misunderstanding on that point. I hope that addresses the Member's concerns.

## CHILDREN (LEAVING CARE) BILL

### Further Consideration Stage

**Mr Speaker:** No amendments to the Bill have been tabled. The Further Consideration Stage of the Children (Leaving Care) Bill is, therefore, concluded. The Bill stands referred to the Speaker.

## STATE PENSION CREDIT BILL

### Further Consideration Stage

**Mr Speaker:** No amendments to the Bill have been tabled. The Further Consideration Stage of the State Pension Credit Bill is, therefore, concluded. The Bill stands referred to the Speaker.

*The sitting was suspended at 12.33 pm.*



*On resuming (Madam Deputy Speaker [Ms Morrice] in the Chair) —*

2.00 pm

## DRAFT PROGRAMME FOR GOVERNMENT

**Madam Deputy Speaker:** It may be useful if I outline how I intend to facilitate the debate on the draft Programme for Government. The Business Committee has agreed that four and a half hours should be set aside for the debate. During the debate, I will see the number of Members who wish to speak, and I will then determine if a time limit is to be placed on the speeches.

**The Deputy First Minister (Mr Durkan):** I beg to move

That this Assembly takes note of the draft Programme for Government.

We presented the draft Programme for Government formally to the Assembly yesterday. It sets out the Executive's plans and priorities for next year and beyond. It is supported by the draft Budget, which the Minister of Finance and Personnel presented to the Assembly this morning. I am pleased that the Assembly has an early opportunity to debate the content of the Executive's draft programme. It is important to have this debate before the detailed work of scrutinising the document begins in the various Committees. I want to underline the importance that the Executive attach to this period of discussion and scrutiny on both the draft Programme for Government and the draft Budget. I will return to that theme shortly.

The Programme for Government is the most significant document produced each year by the Executive. Developing an agreed programme, and an agreed Budget that supports it, is a commitment that we made under the Good Friday Agreement. However, our commitment went further than simply producing a document. Those of us who signed up to the agreement also agreed that it needed to be subject to the Assembly's approval on a cross-community basis after scrutiny in Committees. It is partly for that reason that the document is as comprehensive as it is. It would not be right to expect the Assembly to approve the Executive's work programme without an appropriate level of detail to enable it to give that approval.

We wanted the Programme for Government to be both ambitious and achievable. For that purpose, we have worked to ensure that it reflects the key challenges that must be tackled and the backdrop against which our work will take place. Members will notice that for the first time the document includes a detailed commentary on the economic, social and environmental context. The

proposals in the document have been developed and will be implemented in that context.

We have worked to ensure that the document also reflects the suggestions made in response to the Executive's position report on developing the Programme for Government and the Budget. We were grateful to those Committees and others who took time to respond with their views. Working within limited resources, it is never possible to do everything that we would like to do or that others would like us to do. We have not, therefore, been able to reflect in this draft every single suggestion that was made.

That said, we have tried wherever possible to take on board comments made and points raised. We will also be working over the coming weeks to incorporate further suggestions as we finalise the document and the Budget to support it. For example, we have noted the strong support for the five priorities that the Executive identify in their Programme for Government. We also believe that these priorities remain both relevant and important. We want to build on the progress that we have already made in each area. In this draft, we have, therefore, retained "Growing as a Community", "Working for a Healthier People", "Investing in Education and Skills", "Securing a Competitive Economy" and "Developing Relations — North/South, East/West and Internationally" as priorities. We also recognise that those priorities do not stand in isolation from one another. Our work to tackle social division is a key requirement if we are to create the basis for a competitive economy. Economic prosperity fairly shared is a key requirement if we are to heal many of the social problems that we face, including our poor health status.

Education and training are central to economic progress and to unlocking opportunities for individuals. The draft Budget increases health expenditure by 13.6% to more than £3 billion a year, which reflects the Executive's ongoing commitment to the Health Service. The Department of Education is to be given additional support to enhance schools' capacity to further improve pupil performance and to revise the curriculum.

The Department for Employment and Learning's budget has been increased to enable it to maintain and expand its commitment to higher and further education to ensure that, for the large part, employment programmes will be obtained. The Executive have made additional allocations from the Executive programme funds to provide improved student support arrangements and to widen access to third-level education for students from low-income families, through changes to income thresholds and increased grants. The threshold will be raised from £15,000 to £20,000, which will ensure that more than 3,000 additional students will qualify for support, and student grants will be increased from £1,500 to £2,000. We are building on the Executive's progress of several years ago, as we said we would, without recourse to a graduate tax that many others advocated.

Proposed allocations to the Department of Agriculture and Rural Development include resources from the service modernisation Executive programme fund to implement the vision report. Six million pounds have been set aside for that purpose in 2003-04, and funding will increase to £18.3 million in 2005-06.

The Executive are providing for the Department of Culture, Arts and Leisure to implement its sports strategy. In addition, we have devised a radical new approach to ensure that Invest Northern Ireland has the resources to encourage and support industrial development.

The retention of our five priorities provides an opportunity for continuity and stability. However, we also want change. The draft programme makes clear the Executive's desire to tackle underinvestment in our infrastructure and to reform public service delivery. Reinvestment and reform are core elements that must drive our work on all five priorities.

Reform is a watchword of our programme. We will be working constantly to improve the efficiency of service delivery to ensure that every penny of resources is targeted at where it is needed most, and where it can do most good. We will be challenging all Departments to make real and substantial improvements in service delivery. The reinvestment and reform initiative, which the First Minister and I negotiated, provides us with a unique opportunity to address the chronic underinvestment in our infrastructure. The £270 million that the Executive allocated initially for projects will make a valuable start to vital upgrades of hospitals, schools, transport and water and sewerage systems.

We want to ensure a stronger focus on tackling poverty and social exclusion, promoting sustainable development and building stronger partnerships. The draft programme sets out our thinking on each of those areas. We restate our commitment to open and accountable government. The draft programme contains more than 170 specific commitments that complement those made in our first two programmes. We will come back to the Assembly every year, as we did in July, to report publicly on progress in delivering those commitments.

We have included in the document draft public service agreements for each Department that contain many more specific targets. Again, we will report on the progress of those. We shall ensure that each Department has a service delivery agreement detailing the work to be done to progress the Programme for Government and to meet the public service agreement targets. Those documents will be available in draft form for scrutiny by Committees later this year.

We recognise the challenge of promoting good relations. Members also recognise that challenge, as they made clear in their responses to yesterday's statement. The document sets out our intention to introduce a new policy and

strategy on good relations. It will include a focus on targeted action at local level in areas with acute community difficulties. We recognise the importance of local solutions and stand ready to support communities. It is not enough to tell people to sort out their own problems, especially in the most disadvantaged and divided communities.

We must show leadership, and work in partnership. We must harness our combined resources at community level, in local government, in the Executive and in the Assembly. In particular, we must develop the capacity of communities and support them in dealing with dispute and division, including sectarian graffiti, unauthorised flag flying and the erection of memorials, which can lead to local tension. Our responsibility to promote good relations extends to every priority and the work of every Department. We want to progress in a co-ordinated and cross-cutting way, ensuring that such a key challenge is integrated throughout our activities.

Our work to promote equality of opportunity and human rights can contribute to improving relations in and between communities. We recognise that housing and urban regeneration have a part to play, especially in key interface areas. We have identified as a specific sub-priority the need to promote an education and training system that recognises diversity and promotes tolerance. From next year, we shall phase in a new citizenship programme for post-primary schools, and we will support the expected continuing growth in demand for integrated education. Other policy areas, such as economic development and transport, can also contribute by providing opportunities for people to work and live together.

I know that the Assembly takes seriously its scrutiny of the Executive's policies. I stress that this is a draft document. It sets out the Executive's priorities and commitments for the years ahead, but it recognises that we do not have the monopoly on wisdom. We want to work with Members to improve it before we bring it back for final approval in December. If we are to do that successfully, the document must be discussed, debated and, as necessary, challenged in the Chamber and more widely. Today's debate marks the beginning of that process, and we look forward to hearing the responses.

Committees will have an important role in the coming weeks in scrutinising the proposals relating to their respective Departments, and the accompanying draft public service agreements. That twin-track approach should ensure that all Members will have an opportunity to express their views.

We must ensure that our social partners and other interested parties have an opportunity to play their part in improving the document. The draft Programme for Government makes clear our intention to build stronger partnerships. That work must begin immediately. For that reason, we shall be consulting the Civic Forum, local

authorities, our social partners in business, the trade unions and the voluntary and community sectors, and other interested bodies. We want to hear their views on the draft document's proposals and its equality aspects. We shall be consulting widely and jointly over the coming weeks, asking people to consider the draft Programme for Government and the draft Budget together. We believe that that approach makes sense.

The draft Programme for Government and the draft Budget that supports it were agreed by all parties in the Executive. There have been hard choices to make, but throughout the process all Ministers have shown a strong commitment to making the budgetary and planning processes work. It is a testament to the Ministers in the Executive and a demonstration that devolution under the Good Friday Agreement works and should be allowed to continue to work. Members should not allow events, and interpretations made, over the past few days to cloud the reality of the democratic dividend that devolution has delivered and will continue to deliver.

2.15 pm

Does any Member believe that under direct rule we would have achieved an almost 60% increase in health spending — over £1.1 billion in four years? Since devolution, the Health Service has received £300 million more than it would have done under the Barnett formula. Therefore, we have allocated more to health than it would have received under direct rule. Does anyone believe that under direct rule the student support package would have seen the light of day in its original form or been expanded, as announced today in the draft Budget? Does anyone believe that the reinvestment and reform initiative — an initiative knocked by people who are now considering it in their plans and programmes — would have been developed under direct rule? Does any Member believe that without a devolved Administration, Ministers would be able to even talk to the Treasury about the difficulties of the Barnett formula?

Enormous strides have been made over the past four years. However, this is just a sound beginning: it must not be put in jeopardy. We have to build on progress made, because, as democrats, Members must stand ready to finance and deliver the types of commitments contained in the draft Programme for Government. They have given such commitments to the people, and the people have the right to expect the Assembly to fulfil those commitments.

We want to make sure that our proposals are effective, evidence-based and able to bring about real and positive change across the economic, social, cultural and environmental responsibilities of the Executive. The draft programme is about improving our public services, hospitals, schools, transport and rural development. It is about strengthening our economy and providing better opportunities for everyone. In short, it is about improving the quality of life for everyone; it is about making a difference.

That is what the community expects of its democratic politicians, and, therefore, it is relevant to all Ministers and the Assembly. That is why the Executive need the Assembly's help. The Assembly's scrutiny of the draft Programme for Government will help in proofing, improving and sharpening the content before it is returned to the Assembly for final approval.

I look forward to the Assembly and the Committees playing their part in scrutinising the draft programme, and to Members playing their part in today's debate. People not only look forward to scrutinising and improving the draft Programme for Government but also to its implementation and delivery as the institutions remain stable and go forward in the interests of the entire community.

**Madam Deputy Speaker:** I have received the names of those Members who wish to contribute to the debate. Due to the large number of those wishing to participate I ask Members to limit their contributions to eight minutes — at least in the first round.

**Ms Lewsley:** I welcome the launch of the draft Programme for Government. As my Colleague Mr Durkan has said, the benefits of devolution can be seen in the draft Programme for Government and in Minister Farren's draft Budget. I am especially delighted that the draft programme reaffirms our commitment to building North/South links. It is essential that those links be built upon to ensure that Northern Ireland becomes an outward-looking region and one that will never be allowed to return to its old introspective and majoritarian ways. Our people refuse to live that way again.

One of the benefits of devolution has been the opportunity to question the approach of Departments and to witness the increased transparency of their actions. If this work is to continue it is vital that we have a reformed and more innovative delivery of our public services. I am pleased that the review of public administration will be pursued vigorously and that we will spare no effort in the pursuit of effective value-for-money initiatives. Will the Minister confirm that, during the lifetime of this Programme for Government, and with the decentralisation of Government, Departments will be more actively pushed and that local partnership, rather than central control, will become the dominant approach?

I support the proposal to develop plans for a more long-term policy for Northern Ireland, to promote sustainable development and continuity in the delivery of services. That is particularly appropriate with the advent of the reinvestment and reform initiative and the potential that it provides for access to significant resources over the coming years. The commitment to produce a report that will monitor and evaluate the Executive's performance each year is commendable, and that is what transparent and accountable government is about. It also



gives us the opportunity to reassess and prioritise targets for the following years, thus making them more realistic.

Focus on the reinvestment and reform initiative challenges public sector finance and provides more efficient use of resources. The emphasis on the four main areas of investment in the future — improved service delivery, tackling poverty, social exclusion and partnership — is commendable. By focusing on those areas, the Programme for Government will improve service delivery and increase efficiency. Within improved service delivery, there will still be a need to improve the delivery of social security services for people with disabilities and the elderly. Promoting social inclusion for those people is a step in the right direction — some people are still slipping through the net.

With regard to partnerships, there is still a need for improved co-ordination among Departments, agencies and local government. It is an important aspect of policy and programme development, and it will provide vital links and partnerships between the statutory, voluntary and private sectors and the local community. We need the right resources to improve the Health Service. It is no use funding a system that is inadequate and unable to cope with the demands placed on it, such as shortening waiting lists.

The strong emphasis on equality is an important aspect of the Programme for Government. It is not enough for every child to have an equal chance growing up in our society, although that is important. Every child must also instinctively know that he or she will have an equal chance throughout his or her lifetime. There has been progress on that issue. The Programme for Government shows that inequalities in all groups are declining, which is good news, and is evidence that the policies are working.

The commitment to eradicating community differentials in unemployment is particularly welcome, and that is an important area. It is good to see that not only are unemployment rates in the two communities declining, but unemployment itself is falling. However, we cannot be complacent, and I welcome the new initiatives being pioneered by the SDLP Ministers to tackle long-term unemployment. Sean Farren has introduced a radical new procurement policy to ensure that those who benefit from state contracts do their bit to tackle unemployment. Such an initiative is unparalleled on these islands. Carmel Hanna's task force on employability and long-term unemployment prioritises areas of high unemployment. I hope that the work will focus on unemployment black spots such as Strabane, Derry and parts of Belfast. Those policies, allied with New TSN, will deliver an equal chance for every child in Northern Ireland.

Catholics and women are severely under-represented in the Civil Service. Although the situations of both have improved since the Good Friday Agreement, the measures being taken to ensure equality in the Civil Service are

particularly welcome. The commitment to introduce new strategies on race and gender is important. I applaud the fact that OFMDFM has set up a race equality unit and is also core funding ethnic minority groups. It is important to establish a race equality forum as a priority, and I welcome the fact that that is in progress.

The draft Programme for Government gives rural communities their place after 30 years of direct rule neglect. The House should stand firmly behind the Minister of Agriculture and Rural Development, Bríd Rodgers, in her attempts to provide them with a viable future.

Children are among the most vulnerable in our society, and the Commissioner for Children and Young People Bill is an illustration of the priority accorded to children's issues. I congratulate OFMDFM Ministers on their commitment to that area, in particular Denis Haughey for introducing the Bill.

I welcome the determination to face down those such as the Northern Ireland Office who sought to restrict the Bill's scope. The emphasis on children is correct. The next step must be the publication of the children's strategy, which must focus on child poverty. Therefore, I welcome the draft Programme for Government.

**Mrs Carson:** I welcome the opportunity to make several points about the draft Programme for Government. I fully endorse the principles of sustainable development, the economic, social and environmental dimensions of which are interwoven. That is particularly true where such development impacts on the environment, which can affect the entire economy, especially tourism.

The environment can impact positively on the economy. When new industries arrived in Dungannon, they examined the benefits of the town and its surroundings before deciding where to locate their factories. I am pleased to say that Dungannon now has a low unemployment level. Unfortunately, the same cannot be said of Fermanagh — a beautiful area for tourism where the environment is of prime importance. I urge the Assembly to channel more investment into that area.

When we examine employment figures we should note that local employers say that they cannot fill 40% of their job vacancies due to skill shortages. I urge the Executive to examine that issue and to channel finance towards solving that problem. Adult literacy programmes are not enough to solve literacy problems; the root causes must be investigated and tackled in the primary schools.

Northern Ireland has a clean, green image, as the draft Programme for Government notes. However, many pressures challenge that image. Our roads, water and sewerage infrastructure must be examined sympathetically and given enormous investment.

Sub-priority 7 of "Securing a Competitive Economy" states:

“We will protect, promote and develop our natural and built environment in a sustainable way”.

That promise will help to develop our tourist industry, which is good news for all. However, the farmers have endured a stressful time since the outbreak of foot-and-mouth disease, and the attack on the World Trade Centre has affected industry. Those sectors must be examined, and financial help must be given to the farmers.

I keep plugging the tourism sector because it has the potential to be one of the largest generators of income in Northern Ireland. We have an unspoilt landscape of world renown, and it must be appreciated and protected. In that context, I call on the appropriate Department to consider designating Fermanagh as a national park. Were that measure implemented, financial help would be provided to farmers who otherwise would lose some of their income.

I am curious as to how the Department of the Environment proposes to comprehensively record historic buildings in Northern Ireland and protect the country's best heritage. What is the position on the replacement grant? That grant is a great incentive to rebuild and is used extensively in Northern Ireland. However, a grant should be available to help maintain historic homes rather than demolish them. Few vernacular dwellings survive in Northern Ireland. The replacement grant is a wonderful help to people who want to build a new home, but people who want to continue to live in older homes should get help also.

I welcome plans to conserve all the main natural habitats. However, large areas of special scientific interest (ASSIs) should not be created at the expense of smaller habitats, which also deserve protection.

I also welcome the proposed review of the sea fishery and aquaculture industry that is to begin in the coming months.

Forestry is also mentioned, and it can support sustainable development through timber production and tourism. I am pleased to note that steps will be taken to ensure the sustainable use of forests; that will help the environment.

2.30 pm

Sensitive work must be undertaken on the problem of farm pollution and the Regulations covering silage, slurry and agricultural fuel oils on farms so that we do not penalise farmers or place an added burden on them. Agriculture has much to offer and can make a positive contribution to the environment.

I am shocked that we still have a 94% dependency on landfill. I note that the Republic of Ireland imposes a penalty on the use of plastic bags. Perhaps we should think along those lines, but that is a tiny solution to a huge problem. We shall have to encourage large stores such as Tesco and Sainsbury's that it is not only plastic bags that are a problem; packaging is also a problem. It is

not enough to facilitate and encourage local companies to develop environmentally friendly products; pressure should be applied to make it mandatory.

From an environmental point of view, the attitude in Northern Ireland to the purchase of green electricity extracted from renewable sources is a problem. I should like to express my concern at the number of wind-turbine farms cropping up across the Province. Some falsehoods surround that method of producing electricity. The starting costs are astronomical, and we are at the mercy of the weather. Nothing is set in stone; we cannot be sure about how much electricity will be generated, and such electricity cannot be stored. My greatest concern is for the tourism industry; people come to Northern Ireland to enjoy its rugged, unspoilt landscape, but that is coming under threat because of the erection of such turbines, especially in my constituency of Fermanagh and South Tyrone.

Drinking water must be wholesome, and there must be effective disposal of waste water. The sewerage network also needs an appropriate strategy. There is also the problem of flood risks from river systems, and money must be spent on that end of the infrastructure.

The draft Budget would maintain the level of revenue to support district councils, especially those whose revenue comes from a low rate base, thus allowing them to maintain services without an unacceptable rate rise — something we should all want, especially in the light of the forthcoming election. Funding should also be provided for the compensation due to district councils to cover the loss —

**Madam Deputy Speaker:** Can the Member bring her remarks to a close?

**Mrs Carson:** For years we have focused on terrorism and division, and I welcome the opportunity to bring about real change through the new developments in the draft Programme for Government.

**Mr Shannon:** I welcome the opportunity to speak on the draft Programme for Government and wish to highlight one or two education issues that I think have not been addressed, and perhaps also some issues that have been addressed.

The section dealing with education is titled ‘Investing in Education and Skills’. Although some issues have been highlighted, others have been omitted. This year, in particular, the Programme for Government must highlight education. Every year there are exams; indeed, over the past week or two exam results and their portrayal in the media have been controversial. Many families have been left confused and angry, and many children do not have a clue about which school or university they will attend. The Department of Education must make an investment to oversee matters and to ensure that such a

fiasco does not recur. That issue should be addressed in the Programme for Government.

This year some examination boards have been accused of adjusting grades due to Government and media pressure. That scandal has left many of our brightest pupils taking up courses at universities that were not their first choice. In some cases people will be taking different career directions altogether.

The draft Programme for Government states on page 52:

“We will give all our children the best start in life”.

and on page 56 that

“We will equip our young people with the skills and qualifications to gain employment in a modern economy”.

Those are grand words, but in reality we need more focus and more help to ensure that it happens. The future of the country depends on the level of education that we give our children, and, consequently, the opportunities we can provide for the entire population.

Currently, people who wish to avail of tertiary education must pay for university places. That has led, and will lead, to many students across Northern Ireland deciding not to continue their education because they cannot afford it. Students, and parents concerned about their children, have come to our advice centre with that problem. There must be more investment in available student places and a rethink of university fees.

In the 1970s, when there were free university places for everyone who wanted them and grants to aid the purchase of study materials, there was a brain drain. Countries such as America and Australia wanted the cream of the university graduates to leave Northern Ireland and work there. The consequences can be easily seen — many glossy magazines have editors who came from Northern Ireland, and many of our journalists now work for the main news channels. Finance companies across the globe have recruited people who originated in Northern Ireland. We could have a situation like that again. After all, this country tops the league tables in examination results at GCSE and A level. It is time to take a serious look at university fees and evaluate their usefulness. That has not been addressed in the draft Programme for Government: it should be.

Investment in schools must be monitored. For the past few years, it has been the Minister of Education’s remit to invest heavily in Irish speaking facilities for schools. There has not been parity in the funds allocated for education.

Will the entire education budget be invested only in schools that encourage the speaking of Irish? The administration of the school budget must be monitored to ensure that fair and appropriate allocation is made. We noted that the capital spend on schools last year was heavily weighted towards non-maintained schools —

that cannot be allowed to happen every year. An independent monitor could ensure that there is equal investment in all children in Northern Ireland.

Many schools have closed down recently in my constituency, yet the school-age population continues to boom, and more people are moving to Strangford. Two schools in the local area have closed — O’Neill Memorial Primary School in Crossnacreevy and Scrabo High School. Subsequently, other schools are now oversubscribed.

Paragraph 6.13 of the draft Programme for Government states:

“major capital investment is required in the post-primary sector to tackle the backlog of urgent priority projects”.

Again, those are only words. When it comes to delivering the finance needed, it falls short.

Investment and new schools are a must. As more people migrate to rural areas, the pressure on existing resources is becoming hard to bear. Some pupils have to travel to other towns because the school that is only a mile down the road from their home is oversubscribed. They have to pass by the nearest school on the way to another because the first did not have space for them. This year many parents have commented and complained about the situation. As taxpayers, they feel that their children should go to the school of their choice; the one that their friends go to, and the one that they do not have to travel miles to get to.

There is a need to invest in school buildings and to build schools to accommodate the increasing child population. However, it must be done in a fair and equitable manner: unfortunately, that is not currently the case.

We also need to ensure that classrooms are adequate and up to acceptable standards. There have been many complaints across the country that schools are in a terrible condition. For example, Regent House had to wait more than 30 years for an extension. Pupils were being educated in mobile huts for 30 years. Similar things are happening in many areas of the Province. We must ensure that our children are being taught in a warm and safe environment. Investment is definitely needed in that area, and again I call for a fair and equitable allocation of funds.

According to the Labour Government, the Minister of Education could look to private investment in schools. Indeed, there have been many suggestions for that over the years. However, investment by private firms in schools should be controlled. Caution is needed to avoid the scenario in which a school is touted in the press like a designer label, and is advertised on posters because a particular company invested in it.

Investment by outside organisations in schools should be matched or, indeed, doubled by the Department of Education. Undoubtedly, investment in education is needed.



However, it needs to come first from the Government as lead investor.

The Assembly has been assured that there will be nursery provision for all three-year-olds. Nursery provision has been the subject of a key debate since the 1970s. Indeed, the people for whom nursery provision was needed then are now our teachers, doctors and builders. It has been said in the Chamber that post-primary education must be developed to meet the needs of young people: I agree. The Assembly welcomes it. However, I want to see how it will be delivered.

A report stated that a nursery education could advance the social experience and intellectual development of children from economically disadvantaged backgrounds. I believe that that is the case. People working in that key area would agree. Nursery education is more than just childminding and teaching the alphabet. It should be a learning experience.

Networking is important at any age. Friendships forged in early childhood can sometimes last a long time. Investment is needed in nursery schools and teachers. The Budget must provide the basis for that investment. I welcome what has been set out for education in the Programme for Government. However, how that will be delivered has not been specified.

**Mr J Kelly:** Go raibh maith agat, a LeasCheann Comhairle. The Programme for Government lays out a progressive plan for health, in which the Executive are committed to raising health standards to those of the best regions in Europe and to eradicating inequalities in health. Much of the programme will be channelled through 'Investing for Health', which sets out how public health is to be improved between now and 2010.

The publication of 'Investing for Health' in March signified a remarkable degree of co-operation between all Departments in the Executive. That is to be welcomed. All Ministers signed up to actions to improve the general health of the population. The targets set out in 'Investing for Health' could not be more important. The Executive are committed to increasing life expectancy by at least three years for men and two years for women by the year 2010. They are also committed to reducing inequalities in mortality rates, to halve the gap in life expectancy between those who live in the most deprived areas and electoral wards and those who live in better off areas, and to increasing average life expectancy.

All Ministers of the Executive — whether they belong to Sinn Féin, the Ulster Unionist Party, the Democratic Unionist Party, or the Social Democratic and Labour Party — have committed themselves to a series of actions and policies that will achieve those goals. Those commitments range from improving the quality of water and air, ensuring that all food is safe, reducing accidents at home and on the roads, and improving literacy levels — to name but

a few. All those factors are of the utmost importance, and there is a great deal of room for improvement. For example, the charity Brake has stated that in Europe, Northern Ireland has the second highest number of schoolchildren being killed on the roads.

I could use the eight minutes allocated to me to question whether all Departments have lived up to the commitments made in the Programme for Government and in 'Investing for Health'. I could say that if the important goals are to be attained, considerably more investment is needed. I could question whether the targets set by Departments are rigorous enough. In other circumstances, I would make those points. However, those important questions have faded into insignificance following the events at the Ulster Unionist Party conference. It seems that, for its own party political reasons, the Ulster Unionist Party has decided that it will depart from the Executive in January 2003. If that happens, the Programme for Government and everything in it will be just scrap paper.

Plans and targets to improve the Health Service and reduce inequalities could simply go by the board; they will be continued or disregarded according to the whims of British Ministers. I hope that the Ulster Unionist Party is aware of the effect that its actions will have on the lives and well-being of everyone in this part of Ireland. Rather than working together as politicians of every political shade to ensure that people live longer and are healthier, we will become lethargic and allow the public health sector to return to the doldrums in which it languished under direct rule.

2.45 pm

Likewise, plans for the improvement of hospital services, primary and community care, and care for those with disabilities, mental health problems and chronic and terminal illnesses may fall by the wayside. The number of people whose health would be affected illustrates the enormity of what is contemplated. It is a sad day when, for its own selfish internal reasons, a party acts to the detriment of everyone's welfare.

**Mr Foster:** What could be more unhealthy than the murder of my friends and neighbours in border areas over the years? Mr Kelly never condemned those acts, yet he sounds so virtuous today.

**Mr J Kelly:** I will return to that point.

I appeal to members of the Ulster Unionist Party to show maturity and consideration in their political thinking and to continue to strive to improve everyone's health, rather than relinquish their responsibilities to the political mongrel foxes in their own community.

The first paragraph of the foreword of the draft Programme for Government states:

"We are pleased to present the Executive's Programme for Government which sets out in detail the Executive's plans and priorities for 2002/03 and beyond."

The last paragraph states:

"Whilst the last year has been a difficult one in many ways, we now have a new opportunity to deliver stable government by a locally accountable administration that can reflect and respond to the needs of people here. We believe that this Programme for Government provides a sound basis for our work as an Executive over the years ahead and look forward to working with the Assembly and with others to deliver the commitments it contains."

David Trimble signed that foreword; I ask the leadership of the Ulster Unionist Party to look at it again, before we reach the precipice of a political disaster.

**Mrs E Bell:** It will come as no surprise that the Alliance Party notes the draft Programme for Government with disappointment and concern. Although there was merit in the proposals of previous programmes, no serious consideration was given to coupling projects with each Department's proposals, or to including a definitive, effective approach to community relations. The proposals for health, education and social services, although good in themselves, will not create a better society unless the sectarianism that permeates the Province is seriously challenged.

I am heartened by the fact that the Deputy First Minister highlighted the need to involve all Departments. I hope that that will be followed through on. The Secretary of State made some headway in the past week by, among other things, appointing an independent monitor on paramilitary violence. However, the Assembly must direct action and schemes proposed in the Programme for Government to challenge the hatred, distrust and ignorance in society. Managing the differences in Northern Ireland does not make for long-term or permanent success. It simply puts off the evil day.

The Office of the First Minister and the Deputy First Minister is known to have received a research paper on community relations in January. So far, the office has failed to publish any draft proposals. If a policy review report, which has already been submitted to Ministers, is not received in the next two weeks, my party will attempt to table a motion calling on the Office of the First Minister and the Deputy First Minister to publish it. A response was expected before the summer recess; as yet none has been forthcoming. Last week, in an answer to my party leader, the Deputy First Minister said that a paper would go to the Executive in the near future; similar promises have been made to us since April. The review was completed in January, and the response was expected in April. It is still said to be "imminent". Where is it?

For the Alliance Party, the community relations strategy is a crucial part of the Programme for Government. The strategy, and any associated consultation, is supposed to be completed by the end of the year. The process has yet to begin. Given that the Ministers must

subsequently reach agreement, that will be yet another missed target or, as it is usually expressed, "slippage" will occur. Last year there was some three months' slippage. What happened to the neighbourhood regeneration task forces that were proposed last year?

Earlier this year, when the Alliance Party pushed the issue of paramilitary flags and graffiti, the strategy was the alleged reason for the Executive's not having done anything about it. That issue will not go away, and the Executive's usual ploy of passing the buck must stop. We must get back on track. Suspicion is growing that the community relations strategy is being put on the long finger. When questions are asked in the Assembly, all we hear are platitudes about the imminence of documents or consultation. That response no longer has any credibility. If the Executive cannot provide a strategy, the Alliance Party will demand that the public is shown exactly what has been done since last year, in addition to the recommendations now being withheld by the Office of the First Minister and the Deputy First Minister.

The Deputy First Minister stated that it is not enough to leave community relations to the people in the areas that are directly affected. The issue is much bigger than simply supporting local initiatives in local communities. A firm strategy is necessary to counter sectarianism and to promote community relations, and it should underpin everything that is proposed by the Executive for every Department. That is clearly not the case, because community relations have not been prioritised properly. Sub-priority 2 states:

"We will improve community relations and tackle the divisions in our society."

Paragraph 4.13 states:

"Our experience in North Belfast and other areas has shown us that improved relations across communities in Northern Ireland can only develop when elected and community representatives work together, especially at local level in those areas which have experienced the most serious effects of conflict.

I contend that community relations officers should be included in the local structure to deal with community relations problems. Community relations are not simply a matter of bringing Protestants and Catholics together, but of keeping them together in tolerance, recognition and acceptance of each other's cultures and traditions. The Community Relations Council has undertaken that task for many years in areas as far apart as mid-Ulster, south Armagh and Greater Belfast, and in organisations such as the Apprentice Boys and the Orange Order. In North Down, it is generally agreed that community relations have enhanced appreciation of, and improved knowledge and information about, a wide range of cross-community matters.

The Alliance Party welcomes the focus on promoting a climate of tolerance and equality of provision. It is also pleased that the expansion of integrated education,

both new and by transformation, has been recognised. It is to be hoped that those who are doubtful about this type of education will see that it is not a threat but a significant alternative.

The Minister of Education and his Department will not be surprised if I once again take the opportunity to push for a specific budget for special schools provision and for special units in which children have the chance to realise their potential. There is also the matter of adults with special needs. There are not enough places in resource centres, and I hope that the Minister of Employment and Learning and the Minister of Health, Social Services and Public Safety can work together to give those young people an opportunity for high-quality education and training.

I congratulate the Office of the First Minister and the Deputy First Minister, especially the junior Ministers, for their preparations for the proposed commissioner for children and for their acknowledgement of the situations that victims face.

As was stated yesterday, the draft Programme for Government is, unfortunately, vulnerable, just as we are. Like its Colleagues, the Alliance Party wonders how confident it can be that the proposals, reviews and consultation exercises in the draft Programme for Government can be achieved. The Alliance Party hopes that all Members have the opportunity to see it become reality and that all citizens will feel the full benefit of the local Administration.

**Mr McCartney:** I never fail to be impressed by the fairy-tale atmosphere of the Assembly, especially when it discusses matters pertinent to its future. The fairy tale that seems most appropriate today is Hans Christian Andersen's 'The Emperor's New Clothes'. In fact, the emperor was in the altogether. The courtiers who had self-interest, like the majority of Members who want this thing called devolution to work, were delighted with his nakedness.

Far from producing an Executive that are, as the Deputy First Minister said, working in harness or that are, as Seán Farren said, producing a demonstration of the collective working of a unique Administration, the Assembly has in fact produced a composition of totally disparate elements. Yesterday, in response to a particularly innocuous speech on the Programme for Government from Esmond Birnie, came the most virulent attack on the Ulster Unionist Party by that well-known political ecumenist Mr Dallat, who, in language that would not have been inappropriate on the lips of Joe Devlin in 1915 or of Harry Diamond in 1956, proceeded to make the most unmitigated attack on his main partners in the Programme for Government.

It is true that many aspects of the speeches that have been made are apposite to the Assembly's future. Today,

John Kelly rightly said that, while all the talk about future Budgets and Programmes for Government is going on, the parties are really engaged in a political dogfight over the Assembly's existence. It is the stuff of fairy tales.

Then, of course, we have the suggestion that devolution has been wonderful and has brought untold benefits to the poor electorate of Northern Ireland. What has devolution achieved in more than three years? Despite the suggestion that future moneys will be poured into the Health Service, we have the longest waiting lists in Europe and a GP programme that is stagnating, with the British Medical Association threatening what almost amounts to a professional strike.

In education, which I hope that Sammy Wilson will deal with in more detail, almost none of the targets set last year by the Minister of Education have been met, and the budgets for most of them have been reduced. Our schools and the infrastructure of the buildings and ancillary services are in their worst state ever.

The First Minister has declared that community relations are at their worst level for the past 25 years. Mr John Kelly told us about maturity, and about the need to consider the welfare and health of the people — that coming from a member of a party that is inextricably linked to the murders of 2,500 people and to the mutilation of tens of thousands who, as the result of paramilitary attacks, have swamped the accident and emergency services with broken bones and with destroyed ankles and other joints.

3.00 pm

Do not think for one moment that I exclude from my comments those Loyalists who participate in similar activity; they do not happen to be numerous enough to have representatives in the same elevated position as the two Sinn Féin Ministers.

The public sector in Northern Ireland is a monument to the success of devolution — health, education, vast areas on which houses cannot be built because of inadequate sewerage, and threats of huge fines if the Executive do not implement EU Directives. We have a series of threatened reports. As a result of the delays, the review of administration does not merely have a five o'clock shadow; it has a three-foot-long beard. The rating system will be reviewed to make it fairer, but it will have to produce about three times the current revenue to service the debt that will be incurred in implementing some of those magnificent projects.

Collective responsibility does not exist. Ms Lewsley mentioned SDLP Ministers only, and John Kelly reserved his commendations and comments for the Department of Health, Social Services and Public Safety, which happens to have a Sinn Féin Minister. The same applies to other participating parties. As I have stated repeatedly, far from there being collective responsibility, every time



a Minister speaks, Members from all other parties become the Opposition. Mark Durkan told us in a “holier-than-thou” voice that the draft Programme for Government is an object lesson in working in harness and in collective co-operation. It is no such thing. Virtually no aspect of life has been significantly improved for the average person in Northern Ireland as a result of devolution, whatever the aspirations may be.

However, bureaucracy has increased vastly. More than 400 additional advisers and staff work for the “Department of the Centre”, which is not even a statutory Department, because it does not exist under the Belfast Agreement. There will be a proliferation of bureaucrats everywhere; this place has become a bureaucrat’s paradise. How many of those packages of utter verbiage are really the product of Ministers and their staff, as opposed to that of civil servants with an unfettered opportunity to enjoy themselves?

The truth must be faced. What have the Executive done? They have done very little except to produce a series of grandiose promises for the future administration of Northern Ireland.

**Mr B Hutchinson:** Mr McCartney highlighted many realities. If people did not smell the coffee before, they certainly have done since Saturday. Between now and 18 January, Members may ask themselves why they are here and whether they are wasting their time.

We must reduce poverty and educational disadvantage. I accept that we have not yet had much success in that regard, but we can have. We will not create change overnight; it will take years. This Assembly may achieve nothing, but I hope that the next one will achieve something, and that the one after that will achieve everything that must be done.

It will be a long haul. I thank Mr McCartney for reminding us that sometimes we get involved in fairy tales. To me, it is more a case of smoke and mirrors. We can fool some of the people out there some of the time, but we will not fool all of them all of the time. The Assembly parties must wake up to that fact.

I welcome the Programme for Government’s provisions for early years education, such as the support for the Sure Start initiative. Problems such as educational disadvantage begin early in life. We must focus on the provision of lifelong learning. We hear continually about education and lifelong learning. However, that is not reflected in the Programme for Government — there is no such thread running through the document. It is important that children from disadvantaged areas have help at home from birth. At present, they do not always get that help because they come from disadvantaged homes.

The Programme for Government could have gone further. There was an opportunity to define where the real problems lie and to “invest in education skills”, to

use the Executive’s term. One difficulty is that when children are born, it is perceived that the Health Service assumes responsibility for them, and the perception is that when they start school, that responsibility transfers to the Department of Education. Unfortunately, that is not true — the two go hand in hand. Where does the cross-cutting occur? In order to offer children the opportunity to develop, education must begin as soon as children are born. However, in Northern Ireland, we feel that the time for education is when children reach the age of three or four. Education must be seamless from the time a child is born, and the Health Service is partly responsible for ensuring that that happens.

Disadvantage in schools must be addressed. We talk about initiatives to prepare 16- to 19-year-olds for employment in the modern world. An indictment of my constituency of North Belfast is that if a young person leaves school with no qualifications, he or she cannot study for, or sit, NVQ Level 3. That young person must leave the constituency to do so. That problem does not arise in any other Belfast constituency — the exam can be sat in West Belfast, South Belfast, or East Belfast. That sends out a message to young people in North Belfast. Another difficulty is that some young people struggle to achieve NVQ Level 1. There is something wrong with the system, and it must be overhauled. The programme’s provisions tinker round the edges and do not deal with the real problems. To introduce such schemes for 16- to 18-year-olds is to leave it far too late. Those provisions must come earlier.

Funding for primary education poses another problem. What is primary education? It is the most important level of education — more important than third-level education. The situation is ridiculous. We need to reconsider where the funding is going and decide what it is that we want.

I have talked to nursery school principals in my area, and they tell me that the children are not ready for nursery school education. If we talk to the primary school principals, they say that when children come either directly from the home or from nursery school, they are not ready for primary education. The post-primary schools will advise that the children are not the finished product and that they cannot work with them. Children enter post-primary schools at the age of 11 yet they only have a reading age of nine. Everyone in charge of those sectors will say the same thing: “How do we prepare those children?”

There is no point sending children on to the next level of education when they are two to three years behind. We must ensure that they are ready for the next stage. A complete overhaul is needed, and we must get to grips with this matter now. We continue to throw money at the problem, but we are wasting it. Education is very important; it gives everyone a start in life, and there is

no question that it determines people's socio-economic positions. We must take the matter seriously and tackle the disadvantages.

The Programme for Government gives us some hope for the direction that we wish to take. We should recognise that, and the fact that the Office of the First Minister and the Deputy First Minister has implemented programmes that would not otherwise have existed.

However, we need to consider the problems that exist not only in urban areas but in rural areas. For example, we must address the educational disadvantage in rural areas and the struggle to keep small schools open and ensure that people receive an education. We must address all of those matters, and, unfortunately, this draft Programme for Government does not do that.

**Mr Foster:** I commend the motion, but some points concern me. The priorities have remained constant since the first Programme for Government — “Growing as a Community”, “Working for a Healthier People”, “Investing in Education and Skills” — although I am concerned by the aim to destroy our successful grammar school system — “Securing a Competitive Economy” and “Developing Relations — North/South, East/West and Internationally”.

When I was the Minister of the Environment, I considered the North/South Ministerial Council meetings to be an excellent way to work together as neighbours. With regard to constitutional concerns, it was confirmed at each meeting that there are two separate jurisdictions, and that was also acknowledged by the Minister with whom I worked.

The Programme for Government is huge, so I will be able to speak about very little of it. I commend its aims, although whether those are fulfilled is another matter.

On page 32, sub-priority 3, entitled “We will support victims”, states:

“Key to meeting victims’ practical needs are the actions contained in the victims’ strategy, Reshape, Rebuild, Achieve.”

I have a victims’ group in Fermanagh, known as FEAR — Fear Encouraged Abandoning Roots. Good people had to flee their farms; if they had not done so, they would not be alive today. Can I get anything for them to help them reshape, rebuild and achieve? The words in the Programme for Government are hollow. Perhaps the Executive will rethink the matter.

The Minister of Health, Social Services and Public Safety shows good intent. I hope that her statement concerning the provision of a new hospital in Enniskillen, or slightly north of that strategically located town, will be put into effect. The Minister spoke about the matter in her presentation of the consultation document ‘Developing Better Services: Modernising Hospitals and Reforming Structures’. I cannot imagine the Minister ignoring the grave danger that so many people would face should the hospital be sited elsewhere. It must be recognised that if

the new hospital were to be built in Enniskillen, 8,744 people would have to travel for more than 45 minutes for treatment; if it were to be built in Omagh, 24,250 people would have to travel for more than 45 minutes. The difference is shocking, and this is a very serious issue that cannot be ignored.

There is a statement in the document concerning a commitment to combating inequalities, which should never occur. That is a good point, with which I concur. However, many of our responsible citizens had to live with the inequality of receiving no protection from terrorism. So many were murdered and maimed, leaving broken homes galore, yet we hear regularly in the Assembly pretentious humbug from Sinn Féin about inequality. It forgets about the terrorism inflicted by its partners in the IRA, which it has never condemned.

Yesterday, other parties took the opportunity to criticise and abuse the UUP and my party leader. Let it be clearly understood that the UUP does not have to apologise to anyone about its role in the Assembly or at any point in the lifetime of Northern Ireland. The UUP has always worked constructively for this state, while others have tried to do Northern Ireland down. It has been the tactic of the destructive forces in Northern Ireland to hide behind a guise of virtue, while all the time they have been the destroyers.

The UUP is the genuine party in Northern Ireland. It always has been, and it always will be, for Northern Ireland within the Union. *[Interruption]*.

**Madam Deputy Speaker:** Order.

3.15 pm

**Mr Foster:** My former Department — the Department of the Environment — has a responsible role to play in many ways. It must ensure that it fulfils European demands; otherwise infraction proceedings will be actioned. The Department must be given the resources to fulfil that important role.

Another of the Department's many important roles is road safety, in which I took a great interest when in the Department. We must all play a part in reducing the carnage on the roads. Some people appear to be overcome by madness when they get behind the wheel of a motor vehicle; there must be no leniency for careless drivers. The Department for Regional Development has a massive roads’ problem to contend with, not least the vital need for a bypass in my home town of Enniskillen. The Minister must give the go-ahead for a bypass or Enniskillen will be choked with traffic. This projects Enniskillen as a successful growth area and the gateway to Northern Ireland from the west of Ireland. The Irvinestown Road/Chanterhill link with the Tempo Road is also a must to ease traffic at the east end of the town.

In conclusion, the test of our progress and that of the Programme for Government is not whether we add to

the abundance of those who have so much, but whether we provide enough for those who have so little. Perhaps I have spoken too long, and I am thinking of Coughlin's law — "Don't talk unless you can improve the silence." I commend the intent of the Programme for Government.

**The Chairperson of the Committee for Culture, Arts and Leisure (Mr O'Neill):** I will make a few comments as Chairperson of the Committee for Culture, Arts and Leisure, and, if I have time, I may make some comments of my own.

The Committee is pleased that, once again, the draft Programme for Government recognises the significant contribution that the Department of Culture, Arts and Leisure can make to each of the Executive priorities. Although it is one of the smallest spending Departments, the Department of Culture, Arts and Leisure is involved in supporting actions in each of those priorities. In "Growing as a Community", the Committee strongly supports the four actions proposed for the Department and will try to implement them through developing a cultural diversity policy framework and timetable; the implementation of the soccer strategy for the development of local football from grass roots to senior and international level; the development of an archives policy to ensure that our archival heritage is relevant and accessible to the widest possible audience; agreeing an implementation plan for the development of heritage at the Titanic Quarter; and the development of a strategy that will optimise the use of resources in the museums and heritage sector.

This is how the Committee will attempt to support the Department in delivering those priorities. However, these plans and strategies will ultimately require resources for their implementation. Although the soccer strategy implementation features in the draft Budget, the Committee hopes that future allocations will take account of the positive effect that the others can bring to tackling divisions in our society and to developing a greater understanding and respect for our culture, history and heritage. The Executive's priority "Working for a Healthier People" has obvious implications for the Department and for the Sports Council in promoting the benefits of sport and physical activity. In this regard, the Committee is particularly pleased to see the recognition that has been given in the draft document to next year's Special Olympics world summer games.

In "Investing in Education and Skills", the Committee notes that the sub-priorities continue to recognise the Department of Culture, Arts and Leisure's broad partnership role in promoting a culture of tolerance, developing creative potential and providing lifelong learning opportunities. We welcome particularly the proposal to develop a learning strategy to draw together a diverse group of service providers with the aim of pooling resources and exchanging ideas in ways that will allow us to make the most of all our information and of our cultural, educational

and sporting resources in promoting the concept of life-long learning.

The Committee is also glad that the draft Programme for Government makes a commitment to the provision of three new electronic library facilities, which will allow our public service libraries to provide better access to electronic information services. The Committee is agreed that if the draft Programme for Government sets out a commitment to the development of electronic access to archives, libraries and museums, the draft Budget proposals must ensure that these valuable resources do not continue to suffer from the effects of pre-devolution cuts and years of underfunding.

It is interesting to note that the Department of Culture, Arts and Leisure has no less than four actions under the Executive priority of "Securing a Competitive Economy". The Committee looks forward to the implementation of the interdepartmental action plan for the development of the creative industries sector under sub-priority 3.

The Department of Culture, Arts and Leisure also has an important role to play in increasing Northern Ireland's attractiveness to visitors. The Committee welcomes the recognition now given to the activities of the Northern Ireland Events Company by sub-priority 4. Members may have noted the report in yesterday's 'Irish Times' about the Republic's initiative in showcasing Ireland as a golfing destination. Last week's World Golf Championship at Mount Juliet was an unqualified success with regard to visitor numbers and worldwide television coverage. It is virtually certain that the event will return there in 2004. It is worth noting that Bord Fáilte contributed one million euros to the event on behalf of the Government's international sports tourism initiative. Northern Ireland has a long way to go in this area. The Committee is pleased to note that sub-priority 7 reflects the recommendations made in its report on inland fisheries with regard to the need to conserve our wild salmon stocks.

The Department of Culture, Arts and Leisure has also an important contribution to make to another priority, "Developing Relations — North/South, East/West and Internationally". The Committee hopes that the support indicated under sub-priority 7 for Imagine Belfast's bid for the European Capital of Culture 2008 will be reflected in future resource allocations.

The Committee looks forward to discussing the specifics of the draft Programme for Government with the Minister of Culture, Arts and Leisure over the coming weeks and hopes to be in a position to give its full support to the varied and important work that his Department carries out.

I want to make one or two personal comments. Members have drawn attention to the uncertainty that may arise over the Assembly's future. People have expressed concerns, and we can all recognise those. However, as Billy Hutchinson



stated, if we do not continue to work, to chip away at the problems and map out the route for progress, we will be failing as public representatives. People should look at the broader picture. It is worth noting the low level of unemployment in Northern Ireland over the past four years — among the lowest ever in any generation. We should also consider the high number of business starts in Northern Ireland over the period. We should consider the confidence that the Assembly's existence has engendered in the community and the faith that the people have put in it.

We should not perpetually snipe, as some people have done for the past four years, without making a contribution. Having just reported as Chairperson of a Committee and knowing the work that people put into Committee attendance, it is laughable to hear someone who never contributes to any Committee work snipe at the work we are trying to do in the Programme for Government. Unfortunately, he is not here to hear me, but I would have put that point to him gladly. He never contributes to any constructive approach —

**Madam Deputy Speaker:** I ask the Member to draw his remarks to a close.

**Mr O'Neill:** We must adopt a positive approach, and the Programme for Government provides the opportunity to do so.

**The Chairperson of the Committee for the Environment (Rev Dr William McCrea):** I will speak first as Chairperson of the Committee for the Environment and then, as other Members have done, as a constituency representative.

In November and December 2001 I highlighted to Members an important paragraph in the 2001 Programme for Government entitled "Promoting sustainable living". I pointed out that that programme's priorities and sub-priorities fell seriously short in reflecting the Executive's commitment to promoting sustainable living. I detailed several recommendations from the Committee for the Environment in an attempt to rectify that. Unfortunately, as with last year's Programme for Government, the document before us today fails to reflect many of those.

In paragraph 2.23 there is clear acknowledgement of the many substantial challenges that continue to face the Executive and the Assembly across the three dimensions of sustainable development — economic, social and environmental. It goes on to say that those challenges require action to be taken across all areas.

In paragraph 3.51, under the heading "Promoting sustainable living", the challenge is restated. The programme concludes that the environmental impact of all key policies must be considered in an

"integrated way, that will embed the principles of sustainable development in the rural and urban economy."

Fine words, but yet again I cannot find the necessary commitment to action to deliver that.

Some commitments to protect, promote and develop our natural and built environment in a sustainable way are given in sub-priority 7 of chapter 7. However, the Committee's suggestions for a more ambitious approach to the integration of environmental themes into economic policy have been largely ignored.

The environment should no longer be viewed as a constraint on economic activity. Instead, it should represent opportunities to support and develop new economic and job-creation activities. For example, the reference to renewable energy in paragraph 7.13 could have been widened to take account of economic development opportunities for new technology research, development and production, and export opportunities. We shall await the establishment and publication of targets for increasing the proportion of electricity generated from renewable sources in Northern Ireland.

Most of the cross-cutting initiatives in chapter 3 bear little relation to the wider vision of sustainable development. For example, the reinvestment and reform initiative should be pursued with sustainable development as a guiding principle for enhancing resource productivity. The Committee for the Environment continues to take a keen interest in the development of effective waste management plans to underpin the waste management strategy for Northern Ireland. We feel that there should be more urgency on that.

Paragraph 7.53 refers to

"assistance to industry to develop markets for recycled materials and to improve its production processes [in terms of] energy efficiency, waste minimisation and recycling."

That is repeated from last year's Programme for Government. There is clearly a need to establish more concrete commitments to, for example, explore the research and development needs arising from the Northern Ireland waste management strategy. Those are just a few examples.

Chapter 7, "Securing a competitive economy", should include many more commitments to actions to mainstream and articulate sustainable development. Members will note from paragraph 7.45 that we still await a sustainable development strategy for Northern Ireland. I trust that when it arrives it will, in practical terms, take forward action

"to mainstream the integrated approach to sustainable development into the way all our policies and programmes are developed and implemented."

3.30 pm

On behalf of the Committee for the Environment, I ask the Ministers to respond to those points and revisit the draft Programme for Government to include concrete, practical commitments to genuine action on sustainable development.

I shall make a few constituency-related remarks, because the Programme for Government contains issues that affect the daily lives of all our constituents. The health programme is of particular concern in Mid Ulster, where we have the longest waiting lists. There is chaos in the Health Service and a lack of initiative on the part of the Minister of Health, Social Services and Public Safety. Under the Minister's proposals, the Mid-Ulster Hospital faces the prospect of being downgraded to a glorified health centre. When we look at the equality agenda, we should notice the inequality between Magherafelt and areas such as Downpatrick.

In the area of education, the draft Programme for Government says that it will focus on

"giving all our children the best start in life".

That is fine verbiage, but what does it mean? I have invited many Members to see for themselves the situation in Magherafelt. The maintained sector is sitting in new multi-million pound premises, from one end of the town to the other. But in the same town, the controlled sector is sitting in conditions akin to shanty towns. In his own constituency, the Minister of Education has deliberately discriminated against the community that wants to educate its children in the controlled sector. There is no end to the amount of money that can be spent on the maintained and integrated sectors. The controlled sector has been left in abysmal conditions. The statement that we will give

"all our children the best start in life"

is rubbish; it is without action.

There is discrimination in allocation. There are schools that could not even open their windows in the summer term. Now that they can get them open, there is so much draught that they cannot get them closed again.

**Madam Deputy Speaker:** The Member must bring his remarks to a close.

**Rev Dr William McCrea:** Many of those issues must be addressed. This draft Programme for Government will not bring action; it will limp on from crisis to crisis. It is about time that we allowed the electorate to speak.

**Ms Gildernew:** Go raibh míle maith agat, a LeasCheann Comhairle. It is bizarre to be discussing a draft Programme for Government when we are in yet another political crisis. That is evident when so few Members are present for the debate.

I wish to speak in particular on the objectives for employment and learning in the document. Levels of adult literacy and numeracy are still diabolical. Targets are scandalous, and real resources must be directed towards that issue. The Department for Employment and Learning's Objective 1 states that it wishes

"To work with others to achieve wider access to education and training and to seek the highest standards of learning, research, training and scholarship, thereby contributing to economic development."

Although economic development is an honourable aspiration, the difficulties for people who do not have adequate reading and writing skills, and who therefore suffer social exclusion, are far worse. If we are intent on targeting social need, we must address the issues of low educational attainment, low self-esteem and poor self-confidence. The inability of a parent to help a child with basic homework is like an open sore — it is a continuous source of pain and discomfort.

Student finance affects low-income families. Young people from areas with generational long-term unemployment cannot afford third-level education. Either they are unable to get access to higher and further education, or they leave college with huge debts. All Members know students who are working 30 or 40 hours a week to put themselves through college. At a time when their education is supposed to be most important, some young people are doing a full week's work. More university places for young people are required. Many young people are moving out of the Six Counties to get university places because there is a serious dearth of places here.

The unemployment differential has been well documented, but it continues to be brushed under the carpet when a Catholic is more likely to be unemployed than a Protestant in areas such as Strabane, west Belfast and Derry. In my constituency, Fermanagh and South Tyrone, many people have to travel long distances to work, and many are employed in border counties such as Leitrim and Cavan because there is not enough work in their own area. I am disappointed that the Executive did not make the unemployment differential one of their priorities.

Like others who have spoken, Sinn Féin members are concerned about health, education, housing, fuel poverty, the environment, the suffering of the agriculture and rural community and its many and varied needs, jobs, investment and infrastructure. Everything that each Minister has worked on to benefit everyone in the Six Counties and on the island is now at risk.

For the first time in my life we have direct accountability and local people addressing local problems through the North/South Ministerial Council, the implementation bodies and work being done by such bodies as Waterways Ireland, InterTradeIreland, the Special EU Programmes Body, the North/South Language Body and the Foyle, Carlingford and Irish Lights Commission: but we are on the brink of throwing it away. Sam Foster said how he enjoyed the North/South element of his ministerial duties, so why is his party leader intent on destroying that part of the Good Friday Agreement? He talked about the Health Minister's intention to put a new hospital in Enniskillen. Does Mr Foster not realise that a direct rule minister could close down every hospital outside Belfast and Derry and that there would be nothing he, I or anybody else could do about that? Does he believe that our constituents would be better off in another political

vacuum? Our people need Members to work towards a better future for them, not to hanker after the past.

Like many other Members, I cannot understand how the First Minister can reconcile his actions with the needs of the people. Does he think that the achievements of the past few years should be poured down the drain? Does he think that the changes to policing, criminal justice and demilitarisation, although inadequate, are going to be reversed? Does he think that the equality agenda, the human rights agenda and the all-Ireland agenda, all of which Unionists have tried to dilute, destroy and delay, will not still be here when we get back to this point?

Does the First Minister think that by trying to re-write the Good Friday Agreement he will achieve what all Unionist politicians seem to want — a return to second-class citizenship for Nationalists and Unionist supremacy? If he thinks that, he is a more blinkered and intellectually challenged man than Sinn Féin took him for. David Trimble cannot and will not stop us achieving equal rights and the end of discrimination on this island. He, along with the rest of the begrudgers and naysayers, is on a direct route to political obscurity, and the sooner that the Unionist community can produce a leader who can lead, the better for all of us.

**Madam Deputy Speaker:** Order. I am beginning to wonder what the connection is between the Member's remarks and the draft Programme for Government. I ask the Member to keep to the subject.

**Ms Gildernew:** The context is clear. The House is debating the draft Programme for Government, which will not be worth the paper it is written on if David Trimble achieves his objective of bringing down the Good Friday Agreement and the Assembly. The targets for achievement that the Executive are setting through the draft Programme for Government will be wiped out if David Trimble gets his way. Go raibh mile maith agat.

**Mr Byrne:** I welcome the debate on the draft Programme for Government. The guiding principle "making a difference" was the primary objective set three years ago, and that is still the challenge as the Executive seek to make devolved Government more relevant and beneficial to our communities. The people across our region want to see social and economic progress arising from the political structures working effectively here. Northern Ireland has a large public sector, which plays a major role in our regional economy. In fact, we have the largest public sector dependency of any region on these islands. The challenge for the Assembly, therefore, is to improve the economic performance of our regional economy to lessen our public sector dependency. However, our regional economy can only become more competitive and enjoy better growth and economic output if our public infrastructure for road and rail transport, water and sewerage provision, and energy supply can meet the needs of modern industry, businesses and households.

The accumulated public investment deficit in infrastructure is accepted generally to be a major bottleneck in restraining development across the rural sub-regions beyond the Belfast metropolitan area. The reinvestment and reform initiative pioneered by the Deputy First Minister, and announced by the Chancellor of the Exchequer in May, provides an opportunity to tackle the big capital investment needs in roads, water and sewerage. That is good news, and it is hoped that it can be developed into real investment. The business community, particularly the small and medium-sized enterprises (SMEs), need continued support to make the region more economically sustainable in the future. Invest Northern Ireland must think beyond selective financial assistance packages to be more effective, innovative and helpful to would-be SME promoters.

The business community, including the manufacturing and tourism industries, need confidence in a stable, political environment to invest and grow, to create employment and contribute to the economic growth in our region. Unfortunately, recent political events, including the recoil of the Ulster Unionist Party from work in the North/South Ministerial Council, and the street violence of the past year, have caused great concern and anxiety in our business community. The Assembly and the other political institutions, including the North/South bodies, must work to maximum effect to build a better regional economy and society here.

The Programme for Government addresses some important elements at this juncture in the life of the Assembly. The Executive commitment to invest in transport and in a water and sewerage infrastructure over the next 10 years is welcome, and it is necessary to promote development across the region. I welcome the targeting of resources to help reshape our agriculture industry through the emerging vision for the future objectives. The farming industry needs help and commitment from Government to restructure and become more competitive and market driven. There is positive emphasis on tackling wider access to education and training so that young students or adults will have better opportunities to develop themselves with improved skills or qualifications to enhance their employment prospects. Efforts to increase investment in the student support package are desirable and progressive, as is the targeting of financial support to those students who are most in need.

Hospital provision is a major concern for many communities, particularly in my constituency of West Tyrone. Devolution must mean that all citizens in Northern Ireland have equal access to hospital-based medical and acute services. The issue of hospital provision and the current hospital acute services review is of particular concern to the people of Tyrone and Omagh — a population of almost 25,000. The people of my constituency want devolution to work. They do not want a devolved Health Minister to deliver a bombshell by leaving West Tyrone without a decent hospital. I earnestly hope that "Making



a Difference” does not result in my constituency ending up without a viable and sustainable hospital in the future.

3.45 pm

**The Chairperson of the Committee for Education (Mr Kennedy):** As Chairperson of the Education Committee, I am grateful for the opportunity to participate in this important debate. First, I would like to deal with the statements that have been made on political matters, in the speeches of Mr John Kelly and Ms Gildernew of Sinn Féin.

I reject wholeheartedly the criticisms levelled at David Trimble and the Ulster Unionist Party. I remind those Members that the institutions are in a state of confusion because —

**Madam Deputy Speaker:** Order.

I have had occasion to remind Members to return to the subject matter of the debate. It is only right that I should ask the Member not to refer to issues that are outside the specific subject matter of the Programme for Government.

**Mr Kennedy:** I respect your authority, Madam Deputy Speaker. However, you allowed considerable licence to representatives from Sinn Féin to criticise severely the Ulster Unionist Party and the First Minister. It is grossly unfair that you are not prepared to allow those criticisms to be countered.

We are in this situation because of the clear failure of the Republican movement, in particular, to honour its obligations under the Belfast Agreement, while events take place in Colombia and Castlereagh and in the interface areas of Belfast. That is why the Ulster Unionist Council —

**Madam Deputy Speaker:** Order.

I gave the Member an opportunity to continue and he has suggested that the Chair was too lax and allowed Members to go beyond the scope of the debate. I have reminded him already that he is going beyond the scope of the debate also.

**Mr Kennedy:** I will speak as Chairperson of the Education Committee. The Committee endorses the draft Programme for Government’s recognition of the importance of investing in education and skills.

I welcome the draft Budget announced today, which endorses the commitments outlined in the programme. The Education Committee will wish to scrutinise the programme in detail and ensure that appropriate and challenging targets are set and that adequate funding is allocated to those key priorities.

I am pleased that investment in schools capital building is a priority. In his statement to the House yesterday, the First Minister highlighted that tackling the infrastructure deficit is not only about bricks and mortar;

it is about the standard of education that our schools provide. I agree wholeheartedly with his comments.

The Education Committee appreciates the programme’s recognition that the earliest years of learning are the most important. It has stressed consistently that investment in early-years learning is an investment in the future, which will result in long-term savings and reduced need for investment in expensive remedial measures. The Committee welcomes the commitment to begin implementing a new primary school curriculum, which will include a new approach to early-years education. My Committee is carrying out an inquiry into early-years learning, and its report to the Assembly will help to inform Members about the matter.

Special education must be a priority. Therefore, I am disappointed that the target date for the introduction of a special educational needs Bill for Northern Ireland has been revised. The Bill will not be introduced until some time in 2003 or 2004. That matter has been unresolved for too long, and it must be considered urgently.

The Committee’s written response to the Executive Position Report stated that it expected to see targets for advancing the review of post-primary education and the inquiry into teachers’ pay and conditions of service. I read the draft programme quickly, and it did not seem to address those priorities. These obvious gaps must be addressed in the final document.

I should like now to turn to numeracy and literacy, about which the members of the Committee remain anxious. Yesterday, Mr Durkan highlighted the Executive’s commitment to taking action to ensure that our young people leave school with the highest possible standards of literacy and numeracy. Why has the promised launch of a revised literacy and numeracy strategy in schools by September 2002 been put back until September 2003? Why have the targets for numeracy and literacy for 11-year-olds and 14-year-olds in the Department of Education’s draft public service agreement been lowered and the timescale for their achievement extended for two years, from 2004 until 2006?

The targets for achieving level 4 or beyond at Key Stage 2 assessment in English have been changed from 77% to 75%, and in maths from 80% to 77%. Both targets are now to be achieved by 2006 rather than 2004 and, unfortunately, there are other examples. Last year I pointed out that the numeracy and literacy targets had twice been revised downwards. The explanation I received was that information had shown that the targets would not be reached, and that they had, therefore, been revised to make them more realistic. I wonder what the explanation will be this time. I am sorry that the Minister of Education is not in his place. The lowering of targets does not fit with the commitment to tackling the problem that the Executive has outlined, and the

Committee for Education will wish to examine the matter very carefully indeed.

There are some other issues that the Committee will wish to look at in more detail, but I should like to conclude by welcoming the recognition in the draft Programme for Government that education contributes to sustainable development. Like you, Madam Deputy Speaker, I took part in a youth parliament debate in the Senate Chamber at which I heard some very articulate students put forward compelling and persuasive arguments on the issue. I trust that political parties other than the Ulster Unionist Party will honour their obligations under the agreement, to ensure that this Programme for Government is implemented by the Administration.

**The Minister for Regional Development (Mr P Robinson):** Madam Deputy Speaker, I shall not test you as others have in relation to the scope of the debate, but I approach the question as a convinced devolutionist who believes that it is always better for those taking the decisions to be answerable to the people for whom they do so. Everyone knows my opposition to the current type of devolution, and we are always glad when new converts come round to our way of thinking. It seems that the closer we get to the election, the more converts we have to our cause. That is as far as I shall stretch you on that subject, Madam Deputy Speaker.

I say that I come as a devolutionist. When I moved into the Department, I saw what was effectively a shambles. The infrastructure deficit was enormous, and it was clear that there was a major backlog. I do not take it easily when people say that it is a failure of devolution. What then was the failure of direct rule before it? Many of the problems that we are having to address have been the problems of direct rule. When I moved into the Department, it was clear that there was no strategy to develop the important issues. Everything was moving on an ad-hoc basis, with a piecemeal approach to policies.

The first thing that we had to do, right across the board, was to set up strategies in every area of responsibility: the regional transportation strategy; the regional development strategy; the water strategy that is currently out for consultation. We have revised the harbours legislation and made progress with the railways. We did not deal only with the strategic guidance that the Department now has to see it into the future; we have started to cost the proposals necessary to take Northern Ireland forward. We went further, also looking to identify where the funds might come from.

Having gone through that exercise, I agree with much of the comment in the Chamber on the massive need for infrastructure investment in Northern Ireland. I am pleased that the draft Programme for Government acknowledges that need. Paragraph 3.7 states:

“The Executive is committed to delivering new and substantial investments in modernising and improving our infrastructure.”

However, in his opening statement, the Deputy First Minister said that the draft Budget, which was also proposed today, supported the Programme for Government. I regret that the Budget announced by the Minister of Finance and Personnel fails to address our infrastructure needs. Roads and transport are one of the Executive's top three priorities, yet the meagre increase of 1.2% in the Department's budget for the next financial year falls short of what is required to reverse the underinvestment of the direct rule years. That below-inflation increase will damage the long-term competitiveness of the Province. When all other funding sources are taken into account, the increase of 4.3% falls well below the Department's average. It also falls short of the draft Programme for Government's requirement to upgrade our infrastructure.

The hope of money from the reinvestment and reform initiative in future will be cold comfort for desperately needed infrastructure across the Province. The plan of “jam tomorrow” fails to meet the urgent requirement of today's crumbling infrastructure, and it simply stores up problems for the future.

The already overmanned Office of the First Minister and the Deputy First Minister received a 19% increase for one year in the draft Budget. If one adds the money that is not on mainstream funding, it amounts to an increase of over 50% over three years — the largest of any Government Department. That is for a Department that, in my view, shows no visible product. It is difficult not to come to the conclusion that the Executive's priorities are no longer health, education and transport, but bureaucracy, bureaucracy and more bureaucracy.

The draft Budget and the draft Programme for Government do not match. They fail to make a difference in Northern Ireland; they expose those who say one thing and do another. As they stand, the three-year spending plans fail Northern Ireland and will not withstand the outcome of an Assembly election. When Members make their decisions on the Programme for Government and on the Budget, they must remember that the Budget that they will be voting for is incapable of delivering the Programme for Government, for which they will also be voting. Members will have to live with the consequences of failing to invest in infrastructure while extending Government bureaucracy.

**Mr M Murphy:** How can the Executive propose the draft Programme for Government while there are those in the Ulster Unionist Party who are opposed to change? After all, one half aims at bringing down the Assembly. Where are the strategic objectives to achieve equality, partnership, sustainability and prosperity when there are those in the Executive whose objectives are based on exclusion? David Trimble contradicts himself so much that it is about time he stopped dancing about and got down — *[Interruption]*.

**Madam Deputy Speaker:** Order.

**Mr Kennedy:** On a point of order, Madam Deputy Speaker. Will you make a ruling on the subject matter of the Member's speech?

**Madam Deputy Speaker:** Thank you for reminding me, Mr Kennedy. I was about to ask you, Mr Murphy, to restrict yourself to the Programme for Government, which is today's debate.

**Mr M Murphy:** Unfortunately, Madam Deputy Speaker, this is all part and parcel of the draft Programme for Government. If David Trimble gets his way, the Programme for Government will go out the window. It is gone, judging by what the Unionists did at the weekend.

4.00 pm

Is there any point in debating the Programme for Government, if the First Minister is prepared to end it in January?

How can the Assembly square its commitment to ensuring the transfer of power from Westminster to our political institutions, which will make a real and positive difference to economic and social life, with the concerted campaign by Unionists to frustrate and delay change?

**Mr Kennedy:** On a point of order, Madam Deputy Speaker. Why do you give the Member undue licence?

**Madam Deputy Speaker:** Thank you, Mr Kennedy, for reminding me of my duty. Thank you, Mr Murphy, for making the clear connection between the weekend's events and the Programme for Government. However, Members' comments must relate to the Programme for Government. I appreciate that many Members mentioned the weekend's events during the debate; however, I have corrected Sinn Féin Members and those from the Ulster Unionist Benches who dwelt on the subject. Mr Murphy, please limit your comments to the Programme for Government, regardless of whether it will be around for much longer.

**Mr M Murphy:** There is no going back to Unionist rule; Sinn Féin will not stand for that.

When will the allocation to the Department of Culture, Arts and Leisure be finalised, and on what baselines will the targets be set? Will there be a target to increase activity in the creative sector? No imaginative response has been made to the need for increased support of the Department of Culture, Arts and Leisure.

I welcome the shift of resources to focus on areas of greatest need and the development of a creative approach to government that puts people's needs at the core. There must be a partnership approach to government — between social partners, the community and local government.

In targeting social need, the Assembly must deal with poverty, from which some people continue to suffer. Poverty could be tackled effectively by providing proper

housing in which children could have the best start in life and where they could grow up to be healthy. If the Executive live up to their commitments in the Good Friday Agreement, our reward will be a peaceful, fair and inclusive community for children to grow up in. Go raibh míle maith agat.

**Mr Close:** Some three years ago, the first Programme for Government was presented to the House. The passage of time has demonstrated clearly that the first programme was mainly aspirational: how many of its 256 priorities have been delivered? Because of its nature, I believed that the lives of the people of Northern Ireland would be changed only after several years. Unfortunately, I have been proved correct in that respect. Real differences will only happen further down the road.

Unfortunately, the full opportunities that were, and are, afforded by devolution and the deliverance of the full potential of the Good Friday Agreement have been missed because of the failure to bring about real change. The aspirational approach and the attempts to cover too many areas in a specific period have resulted in the butter being spread too thinly, with little benefit for the people of Northern Ireland.

Many reviews have been carried out — reviews into rating, accommodation, the Civil Service, public administration and procurement. Waste issues, usage of assets et cetera are now being considered, and that is all good. However, there has been a slippage of some eight months in the accommodation review and of about five months in the rating review. It is impossible to put a figure on the public administration review slippage because we do not yet know when it will yield results. As a consequence, the people of Northern Ireland question what has happened over the past three years and suggest that those years may well have been wasted.

I, my constituents, and those who support the Good Friday Agreement and devolution, welcome some of the achievements to date. We welcome the commitments, but we want them to be delivered on. We welcome free travel for the elderly, the start on the cancer centre, and the £100 a week towards the cost of nursing care. However, more should have been done in the past three years to improve efficiency, and thus provide the additional resources needed to make a real difference to the lives of the people of Northern Ireland. Three years on, what has been achieved? Our population is still in relatively poor health. Our death rates are higher than other regions in the United Kingdom. Our waiting lists are the longest in Europe; in particular, our waiting lists for inpatient treatment are longer than in any other region in the United Kingdom. That is an indictment of the Executive and those charged with making improvements.

The quality of the drinking water in Northern Ireland is still the lowest in the United Kingdom. Clean drinking water is one of life's necessities. Our sewerage system is



crumbling and decrepit — in short, it stinks. The upshot is problems for the economy.

Most Members will have received letters from the Construction Employers Federation. I have received several letters from large construction firms in my constituency that are concerned about the delay created by the planning moratorium. Previous Programmes for Government contained a promise that the Minister of the Environment would reduce planning backlogs, and that they would be cleared by the end of 2002. A cynic would ask whether one way to get rid of planning backlogs is to introduce a moratorium and to stop granting planning permission. Meetings with the Construction Employers Federation et cetera have taken place, but I understand that decisions were supposed to have been made by the middle of this month. However, that has not been the case. Those who support devolution and who want progress and action can accuse the Executive of procrastinating and of not knowing whether they are coming or going. I use the opportunity presented by this debate to suggest that the Ministers involved solve the problem together so that, once again, construction and the economy can flow.

I have been critical of the Executive. The Executive are not being, and cannot be, blamed for all our faults and weaknesses. However, three years on, I insist that people have the right to ask what real changes have been made. People at least have the right to start seeing the light at the end of a very long tunnel.

I referred to the various reviews taking place, which are suffering a degree of slippage. Even in those reviews, opportunities to gain best benefit for Northern Ireland are lost. For example, we are currently involved in the rating review. There have been meetings and consultations throughout Northern Ireland on the necessary changes. For some reason or other, however, the Executive have failed abysmally to persuade Her Majesty's Government to permit the Assembly to have tax-varying powers. I am absolutely convinced — and a weight of evidence from the general public is building up — that a change from the iniquitous regional rate to a fair and equitable system of local income tax, based on the ability to pay, could raise the necessary resources and revenue much less painfully and much more efficiently. That could cut out some of the bureaucracy in the layer upon layer of reliefs in the rating system. It would be easier to collect and could produce the goods, but, for some reason, it appears that the Executive have set their face against a progressive tax and continue to insist on, and opt for, a variation of the —

**Madam Deputy Speaker:** I ask the Member to draw his remarks to a close. The time limit was eight minutes, and I have given a little leeway. You may conclude your remarks.

**Mr Close:** Thank you, Madam Deputy Speaker. How time flies when one is in good company.

**Mr S Wilson:** The conclusion lasts five minutes.

**Madam Deputy Speaker:** Order.

You have a few seconds, Mr Close.

**Mr Close:** I shall omit my comments on the necessity to get public administration right. That has been covered by other Members. One of the big challenges we face is contained in paragraphs 3.2 and 3.3 of our vision for the future in the Programme for Government, and I must pose just one question to the Executive. What exactly —

**Madam Deputy Speaker:** Order. The eight minutes are well and truly up and beyond that.

**The Chairperson of the Committee for Regional Development (Mr A Maginness):** Some people have said that the draft Programme for Government is aspirational. Of course it is. It is aspirational until it is put into effect. All Programmes for Government are of that nature. Assembly Members will judge how this Administration puts that Programme for Government into effect.

As Chairperson of the Committee, I welcome the Programme for Government in general terms, and I welcome the specific commitments by the Administration to developing our infrastructure and repairing its neglect. That neglect was made evident on many occasions by myself and by members of the Committee for Regional Development. I welcome the commitment to the transportation strategy and to dealing with the problems that affect the water industry in Northern Ireland. The Water Service should receive the wholehearted support of the Administration. I shall judge the Administration on how it delivers in respect of providing new infrastructures for transportation and water.

The Committee for Regional Development is obliged to scrutinise the Government's actions and to monitor what the Department does with the money that it receives to carry out the two major projects.

4.15 pm

I share Members' concerns that we may fall short with direct funding. However, we have a wonderful opportunity by way of the reinvestment and reform initiative, which the Deputy First Minister negotiated successfully with the Treasury. The initiative revolutionises the funding of public services in Northern Ireland. I welcome also the establishment of the strategic investment board, which will be critical in the delivery of investment to all Departments, especially the Department for Regional Development. I look forward to its proposals vis-à-vis our long-neglected infrastructure. As the Chairperson of the Committee for Regional Development, I welcome much in the draft Programme for Government, and, regardless of their political perspective, Committee members should give it a general welcome also.

Members are committed to making devolution work, though perhaps from different political perspectives. Mr

McCartney seems to be the exception to the rule because, essentially, he is anti-devolutionist. Members can criticise the Government and the Administration, but at least all of us, in the main, support the concept of devolution. Of course, devolution has not delivered immediately; there is much in the pipeline, such as the reviews of rating policy and public administration, both of which are vital to the development of administration in Northern Ireland.

An old uncle once advised me to “take one bite of the elephant at a time, son”. Members should heed that advice, because we must operate in a way that gradually implements the things we need to do. The review of rating policy is essential to the future structure of our internal revenue, and the review of public administration is important for efficiency. However, it takes time to implement such measures and to process those reports, and, therefore, I counsel patience.

If we had more political co-operation and harmony, most of our problems would disappear, but, and I tread gently here, the weekend’s events have cast a blight over today’s debate. It seems that, instead of the plug’s being pulled immediately, it will be pulled gradually but inevitably in January. I exhort those who are committed to devolution to think again. To make the Programme for Government work, Members should renew their commitment to the agreement because, no matter what their political perspective, the draft Programme for Government is good.

Having said that, I have at least one serious criticism about the section on community relations: it is not as strong as it could be. I do not detect the necessary urgency required to tackle community relations. Paragraph 4.16 states that

“we will, by December 2003, taking account of a consultation process, have in place a new policy and strategy on good relations...”

That undertaking is not urgent enough to facilitate the development of a good community relations policy that will ameliorate the serious problems on our streets and in our communities. More thought must go into it, because it is at the core of our political problems. We must effect an attitudinal change in political and community values that will transform our community and bring real peace and harmony to our streets.

Therefore, the Executive should reconsider their approach to community relations. I am told that a document was prepared and presented to the Office of the First Minister and the Deputy First Minister in January but has not yet seen the light of day. That is a matter of deep regret, if true. It is time that the Executive reassessed their position, and it is time that we had a well-worked-out community relations programme to tackle effectively our most serious and pressing problem. I want to see more urgency and more detail.

**Madam Deputy Speaker:** The Member will draw his remarks to a close.

**Mr K Robinson:** I had not intended to speak in this debate but, having listened to its tone, I thought that perhaps I could add some reality to some of the comments that have been made. I do not intend to refer to the events of the weekend because the problems that caused them lie in history. Perhaps some Members can search their consciences about some of the things that they could have done, but failed to do, to help the process.

Turning to education, sub-priority 1 of the draft Programme for Government aims to give our children the best start in life. I welcome that. I am sure that Members would not deny children that start. I commend in particular the development of programmes such as Sure Start, which will give children who live in areas of multiple deprivation a firm foundation for future progress on which they must build. The deprivation of certain areas, particularly in the city, has already been commented on.

I welcome the proposed changes to the early years curriculum, because that is another vital building block in our education system. It will help underachieving primary schools, in particular. All of those are necessary building blocks if we are to build a significant and viable second-level education in the future.

When a school has adopted one of those programmes to help it raise its standards, and those standards have been raised and recognised by the inspectorate, the school may find that, instead of being rewarded for its success, its extra financial and staffing resources are reduced. That reinforces the problem. In such situations, we must ask why we try to improve things.

Skills are important in the curriculum, particularly transferable skills. The examination of the curriculum as it exists, and as it might exist, is welcome. If these skills are transferable, they become relevant to the needs of employers and training agencies, and our economic future depends on them. Sub-priority 4 of the draft programme refers specifically to those needs. It is on these skills that our future prosperity depends.

Looking at the wording of the enterprise, trade and investment sub-priorities, I think that they have missed a great opportunity — an opportunity that we would not have sought, but that is being thrust upon us. We have suffered a downturn in the high-tech and telecommunications sector, particularly in east Antrim. That sector has a highly skilled workforce that is currently underemployed or unemployed. It is incumbent on the Department of Enterprise, Trade and Investment to seize that opportunity.

The Department talks about seizing the opportunity, and it must ensure that the critical mass of research and development personnel and those with high-tech skills

are used as entrepreneurs to act as springboards to launch us into new unexplored areas of technology.

On the subject of special education, I welcome the recognition in paragraph 6.8 of the importance of special educational needs provision. That educational area has been neglected for a long time, and capital infrastructure must be upgraded. We must also focus on the needs of those young people who leave special education between the ages of 16 and 19 and for whom adequate onward provision into the Jobskills programme, along with preparation to sustain them in adult life, is not available. I bring that matter to the attention of the relevant authority.

I trust that the programme will not be deflected on sub-priority 2 in that section, because of the ministerial focus on the Burns Report and all that flows from it, but will ensure that that firm foundation of high quality early years learning and properly funded primary education will be maintained. Other Members have referred to the importance of primary education. That is the core of our education system, and it is not funded properly. I am concerned that significant sums have still not been moved in that direction. If core funding, core staffing and a relevant curriculum can be brought together to address children's need, both at primary and secondary level, we will have a firm foundation on which to move forward. That will ensure that the band of well-qualified school leavers, who currently exceed the attainment levels of their peer group in England and Wales, can be expanded.

In paragraph 6.19 growth in enrolments in integrated schools and Irish-medium education is portrayed as desirable, and I do not demur in relation to that suggestion. However, I am concerned about the impact of the enhanced status of those schools upon the management of the maintained and controlled schools sectors. The Department should ensure that there is equity of treatment for all children in all types of schools.

In 2.2 the programme states that

"a downturn in economic fortunes can have serious social consequences."

In east and south Antrim, serious social consequences are being experienced, and I ask that the Minister of Enterprise, Trade and Investment and the Minister for Regional Development seriously consider how that problem can be tackled.

Extra funding was allocated to the Health Service. However, because of the convoluted management structures, it appears to be a bureaucratic black hole. No matter how much money we pour into it, no significant difference will be made unless we tackle those structures.

The condition of our infrastructure is abysmal. Some of the priority schemes seem to have more to do with political geography than with need and strategic issues. I refer specifically to the A2 between Newtownabbey and

Carrickfergus — a road that carries more traffic than parts of our motorway system. It is the vital artery upon which Carrickfergus and its commercial expansion depend, yet the short stretch of one-and-a-half miles is not in the Programme for Government.

Sewerage and water infrastructure present an equally sorry state in east Antrim. The recent flooding episodes and the increasing planning permissions that are being granted in the area point that up. The document refers to a "clean, green" image, and I like to think that a "clean" image could be achieved in east Antrim. It concerned me somewhat that at least one Member commented that we would be expected to take on a "green" image.

In east Antrim, industrial pollution is a problem along with car emissions, and if the proper infrastructure were in place, those problems would be close to being resolved.

**Madam Deputy Speaker:** The Member will draw his comments to a close.

**Mr K Robinson:** Finally, our areas of special scientific interest and areas of outstanding natural beauty are under constant threat from the Department, the very one that is supposed to protect them. I have great concerns for my constituency.

4.30 pm

**Mr S Wilson:** As usual, and as we would expect, this debate has become a backslapping exercise by those in the pro-agreement parties. Those Members use the Programme for Government as an opportunity to tell people how wonderful the agreement is, how it has delivered better services to people in Northern Ireland, and how much better life is as a result of this institution and its peculiarities. However, sometimes, reality shone through. A few Members have voiced their opposition, including Seamus Close, Bob McCartney and Peter Robinson. Even Alban Maginness admitted that we have been a bit heavy on reviews and a bit slow in delivering. As some old wise man told him, you should "take one bite of the elephant at a time".

I am afraid that the evidence is that the elephant is not even getting a wee nip, let alone a bite, taken out of it.

David Trimble promised his party, and Mark Durkan promised the Assembly that, over the term of this Administration, Assembly costs would be neutral because of savings on bureaucracy in other areas. We are not even at the starting point, and, as a result of some of the measures that have been introduced, we are adding still more bureaucracy.

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

I wish to concentrate on education, a subject on which Ken Robinson touched. If each Department followed education's example, we would see the same abysmal failure. Next year, we shall spend £85 million more on education than we did this year. For that, we would



expect something more to be delivered. However, many of the measures that the Minister of Education promised last year have not yet been delivered. When we compare the draft Programme for Government with last year's programme, we see that the targets that were set last year have not only been downgraded, but put back for two years. Those are vital targets, not figures dreamt up by someone in the Department, and they affect the lives of ordinary youngsters.

For example, targets were set for literacy and numeracy levels. By this year, 77% of children were supposed to have reached level 4 of Key Stage 2 in English and maths. That has now been downgraded. The target for the number of children passing their GCSEs at grades A to C has been downgraded and put back two years. The target for reducing the number of youngsters leaving school with no GCSEs has been downgraded and put back two years. The target for reducing the number of pupils who have poor attendance records at primary and secondary schools has been downgraded and put back two years. The target for reducing the number of schoolchildren with multiple suspensions has been downgraded and put back two years. I could go on.

Every target that was set last year has been reduced and put back two years. However, the Minister of Education will be given £85 million more to spend on delivering the service. We must ask whether the Minister needs a caning, or whether the Executive need a caning for voting to give him more money when he tells them that he will deliver less. This is hardly a success for the Administration. We give the Minister more, and we get back less. Of course, that "less" means fewer youngsters leaving school equipped for life; more youngsters wandering the streets because of multiple suspensions or bad attendance, and worse conditions in our schools.

The document is full of contradictions. For example, Ken Robinson referred to rationalisation. We have been told that rationalisation is needed in the educational interest of pupils. With that in mind, you would think that there are too many schools and that we need to reduce their number; the number of places should be reduced, and that should be the aim of the Department — not a bit of it. In the same document we read that the Minister is going to spend more money on providing more Irish-medium schools.

The latest Irish-medium school, which opened in September 2002 and caters for eight pupils, cost the Department and the Southern Education and Library Board over £300,000 — that is what is meant by wasting resources. More Irish-medium schools and integrated schools are to be built. In a recent reply to a question in the House, the Minister said that integrated schools got 20% of the resources last year, though on the basis of the needs assessment they deserved only 5%. It seems that the trend is upward. What happened to

the idea of rationalisation of schools? Why build more schools if you are saying that you need to cut the number of schools? These are the types of contradictions that are in the Programme for Government.

This is not a success story: this is an example of the Executive pandering to Ministers in the interests of keeping the ship afloat. Regardless of whether Ministers are delivering, the Executive will hand out money to them. That is one of the reasons why I disagree with Seamus Close about tax-raising powers. God help the people of Northern Ireland if the Assembly ever gets tax-raising powers.

I could have talked about other Departments, but I have cited one example from one Department. Money has been squandered already, and we should not be contemplating giving more powers to Ministers, and to the Assembly, to take more money out of the pockets of taxpayers to be squandered in the way in which the Programme for Government illustrates.

**The Deputy Chairperson of the Committee for Enterprise, Trade and Investment (Mr Neeson):** I

wish to make some comments on behalf of the Committee for Enterprise, Trade and Investment. First, I welcome the commitments given in the draft Programme for Government announced by the First Minister and the Deputy First Minister yesterday. When coupled with Dr Farren's Budget statement today, it becomes apparent that, it is to be hoped, there is a commitment to joined-up Government in the Assembly.

The Programme for Government highlights the positive economic factors currently underwriting the local economy: comparatively low unemployment; high employment levels; increased manufacturing output and improved levels of gross domestic product for the local population. However, I must echo the points raised by Ken Robinson in relation to the downturn in the IT industry, particularly in the east Antrim area. That issue has to be taken on board by the Minister.

Undoubtedly those factors are also assisted by the relative stability of our political structures and the recognition that devolution is working. The positive economic indicators mean that the Executive can be more proactive and forward looking in dealing with the problems in our society for which we are responsible. I share all of the concerns voiced by Alban Maginness on the need for greater focus in dealing with community relations, which is not really addressed in the Programme for Government as well as it should be.

This time of relative economic prosperity should not be wasted; the bedrock should be laid now to avoid some of the worst aspects of life when, at some hypothetical time in the future, the economy is less buoyant. I remember one of the big issues that we had to deal with in the last Assembly of 1982-86 — where I

held the same position that I hold in the present Assembly — was that unemployment was running at 20%. That was a major problem. Neither the Executive nor the Assembly should be complacent about the present situation.

The draft Programme for Government recognises that infrastructural problems exist, and those problems must be overcome for there to be an effective and competitive economy, so I give a guarded welcome to the continued commitment to the reinvestment and reform initiative, and I hope to see that assist in the continuing development of the economy.

I share the view contained in yesterday's document that the Executive have a proactive role in certain areas of governance and that, in respect of the economy, the most effective role is that of a skilled facilitator. In the light of that, I applaud the Executive's decision, and commend particularly the Minister of Enterprise, Trade and Investment, to put the money allocated for inward investment projects on a more strategic footing. To agree that inward investment projects should be funded from within an allocated range and, due to the possibility of underspend on certain occasions, that this vital area should be given priority in monitoring is radical, strategic and forward looking. I suspect that that would not have been agreed in the days of direct rule.

With regard to the specific proposals in the draft Programme for Government, I endorse many of the suggestions contained in the "Securing a Competitive Economy" priority. We must continue with the commitment to invest in research and development. Our economy must compete with other blue-chip economies in bioengineering, aeronautics and information technology. To be at the cutting edge there will require financial support and other commitments from the Executive.

Paragraph 7.7 lists the sub-priorities for this overall priority. They make a challenging and aspirational shopping list. We need better infrastructure to integrate the various planning processes and to be entrepreneurial, creative, innovative and competitive as a society. We must develop the undoubted potential of tourism, untie certain shackles of regulation and protect, enhance and promote the environment.

To achieve what is set out will require a strategic and focused approach. It will be challenging and will require a team effort. I stress that that is important because when we are dealing with the bread-and-butter issues in our Committee — and I hope in the other Committees too — there is a genuine attempt to deal effectively with the issues at hand, and a team effort will be required. Responsibility does not lie with one Minister or Department alone. Departments must continue to work collaboratively and do more to remove the silo mindset.

We in the Assembly must also play our part in scrutinising the Departments' work and ensuring that the challenging targets contained in the draft Programme for Government are met. The Committee for Enterprise, Trade and Investment will not shirk from that task.

**Ms McWilliams:** I too support many of the proposals in the draft Programme for Government. As yesterday, I almost feel like I am revising for an exam without being sure if it will ever take place, particularly given the announcement last weekend. As I said yesterday, many of the targets are now in question. Some of the legislation given a First Stage reading yesterday may not now progress because of the decisions that may be taken in January.

I am concerned about the message that we are sending to people if they are attempting to plan for the future, particularly the plans around the workforce initiatives.

The Office of the First Minister and the Deputy First Minister has been doing needs and effectiveness evaluations; it has been looking at the workforce in many areas and making proposals and recommendations. However, all of that may now be up in the air.

4.45 pm

I rarely find myself in agreement with Sammy Wilson in his choice of targets. However, if this Programme for Government is about anything, it should be about the future of our children and young people. I am concerned about the number of young people who wander our streets — those with poor school attendance or multiple suspensions — there is an overlap between that and antisocial behaviour. I am concerned also that the targets in last year's Programme for Government have gone down, and not up, for that group of children. I am concerned also that those young people — most of them in their early teens — merit only a few lines in the Programme for Government. This is the draft programme, and the responsibility lies with the Minister of Education, or the Executive, to reconsider the message that they are sending out to youth and to youth workers. We are asking for only a 2% increase in attendance among youth organisations to raise it from 32% to 34%.

We have many innovative projects that we should be sustaining and putting into the Programme for Government. It not only involves children attending youth clubs: it involves outreach youth workers going out onto the streets, finding initiatives to attract young people to keep them away from the antisocial behaviour that we are told is on the increase. I am extremely disillusioned with that section of the Programme for Government if that is the message that we are sending out.

It is good to see that there are some preventative programmes in the Health Service for our young people. There will be 2,000 extra places on Sure Start. However,

many on Sure Start schemes do not know whether the schemes will be in place after March 2003 when their funding runs out. There is an anomaly: they will be given 2,000 extra places by December 2003 but they are not sure whether the programmes will be in place.

We should be encouraging these positive preventative childcare programmes instead of putting children into residential care. It is good to see projects on foster care and adoption. However, those targets should be increased, especially for time out and support.

I have just come from the Health Committee's inquiry into child protection at which social workers said that they were under enormous stress at present. There are 300 unallocated places in one trust, which social workers cannot allocate because they are under so much pressure. Nevertheless, we often hear about tragedies, such as the recent death of baby Jasmine McGowan and in which social workers were involved. That poses enormous questions about social services.

We must not take our eyes off the ball by constantly talking about acute care and the modernisation of hospitals while forgetting about the great deal of preventative work that must be done by those in primary care, community care and especially in social services.

I am concerned that there is still no mention of a central maternity hospital — a women's centred hospital for the Belfast area. If the Hayes Report is implemented, the Downpatrick Maternity Hospital and the Lagan Valley Hospital will close, and there will be no anaesthetics at the Mater Hospital. Therefore, many more babies will have to be placed in one hospital. It is open to question whether that will be the Royal Maternity Hospital or the Jubilee Hospital — it does not matter. We must know from the Programme for Government that there will be a new hospital in the next few years; there should have been a line or two about that. Many women were better looked after 20 years ago than they are today.

A message must be sent out to the doctors who are still boycotting the local health and social care groups that commissioning of services will happen. The draft Programme for Government simply states that that may happen in the next year. To be able to say that there is a target for a start to the commissioning of services would be a positive thing.

Sammy Wilson was critical about Ministers, but made no comment about the Minister for Regional Development. The Department for Regional Development will not begin to introduce detailed alternative funding proposals until September 2003. It will take an entire year to find funding proposals to support transportation, water and sewerage infrastructure. I have no doubt that other Members have commented on that. It is important that a message be sent out that those are some of the major problems that we will tackle. However, we will be

sitting in the next Assembly before any proposals will even be seen.

I am concerned that there are few details in the draft Programme for Government about careers guidance. The task force report on long-term unemployment was disappointing; its recommendations speak for themselves. I have previously questioned the practice of civil servants being placed on task forces rather than people from outside organisations being brought in. The Department for Employment and Learning has made only limited recommendations about careers advice, especially for those who have literacy and numeracy problems.

**The Chairperson of the Committee for Health, Social Services and Public Safety (Dr Hendron):** I apologise for my absence during the debate. The Committee for Health, Social Services and Public Safety has been meeting all afternoon.

I have studied the section of the draft Programme for Government that deals with health, and I welcome the fact that additional money is being injected into the health budget. At a time of competing demands, it is a welcome recognition of the problems facing health. The emphasis must be on ensuring that the money is invested wisely and used effectively. The Comptroller and Auditor General should have responsibility for the Department of Health, Social Services and Public Safety. It is well known that he has responsibility for only nine of the 10 Departments.

Although the money is welcome, not all of it is new money. The funds for the cancer centre have already been announced. The emphasis on reinvestment and reform is important, because the Health Service is crying out for investment. There is also the matter of family care services. People are living longer, and those dreadful words "bed blocking" are disrespectful to elderly people in hospital. However, there are not enough places for them and if nursing homes and residential homes were opened up to make way for people who do not require any further hospital treatment, that could solve the problem of bed blocking and waiting lists.

Monica McWilliams mentioned the Committee for Health, Social Services and Public Safety's inquiry into the protection of children. It would be inappropriate to go into the detail of that major issue. However, it is heartbreaking to speak to social workers, paediatricians and others who deal with the protection of children, and with the lack of resources in all four health and social services boards.

I feel strongly about the minimal funding that goes to health promotion, considering the costs of the whole Health Service. In paragraph 5.4, the draft Programme for Government states that

"Evidence is accumulating to support the view that, if we improve matters now, we will need to spend less later".



That is not new evidence. The importance of looking after oneself has been known for a long time. When I was a child, people used to say “an apple a day keeps the doctor away”. That may be a slight exaggeration, but good living and eating properly every day are important for young children. However, that message does not always get through to families. It is more difficult for families who live in social deprivation to concentrate on those matters, and the better-off families seem to have the finance and the ability to pay more attention to that important part of health.

It could be said that we are training our children from an early age to develop heart disease. That is well known by people who look at the coronary arteries of young people. Everyone knows about the high incidence of heart disease in Northern Ireland. Northern Ireland’s first positron emission tomography scanner was recently introduced at the Royal Victoria Hospital, and the Minister, Bairbre de Brún, was present at the launch. She has always recognised the need for that machine, and I have mentioned it many times in the House.

Everyone knows what X-rays, CAT scanners and MRI (magnetic resonance imaging) scanners are; positron emission tomography is at the height of that technology. That technology is available to the people of Northern Ireland — there is already a machine at Blackrock in the South of Ireland — to diagnose heart disease and certain cancers, but, sadly, it operates only one day a week. I am not trying to lecture the Health Minister, because I know that she has put in a bid to the Executive programme funds. That scanner must operate seven days a week.

Paragraph 5.6 of the draft Programme for Government states:

“The rationale for action is clear: many conditions — such as heart disease, stroke, some cancers, dental decay — are linked to our environment and the way we live.”

That is true, but when one considers heart disease, strokes and cancer together, diabetes comes to mind. There is hardly an extended family in Northern Ireland that is not affected by diabetes. Diabetes sufferers and those with a family history of diabetes — who are potential sufferers — are more prone to heart disease, strokes and certain forms of cancer. There was a major debate on diabetes in the Chamber last year, and the motion was passed unanimously. It is important that health recommendations contained in the draft Programme for Government are taken on board, because diabetes affects almost every family in Northern Ireland sooner or later. I am pleased that the Minister is in the Chamber for this debate.

**Mr M Robinson:** In welcoming the opportunity to speak in this debate today, I would like to concentrate on the issues of housing and community infrastructure by examining the relevant proposals which have been laid out in the draft Programme for Government. The issue of housing is an issue that affects every person in

Northern Ireland, but unfortunately in our society many people do not have access to a warm and comfortable home. I am quoting directly from the document:

“We will ensure that everyone has the opportunity to access decent, affordable housing”.

Housing policy must be relative to the people and to the locality in its targeting, and it must be responsive to local needs, aiming at all times to helping those in most need.

Good housing provided well is crucial, and I welcome the fact that the Government are committed to making this a fundamental objective. A good home is a basic human right, and no one in the twenty-first century should have to live in sub-standard housing, but, unfortunately, this is a reality for many.

5.00 pm

Statistics show that there are 44,000 unfit properties in Northern Ireland. Some 14,000 properties do not have central heating, and 10,000 are in urgent need of major repairs and improvements. These figures are staggering and, unfortunately, show that housing need here is, in fact, extremely high. The main aim when drafting housing policy should be to target those who are socially excluded and the most vulnerable in society. This objective must not get lost among pointless red tape and bureaucracy. The draft Programme for Government says that

“We want to make appropriate, accessible and high quality housing available to all, especially those in greatest social need.”

In examining the provision of social housing, we have only to look at the housing waiting lists to discover that the requirement for social housing is high. The waiting list has been fairly steady at 20,000 to 21,000 over most of the past decade, although it must be noted that there has been a pronounced rise in the past three years. It is of great importance, therefore, that the supply and demand chain flows at all times and demand is not afforded the opportunity to outnumber supply.

The Government must take into account the fact that there will always be those who cannot afford to enter the housing market and must, therefore, seek to strike a balance between the housing stock which the Housing Executive intends to sell off and the building of new social housing. Current levels show that fewer than 2,000 new social housing units are being built by housing associations each year, while there is an annual loss of over 4,000 Housing Executive properties, so it is obvious that supply is falling short of demand. Studies show that planned levels of housing investment in new build social housing may not be sufficient to meet need over the next decade, which proves that urgent changes must be made to accommodate the demand.

The issue of housing is a major problem in my constituency of South Belfast, in terms of poor condition and disrepair. In fact, extreme levels of deprivation are evident there. As the city of Belfast prepares to bid for

the coveted title of European capital of culture in 2008, there is a very sad and disturbing reality behind the glamorous façade of the city centre. This is the reality of traditional working-class communities living with severe deprivation.

Turning to community infrastructure, sub-priority 7 in the Programme for Government says:

“We will renew our most disadvantaged urban and rural neighbourhoods, building community participation.”

The Department for Social Development has identified many core wards in South Belfast as suffering from acute levels of deprivation. These areas are characterised by a lack of inward investment, a skills deficit and a strong dependency culture. It is important, therefore, that these areas are identified and resources are mobilised to tackle the extreme levels of social exclusion and deprivation. Investment in these areas will enable fragmented communities to come together and form a strong community infrastructure. It is imperative that these smaller communities do not become engulfed in the bigger picture. If we are to build a city, which is strong, vibrant and worthy of the title European capital of culture, we must take a bottom-up approach and provide the cement to keep our communities together.

I would like to conclude by touching briefly on finance. It is obvious that all Government Departments are struggling with the resources available to implement their strategies, and, unfortunately, many projects are on the back-burner due to a lack of finance. I therefore ask the Office of the First Minister and the Deputy First Minister what commitment they will give to ensure that the necessary resources are put in place to enable the ideals in the draft Programme to be achieved.

**The Minister of Health, Social Services and Public Safety (Ms de Brún):** Go raibh maith agat, a LeasCheann Comhairle. Agus mé ag labhairt ar an dréachtChlár Rialtais seo, ar ndóigh beidh mé ag díriú m'airde ar na ceisteanna sin a bhaineann le mo Roinn.

Ba mhaith liom, áfach, an deis seo a fhreastal le haontú leis an bhéim leanúnach atá an Coiste Feidhmiúcháin a chur ar an eisiámh sóisialta. Is trí chomhpháirtíocht éifeachtach, ag obair sa Choiste Feidhmiúcháin agus leis an earnáil dheonach agus leis an earnáil phobail, a thig linn an dul chun cinn atá riachtanach a dhéanamh.

Is léir ó mhórán dár gcuid seirbhísí na deacrachtaí a chruthaigh an easpa infheistíochta san am a chuaigh thart, ach is sa tSeirbhís Sláinte is follasaigh iad. Ní thabharfaimid aghaidh ar na ceisteanna seo tríd a bheith ag útamáil leo ag an imeall. Tá clár de dhíth orainn a chuirfeas athrach bunúsach i bhfeidhm, agus caithfidh acmhainní a dhíriú ar na háiteanna is mó a bhfuil gá leo.

In commenting on the draft Programme for Government, I want to concentrate on the issues that are directly relevant to my Department. However, I personally endorse the

Executive's continuing emphasis on the need to tackle the problem of social exclusion. Progress can be made only through meaningful partnership between the Executive and the voluntary and community sectors.

The difficulties created by lack of investment in the past are clearly visible in many services, but they are most obvious in health. We will not address those issues by merely tinkering around the edges. We need a programme of fundamental change, and we must target resources where they are most needed.

I agree entirely with the Minister of Finance and Personnel's comments that we must make the most effective use of all resources and, in particular, with his emphasis on the need to cut out waste, reduce bureaucracy and ensure that taxpayers can see that they are getting value for money.

In recent years my Department, with the active support of boards and trusts, has placed considerable importance on measures to ensure effectiveness in the use of resources and to improve overall financial management of resources. The success of the new management arrangements is reflected in the break-even position achieved last year, and the effectiveness of our services in comparison with those in England was confirmed objectively by the needs and effectiveness study. More can be achieved, and the reform plans, which will be prepared by the end of October, will provide a focus for that work.

“Working for a Healthier People” remains a key Programme for Government priority, and we all welcome that. That chapter identifies some of the key fundamental changes that we must make, including the cross-departmental approach in investing for health, the future restructuring of hospital services, enhanced emphasis on standards of clinical and social care governance, proposals for new organisational structures and the development of primary and community care services.

The key test of the Programme for Government will be the new, improved outcomes and targets, which are set out in the text and the associated public service agreement. The provisions of the draft Budget will enable me to tackle some of the most pressing demands on services, and that is reflected in the specific targets in my Department's public service agreement. I am aware, however, that that will take us only part of the way towards addressing increasing needs for hospital and community services.

I will be able to introduce a series of interrelated measures to reduce some of the pressures on hospitals. Those include allocating additional resources to treat more people in hospitals and, in particular, to expand renal, cancer and cardiac services. I will also be able to support an additional 300 people in community settings to prevent inappropriate admissions to hospital and address waiting in the community. It will also be

important to expand the range and volume of schemes and initiatives to give vulnerable people short periods of care outside the hospital environment and to support the development of primary care services.

The resources will also allow me to take some steps to strengthen community provision for people with mental health difficulties and learning disabilities who are currently in long-stay hospitals and expand the Sure Start scheme for deprived children and their families.

Last, but by no means least, the resources will support the implementation of the proposals in the 'Best Practice — Best Care' report, which will establish a framework to raise the quality of services provided to the community and tackle issues of poor performance across health and personal social services.

The problem is that over 90% of the increase in resources for the health budget is required simply to meet the inescapable cost of maintaining existing services and commitments already announced in the reinvestment and reform initiative and the Executive programme funds, which support valuable enhancements to existing services, including much needed hospital capacity.

The scale of existing commitments is such that £27 million is available next year for new service development. That will enable the modest development of services, but it is not enough to meet increasing demands and to provide the level and quality of service to which we aspire. It does little to address the £200 million funding gap between here and England. Although I welcome the additionality as regards the resources made available, the Programme for Government enables only limited improvements to existing services as part of the overall settlement. Those represent only 15% of my highest-priority service development bids.

Robert McCartney and Monica McWilliams asked about local health and social care groups. Those groups have been formally established and are appointing permanent chairpersons and managers. They are already forging ahead with their agenda to develop primary care services and to take responsibility for commissioning secondary care services. My target is for some groups to begin the commissioning of some services from April 2003.

The number of people waiting for treatment is a huge concern. However, I plan to continue to expand hospital capacity over the next one to two years, and the reinvestment and reform initiative has financed an additional 100 beds. I shall then be able to improve cardiology services and cardiac surgery. I shall invest more in community and intermediate care to help to avoid hospital admissions where possible and to provide for patients' earlier discharge. I envisage, first and foremost, ensuring that the position does not deteriorate further as year-on-year demands increase. As the additional capacity and other

improvements in hospitals begin to bear fruit, fewer people will have to wait.

The Rev William McCrea and Mr Joe Byrne mentioned hospital services in their constituencies. After a discussion in the Executive, I issued the consultation paper 'Developing Better Services: Modernising Hospitals and Reforming Structures' on 12 June. The paper sets out an agenda for a major modernisation of the acute hospital system and proposals for the reform of the administrative structure of health and personal social services. Consultation will continue until 31 October 2002. No decisions have been reached on any of the proposals, including the position of Mid-Ulster Hospital. All information arising from the consultation will be considered carefully, and I hope that final decisions on acute services will be taken before the end of the year.

**Mr Dallat:** Most domestic issues have been mentioned, so I will focus on international relations as outlined on page 83 of the draft Programme for Government. I welcome the commitment to strengthening our relationships with North America, and I acknowledge the fine work of the First Minister and the Deputy First Minister in that respect. I am sorry that Mr McCartney is not present to hear me praise the Ulster Unionists.

Given the quality of the research and development carried out in our universities, and the investment in our science parks, we are well placed to attract new, well-paid jobs of a sustainable nature in the medium and long term. However, I worry that the present political uncertainty will do nothing to attract inward investors.

I turn now to our international relations in another direction: the Third World. I ask the Minister to consider seriously the benefits of such partnerships, which, I admit, are more likely to be outgoing, but not exclusively so. I believe passionately that we can learn much from Third-World countries in Africa and elsewhere about how to prioritise needs and to respect our environment.

In a global village in which many of our decisions affect people in other parts of the world, it seems appropriate that we should build strong links with the Third World. Last week, my Ulster Unionist colleague David McClarty and I spent a few days with Zomba Council in Malawi, where the average life expectancy has now dropped from 43 years to 37 years, and where half the children will die before the age of five, as a result of Aids, cholera or malaria.

Since our society is renowned for its generosity, it seems appropriate that the Assembly should encourage linkages, which would mean the exchange of technical information; training; sponsorship, and the resourcing of materials to equip hospitals that have no drugs and schools that have no books. Much could be done through local councils, universities and other public services, which would welcome the encouragement of international dimensions.



5.15 pm

Malawi is not the only poor country in the world — but it is one of the five poorest. My colleague, David McClarty, and I have seen the poverty, hunger and disease that are there. We have also seen the country's abandonment by the developed world. The cold war is long over, and Malawi is no longer of strategic importance, so it is forgotten.

We have also seen the opportunities to tackle the problems in Malawi and give hope to people who are desperately trying to help themselves and are crying out for our co-operation. They do not want aid: they want partnerships and help.

Today we discussed the need for improving standards of education in Northern Ireland. In the past week I have seen overcrowded schools with no books, no pens and no desks, yet there are people with a burning desire to learn.

We also discussed the need for a better Health Service in Northern Ireland. I have seen hospitals and clinics that have no drugs or equipment yet there is a commitment to address the needs of the sick and the dying.

In Northern Ireland, universities and hospitals are well placed to create linkages with the people of Malawi and other African nations, which are experiencing famine that is sometimes caused by political corruption, inclement weather or crop failure.

To discuss the draft Programme for Government without including our aspirations and commitment to the Third World seems incomplete. The Assembly has an All-Party Group on International Development, which was initiated by my Colleague, Carmel Hanna. I would like to see the input of that group, as well as its work and encouragement for linkages with the Third World, come to the forefront of the Assembly.

Under the heading "Developing Relations — North/South, East/West and Internationally", I respectfully suggest that we detail our vision for the Third World and set about implementing it over the next few years. To some people that may be a fairy tale; however, it is a plea to extend the principles of partnership to some of the most wonderful people I have had the privilege to meet. When the Programme for Government comes before the Assembly again, I hope that we have definite proposals for international involvement.

**The Junior Minister (Office of the First Minister and Deputy First Minister) (Mr Leslie):** My Colleague, Denis Haughey, and I are pleased to close the debate. We will respond to as many points as possible. It has been a useful and informative debate. We listened with interest to the wide range of contributions from Members, which focused on the wide range of aspects in the draft Programme for Government.

The document was agreed by the Executive only last week and was presented to the Assembly yesterday. As

Members will be aware, we amended the timetable this year to bring the debate forward to give the maximum possible period for consultation before the Programme for Government is finalised in December. The consultation period gives individual Ministers, and the Executive as a whole, more time to consider the points raised today and those that will be raised during the consultation period.

Although individual Committees are considering the Programme for Government, Denis Haughey and I will oversee wider consultation with the Civic Forum, local government and social partners in business, trade unions, and the voluntary and community sectors.

As the Deputy First Minister stated in his opening remarks, we will be taking this forward as a joint venture with the Minister of Finance and Personnel. That will ensure that the draft Programme for Government and the draft Budget, which supports it, are considered together.

It is important that we do that, because the Programme for Government and the Budget are directly linked. Budget allocations support the programme's policies and activities. We must not commit to actions that we cannot afford.

It is a question of priorities, and we must make choices. Inevitably, some of those choices are difficult. We must explain the prioritisation and decisions that we have made. That is a key aspect of having a locally elected Administration in charge, with locally accountable Ministers taking decisions on how to make best use of the resources available in order to address local needs.

In the draft programme, we have set out to produce a strategic and forward-looking document. We want to ensure continuity and build on the progress and achievements that have been delivered since devolution. However, by the same token, we are not afraid of change. The draft programme makes clear the Executive's intention to reform how public services are funded, organised and delivered in a way that will make a difference to the lives of people in Northern Ireland.

As both the First Minister and the Deputy First Minister have made clear, this is a draft Programme for Government. This debate, and the responses to consultation on both the draft Programme for Government and the draft Budget, will lead to a revised and, we trust, improved document that we will bring back to the Assembly at the beginning of December 2002. As Members will be aware, the Programme for Government is derived from the Belfast Agreement, in which there is a requirement for the Assembly to agree on a Programme for Government and Budget each year.

That is not the only commitment in the Belfast Agreement. Perhaps some of the Members present should familiarise themselves with a range of other commitments in the agreement, some of which are yet to be fulfilled. If, as a result of the lack of fulfilment of those requirements, there is potential uncertainty in the future,

it is all the more important to address those outstanding matters, to have Northern Ireland's affairs in good order, and to have a clear road map laid out in the Programme for Government as to what the needs and aspirations are for the good government of Northern Ireland.

I want to cover in detail some of the points that were raised in the debate. I will be followed by my Colleague, Denis Haughey. We have divided the debate into different subject areas, rather than into Members' contributions. One matter that falls to me to discuss is education, on which a considerable number of points were made. During the course of the debate there were guest appearances from the Minister for Regional Development and the Minister of Health, Social Services and Public Safety. When the points on education started to build up, I found myself hoping that the Minister of Education would show up and deal with some of them. I am grateful to the Minister of Health for her contribution, although my Colleague will be the greater beneficiary of that.

Members expressed concern about low standards of literacy and numeracy. That is a problem with which all Members are familiar. I emphasise to the House that the problem is exercising the attention not only of the Northern Irish Administration, but of Administrations across the UK. A wide-ranging strategy is in place to raise literacy and numeracy standards. We recognise that they are key to the rest of the school curriculum and to equipping people for the world of work. The strategy includes early intervention programmes for pupils who are struggling with reading, a major programme of in-service support and training for teachers, and new support material for teachers.

In conjunction with its educational partners, the Department of Education has carried out an internal review of the literacy and numeracy strategy, and recognises that there is a need for a more co-ordinated approach in relation to the implementation of the strategy, alongside those for a school support programme, curriculum and assessment arrangements, and educational technology. The next stage is to make adjustments to the current policy and to assess what more needs to be done to reduce the number of young people who are failing to achieve basic levels of literacy and numeracy. New arrangements should be in place in schools by September 2003.

Public service agreement targets for the number of 11-year-olds who are likely to achieve level 4 in Key Stage 2 assessments have been reduced from 77% in English and 80% in maths to 75% in English and 77% in maths. The targets for 2006 reflect the expected level of progress that is achievable with the resources available.

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

**Mr Leslie:** If Mr Kennedy can bear with me, I will deal with his point shortly.

Ms Gildernew mentioned essential skills. The findings of the International Adult Literacy Survey, in which Northern Ireland was benchmarked against most of the Organisation for Economic Co-operation and Development (OECD) countries, indicate that 24% of adults here, 260,000 people, perform at the lowest level of literacy. That partly relates to the matters that concern Mr Kennedy. Research shows that those poor skills levels have serious consequences for individuals, families, society and the economy. That is why the Minister of Education launched a consultation paper on adult literacy aimed at improving the levels of essential skills throughout Northern Ireland. The draft Programme for Government sets out the Executive's intention to support an additional 2,500 people to update their essential skills by March 2004.

The issue of literacy brings me to lifelong learning and help for the most disadvantaged, issues that Mr Billy Hutchinson touched on. The draft Programme for Government sets out our commitments to education for all, from the earliest years throughout their lives. Contrary to what Mr Hutchinson said, our thinking on those issues is joined-up. The interdepartmental working group on early years ensures that policies such as those involving Sure Start, pre-school education, childcare and the role of the children's commissioner work in harmony. The draft programme makes clear our commitment to early-years education. A range of work on lifelong learning is in progress, and I will deal with that later.

Mr Kennedy raised the issue of targets. The public service agreement targets have been revised in the draft programme. They envisage higher levels of academic achievement than the current levels, which are not what we had hoped they would be. Although in some instances the targets are lower than those previously published, our commitment has not lessened. The targets take account of recent trends and what can realistically be achieved with the available resources within a reasonable timescale.

Mr Shannon made several points about education.

**Mr Kennedy:** I understand that the Minister is not responsible for education. However, I ask him to draw the issue that I raised to the attention of the Minister of Education so that he can explain to the Committee for Education why numeracy and literacy standards are being reduced.

**Mr Leslie:** I acknowledge that valid point. The Committees can take up matters of detail in the Programme for Government with the relevant Ministers. Ministers will consider it essential to examine the remarks made today to get a taste of what is likely to be raised with them in Committee.

5.30 pm

I shall do my best to ensure that the Minister of Education can discuss the matter with Mr Kennedy and the Committee for Education when the time comes.

Mr Shannon referred to the problems that sometimes occur when pupils cannot be admitted to their local school, while a nearby school closes because of falling enrolment. Account is taken of the physical capacity of the premises in setting enrolment and annual admission numbers. To ensure fairness and openness in admission arrangements, schools must publish their admission criteria beforehand, showing how pupils are selected if there are more applications than places. Parents have the right to express a preference as to which school their children attend and, if the school is not oversubscribed, that choice will automatically be respected. It must be recognised that to predict with absolute accuracy the number of applicants in any one year is an imprecise science. However, when a school has more applicants than places it must apply its admission criteria. Inevitably, if there are too many applicants, some parents will be disappointed that their preference will not be met. In most cases, every effort will be made to ensure suitable places at other schools in the same locality or within reasonable travelling distance.

Some Members were concerned at the allocation of school capital funds. In determining the school building programme, the key objective has been to ensure that the allocation of resources is based on educational need. To suggest that the programme be determined on school sector rather than on educational needs would elevate some schools above others with greater need. Such a system would be inappropriate and is therefore not followed. We do not believe that there is bias in the allocation of funds.

Some Members discussed Irish-medium schools. The Department of Education has a statutory duty to encourage and facilitate the development of integrated and Irish-medium education. Although it does not seek to impose either, it does respond to parental demand for those forms of education. Before they are approved for grant-aid status, proposals for new integrated and Irish-medium schools are assessed against criteria to ensure that they are robust and that they represent value for money. I point out that such schools have closed as well as opened.

Mr Shannon expressed concern about the downgrading of A-level examinations. Our local examining body, the Council for Curriculum, Examinations and Assessment (CCEA), was not involved in the marking and grading problems, and no concerns have hitherto been raised with the Department of Education. The Department has every confidence that CCEA will continue to provide a robust and reliable examinations service for our young people. There were approximately 12,500 A-level subject entries from Northern Ireland to examination boards other than CCEA in the most recent examinations. That is 45% of the total A-level examinations taken in Northern Ireland. The independent inquiry ordered by the Secretary of State for Education and Skills in Westminster has

implications for the national qualifications framework. The findings, therefore, will be of keen interest to us, as they will in England and Wales. The Department of Education will consider the contents of the report and the implications that any recommendations may have for our students.

Sammy Wilson and Monica McWilliams again raised the issue of allocations to education. The Minister of Finance and Personnel referred to that earlier today, pointing out that every proposal in the draft Budget is subject to the preparation of satisfactory reform plans. The allocations for any programme could change, either upwards or downwards, as a result of that further work. The approach to reform should include a better definition of how services will be delivered to the highest possible standards by a stronger focus on outputs and outcomes.

That means ensuring that the targets are meaningful and challenging. As Members know, several school building projects have been financed in ways other than the traditional options, and proposals are being developed for other projects.

Mr Kennedy expressed disappointment at the delay in bringing forward the special educational needs and disability Bill. The Assembly is learning that it takes about 18 to 24 months to bring forward a major piece of legislation in an orderly manner with due consultation and consideration of all the issues. That so many Members are busy in Committees today dealing with legislation confirms that. The special educational needs and disability Bill has not yet come to the end of that gestation period. The Department for Employment and Learning, with the Department of Education, has undertaken to provide legislation that will provide further access and opportunities for children and young people with special educational needs and disabilities in schools, further education colleges and the youth sector.

A joint consultation paper has been produced, and the aim of the proposals is to ensure that the provision of comprehensive and enforceable rights to education for all disabled people is on the same basis in Northern Ireland as it is in the rest of the United Kingdom. The Executive have just granted the Departments clearance to issue the paper for a public consultation that will last until the end of November. It is likely, therefore, that a draft Bill will be available in the middle of next year and, therefore, not within the lifetime of the present Assembly.

Monica McWilliams referred to unambitious targets for the Youth Service. The draft Programme for Government makes it clear that we recognise the importance of the Youth Service and that it is not just about the number of people in youth clubs, although widening access to them is an important commitment. The Youth Service plays an important role in cross-community work, including deploying outreach workers in difficult



interface areas, and the draft Programme for Government emphasises our intention to continue to support its work. However, we would welcome suggestions in that area during the consultation period, and I trust that Members will make their opinions known.

Assembly Member Ms Lewsley referred to the location of Civil Service jobs. Commitments were given in a previous Programme for Government about the scope for relocating Civil Service jobs, and the possibilities are being examined through the review of office accommodation. Pending the outcome, opportunities for relocation will be considered as they arise. A recent example is the decision to relocate one of the new pension centres to Derry. Factors that must be taken into account in making an assessment about relocation include the total number of Civil Service jobs in an area in relation to the total workforce; new TSN indicators, including levels of unemployment; the regional development strategy; the effect on equality of opportunity; the service delivery and business efficiency that would be achieved; and a comparison of the likely cost.

Several Members raised concerns about the farming industry and the difficulties experienced in rural areas. That the number of Members who spoke on that matter was lower than in previous years, is not symptomatic of any improvement in the problems in the farming industry. However, the budget for the Department of Agriculture and Rural Development totals approximately £780 million for the next three years, which is an increase. It provides £60 million for animal disease compensation; £48 million for the support of hill farmers in the less-favoured areas; £6 million for scrapie eradication; £6 million for beef quality assurance; £27 million for agri-environment schemes; and £33 million for the implementation of the vision action plan. Farmers also receive a substantial amount of support outside the departmental expenditure limits, which the Minister of Finance and Personnel outlined in his statement on the draft Budget. The figure for 2003-04, under the annually managed expenditure, will be £193 million.

The Executive remain aware that there are many problems in rural areas and in the farming industry, and we are working to address them. Indeed, the Department of Agriculture and Rural Development has focused on them in its vision document.

Perhaps relating to that — and we have to be careful that we do not contradict ourselves here — enquiries have been made, by Mrs Carson among others, about whether County Fermanagh should be designated a national park. In June, the Minister of the Environment announced that he had commissioned a study into that possibility, and he has now received a report from Europarc Consulting. He will make a statement in the near future. However, I am allowed to give a sneak preview of the report. Its key conclusion is that on

grounds of landscape, biodiversity and cultural value, national park status would be appropriate for four areas of outstanding natural beauty: the Mourne, the Ring of Gullion, the Causeway Coast, and the Antrim coast and glens. However, the authors stress that other areas of Northern Ireland may also merit consideration as national parks. In that context, we must seriously think about what should be done in rural areas, because if they are designated in a particular way, there is limited scope for what can be done there.

Mrs Carson also asked whether the Executive will revive the grants policy for historic buildings. As a member of a family that is the custodian of a historic business that could do with a new roof, I have an interest in that. The Committee for the Environment is currently considering a revised historic buildings grant policy. The sheer volume of applications for such assistance in earlier years considerably exceeded the resources, and the processing of new applications had to be suspended from 1999-2001; however, that suspension has been lifted for now.

The Planning (Amendment) Bill, which is proceeding through the Assembly, will introduce building preservation notices. That will increase the Department of the Environment's ability to respond quickly to protect buildings that may be worthy of being listed, but that are at risk. Speaking personally, I recognise that the burden of maintaining some of those buildings can be considerable. However, if we were committed to supporting such buildings on a widespread basis, Members might be stunned at the amount of money that could be consumed.

Mr McCrea, on behalf of the Committee for the Environment, criticised the sustainable development strategy of the draft Programme for Government. I disagree with his criticisms; the Executive are committed to sustainable development, and it is a key theme that runs through the programme. Commitments to it are made several times in the programme, and one of its key plans will be our work to modernise the planning process to make it more effective in helping us to integrate economic, social and environmental needs. We are committed to ensuring that our environment supports healthy living, which is part of sustainable development. The focus on improving health, supporting education, and tackling poverty and social exclusion is relevant to the wider principles of sustainable development, as is our focus on energy, with an emphasis on renewable energy.

I emphasise again that this is a draft programme, and we are keen to improve it. We will consider carefully any further suggestions about how the principles of sustainable development can be articulated in the document and run through it more strongly.

Members tend to side with the applicant in regard to many planning applications. If Members were to change their attitudes and side with those who are concerned with preserving the environment, it would give more

evidence than anything else of their commitment to preserving Northern Ireland's clean, green image.

Mr Deputy Speaker, you will be glad to know that I am drawing to a conclusion.

5.45pm

Mr Close returned to his familiar theme of bemoaning the absence of tax-raising powers for the Assembly. That script has been rehearsed quite a few times, as Members will recall. Mr Close should bear in mind that, if we were to have a differential rate of income tax, it could have unforeseen consequences for local employment and affect the attractiveness of Northern Ireland as a place to live and work. It might also make inward investment more difficult to attract. Also, we have no mechanical administrative facility to collect any such tax, and although the Inland Revenue would collect it, if asked to do so, it would charge for the process.

Mr Neeson's comments follow the remarks of the Minister for Regional Development, Mr Peter Robinson, when he addressed the Assembly; remarks that could have been made far more effectively to the full Executive Committee. It is peculiar that Mr Robinson chooses to come to the Assembly, where members of Sinn Féin are in attendance, but neglects to put in an appearance at the Executive Committee, where the cast of representatives is the same. Members will ask whether the Minister is best serving the needs of his Department by behaving in that way.

Mr Robinson told us that the considerable infrastructure deficit within the remit of his Department cannot be addressed through the allocation of funding made to him. He has completely failed to examine other sources of funding or revenue that could be made available to him to cover that deficit if he so chose. The Water Service is funded out of the block grant, which does not happen in other parts of the United Kingdom. Industrial use of water is metered and paid for, but the private use of water is not, and that is a potential source of revenue that the Minister must consider if he is serious about getting more money for his Department.

The same principles could apply in the transport sector to the rolling stock and the road system. Other countries with funding problems have moved to a user pays principle. Recently I met with representatives of industry, who said that if building better roads could reduce the time taken to get their goods to the ports, they would be prepared to contribute to the cost through some form of toll.

I trust that the Chairperson of the Committee for Regional Development will take account of my comments in his discussions with the Department. It is extraordinary for the Minister to come to the Assembly to demand more money and yet not volunteer to raise money

through the activities of his Department, when that is possible and has been accomplished in other places.

That concludes my coverage of matters in my bailiwick, and I look forward to dealing further with this business over the coming months.

**The Junior Minister (Office of the First Minister and the Deputy First Minister) Mr Haughey:** The debate in the Assembly begins the period of scrutiny of the Programme for Government. We have made a constructive start. There is no substitute for the vigorous cut and thrust of Assembly debate, with the exchange of witty sallies across the Floor and extravagant excursions into the upper stratosphere of high policy. It is very invigorating.

Members have had an opportunity to express their concerns about the Programme for Government, and Ministers have had an opportunity to listen to those concerns. I stress that this is a draft programme; James Leslie has already said that, but it is worth repeating. The comments made today will inform the work of Ministers as they reconsider the sections of the Programme for Government that are relevant to them. As we seek to improve and tighten the programme, today's points will inform the work of the Programme for Government drafting group that James Leslie and I chair.

The most frequently made point, to which we will have to give careful consideration, concerns the belief of some Members that the programme does not deal adequately with community relations. Eileen Bell, Alban Maginness and others raised this issue. I am not sure that I would go as far as they did. In the draft Programme for Government, the Executive committed itself to implementing a cross-departmental strategy and framework for promoting community relations. We have committed ourselves to ensuring an effective and co-ordinated approach to sectarian and racial intimidation. Those are important commitments.

The consultation paper on this matter is at a very advanced drafting stage, and it is anticipated that it will be submitted to the Executive very soon. After it receives Executive approval, it will be published and there will be two months' consultation for Members, the public and organisations to communicate their views to the Department. We intend to ensure that the consultation paper and the strategy derived from it will have as broad a base as possible. For that reason, the Executive intend to convene meetings of political parties, the social partners and other organisations, including churches and community groups, to discuss the consultation paper and the actions that may be derived from it. Those meetings will form the basis of an effective strategy on community relations.

As the Deputy First Minister made clear this morning, we recognise the importance of local solutions to many of the difficult community relations problems. We will support communities in developing their own solutions

to those problems. I refer Members to the agreements reached, after much painful discussion, between the Apprentice Boys of Derry and the Bogside Residents' Association. They reached an agreement that defused a great deal of the tension that arose from marches and demonstrations in Derry. That is an example of a local solution being found to local difficulties. With some capacity building, some effort and some goodwill, local solutions can be found.

The Programme for Government also makes it clear that responsibility for promoting good community relations lies with all Departments and in every part and every priority of the document. There are many actions in the programme that will promote good community relations. The introduction of a citizenship module to the curriculum was mentioned earlier, for example. As children moved through the education system, the module would affect how they saw the community and its institutions.

The Programme for Government contains a policy of support and respect for cultural and linguistic diversity that promotes tolerance in the community.

There are also measures relating to the removal of flags and emblems, sectarian graffiti, and so on.

The Harbinson review was not, and was never was intended to be, the new community relations strategy. The purpose of the Harbinson review was to inform the new community relations strategy and help in its elaboration.

I will now turn to some points made by Bob McCartney and Peter Robinson about overmanning and the huge bureaucracy that had developed within the Office of the First Minister and the Deputy First Minister. This is a sad example of grossly ill-informed remarks being made by an irresponsible commentator who was completely ignorant of the facts, and those comments being seized upon by enemies of the Administration and the agreement to make spurious and specious points.

The Office of the First Minister and the Deputy First Minister is not comparable with the office of the Prime Minister, the office of the Taoiseach, or, God forbid, the office of the President of the United States: it is a Department of Government. As all Ministers do, we frequently report to our Colleagues on the range of activities carried out in our Department.

I have a pro-forma listing 28 different functions of government carried out by OFMDFM and I will refer to some of them. One is the responsibility for the whole equality agenda, which involves problems relating to the equal rights of the disabled, gender equality, racial equality, as well as equality between the two sections of our community. There is a team dealing with that responsibility, a responsibility that in other Administrations would be dealt with across a wide range of departments.

The Economic Policy Unit within OFMDFM shares certain functions with the Department of Finance and Personnel. In other administrations, economic policy would either be contained in a department for economic affairs or perhaps be housed in a department of finance.

We have responsibility for implementing European policy. Bob McCartney referred to the need to tighten up on the implementation of European Directives — that is our responsibility. We are responsible for co-ordinating such work across the Departments. In other Governments, the function would be carried out within a department of foreign or external affairs.

We have responsibility for the review of public administration; the re-investment and reform initiative; community relations; targeting social need; promoting social inclusion; the whole e-government agenda, which in other Governments would be entirely housed in another department; race relations; ethnic minorities; the Civic Forum; the Programme for Government exercise itself; and so on. It is mistaken and wrong to suggest that a working Department, because it has a staff commensurate to the functions that it performs, is in some way overblown by comparing it with the private office of a Prime Minister or a Taoiseach.

I also want to make a point about European Directives. Bob McCartney cited that as an example of the failure of the Administration. In fact, it is one of the success stories. There had been a chaotic backlog of untransposed Directives deriving from the long period of direct rule. This Administration has finally got on top of that, and is compiling a database of Directives listing the progress of each one in terms of transposition and implementation. The British Government does not have such a database, and, unbelievably, neither does the European Commission. We are compiling a database here, and it is a success story, not a failure of the Administration.

Sam Foster referred to the core funding of victims' groups, and I want to say a couple of things about that. The Northern Ireland Office (NIO) and OFMDFM are working together to develop a new scheme. The scheme will have funding of £3 million over a two-year period, and should be operational around the end of the year. Many victims' groups have been consulted on the development of the new criteria for core funding. The responsibility for core funding of all victims' groups currently rests with the NIO, and we have had no involvement in any decisions about core funding that have been made to date.

*6.00 pm*

There is no reason why Fear Encouraged Abandoning Roots (FEAR) cannot apply for core funding under Peace II or the new core funding scheme that is to commence before the end of the year.



Mr Foster mentioned the location of new hospitals, which is a serious constituency concern for all Members. It is extremely difficult to provide modern, efficient, high-quality services in a way that is fair to everyone. The organisation of our hospitals must change if people are to get the services they need and deserve. Society here could not afford to sustain 17 or 18 acute service provision hospitals indefinitely, and, arguably, it does not need to. Careful consideration must be given to the distribution of acute service hospitals in the North.

After Executive discussions, the Health Minister issued a consultation paper 'Developing Better Services: Modernising Hospitals and Reforming Structures' on 12 June. That paper sets out the agenda for a major modernisation of the acute hospitals system, and proposals for the reform of the health and personal social services administrative structures. The consultation period will run until 31 October. No decisions have been reached on any aspect of the proposals. All the information arising from the consultation will be considered carefully before any final decisions are taken. It is intended that those decisions will be made before the end of the year.

Seamus Close asked whether we had considered a tax-imposing regime. Mr Leslie has already dealt with that matter. He said that it might not pay to open that can of worms unless it is done carefully.

Sammy Wilson gave us a characteristic bit of good old knockabout stuff. The review of public administration is not a cost-cutting exercise, nor is it necessarily a rationalisation programme. Its purpose is to determine whether it is possible to deliver better, more relevant public services more efficiently and in a way that represents good value for money.

Sammy Wilson also made the allegation — and he is no stranger to making allegations — that nothing has been delivered through the Programme for Government. The programme outlines the Executive's key plans and priorities, which are developed and agreed by all Departments and parties involved in the Administration. Since devolution, much has been achieved in the framework of the Programme for Government. We have provided additional resources to support the Health Service, raised standards in education and introduced new initiatives under both Ministers for Employment and Learning to increase student support.

We have introduced free travel for the elderly on public transport — I wonder why Sammy Wilson did not recognise that provision, because a DUP Minister was quick to claim credit for it. We have also developed many new public health policies. We have contributed a good deal to investment in infrastructure — gas pipelines and roads, including a trans-European network plan for the road from Larne to Newry. The Programme for Government has delivered a great deal that we might not have seen had we continued with direct rule.

Monica McWilliams wanted to know what was being done to address the crisis in the voluntary and community

sector. The Executive are acutely aware of the crisis facing that sector, and that is why we decided to allocate a further £6 million of Executive programme funds to be used to address any fresh action deemed necessary to alleviate the continuing funding difficulties in the voluntary sector.

Ministers agreed that we should provide additional funding to help meet immediate pressures in that sector, while at the same time helping to provide space to begin to address the longer-term issues of sustainability in the community and voluntary sector. That is a serious issue that we cannot avoid. We are facing a situation five or 10 years down the line where the availability of funds may not be as extensive as it is now. Therefore, we must look at the community and voluntary sector to see which areas of the service we need and how we provide for those, and also to see how the bodies and associations that provide those services could sustain themselves in circumstances where funding provision might not be as extensive as it is now.

The Executive agreed that resources should be used to try to retain important voluntary and community sector services that might otherwise be lost while the long-term issues relating to self-sustaining capacity are addressed.

Mark Robinson referred to housing provision and housing fitness. Unfitness levels as recorded in the 1996 Northern Ireland house condition survey carried out by the Housing Executive indicated that there were varying levels of unfitness right across the housing sector, including rates of 15% of all private rented housing and 5·8% of owner-occupied housing. It is anticipated that the 2001 survey will show that public spending on housing in Northern Ireland has been effective in addressing policy objectives and unfitness of houses. Public resources directed towards the problem have been used economically, efficiently and with good value for money, with an expected reduction in unfitness levels across all types of tenure. The draft Programme for Government sets out commitments to maintaining the drive to reduce housing unfitness levels across private and social housing.

The provision of new social housing is a matter for the Minister for Social Development. However, I understand that a review is being carried out in the light of new research done by the University of Ulster that showed that we need about 1,500 new housing starts every year. The current figure is 1,400. The Minister has commissioned a review to determine if we are starting enough new houses to meet the need. It is not possible to say what the outcome of that review will be, and, given the studies carried out by the University of Ulster, the suggestion that we are not meeting the need must be taken seriously. That matter is in hand.

Mark Robinson asked if he could have an assurance that there would be money to deliver the commitments in the Programme for Government. The draft Programme for Government is supported by a draft Budget, and actions and commitments set out in the Programme for Government are underpinned by provision in the draft Budget. That is the way they work. However, they are both

draft documents, and they will be revised, if necessary, and finalised in the light of debate in the Assembly.

Today's debate has been wide ranging and valuable. We have focused on issues that reflect the Executive's priorities across the range of government, and we have addressed matters that relate to the economic, social and environmental context within which we operate. Members have made suggestions that will inform the process of refining and finalising the Programme for Government, and the Budget that supports it.

All Ministers will carefully consider the points made. We look forward to receiving the views and suggestions that will follow the document's scrutiny by the various Committees and the wider consultation with bodies, associations and groups outside the Assembly structures.

The consultation period will end on 15 November. In the light of responses, the Executive will consider the revisions that will have to be made to the Programme for Government. The revised programme will be presented to the Assembly in early December.

*Question put and agreed to.*

*Resolved:*

That this Assembly takes note of the draft Programme for Government.

## EDUCATION AND LIBRARIES BILL

### Committee Stage (Period Extension)

**The Chairperson of the Committee for Education (Mr Kennedy):** I beg to move

That, in accordance with Standing Order 31(5), the period referred to in Standing Order 31(3) be extended to 22 November 2002, in relation to the Committee Stage of the Education and Libraries Bill (NIA 21/01).

At present, the Education and Libraries Bill, which passed its Second Stage in early July, stands referred to the Committee for Education. The Bill is an important and substantial piece of legislation. It is outlined in four parts, and contains 42 clauses and three schedules. The main purpose of the legislation is to enable the Department of Education to introduce a single common funding formula for all schools funded under local management of schools (LMS) arrangements.

Although there is general agreement that there should be a common formula, its make-up is still to be finalised, and the Committee is considering the Minister's response to the recommendations in the Committee's report on the matter, which was published in early January 2002. The rest of the Bill covers a range of important issues: the duty of best value; the duty on boards of governors to safeguard and promote the welfare of pupils; child protection measures; school discipline measures to prevent bullying; admission to special schools of children resident outside Northern Ireland; consultation of schools by sampling; and the extension of the abolition of corporal punishment to independent schools.

The Committee for Education is committed to rigorous scrutiny of the Bill, which is the first piece of primary legislation in the area of education since the Education (Northern Ireland) Order 1998. We are also keen to provide an opportunity for the main stakeholders to submit their views and comments on the Bill, and we have received detailed written submissions from several organisations and individuals.

Scrutiny of the clauses has already begun, and several issues have already emerged. Those will require full and careful examination. The Committee, therefore, requests an extension until 22 November to provide enough time to consider all the measures covered in the Bill and to produce a report to the Assembly. I assure the House that the Committee is giving priority to the Committee Stage of the Bill and will complete its work as quickly as possible. To ensure that there is no delay, members have agreed to hold several extra meetings.

*Question put and agreed to.*

*Resolved:*

That, in accordance with Standing Order 31(5), the period referred to in Standing Order 31(3) be extended to 22 November 2002, in relation to the Committee Stage of the Education and Libraries Bill (NIA 21/01).

*Adjourned at 6.15 pm.*

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## NORTHERN IRELAND ASSEMBLY

## ENERGY BILL

### First Stage

Monday 30 September 2002

*The Assembly met at noon (Mr Deputy Speaker [Mr McClelland] in the Chair).*

*Members observed two minutes' silence.*

## STRATEGIC INVESTMENT AND REGENERATION OF SITES BILL

### First Stage

**The Junior Minister (Office of the First Minister and the Deputy First Minister) (Mr Haughey):** I beg leave to lay before the Assembly a Bill [NIA 8/02] to establish and provide for the functions of the Strategic Investment Board for Northern Ireland; to make provision for certain sites made available under the reinvestment and reform initiative, including provision for their regeneration by development corporations; and for connected purposes.

*Bill passed First Stage and ordered to be printed.*

**Mr Deputy Speaker:** The Bill will be put on the list of pending business until a date for its Second Stage has been determined.

## POINT OF ORDER

### Business Committee

**Mr S Wilson:** On a point of order, Mr Deputy Speaker. A motion, tabled by the DUP, calling for the dissolution of the Assembly and early elections has not been put on the Order Paper. It appears that due to political bias and fear, this motion has been blocked by the Business Committee. Is it in order for those parties that wish to save themselves from an early political skinning to be allowed to abuse the Business Committee in this way?

**Mr Deputy Speaker:** Mr Wilson, you know that any decision on what is on the Order Paper is made by the Business Committee, and it is for your party's representative on that Committee to put his or her case.



## HARBOURS BILL

### Second Stage

**The Minister for Regional Development (Mr P Robinson):** I beg to move

That the Second Stage of the Harbours Bill (NIA 5/02) be agreed.

The need for this legislation arises from the growing interest of the general public and elected representatives in the activities and future development of the individual harbour authorities. In May 2001, the Department announced a series of measures aimed at improving the public accountability of trust ports in Northern Ireland and ensuring that the public interest can be fully safeguarded in relation to their operations. Many of the measures reflected the recommendations contained in the Committee for Regional Development's report on its inquiry into the Titanic Quarter lease arrangements. Since then, my Department has advanced and set in place many of those measures.

The Department for Regional Development has developed and put in place memoranda of understanding in relation to each trust port. They provide for consultation with the Department prior to any disposal of harbour lands. Earlier this year, the Assembly debated and approved harbour Orders for Belfast, Londonderry and Warrenpoint. Among other things, the Orders provided for an increase in the number of elected representatives on each board. The various additional appointments have since been made, and the Department routinely receives copies of board papers and minutes. The Harbours Bill is the final element of the package of measures intended to improve the accountability of the trust ports. It is a short Bill, containing only seven clauses.

Clause 1 designates the Belfast Harbour Commissioners, the Coleraine Harbour Commissioners, the Harbour of Carlingford Lough Improvement Commissioners, the Londonderry Port and Harbour Commissioners and the Warrenpoint Harbour Authority. Thus, all the commercial public trust ports in Northern Ireland are covered by the legislation.

The provisions in clause 2 empower the Department to give directions of a general or specific character in relation to the functions of the harbour authorities. That will empower the Department to act, if necessary, to safeguard the public interest in relation to the activities of the trust ports. However, the Department envisages that such power would be used only after consultation with the harbour authorities. The provision will also be useful in further underpinning the memoranda of understanding between the respective harbour authorities and the Department. Naturally, the Bill also envisages that a duty would be imposed on a designated harbour authority to comply with any directions given by the Department.

Clause 3 enables the Department to require a trust port to provide it with such information as may be necessary, such as details of a specific lease or contract or information about preferential user arrangements. That will apply only to information coming into the possession of the harbour authority after the legislation comes into effect.

The Bill also contains provisions for the imposition of fines and penalties, either for failure to comply with a notice requesting information or for knowingly, or recklessly, making a false statement or producing a false document. Although the Harbours Act (Northern Ireland) 1970 already contains provisions to enable the Department to obtain information, it is of a more specific character and relates to forecasts to allow it to regulate harbours, the compilation of statistics or information in relation to grants or loans made under the Act.

Clause 4 provides for the introduction by the Department of a code of practice for all Northern Ireland trust ports, following on from a similar initiative in Great Britain. The proposed legislation requires the Department to consult with such persons as it thinks fit in relation to its proposals before the issue or amendment of a code of practice. It is envisaged that such a code would address key aspects of conduct, accountability and openness by identifying the appropriate corporate and individual responsibilities expected from the trust ports. The Department is consulting the harbour authorities and the Committee for Regional Development on the detailed proposals for inclusion in such a code.

In developing the legislative proposals, the Department consulted extensively with the harbour authorities, port users in the regions, the Committee for Regional Development, district councils and other bodies. The views expressed during the consultation process have been considered and, where appropriate, taken on board. The Committee for Regional Development has made a considerable contribution to the development of the legislation, and will, with the Assembly's support, have the opportunity to consider the detailed drafting of the Bill and report to the Assembly on it. I welcome the opportunity to hear Members' views, and I encourage them to support this short, but useful, Bill.

**The Deputy Chairperson of the Committee for Regional Development (Mr McFarland):** The Chairperson of the Committee for Regional Development has asked me to extend his apologies for being unable to attend today.

The Bill is, undoubtedly, important, and the Committee has campaigned for it for some time. I thank the Minister for introducing it.

The Committee's interest in, and support for, the Bill results from a public inquiry that took place over a year ago into the circumstances surrounding the signing of the Titanic Quarter development agreement between Harland

& Wolff and the Belfast Harbour Commissioners. During that investigation, the Committee identified several areas in which the public accountability of trust ports could be improved. In particular, the Committee recognised that legislation was needed to give the Department for Regional Development the power of direction over trust ports and to introduce a code of practice similar to that in Great Britain.

When the Committee published its findings in September 2001, it recommended several steps. In brief, those were: that legislation be introduced to give the Department power of direction over the key business activities of the Port of Belfast and other trust ports; that the Department for Regional Development enter into a memorandum of understanding with each of the trust ports, pending the introduction of that legislation; that the number of locally elected representatives on each of the trust ports' boards be increased; that a representative from the Department for Regional Development attend the board meetings of the trust ports; and that the Department consider drawing up a code of practice for all trust ports.

I am pleased to note that the Harbours Bill will ensure that all the Committee's recommendations will be put in place, which demonstrates the professional and constructive manner in which the Committee and the Department can work together. It highlights the positive role that all Committees can play in helping to improve the governance of the country.

Some improvements to the public accountability of trust ports have already been made. The recently approved harbour Orders have provided for the number of locally elected representatives on the boards of trust ports to be increased, and several memoranda of understanding have been established. With the introduction of the Harbours Bill, the jigsaw is complete. A code of practice will be introduced, and the Department will be given the power of direction over trust ports.

The Committee for Regional Development is also pleased to note that the code of practice will require trust ports to brief the Committee formally at least once a year. That provision is welcome, and the Committee can play a positive role in helping to improve the public accountability of trust ports as a means of safeguarding the public interest. I welcome the introduction of the legislation on behalf of the Committee, which looks forward to conducting a careful scrutiny of the Bill during Committee Stage.

**Mr Byrne:** The Harbours Bill contains the main elements that the Committee for Regional Development considers to be important to safeguard and clarify the status and remit of the functions that trust ports enjoy. The Committee held a public inquiry last year into the issues surrounding the signing of the Titanic Quarter

development agreement between Harland & Wolff and the Belfast Harbour Commissioners.

The main issues concerning the Committee were the Department having the power of direction over trust ports, and a future code of practice for such ports. The Committee has been concerned for some time that trust ports have been operating under legislation which does not always seem foolproof. The clauses in the Bill address the Committee's main concerns, and I welcome that. As a member of that Committee, I look forward to detailed scrutiny of the Bill.

*12.15 pm*

**Mr Hay:** I welcome the Bill. It has its origin in a major review that was conducted in 1998 by the then Department of the Environment for Northern Ireland, when a similar review was going on in Great Britain. There is no doubt that the review raised a number of issues concerning trust ports here. Three of those issues were: examining extended powers for trust ports; easing financial controls to allow them to operate more commercially; and — one of the main issues — improved accountability for harbour authorities. We have certainly taken the route of moving public accountability on with more public representatives on the bodies running the trust ports. I see it as another piece in the jigsaw that is our work on trust ports in Northern Ireland.

We should all agree that, over the years, our trust ports have been very successful. I should even go as far as to say that trust ports have often been the engines which have driven economic development in their areas and across Northern Ireland. The Bill gives the Department power to ask for information and documents and to examine issues pertaining to trust ports.

The memorandum of understanding that all port authorities have now signed governs any disposal of land around trust ports. We in the Committee were all concerned about the disposal of land at Belfast harbour. It is to be hoped that, through this short Bill, the accountability of trust ports has moved on. I am sure that we all agree that trust ports are run for the benefit of all their stakeholders in Northern Ireland.

Will the Minister and his Department examine the question of introducing further regulations for trust ports? With regard to clause 3 of the Bill, which covers the procedures for obtaining papers and dealing with false documentation provided to the Minister and the Department, does the Minister or his Department have any view on the types of financial reimbursement, such as fines, that the harbour authorities should examine?

I welcome this short Bill and hope that it increases the accountability of Northern Ireland's trust ports.

**Mr Bradley:** I welcome the Harbours Bill and, in particular, the additional powers that will be granted to the trust port authorities permitting them to purchase

land for the betterment of their overall business. In Warrenpoint one can see the problems that arise from the non-availability of land. I hope that the Bill will allow the harbour to purchase or lease land which it might identify on the County Louth side of the port. It is only a few hundred yards across the harbour. I say that in the knowledge of the pressure for a new bridge at Narrow Water, near Warrenpoint. If the purchase of such land across from the harbour were permitted, and if the powers allowed, the harbour could get involved in a scheme to facilitate the crossing of vehicular traffic, possibly by means of a toll. I look forward to further debate on that. I come from Warrenpoint and know its geography. The only available land that could be purchased is on the County Louth side of the border, and I hope that such a purchase will be allowed.

**Mr P Robinson:** I thank Members for their contributions, which make it clear that the legislation is not contentious. As the Deputy Chairperson of the Committee for Regional Development, Mr McFarland, said, the Committee played an important role in the production of the draft legislation. It has had consistent interest in the issue, and the legislation is an example of the Committee's influence with the Department and demonstrates the positive role that it has played. That also underlines Mr Byrne's remarks. The Committee will be studying the Bill thoroughly, and I look forward to its response. However, members of the Committee will not find any surprises in the legislation, given their background knowledge of the subject.

Both Mr Bradley and Mr Hay raised issues about where the Department will be moving with regard to further regulations or legislation. Mr Bradley mentioned the ability of ports to become more competitive and the need to look at what can be done to improve their position. In bringing the Bill forward, the Department is looking primarily at public accountability — a matter that Mr Hay addressed in detail.

The legislation does not in any way reflect a lack of trust in the board members of any of the trust ports in Northern Ireland. In recent years in all spheres of public life, there has been a move towards improved public accountability, and so it should be; that has also happened in the private sector. The legislation is a means of clarifying the respective roles of trust ports and the Department, and that will be beneficial to the relationship between the ports and the Department.

It is necessary to recognise that elected representatives and a devolved Assembly are better placed than the harbour commissioners to assess the public interest that may attach to any development proposals, and the legislation takes that into account. That leaves the harbour commissioners free to focus on the needs of the ports, and on their fiduciary responsibilities.

The Harbours Bill deals primarily with public accountability. The Department remains committed to further

extending the commercial powers of trust ports to enable them to compete better with their counterparts in the Republic of Ireland, and to amending and updating our harbours legislation generally. For example, further legislation might make provision for the harbour authorities to promote a company or enter into a joint venture in relation to business activity beyond the scope of the port undertaking. Indeed, it might make provision for the harbour authorities to promote leisure activities and tourism, or to carry out the activities of shipping agents, for example, to promote new routes. It might make provision to empower the harbour authorities to acquire a business or undertaking not directly related to the management or maintenance of the harbours, but which would be of benefit to the port. The Department is looking at all of those issues, but the policy basis for such a Bill is not yet in place. Given the lengthy consultation process necessary, it is likely to be some time before the Department will be in a position to present the next harbours Bill to the Assembly.

Mr Hay mentioned the issue of fines, which is dealt with in clause 3 of the Bill. The clause refers to a fine on summary conviction that does not exceed level 4 on the standard scale. Over the weekend, I may have had cause to examine what the potential fines might be. I have been told that level 4 brings the fine up to around £2,000. In that instance, the Office of the Legislative Counsel has given new advice to the Department. During the Committee Stage of the Bill, the Department will discuss with the Committee making a change to that and, perhaps, bringing forward an amendment that will allow the Department more flexibility.

As I said at the start of the debate, the need for the legislation arises from the growing interest of the general public and elected representatives in the activities and future development plans of the individual harbour authorities. The passage of the legislation will better equip the Department to safeguard the public interest with regard to such matters in future. I am grateful to the Committee for Regional Development for the support that it has given to the Department, to date, in the development of the legislation. I commend the Bill to the Assembly.

*Question put and agreed to.*

*Resolved:*

That the Second Stage of the Harbours Bill (NIA Bill 5/02) be agreed.

**Mr Deputy Speaker:** The Bill stands referred to the Committee for Regional Development.



## LIMITED LIABILITY PARTNERSHIPS BILL

### Further Consideration Stage

**Mr Deputy Speaker:** No amendments to the Bill have been tabled. The Further Consideration Stage of the Limited Liability Partnerships Bill is, therefore, concluded. The Bill stands referred to the Speaker.

## OPEN-ENDED INVESTMENT COMPANIES BILL

### Further Consideration Stage

**Mr Deputy Speaker:** No amendments to the Bill have been tabled. The Further Consideration Stage of the Open-Ended Investment Companies Bill is, therefore, concluded. The Bill stands referred to the Speaker.

## STATE PENSION CREDIT BILL

### Final Stage

**The Minister for Social Development (Mr Dodds):** I beg to move

That the State Pension Credit Bill (NIA Bill 4/02) do now pass.

The State Pension Credit Bill is, essentially, good news. It is a vital element of the strategy to ensure that both present and future pensioners in Northern Ireland can avoid poverty. It will add £50 million to the money that pensioners at the lower end of the income distribution are entitled to receive. Half of all pensioners stand to gain. The average gain is about £400 a year. In addition, the Bill removes the unfairness of the present capital rules and reduces the intrusion into pensioners' affairs by making five-year awards to those who are over 65 years of age, thus abolishing the weekly means test. All in all, the Bill contains good news for pensioners in Northern Ireland.

*Question put and agreed to.*

*Resolved:*

*That the State Pension Credit Bill (NIA Bill 4/02) do now pass.*

12.30 pm

## COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE BILL

### Committee Stage (Period Extension)

**The Chairperson of the Committee of the Centre (Mr Poots):** I beg to move

That, in accordance with Standing Order 31(5), the period referred to in Standing Order 31(3) be extended to 22 November 2002, in relation to the Committee Stage of the Commissioner for Children and Young People Bill (NIA 20/01).

The Commissioner for Children and Young People Bill, which passed its Second Stage in July 2002, stands referred to the Committee of the Centre. The Bill is one of the most significant pieces of legislation to be introduced in the Assembly. Its main purpose is to provide for the appointment and remit of a children's commissioner for Northern Ireland.

Last year, the Committee of the Centre undertook a major inquiry into the role and remit of a children's commissioner, and the Bill, as drafted, reflects many of the Committee report's recommendations. The Committee of the Centre, as part of its rigorous scrutiny of the Bill, sought views and comments from organisations that had a direct interest in the work of a commissioner. The Committee has received detailed written submissions from a wide range of organisations and individuals. The Committee has also taken oral evidence from several of those organisations, including the Commissioner for Children in Wales.

Scrutiny of the clauses is now under way. Several issues have already emerged, and those will require full and careful examination. Therefore the Committee requests an extension until 22 November to provide adequate time to consider all the measures covered in the Bill and to produce a report to the Assembly. I assure the House that the Committee has given priority to the Committee Stage of the Bill and will complete its work as quickly as possible. To ensure that there is no delay, several further meetings, in addition to normal Committee meetings, have been held.

*Question put and agreed to.*

*Resolved:*

That, in accordance with Standing Order 31(5), the period referred to in Standing Order 31(3) be extended to 22 November 2002, in relation to the Committee Stage of the Commissioner for Children and Young People Bill (NIA 20/01).

## MARRIAGE BILL

### Committee Stage (Period Extension)

**The Chairperson of the Committee for Finance and Personnel (Mr Molloy):** I beg to move

That, in accordance with Standing Order 31(5), the period referred to in Standing Order 31(3) be extended to 4 November 2002, in relation to the Committee Stage of the Marriage Bill (NIA 18/01).

Go raibh maith agat, a LeasCheann Comhairle. The Committee Stage of the Marriage Bill is due to conclude formally on 10 October 2002, by which time the Committee is required to report its findings to the Assembly. The Committee has completed its deliberations on the Bill, and a draft report is being prepared.

The Committee is dealing with two other Bills, the Budget and two inquiries. The motion to extend Committee Stage until 4 November 2002 is a precautionary measure to ensure that the Committee is able to approve and publish the report on the Bill. The Committee is content that it will be able to report its findings to the Assembly by the new deadline. I ask Members to support the motion.

*Question put and agreed to.*

*Resolved:*

That, in accordance with Standing Order 31(5), the period referred to in Standing Order 31(3) be extended to 4 November 2002, in relation to the Committee Stage of the Marriage Bill (NIA 18/01).

## FAMILY LAW (DIVORCE ETC.) BILL

### Committee Stage (Period Extension)

**The Chairperson of the Committee for Finance and Personnel (Mr Molloy):** I beg to move

That, in accordance with Standing Order 31(5), the period referred to in Standing Order 31(3) be extended to 9 December 2002, in relation to the Committee Stage of the Family Law (Divorce etc.) Bill (NIA 1/02).

Go raibh maith agat, a LeasCheann Comhairle. The Committee Stage of the Family Law (Divorce etc.) Bill is due to conclude formally on 8 November 2002, by which time the Committee is required to report its findings to the Assembly.

At Second Stage, several Members raised concerns about the Bill and mentioned the need to strengthen the institution of marriage. The Committee has written to many interest groups inviting them to submit evidence and will need time to consider the responses and hear oral evidence within its already overloaded programme. The Committee wishes to consider this important Bill carefully and ensure that the Assembly receives a well-balanced, informed report. As a precautionary measure, the Committee is asking Members to agree to an extension of the Committee Stage to 9 December 2002. The Committee will make every effort to complete the Committee Stage as soon as possible to ensure that there is no delay in the passage of the Bill. I ask Members to support the motion.

*Question put and agreed to.*

*Resolved:*

That, in accordance with Standing Order 31(5), the period referred to in Standing Order 31(3) be extended to 9 December 2002, in relation to the Committee Stage of the Family Law (Divorce etc.) Bill (NIA 1/02).

## BELFAST RAPE CRISIS AND SEXUAL ABUSE CENTRE

**Dr Birnie:** I beg to move

That this Assembly notes the dire financial situation of the Belfast Rape Crisis and Sexual Abuse Centre and calls upon the Minister of Health, Social Services and Public Safety and the Northern Ireland Office to provide adequate funding to ensure the long-term future of the centre.

I am grateful for the opportunity to move the motion standing in my name and that of my Colleagues, Rev Robert Coulter and Mrs Carson. I apologise on their behalf for their absence — they have been unavoidably detained. Rape crisis and associated sexual abuse is a serious problem and, as we are all sadly aware, an increasing one. The purpose of the motion is to highlight the response of the Department of Health, Social Services and Public Safety and, to a degree, that of the Northern Ireland Office to the inadequate financial support for the Belfast Rape Crisis and Sexual Abuse Centre.

It is worth emphasising the value of the centre and the positive contribution that it has made, and continues to make, despite its fragile financial basis. It provides a wide range of services free of charge. It deals with adults, children, males and females and provides a free phone service for enquiries. The centre has been in operation for 20 years.

The centre receives £32,000 per annum from the Department of Health, Social Services and Public Safety and up to £7,000 from Belfast City Council. Because of such limited financial support, the centre has a £20,000 deficit. Arguably, it is not enough simply to clear the deficit; money is also needed to provide an adequate foundation for future work. The centre has only just been able to survive by paying low wages to its two full-time workers and by the extensive use of volunteers. It receives 3,000 new contacts every year — and it helps up to 3,000 people every year. That will give Members some measure of the scale of the problem that the centre is attempting to tackle.

We tabled the motion because we believe that the centre is underfunded and has been since it was set up in the early 1980s. Recently, members of my party and I met representatives from the centre to discuss why support from the Department of Health, Social Services and Public Safety and other Government agencies has been so consistently low. This is an especially pressing question, given that it is the only agency in Northern Ireland providing a full range of free support services to victims of rape and serious sexual abuse.

There has been controversy and confusion about the state of play as regards the recent funding application made to the Department of Health, Social Services and Public Safety: undoubtedly, that issue will be raised again

today. The centre's staff believe that they submitted the application on time. Even if it was not received by the deadline, why did the Department not find the situation strange, given that it has had a 20-year relationship with the centre? At that time, departmental officials were meeting representatives of the centre more or less weekly. Surely, the alleged failure to submit an application by the deadline should have been raised in time for something to be done about it.

In any case, the issue of when and if the application was lodged is a bit of a technical distraction, given the crucial point that this important area of support for public health has been underfunded for most of the last two decades. That should have been obvious to the Department of Health, Social Services and Public Safety and to the associated Government bodies some time ago.

It might be asked why there is a reference to the Northern Ireland Office (NIO) in the motion in addition to the challenge to the Minister of Health, Social Services and Public Safety. Natural justice requires that the NIO should also provide some support, notwithstanding the distinction between transferred and non-transferred matters. There are two reasons for that. First, the NIO already gives support to various victims of violence: by extension, why should it not provide support for the victims of sexual violence? Secondly, the NIO provides generous support to rehabilitate ex-prisoners. The interests of natural justice require us to ask why the NIO should not similarly support those who have had tremendous trauma imposed upon them through no fault of their own.

I am pleased to move the motion.

**Mrs Courtney:** I support the motion. The Rape Crisis and Sexual Abuse Centre (NI) is associated with the Network of Rape Crisis Centres Ireland. As was mentioned earlier, a helpline is provided free of charge for victims of sexual violence. Some time ago, the Department of Health, Social Services and Public Safety passed an application for research funding to the Minister. Disappointingly, there has been no response to date.

The centre has been in existence for over 20 years and deals with more than 3,000 cases a year. It receives £32,000 per annum. Other organisations deal with similar issues but do not act in conjunction with the centre.

Sexual violence against women, children and men is not decreasing. All the evidence suggests that it is a growing problem. Since the centre's establishment, it has played a vital role in dealing with the problem. Over the years, it has built up an unequalled body of expertise and skills in helping victims of sexual violence through their ordeal, both during police investigations and during subsequent criminal trials. The centre also plays a critical role in counselling victims in the aftermath of criminal proceedings.

12.45 pm

The centre has never been adequately funded. In the past, the Department of Health, Social Services and Public



Safety provided some funding, and some district councils made contributions; for example, Belfast City Council allocates approximately £7,000 a year. However, the centre has limped along for years on a shoestring budget, which is not good enough. Its recent financial crisis was so serious that its telephones were cut off temporarily; Members may have watched a programme about that on television.

It is unacceptable for such an essential organisation to be constantly in that position. Society could not cope with the problem of sexual violence without the expert help that the centre provides. Given that, the burden of its funding should not fall on the Department of Health, Social Services and Public Safety alone. This is a human rights issue and has implications for all Ministers who are responsible for children's policies, policies on women's issues and the criminal justice system, so I call on all Ministers and officials in the Northern Ireland Office to consider their responsibilities and produce a funding formula to enable the Rape Crisis and Sexual Abuse Centre to continue its essential work.

**Mr Hay:** Rape and sexual abuse are major issues, not only in Belfast but across the Province. People in my constituency who counsel the victims of sexual abuse and rape help about 60 people a week and, because their service is seriously underfunded, there is a serious backlog.

Rape and sexual abuse here are increasing. The proposer of the motion, Dr Birnie, should remember that the funding crisis extends to other centres in Northern Ireland, which employ staff who are equally dedicated to their work. The work, effort and time put in by those people, often in difficult circumstances during which they must listen to people who have been raped or abused, cannot be quantified. Some of the stories are horrifying, and it is a tragedy that none of the centres receives adequate funds to deal with the many problems that result from sexual abuse.

I remind the Minister of Health, Social Services and Public Safety that the problem must be tackled, not only in Belfast but across the Province. I would like her to formulate a strategic plan for all the centres. That is not to take anything away from the comments of Dr Birnie and the Member for Foyle, Mrs Courtney, who made a good case for the centre in Belfast. I urge the Minister to begin a strategic review of all the centres in Northern Ireland.

**Ms Ramsey:** Go raibh maith agat, a LeasCheann Comhairle. Like other Members, I wish to commend the work that is being done in many rape crisis centres in the North, sometimes voluntarily. The Belfast Rape Crisis and Sexual Abuse Centre does crucial work with survivors of abuse. Such groups ensure that survivors' voices are heard in places such as the Assembly.

I agree with Mr Hay that that work is going on throughout the North and that many of the organisations carrying out that work are underfunded. However, more

crucially, the voluntary and community sectors are also underfunded. I had a meeting in my constituency recently with a funder of a local centre in which great work is being done. Groups such as those are living from hand to mouth because they cannot get long-term funding and do not know where they are going. We must realise the impact that that underfunding has and have a fundamental review of the good work that the voluntary and community sectors carry out.

However, I am concerned about some issues that other Members have mentioned. According to recent media reports, the Department of Health, Social Services and Public Safety received no funding application from the Belfast Rape Crisis and Sexual Abuse Centre. I have had no contact with the centre, but Dr Birnie said that it believes that it submitted an application. I welcome the Minister's presence in the Chamber. Will she tell the House if that funding application was submitted? Will she outline how it is progressing, and will she let us know when it will be resolved so that Members can get a clear picture of what is going on?

As former Deputy Chairperson of the Public Accounts Committee, I and other members of that Committee were critical of the previous practice of applications being made willy-nilly with no follow-up mechanism. In fact, the Committee wrote a report on that, so its concerns are on record. I am concerned — and I do not take away from the good work being done in those centres — that we do not go down that road. If criteria are in place, we must implement them.

I ask the Minister again to explain to the House what is happening with that application. Dr Birnie says one thing, media speculation says another, and I have just received a press release from the centre. Again, like other Members, I wish to commend the work, which is occasionally voluntary, that is done sometimes 24 hours a day, seven days a week in many of these centres, and I should like to reiterate Mr Hay's point that this is not just in Belfast; groups throughout the North are doing such work.

**Mr McCarthy:** I speak on behalf of my Colleague Mrs Eileen Bell, who is elsewhere on Assembly business and cannot attend the debate.

Mrs Bell has actively supported the work of the Belfast Rape Crisis and Sexual Abuse Centre for some time. The suffering of rape victims remains unacknowledged by most people. Their trauma and stress is virtually ignored by the public and is certainly not best served by current legislation. The staff of the rape crisis centre have been working with commitment, loyalty and great experience with neither salaries nor, indeed, acceptable working conditions.

Mrs Bell has been in touch with the Office of the First Minister and the Deputy First Minister and with the

Minister of Health, Social Services and Public Safety, who we are glad to see in the Chamber. Those Ministers seem to ignore the urgency of the situation. I understand that no wages have been paid to staff in the centre for several months, and it is ludicrous to say that no payment can be made, even pro tem, because the Department has allegedly not received a revised application. The centre has received core funding for more than 20 years, and is evidently still being used. Therefore why has no money been given in lieu of the arrival of an application for funding?

The Rape Crisis and Sexual Abuse Centre's mission statement says that it exists to

"provide empowering confidential counselling and other services free of charge for survivors of sexual assault and to campaign with survivors to increase awareness of the need to change the conditions in society which make sexual violence and abuse possible."

The centre's annual report shows that it provides face-to-face counselling in 79% of cases and that the remainder are dealt with by telephone. Survivors tell stories of nightmares, flashbacks and suicidal feelings. The centre provides the only available practical help and support, along with services that are vital to the survivors' encouragement and continued survival.

The low rate of reporting incidents of rape and sexual assault to the police means that, although the PSNI has greatly improved its approach to dealing with such crimes, victims still fear interviews and court appearances. Moreover, the sentences that are usually handed down do not reflect the damage that has been done to the victim. The way in which victims are treated and the lack of sensitive ways in which they can give evidence mean that the legal system for such crimes is utterly horrendous and must be attended to immediately. The Alliance Party supports the recommendations that if the Bar Council is not prepared to implement a code of practice, one must be imposed upon it by statute, and that judges must also use their powers to curb the worst excesses of the legal vultures.

It is accepted that sexual offenders against women and children enjoy a high acquittal rate. If a sentence is imposed, it rarely reflects the gravity of the crime. We must bring such sentences into line with the deep trauma that is inflicted by the guilty on the innocent victim. Some judges must completely change their mindset, and instances of plea-bargaining should be greatly reduced, if not eradicated.

The issue of rape and sexual abuse has been overlooked. Organisations such as the Rape Crisis and Sexual Abuse Centre have had to deal with it on a totally inadequate budget, with little public recognition or acknowledgement. The Assembly must support the centre's efforts to draw up an effective business plan to provide a clear vision for the future in this sensitive area. Core funding must be made available and be commensurate

with the centre's many activities so that it will be able to contribute to the welfare and support of some of our most disadvantaged women and children.

On behalf of my party, I thank the management, staff and counsellors of the Rape Crisis and Sexual Abuse Centre for their efforts, which have been carried out effectively, in spite of an uncertain future and a lack of funding.

The Alliance Party wholeheartedly supports the motion.

**Ms Morrice:** I, like others, support the motion. With rape and sexual abuse on the increase in Northern Ireland, and with the Rape Crisis and Sexual Abuse Centre doing, as we have heard, such valuable work, it is almost impossible to believe that its representatives must come to the Assembly with a begging bowl.

**Mr Deputy Speaker:** Given the seriousness of the debate, it is depressing to look around the Chamber and see the number of Members who are involved in private conversations and are not listening.

1.00 pm

**Ms Morrice:** Thank you, Mr Deputy Speaker. I repeat that it is astounding that a centre that does such valuable work has to come to the Assembly with a begging bowl.

The Department of Health, Social Services and Public Safety says that the funding crisis has come about because someone did not fill in an application form. We all have the details of the question put to the Minister by my Colleague Monica McWilliams earlier this year. She asked the Minister to make a statement on the current level of resources for the Belfast Rape Crisis and Sexual Abuse Centre and to detail proposals for the development of its work. The Minister answered that the Department was making available a grant of up to £33,000, and gave details of the conditions of the award of that grant. No mention was made of the fact that a form had not been received or that there was a potential problem.

Given the contact between the centre and the Department, why was the centre not alerted to the problem, and why was nothing done? There is no point in getting bogged down in a "did they or didn't they" argument. The debate about filling in forms highlights the need for more help for this organisation. We must get that point across to everyone.

I understand that the application has been revised from £32,000 plus £8,000 up to perhaps £136,000, to enable the centre to employ a full-time administrator. An administrator would help to overcome the funding crisis, as he or she would be able to draw up business plans and calculate the required funding.

Questions must be asked about how much paperwork is necessary. Many voluntary and community organisations are asking whether there is a way to reduce the volume of paperwork. I agree with my Colleague Sue Ramsey

that organisations must report annually, at the least. As members of the Public Accounts Committee, we realise the importance of accountability. However, there may be a way to ensure accountability while avoiding lengthy forms.

Members have mentioned the centre's workload. It receives 3,000 calls a year. Some calls are from people who experienced sexual abuse 30 years ago and who are only ready to come forward now. There are calls from women, children and, increasingly, men, who come forward because they were abused the previous day. Mr Hay said that the centre receives 60 calls a week.

Two members of staff, Eileen Calder and Eileen Kelly, have to do everything, which involves supporting victims in the courts, answering phones, visiting hospitals and counselling traumatised victims, women and children. The staff need the patience and understanding of counsellors, the therapeutic knowledge of psychiatrists, and almost the same legal ability and dexterity as a High Court judge. We ask a great deal of them.

I was fascinated to note in the research that was prepared for us that incidents of rape have increased from 209 cases in 2000-01 to 252 cases in 2001-02. Indecent assaults on female children have dropped from 342 cases in 2000-01 to 308 cases in 2001-02, and indecent assaults on male children have dropped from 134 cases in 2000-01 to 55 cases in 2001-02, which is progress. However, one of the most shocking statistics was that, overall, sexual offences have increased from 1,176 in 2000-01 to 1,431 in 2001-02. These crimes are on the increase, and we should be doing much more about that.

It is important to note that these statistics mask the reality. Nine times out of 10, the abuser is known to the victim. In many of those cases, the victim will not want to go to the police to get the crime recorded. The statistics that I have given are the recorded statistics. All the additional cases that are handled by the centre are not recorded, and those victims do not want to go to the police.

Another surprising item of information is that an important piece of research shows that 84% of people convicted have previous convictions, one third of which are sexually related. These statistics must be taken more seriously.

Consideration of the localities shows that Foyle has a high incidence, with 144 cases last year. We have all heard of the problems in south Belfast with the student population; that area had 134 cases last year. My own area, north Down, had 79 cases. Those are the three highest incidences in Northern Ireland.

We still have much work to do. There are issues such as the extension of part V of the Police Act 1997 to allow previous investigations to be taken into account when cases are being heard, and the protection of children and vulnerable adults through the setting up of a proper vetting system. All that work is important. With

its expertise, the Belfast Rape Crisis and Sexual Abuse Centre can offer much help with that.

I want to turn to one alarming — I am unsure what best to call it — obscenity. It is an Internet obscenity. I have received e-mails during the past couple of weeks that I would not even dare to repeat on the Floor of the House. They all involve the possibility of seeing free pictures of rape. I have contacted the police. People say that one can get eight or nine of these e-mails a day. They are obscene, disgusting and horrific, and children could have access to them. The centre is already working in this area to try to get "cyber police" to stop this type of obscenity coming to innocent and ordinary people, particularly young children. It is a disgusting occurrence in our society, and we must stop it.

Finally, I call for more funding, particularly core funding, for a centre that is doing so much work in this area. We must all work and take urgent action to prevent this type of thing from taking over our society.

**Mr M Robinson:** As recently as a couple of weeks ago, Belfast Rape Crisis and Sexual Abuse Centre faced its own major crisis in that it was forced to operate for 24 hours with no telephone lines. This was as a result of the centre being unable to meet payments for a phone bill of a staggering amount. Over this period of time, I am absolutely convinced that those people seeking support from the trained counsellors at the centre were thrown into further confusion and upset due to being unable to access the support which they required. It is obvious that the Belfast Rape Crisis and Sexual Abuse Centre cannot function adequately or to its full capabilities without telephone lines, which are the first point of contact for someone contacting the centre for support and advice.

Belfast Rape Crisis and Sexual Abuse Centre is one of the earliest established centres in the UK, and it has been providing Northern Ireland with its only free and confidential service for survivors of rape for over 20 years. Right from its inception, the centre has been forced to operate on a shoestring budget. They are allocated the minimal sum of £30,000 per annum from the Department of Health and Social Services. That figure does not even come close to what is required to enable the centre to function properly. The crisis centre is an organisation which must be maintained. The latest crime statistics in my constituency of South Belfast have revealed a 42% increase in sex attacks in that area this year alone. I cannot praise the centre enough and the service that it provides; free, supportive and sympathetic advice and counselling to the victims of the heinous crime of rape.

The centre provides support at all levels: for example, it offers therapy support and Northern Ireland's only free phone line for victims of sexual abuse. The centre is unique in that it also provides court support. Many women do not report rape for fear of the treatment they



will receive from the legal system. Women who do go through the courts are often left feeling that they have been raped all over again, as they have to relive the terrifying events and are left feeling traumatised after giving evidence. This is, once again, where the centre becomes involved. Its counsellors offer court support and advise and counsel women on how to cope with their experiences in court. As a result of this support, many women have found the courage to go through the legal system, and many perpetrators of this crime have been put behind bars.

This debate is concentrating on the funding crisis which the centre is facing. The centre is living from one year to the next, not knowing if it will get the finance to allow it to continue its valuable work. The reality unfortunately is that the level of funding is limited and the level of dependency great. The centre needs £150,000 each year to enable it to provide its services properly. The current level of funding totals just £32,000 each year, which is nowhere near the amount required to enable the centre to operate to its full capacity.

It simply baffles me that organisations such as the Belfast centre are forced into this position, when recent patterns of underspending by Departments have emerged. Resources must be managed better, so that the work which voluntary organisations do day and daily is not put in jeopardy. It is therefore essential that the necessary finance is made available to the centre if we are to avert a similar crisis in the future.

**Mr J Kelly:** Go raibh maith agat, a LeasCheann Comhairle. I commend the work of the Belfast Rape Crisis and Sexual Abuse Centre in providing support for the survivors of child and adult sexual abuse and assault. Moreover, it is essential that there is a properly funded service to support such victims. I am almost reluctant to take an objective view of the circumstances surrounding the motion, because it is so emotive. I have serious concerns about what is happening in the centre — assuming that the report in today's 'Irish News' is correct — and questions must be asked.

Given the dire financial circumstances of the centre, why was it so tardy in making an application for funding? We have heard different stories about funding, and maybe the Minister will be able to reply to them. Members have, on other occasions, raised the need for transparency and probity. However, on this occasion they seem to be setting those things to one side, which makes it difficult to attempt to be objective about this emotive situation.

The centre was given £6,000 to put together a business plan. What happened to that business plan? Was it ever presented to the Department, and what happened to the money allocated for it? Other centres outside Belfast are attempting to deal with the problem of rape in their own way.

1.15 pm

Why, instead of going through the normal funding channels that every other voluntary organisation adheres to, is the Belfast Rape Crisis and Sexual Abuse Centre

using the media and the Assembly as the vehicle for its funding application? I have difficulty with that, and I would like to hear an explanation from it and others.

I do not wish to discount the work that is going on, but we must try to be objective. I would be the first to accept that, if a voluntary organisation feels that a Department has treated it unfairly, it should have recourse to MLAs. However, on this occasion, the organisation did not take the opportunity to speak to me or to my Colleague Sue Ramsey. Why, if no funding application was made, do we have the motion and all the publicity surrounding it?

Given that the Belfast Rape Crisis and Sexual Abuse Centre received substantial funding to prepare a strategic plan, why did it not deliver that plan? We might also ask whether there has been a proper audit of the centre's finances to ascertain exactly how the organisation has used the not inconsiderable amount of taxpayers' money that has been allocated to it over the years. How has it arrived, year after year, at this situation of dire financial straits, without it being flagged up in a substantive way to those of us who share the concerns of survivors of rape and child sexual abuse? We deal with those issues on an ongoing basis in our constituencies.

It is essential that those centres carry out their voluntary work efficiently. However, we must also have a sense of probity about the financial structures with which those organisations surround themselves.

**Mr Shannon:** Members have highlighted the needs of the Belfast Rape Crisis and Sexual Abuse Centre. Most of the issues have been mentioned; I do not wish to repeat them. The centre looks after several cases in my constituency of Strangford and in the Ards Borough Council area.

I have become aware of the number of people that have been abused and the need for the centre over the past 12 to 15 months. It is not just a question of those who have been abused in the last few months and years; several people have come forward for help who were abused 10, 15, 20 and even 25 years ago. Those people are still traumatised by what happened to them.

As a result of the numbers of people who asked me about this issue, I met the chairman of the Ulster Community and Hospitals Health and Social Services Trust to see if he could get funding to address the needs for such services in the Ards Borough Council area and, specifically, on the Ards Peninsula. He agreed that assistance was required, but if the money were granted, other services would suffer. My frustration was apparent to the chairman and his officials, but more apparent to my constituents, and to the Belfast Rape Crisis and Sexual Abuse Centre.

That is an example of the difficulties faced. The small way in which this issue is being addressed touches only the tip of the iceberg. The organisation supplies two

hours of counselling in the Ards Hospital. That comes nowhere near to meeting the needs of people, most of whom have to travel to Belfast for assistance. Even then, the necessary funding was not apparent.

Although I support the motion, there should be a strategic review to help the people and organisations within the Health Department who look after rape and sexual abuse victims. It is important that that strategic review address all related issues, not just in the Strangford constituency but in all others. My Colleagues William Hay and Mark Robinson mentioned the need for assistance in their constituencies of Foyle and South Belfast.

We want a strategic review and a plan of action on the whole process, to zero in on where the problems are and give the necessary financial budget. If, God forbid, the Belfast Rape Crisis and Sexual Abuse Centre stopped its work tomorrow, the Government could not jump in, take over and continue its work, and that is a problem.

Members should recognise — and I think that the Assembly will recognise — the work of the centre. However, Members want the Department of Health, Social Services and Public Safety and the Government to take on this case and to provide the necessary financial assistance to help the dozens, hundreds and even thousands who need help. In a small way, I realise the needs of some people, because my constituents come to me as other people go to their Assembly Members. The cry coming from Members is for more finance and help for those people. That can only happen if the finance is there and the Departments are doing their best to help.

**Mr Kennedy:** It was not my intention to make a contribution, but I was astonished at that made by Mr John Kelly, the Member for Mid Ulster. After serving up the usual platitudes and paying due tribute to the work of the Belfast Rape Crisis and Sexual Abuse Centre, he proceeded to put the boot in in a highly political manner.

**Mr J Kelly:** Will the Member give way?

**Mr Kennedy:** No, the Member will not give way. Mr Kelly, you got your opportunity to speak.

**Mr J Kelly:** On a point of order, a LeasCheann Comhairle.

**Mr Deputy Speaker:** Mr Kelly, I hope that this is a point of order.

**Mr J Kelly:** Is it relevant to use “put the boot in” in these circumstances?

**Mr Deputy Speaker:** Order.

**Mr J Kelly:** Is that a valid comment to make?

**Mr Deputy Speaker:** I am not sure whether it is parliamentary.

**Mr Kennedy:** “Put the boot in” is the only apt term that could be used. Clearly, Mr Kelly is being used as a noble cat’s paw, the ministerial spokesperson or the

warm-up person to the Minister. It will be interesting to hear what the Minister has to say about the applications submitted by the centre, how they were processed and what assistance — if any — was given to it in its funding difficulties.

It is interesting that Mr Kelly concerned himself with issues of probity and questions which ultimately served to undermine the alleged comments of support that he promoted in the early part of his contribution. The manner in which Mr Kelly sought to undermine the credibility and attack the integrity of the centre left many Members with a bad taste in their mouths. It is almost unbelievable that that would happen in a debate in which members of the Belfast Rape Crisis and Sexual Abuse Centre have no recourse to respond as to how they dealt with applications. It is unfortunate and wrong of the Member for Mid Ulster to have made his contribution as he did.

I will be interested to hear the Minister’s response on what help was offered and how she will address the various points that are now in the public domain. This essential service has been reduced to having to come to the Floor of the Assembly to beg for financial support to remain operational. Perhaps the Minister will reflect that if she wasted less money on some of her personal crusades, such as the promotion of the Irish language, groups such as the Belfast Rape Crisis and Sexual Abuse Centre might not face such unfortunate difficulties.

**The Minister of Health, Social Services and Public Safety (Ms de Brún):** Go raibh maith agat, a LeasCheann Comhairle. Tá mé buíoch den Dr Esmond Birnie as an rún seo a mholadh mar go dtugann sé deis domh seasamh mo Roinne a shoiliéiriú maidir le maoiniú don Ionad Éigeandála um Éigniú agus Mhí-úsáid Gnéis Bhéal Feirste.

Tá mo Roinn ag tabhairt tacaíochta airgeadais don eagraíocht seo le cuid mhaith blianta. Caithfidh gach eagraíocht a fhaigheann an cineál seo tacaíochta airgeadais iarratas scríofa a dhéanamh agus eolas ar mhonatóireacht bliantúil a sholáthar don Roinn mar choinníoll don deontas. Le blianta beaga anuas, áfach, sháraigh go leanúnach ar an Ionad Éigeandála um Éigniú agus Mhí-úsáid Gnéis eolas ar mhonatóireacht bliantúil a sholáthar. Mar thoradh air sin, tá maoiniú ceadaithe ag mo Roinn don Ionad Éigeandála um Éigniú agus Mhí-úsáid Gnéis ar bhonn bliana seachas ar bhonn trí bliana mar is gnách.

Le tamall anuas, tá mo chuid feidhmeannach ag déanamh iarrachta oibriú leis an ionad le léargas níos soiléire a fháil ar staid airgeadais na heagraíochta agus le hoibriú amach cad is féidir a dhéanamh le cuidiú léi tabhairt faoina deacrachtaí reatha. Leithroinn mo Roinn £11,000 breise chuige seo le trealamh ríomhaireachta a cheannach agus le plean gnó straitéiseach a fhorbairt. Samhlaíodh go ndéanfaidh an plean gnó beartaithe plean gníomhaíochta trí bliana a fhorbairt; straitéis phraiticiúil struchtúrtha maoinithe a chruthú; struchtúr bainistíochta

soiléir cuntasach a bhunú; agus íomhá agus margaíocht a fheabhsú don úsáideoir agus do mhaoinitheoirí féideartha mar eagraíocht ghairmiúil. Go dtí seo, áfach, níl éirigh leis an phlean gnó seo teacht i gcrích.

Mr Deputy Speaker, I am grateful to Dr Birnie for tabling the motion, as it allows me the opportunity to clarify my Department's position regarding the funding of the Belfast Rape Crisis and Sexual Abuse Centre. The Department of Health, Social Services and Public Safety has been providing financial support to the organisation for many years. All organisations receiving this type of financial support are required to make written application and provide the Department with annual monitoring information as a condition of the grant.

Unfortunately, in recent years, the Belfast Rape Crisis and Sexual Abuse Centre has continuously failed to provide annual monitoring information. As a result, the Department of Health, Social Services and Public Safety placed the centre's funding on an annual footing, rather than the three-year cycle that normally pertains.

The motion specifically addresses the long-term future of the centre. My officials have been trying to work with the centre for some time to establish a clearer picture of its financial position and to determine what might feasibly be done to help the centre to address its current difficulties and then to focus on the key issue of long-term sustainability. To that end, my Department allocated an additional £11,000 to purchase computer equipment and develop a strategic business plan. It was envisaged that the proposed business plan would develop a three-year action plan; create a structured and practical funding strategy; establish a clear accountable management structure; and improve image and marketing to the end user and the potential funders as a professional organisation.

Unfortunately, the business plan has so far failed to materialise. The Belfast Rape Crisis and Sexual Abuse Centre has experienced ongoing difficulty in complying with the terms and conditions applicable to grants, with the late submission of the requested monitoring information — audited accounts, annual reports, details of how the grant has been attributed and an organisational forward plan.

I reiterate that it is a measure of the Department's commitment that, in March 2001, it awarded the Belfast Rape Crisis and Sexual Abuse Centre £6,500 of the additional £11,000 in funding to employ an independent consultant to help it to develop a strategic plan to turn it into a creative organisation that could ultimately achieve sustainability. To date, that plan has not materialised.

1.30 pm

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

**Ms de Brún:** No.

Issues have been raised about adequate funding. The compact between Government and the voluntary and community sector, which was published in December 1998 and endorsed by the Assembly in early 2000, recognised the need for a more co-ordinated strategic approach to the funding of the voluntary and community sector in general. To address that matter, my Department is participating in a major cross-departmental review of Government support to the voluntary and community sector. It is hoped that the outcome of that review will ease the funding situation. In the interim I will continue to seek additional funding.

With regard to funding for the Belfast Rape Crisis and Sexual Abuse Centre, the Department awards grants of up to 75% of the amount requested. The centre has not submitted a case for increased funding. However, it received additional funding of £11,281 in 2001 and £3,500 in 1998-99.

Questions were asked about the Department's strategic approach. My Department and the Executive are concerned about sexual abuse and its impact on the individual, and we are committed to tackling the issue. Until now, most developments and services for survivors of sexual abuse have been included in wider service developments, such as child protection arrangements or the mental health services. However, the Department accepts the need for a strong, coherent policy, and officials are discussing the matter with their counterparts in Scotland.

The Department supports survivors of sexual abuse directly through grants to voluntary organisations and indirectly through boards and trusts. The health and social services boards and trusts provide a range of services, including specialised children's units, initial response teams, direct counselling by social workers and home visits to survivors of rape and sexual abuse.

The Department provides core funding for central administration costs to voluntary organisations that tackle issues, such as rape, sexual abuse, domestic violence and relationship counselling.

Members asked how funding is assessed and whether it is based on the organisations' application forms. The application form is essential, but, in order for the Department to make a proper assessment of the funding required, the application must also contain certain information. For example, it must demonstrate how the organisation intends to meet the Department's objectives in respect of the services to be provided. A regional organisation must show how it represents the region and how it proposes to achieve the aims set out in the application.

Until this morning, the Belfast Rape Crisis and Sexual Abuse Centre had not made an application to my Department for funding for the current financial year, although my Department had issued application forms and invited the organisation's representatives to meet officials.



An e-mail version of the application form arrived at the Department this morning, a full 11 months after the first application form was issued. It is the responsibility of both the Government and their social partners in the voluntary and community sector to ensure the effective and efficient use of public moneys. It would be remiss to allocate resources without due care for accountability, and I am certain that the Members who have constantly questioned the use of funding in the Assembly would not now wish to suggest that accountability is not an issue. I am astounded to hear a Member who has raised the question of accountability again and again refer to an application form as “a bit of a technical distraction”.

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

**Ms de Brún:** No. The departmental procedures for grants are a basic matter of completion of application forms — forms which the Belfast Rape Crisis and Sexual Abuse Centre has been completing since 1989. I am aware of more general concerns in the wider voluntary statutory organisations about the onerous task of completing some assessments. However, our departmental procedures for grants are a matter of the basic completion of application forms; something that the organisation in question has been doing for years.

It is important to note that in the absence of verifiable evidence of need it is no easy task to assess what funding would be adequate. To establish a realistic level of funding, it is necessary for organisations to establish need; identify what is to be achieved; quantify the additional value to be gained; and commit to the monitoring and evaluation of the work undertaken. That is why those procedures exist, and that is why the Assembly again and again asks Departments and others to stick to proper criteria and procedures. My Department must consider all funding against competing priorities and financial constraints. I am aware that the junior Ministers have been in contact with Jane Kennedy about funding from the Northern Ireland Office.

I am committed to funding this type of service; I am committed absolutely to playing my part with others in providing what is needed to a vital section of society. Funding, however, is dependent on all organisations adhering to the terms and conditions of Government accounting procedures. It is also important that organisations are evaluated to ensure that they are delivering appropriate services in an effective and efficient manner. I therefore urge the organisation in question to complete the business plan, ensure that it maintains proper records and comply with the terms of any grant funding provided to it.

**Dr Birnie:** I should like to begin by thanking all those who spoke and, indeed, the Minister for her response. Mrs Annie Courtney rightly referred to the expertise of the centre and, like several Members, mentioned the recent problem when it had its telephone lines cut off.

William Hay pointed out some of the problems dealt with by the centre, particularly in his own constituency. He highlighted the need to support all such centres carrying out this good work. Sue Ramsey commended the centre for its work and stated that there was a need for a strategy in that area of public health. Kieran McCarthy pointed out the practical help provided by the centre. Jane Morrice asked why the Department had not been alert to the fact that the centre had been tardy with its application forms. She also referred to some of the frightening statistics of rape and sexual abuse and raised the question of new and growing developments on the Internet. Mark Robinson also referred to the cutting off of the telephone lines and said that it was very significant, since the centre provided a free advice service over the telephone to people across the Province.

John Kelly commended the centre for its work. However, he asked why it had been, in his view, tardy in its application processes. Jim Shannon stated that the centre was carrying out needful work and referred to his constituency of Strangford. My Colleague, Danny Kennedy, outlined his astonishment, particularly at Mr Kelly's comments.

The Minister attempted to clarify her Department's position. She referred to money granted to the centre for its business plan, which she said had not yet been produced. The business plan is delaying an obvious conclusion that we can already come to: there is substantial underfunding in this case and that the work is immensely valuable. It is a chicken-and-egg situation. On one hand, for two decades the centre has been on a shoestring budget. However, on the other hand, it probably has problems with administration and housekeeping.

I appeal to the Minister to look favourably on better funding for the centre when the business plan and applications are produced. It can be argued that, in the long run, funding spent in this way represents good value for money: the centre and similar bodies deal with problems and counsel people in trauma at an early stage. Such help prevents their medical, psychiatric and mental health problems from worsening and stops the individuals appearing at another part of the Health Service with an even greater demand on resources to pay for treatment.

I would have thought that the Minister would have found it possible to be more supportive of the Rape Crisis and Sexual Abuse Centre, given her, and her party's, professed attachment to political radicalism and certain varieties of feminism. On 23 September, Eileen Calder of the Rape Crisis and Sexual Abuse Centre referred to the “iron law of oligarchy” in the ‘Belfast Telegraph’. She felt that it had influenced the attitudes of the Department and hence, by implication, the Minister in supporting that needful work.

I said that the need for additional moneys is obvious even without the business plan. One way to prove that is to contrast the situation with that South of the border. I

am sure that the Minister is well aware of that. In the Republic of Ireland, rape crisis centres operating in cities much smaller than Belfast, such as Galway and Limerick, receive much higher public support — sometimes two to three times higher.

As many Members have said, there is a need for a good strategy to deal with the victims of rape and sexual abuse.

*Question put and agreed to.*

*Resolved:*

That this Assembly notes the dire financial situation of the Belfast Rape Crisis and Sexual Abuse Centre and calls upon the Minister of Health, Social Services and Public Safety and the Northern Ireland Office to provide adequate funding to ensure the long-term future of the centre.

*The sitting was suspended at 1.44 pm.*

*On resuming (Mr Deputy Speaker [Mr J Wilson] in the Chair) —*

2.30 pm

## Oral Answers To Questions

### ENTERPRISE, TRADE AND INVESTMENT

**Mr Deputy Speaker:** I wish to inform Members that questions 2, 7 and 9, standing in the names of Mr John Fee, Mrs Joan Carson and Mr David Hilditch respectively, have been withdrawn and will not receive written answers. Question 13, standing in the name of Ms Michelle Gildernew, has also been withdrawn but will require a written answer.

### Lough Neagh Tourism

1. **Mr Armstrong** asked the Minister of Enterprise, Trade and Investment to give an update on his policy to develop and promote Lough Neagh as a major tourist attraction. (AQO 212/02)

**The Minister of Enterprise, Trade and Investment (Sir Reg Empey):** It is fully recognised that the Lough Neagh wetlands, as an activity destination, are a greatly underutilised resource. The Lough Neagh management strategy, launched in June 2002, provides the necessary framework for the wise use of the resource, including its development for tourism. The Department of Enterprise, Trade and Investment, through the Northern Ireland Tourist Board, is committed to working with relevant partners to ensure its implementation.

**Mr Armstrong:** Does the Minister agree that Lough Neagh has the potential to be a major tourist attraction, contrary to what is suggested by the low number of visitors there this summer? Can he ensure that when the area is developed, its environmental assets will be conserved?

**Sir Reg Empey:** With regard to the Member's last point, the conservation of the area must, of course, be a guiding principle in how it is developed, because no one wants to see the area ruined. I was in the area on Saturday evening at the opening of an equestrian centre. Given the reports that the Department has received, and the potential that clearly exists, the area is undoubtedly underutilised. Water sports-related activities, wildlife-related activities and equestrian activities have the potential to promote the lough as a significant destination.

At present, few people visit the area. Those visitors tend to come on day trips. The predominant use of the area is for informal recreation, as one would expect. The area has tremendous potential. Six local authority areas

border the lough, and I believe that through working with them, and with the Lough Neagh Partnership, which is a new company limited by guarantee, the Department will be able to develop and implement projects, attract investment and market the area in a strategic manner. Although it is not envisaged that the Lough Neagh Partnership will carry out the statutory obligations of any agency, it will be well placed to manage strategic projects.

**Mr Kane:** Members know that Lough Neagh has valuable tourist attractions. Can the Minister outline the Department's policy for the development and promotion of established tourist attractions, such as the Giant's Causeway and the Glens of Antrim?

**Sir Reg Empey:** I have no doubt that the Member is well skilled. If he sits in the Chamber until the end of Question Time, he may find that there is a question coming up on that particular subject. With your permission, Mr Deputy Speaker, I will decline to fall into that trap at this stage.

### NITB's New York Bills

3. **Mr Close** asked the Minister of Enterprise, Trade and Investment, pursuant to AQW 389/01, how many of the New York hospitality bills listed were paid with the credit card issued to NITB's New York manager.

(AQO 190/02)

**Sir Reg Empey:** None of the bills referred to were paid with the credit card that was issued to the Northern Ireland Tourist Board's New York manager.

**Mr Close:** I am delighted to hear that. However, can the Minister advise the House as to how he is so certain that that is the case? As I understand it, thousands of pounds worth of unaccounted bills are still outstanding, for which no receipts have been issued?

**Sir Reg Empey:** The bills were paid either through the Northern Ireland Tourist Board's cheque journal, in accordance with normal supplier payment arrangements, or through expense claim forms, which were then processed in accordance with normal procedure. The payments have either been repaid centrally by the Tourist Board or subsequently claimed and repaid through the normal process. That is how I am able to give the Member that particular answer.

**Mr Dallat:** The Minister will agree that chairmen of public bodies and those charged, as accounting officers, with safeguarding the use of public money have a particular duty of care in incurring substantial expenditure on hospitality, such as that which occurred in New York. He will further agree that it is essential that such expenditure is fully in line with best practice guidance and that it can be fully defended as regards value for money.

**Mr Kennedy:** Get to the question.

**Mr Deputy Speaker:** Order.

**Mr Kennedy:** Question.

**Mr Deputy Speaker:** I do not need to be prompted. Are you coming to a question, Mr Dallat?

**Mr Dallat:** Yes, indeed. I find it rather interesting that such anxiety is expressed from across the Floor about this question.

**Mr Kennedy:** Get on with what you were going to say, ye bigot ye.

**Mr Dallat:** Withdraw that.

**Mr Deputy Speaker:** This really is unfortunate.

**Mr Dallat:** Yes.

**Mr Deputy Speaker:** Mr Dallat, I was right to call you to order.

I ask Mr Kennedy whether he cares to withdraw that remark.

**Mr Kennedy:** Mr Deputy Speaker, the remark is withdrawn.

**Mr Deputy Speaker:** Thank you.

**Mr Dallat:** Is the Minister satisfied that the chairman and accounting officer met expectations during the visits and events detailed in his answer to question AQW 389/01? What criteria were used to assess that?

**Sir Reg Empey:** I am not absolutely sure that I quite understand what the Member is getting at. He said that accounting officers and chairmen have a duty of care for public expenditure. I entirely agree. The purpose and rationale for having an accounting officer is that there is a person designated as being responsible for the dispersal of public funds. I entirely accept that, and it is absolutely appropriate that such a person is clearly identified.

The Member also mentioned substantial expenditure on hospitality. That must be put into perspective. Going back to 1997, there were amounts of \$123·13 and \$27·54, up to larger amounts such as \$3,689·24. However, we are talking about the promotion of Northern Ireland in New York, which is a very expensive city. Even at its peak, average expenditure was \$500 a week. At that time, Northern Ireland was a very difficult place to promote. People forget just how far we have come since then.

People must have some sense of proportion. Whether it is \$27 or \$3,000, accountability must remain quite clear. In the first part of my answer, I said that the accounting officer must be answerable for, in this case, every cent that is spent from the public purse. However, we must also remember the purpose of spending that money. We are up against heavy expenditure from other places. I am not altogether sure if amounts of that scale would be subject to questions in the Irish Parliament — maybe they are. However, it is important to keep everything in proportion.



The chairman and the accounting officer must ensure that the Department's policy on expenditure of public moneys is adhered to, and, if it is not, that those involved are answerable to the Department. I am absolutely clear about that. However, as I said to Mr Close, I have been informed that in this case there was clear accountability and that the credit card in question was not used. There was a "shock, horror" reaction to the use of credit cards. Many car drivers use credit cards to pay for petrol; they are a perfectly legitimate means of dealing with public expenditure provided the procedures are in place to ensure accountability. We should not get ourselves into a twist about the use of credit cards or charge cards, because they are a good way to settle bills without using cash. The core issue is to ensure that the people who use them are accountable and answerable.

**Mr McClarty:** Am I correct to say that any manager who uses credit cards must submit receipts for any expenses claimed? Does the Minister agree that the number of questions that are being asked about the use of credit cards has reached epidemic proportions? Some of the questions are extremely petty. How much does it cost the Department, and thus the people of Northern Ireland, to answer those questions?

**Sir Reg Empey:** Other Ministers and I have a clear obligation to answer, to the best of our ability, any question asked by a Member, irrespective of the number of questions asked. However, perhaps Members do not always appreciate fully how much time is devoted to answering questions. I do not know the exact cost of answering questions on the use of credit cards, but I would be happy to try to find out.

I am more concerned by the fact that certain sections of my Department have to deal with many Assembly questions, which means that at peak times a client executive can spend up to 50% of his or her time answering them. That is a huge problem for the Department because it means that the officer is unable to work on other matters — *[Interruption]*.

**Mr Deputy Speaker:** Order.

**Sir Reg Empey:** Irrespective of the question asked, I will continue to endeavour to give as full and frank an answer as possible. However, there comes a point when cost-effectiveness has to be taken into account.

### Stress at Work

4. **Mr J Kelly** asked the Minister of Enterprise, Trade and Investment to make a statement in response to the launch of the European Agency for Safety and Health at Work's campaign to raise awareness of the causes of stress at work. (AQO 213/02)

**Sir Reg Empey:** My Department, through the work of the Health and Safety Executive for Northern Ireland, recognises that the campaign provides an excellent

opportunity to raise awareness of work-related stress. I am sure that many Members would agree with that. The European Week for Safety and Health at Work, which will run from 14 October to 20 October 2002, is the cornerstone of the campaign. Locally, the Health and Safety Executive for Northern Ireland is pursuing a comprehensive promotional programme.

**Mr J Kelly:** Does the Minister agree that greater co-operation with the Department for Employment and Learning is needed to help to raise awareness of stress in the workplace and to help people to find a balance? In other words, perhaps an educational approach should be adopted.

**Sir Reg Empey:** The Health and Safety Executive is committed to addressing the issue of work-related stress. The Member may find the following statistics interesting. It is estimated that at any time in Northern Ireland some 12,500 people experience work-related stress, anxiety or depression. In June, the Health and Safety Executive launched the European Week for Safety and Health at Work at Maydown. It used that opportunity to encourage all organisations in Northern Ireland to address the issue of work-related stress. As part of a wide-ranging advertising campaign, over 13,000 information packs have been distributed to organisations in the Province.

2.45 pm

The information packs describe the causes of work-related stress and provide information on how it can be prevented. Furthermore, specific information from the European Agency for Safety and Health at Work has been included. A European week awards scheme is being co-ordinated, which aims to recognise organisations that excel in their efforts to support the working on stress initiative. Local winners will be recognised during a European week awards ceremony to be held early in 2003.

**Mrs Courtney:** I welcome the emphasis on stress-related illnesses and the European Agency for Safety and Health at Work. People often suffer disadvantages resulting from the appearance of such illness on a medical certificate. Will the Minister ensure that employees are not put under further stress by having that information on their employment record?

**Sir Reg Empey:** In my answer to Mr Kelly I omitted to mention the relationship between my Department and the Department for Employment and Learning. We have regular discussions, and training forms a key part of the activities.

Mrs Courtney made a very good point. Undoubtedly, there is a degree of prejudice about certain illnesses. It would be interesting to see how these matters are treated, particularly in the Civil Service. I cannot confirm anything for the Member at the moment; however, I shall make enquiries about the matter and I shall write to the Member, rather than give her an off-the-cuff response.

**Mr Shannon:** I thank the Minister for his response in relation to the launch of the European campaign. However, he omitted one point, which is the issue of those who are bullied at work. It is a big issue for many people who are off as a result. Will any help be available in the campaign he outlined for those who are subject to that type of abuse?

**Sir Reg Empey:** There are several issues here. First, we must define “stress” and how it is categorised. For instance, the Department of Agriculture and Rural Development carried out a social survey of farmers and farm families in 2001-02 to investigate the scale of work-related ill health in the farming community. The study found that 15% of the 3,400 people interviewed suffered from work-related ill health, with 5% of those interviewed reporting that stress, depression or anxiety was caused — or aggravated — by their work.

Furthermore, the situation varies between industries. Some people are continuously “off”, as Mr Shannon put it, and it must be determined whether they are fit to return to work. People can be permanently disabled by stress-related illnesses. It is very difficult to be clear about stress-related illness. If someone has a broken leg, that is obvious. It is less obvious if someone is suffering from stress, and it can become progressively more difficult to analyse. The purpose behind the week of health promotion and the activity of the Health and Safety Executive is to raise awareness among employers, as well as workers. Taking Mrs Courtney’s point, people should not be discriminated against because they suffer from that disability rather than from any other.

### Lagan Valley Tourism

5. **Mr Poots** asked the Minister of Enterprise, Trade and Investment what plans he has to provide greater support for tourism projects in the Lagan Valley constituency.  
(AQO 228/02)

**Sir Reg Empey:** The Northern Ireland Tourist Board and Invest Northern Ireland administer several financial assistance schemes aimed at developing visitor attractions and facilities, marketing projects, events support and business support in general. Applications for assistance under those initiatives are welcomed from projects in Lagan Valley. Support policies are continually under review and will be adjusted according to sector needs and tourism policy.

**Mr Poots:** Officials from Lisburn City Council recently met the Minister and outlined the funding that the area has received from the Tourist Board in the past few years. I assume that the Minister agrees that that funding is minuscule. When will the Department of Enterprise, Trade and Investment and the Tourist Board realise that there are areas between Belfast and the north coast, and between Belfast and Fermanagh, that attract tourism spend? When will the Department support events in those areas?

**Sir Reg Empey:** The Tourist Board is very conscious that events happen throughout the Province. In fact, it provides East Belfast with less funding than any other constituency. In the past 10 years, £2·85 million has been offered to 19 projects in Lagan Valley. The constituency is not ignored.

Applications are vital. The Tourist Board and the Department can only give assistance for which they are asked, and the objective of my meeting with Lisburn City Council was to attract a hotel project to Lisburn. The then mayor and some of his officials referred to the Department’s moratorium, which has a radius of 10 miles from central Belfast. They felt that, were a hotel project proposed, the moratorium would be discriminatory because Lisburn would not qualify for grant aid. I made it clear that the 10-mile zone was an administrative decision, not a legal or statutory requirement. I also said that future projects would be considered carefully to determine whether they fulfilled the Department’s overall policy objectives and that they would not be ruled out on the basis of the moratorium.

Last month, officials from Invest Northern Ireland met a potential developer to discuss the establishment of a hotel in Lisburn. Those discussions are ongoing.

**Mr McMenamin:** Last week, the Committee for Enterprise, Trade and Investment held the second of its tourism inquiry conferences in the heart of west Tyrone. During a workshop, the Committee was told that the domestic market generates the same amount of tourism revenue as visitors from the United States, Canada, Australia, New Zealand and the rest of Europe — some £66 million per annum. I am very much in favour of attracting foreign visitors to our islands —

**Mr Deputy Speaker:** Do you have a question, Mr McMenamin?

**Mr McMenamin:** Yes. Does the Minister agree that, if the home market were promoted more rigorously, it could attract even more revenue, especially in areas such as the Sperrins and west Tyrone?

**Sir Reg Empey:** I made a point when the Member for North Antrim, Mr Kane, asked me a question that did not relate to the question on the Order Paper, and my response to Mr McMenamin falls into the same category. Mr McMenamin’s question does not relate to Mr Poots’s question about Lagan Valley. I have answered Mr McMenamin’s question in the past. I have no doubt that he will ask me it again in the future.

### Enterprise Zones

6. **Mr Byrne** asked the Minister of Enterprise, Trade and Investment to outline his policy on designating enterprise zones that attract grant-aided incentives.  
(AQO 195/02)

**Sir Reg Empey:** The Department has no plans to designate enterprise zones that attract grant-aided incentives. It uses other measures that are based on the new TSN

maps, as well as a comprehensive series of policy initiatives that involve Invest Northern Ireland, to stimulate economic activity across Northern Ireland.

**Mr Byrne:** I pay tribute to the Department's work in creating more industrial parks in Omagh and Strabane. However, in order to promote the small and medium-sized enterprise (SME) sector, especially in provincial areas, will it seriously consider incentives beyond selective financial assistance? Will the Minister assure Members that, to encourage economic development, the Department and the district council will seriously consider support for Fintona, which does not have an industrial park?

**Sir Reg Empey:** You know what they say, Mr Deputy Speaker: if west Tyrone does not get you one way, it will get you another.

Past policy has been to focus on industrial land and parks in centres of significant population in each district council area. Therefore, as Mr Byrne said, not every town or village necessarily has such a facility. That would spread resources very thinly over a wide area, rather than concentrate them on a limited number of areas.

We have pushed hard in the past few years to attract investment to west Tyrone, with some success in Omagh and Strabane. The Member will recall the recent investment by Rixell Ltd at Doogary Road near Omagh.

As far as incentives other than selective financial assistance are concerned, we offer industrial derating, which is not given anywhere else in these islands. Other incentives include help with training, professional advice, and advice on broadband services. I am prepared to consider suggestions for other forms of assistance. It is something that must be kept under review and should not be curtailed because of bureaucratic requirements.

If the Member has specific ideas that would help his constituency, the Department will be happy to consider them. The Minister of Agriculture and Rural Development and I have other strings to our bow, be they based on European funds or LEADER, to help promote development. The combination of those incentives ought to give us a significant package to offer.

**Mr K Robinson:** I am taken by the Minister's specific references to aid. Given the loss of over 2,000 jobs in east Antrim, and in the light of the severe ongoing job losses there, will he urgently consider declaring east Antrim a strategic employment location in which innovation and entrepreneurship can be fast-tracked to arrest the serious and ongoing decline in the manufacturing sector there?

**Sir Reg Empey:** In view of my responses to the Member for North Antrim, who is no longer in the Chamber, and the Member for West Tyrone, I shall not answer the Member's question specifically, because it does not relate to the question tabled. I understand his point and I shall write to him about the particular matters

he referred to, but he has strayed considerably from the original question.

**Mr C Murphy:** Go raibh maith agat, a LeasCheann Comhairle. Has the Minister had any discussions with the Tánaiste and her Department of Enterprise, Trade and Employment in the South about any potential benefits that could be gained from cross-border industrial parks on both sides of the border, given the economic decline there? What benefits might be accrued from such an establishment?

**Sir Reg Empey:** Tax incentives are not a matter for this Administration; they are a reserved matter for London. Therefore, I do not hold discussions with Ms Harney about tax incentives. I am not in a position to deal with them. However, we co-operate in other areas, and we have been working closely together, as have Invest Northern Ireland and IDA Ireland, particularly in the north-west, where an initiative is under way.

## Offshore Wind Farm

8. **Mr Campbell** asked the Minister of Enterprise, Trade and Investment what assessment he has made regarding the local government consultation by the B9 Company about the proposed offshore wind farm.

(AQO 180/02)

**Sir Reg Empey:** It is premature to make any assessment, because the private consortium responsible for the current proposals has only recently initiated comprehensive studies and consultations. It has distributed detailed information on a wide range of environmental and other studies, entered into discussions with local government, and made presentations on its proposals at four north-west council meetings and to the North West Region Cross Border Group.

**Mr Campbell:** The B9 Energy Group has spoken to several councils about the consultation process. Given the responses it has received, and the concerns that the residents of the north coast have voiced about the outcome of that process, can the Minister confirm that those concerns will be taken on board when the consultation process ends and if there are alternative sites that he will consider?

**Mr Deputy Speaker:** Minister, can you limit your response to about 30 seconds?

**Sir Reg Empey:** The question of sites is for the Crown Estate to determine — it owns the seabed. The Department's role is to license the generation of electricity; it does not deal with the site. The site in question is the only suitable one around the shores of Northern Ireland. The consultation must be comprehensive, and the Department will determine whether the site is appropriate and adequate, but it is too early to decide that yet.

**Mr Deputy Speaker:** Minister, you dealt with that subject with perfect timing.



3.00 pm

## EMPLOYMENT AND LEARNING

**Mr Deputy Speaker:** Questions 1, 12 and 14, standing in the names of Mr A Maginness, Mrs Carson and Ms Gildernew have been withdrawn and will receive a written answer.

Questions 2, 4, 6 and 13, standing in the names of Mr Hilditch, Mr Fee, Mr Hamilton and Mr Dalton, respectively have also been withdrawn but will not receive a written answer.

### Review of Further Education

3. **Mr Close** asked the Minister for Employment and Learning when she proposes to introduce education maintenance allowances for 16-to-19-year olds.

(AQO 189/02)

**The Minister for Employment and Learning (Ms Hanna):** Officials are examining the evaluation reports of the pilot schemes, which have been running in England and Scotland. In conjunction with the Minister of Education, I will consider the options which best suit Northern Ireland and bring forward joint proposals to the Executive in due course.

**Mr Close:** I am disappointed in the Minister's reply. Those I represent, most of the 16- to-19-year olds and their parents and I would have appreciated a more definitive answer. If the scheme is to be introduced from September 2004 in England, that will be unfair to our 16- to-19-year olds as they will be disadvantaged. Will the Minister give a more precise date, bearing in mind that the draft Budget which passed through the House last week allocated to her budget a 6.2% increase, which amounts to £40 million or £50 million?

**Ms Hanna:** I am open to considering any scheme that will widen access, and I will do my best to ensure that financial constraint is not a barrier to further education. The Member stated that it will be at least September 2004 before the scheme is introduced in England, and if it is suitable, I hope that we will introduce it here.

**Mr Byrne:** Does the Minister accept that the education maintenance allowances, which allow 16- to-19-year olds to continue at school rather than seek employment, are important for some families? If education maintenance allowances are to be introduced here, can the Minister say when?

**Ms Hanna:** If it is decided to introduce education maintenance allowances, and I am open to any suggestions that will widen access and ensure that finance is not a barrier, it would not be before the academic year beginning September 2004. I appreciate that that weekly allowance will be a considerable help to 16-to-19-year

olds from low-income families. My Department and I will give careful consideration to the thresholds and eligibility conditions.

**Mr Hamilton:** Can the Minister confirm that the educational maintenance allowance was a factor in the failed business plan of the West Belfast Springvale campus?

Will the Minister explain how she proposes to deal with the uncertainty that many will experience as a result of her sudden decision to pull the plug on this major initiative?

**Ms Hanna:** I am very disappointed by this setback; I am totally committed to the Springvale project. However, the two main promoters of the project — the University of Ulster and the Belfast Institute of Further and Higher Education — have concerns about its financial viability and sustainability. It would be foolhardy for anyone to proceed until those concerns have been addressed. I have asked the board of the Springvale project to review the situation urgently, to provide me with an update and to come back to me as soon as possible with alternative options, if necessary.

### Strategy for Essential Skills

5. **Mr McMenamin** asked the Minister for Employment and Learning to give an update on the strategy for essential skills.

(AQO 200/02)

**Ms Hanna:** The Department for Employment and Learning has analysed feedback from the 'Essential Skills for Living' framework and consultation paper. A strategy and an action plan will be published by the end of September 2002. I am very pleased with the response to the consultation document. The strategy will improve greatly the lives of many people, and it will have a positive effect on society as a whole. It sets challenging targets to build capacity across providers of literacy and numeracy courses, and to engage a significant number of adults in improving their essential skills.

I am pleased that resources for the strategy were allocated in the draft Budget last week. However, the amounts are considerably lower than those allocated to similar strategies in the Republic of Ireland and in Great Britain.

**Mr McMenamin:** Essential skills are a key issue that needs to be addressed in projects throughout Northern Ireland, particularly given that about one in four adults in Northern Ireland have the lowest levels of literacy, which, at best, is a reading age of 11. How will the essential skills strategy be funded?

**Ms Hanna:** The essential skills action plan is a cornerstone of my Department's work. I certainly appreciate how vital it is that we address the awful situation in which 24% of the adult population have low literacy. As

I said, although I am pleased that the draft Budget allocated resources to the essential skills strategy, the funding is less than the amount required. There is a need for significant resources to put in place a quality infrastructure in the curriculum, the assessment qualifications and tutor training, and to engage the target number of learners in the strategy in the first year of its budget. However, insufficient resources have been allocated for the second and third years to meet the needs of the large number of adults with poor literacy and numeracy skills. My Department will continue to submit bids for funding in annual Budget rounds to sustain, and, I hope, expand, that capacity.

### Promotion of Entrepreneurship

7. **Mr K Robinson** asked the Minister for Employment and Learning what discussion she had with her Executive Colleagues regarding the promotion of entrepreneurship. (AQO 205/02)

**Ms Hanna:** Lead responsibility for the promotion of entrepreneurship rests with my Colleague Sir Reg Empey in the Department of Enterprise, Trade and Investment. I have discussed the issue with him in the context of the Economic Development Forum, and I attend the meetings that he chairs. My officials work closely with, and support, officials in the Department of Enterprise, Trade and Investment, the staff of Invest Northern Ireland, and officials in other Departments, on the development of a business birth-rate strategy. I do my best to ensure that my Executive Colleagues are aware of what the Department for Employment and Learning is doing to encourage entrepreneurship, by embedding the concept in everything that we do, including skills development, careers guidance and employment services.

**Mr K Robinson:** I thank the Minister for a very full answer, and particularly for her reference that was supposed to illustrate joined-up government.

However, will she undertake to set up urgently university-level courses with entrepreneurship as their base specifically to target the over 2,000 highly qualified employees laid off by high-tech firms in east Antrim to ensure that these people create new high-tech businesses and to ensure that these skills are not dispersed across the globe? Will she undertake to work closely with her Colleague, Sir Reg Empey, to ensure that an imaginative response to this serious situation is urgently forthcoming?

**Ms Hanna:** I certainly acknowledge the serious situation there. I am sure that the Member is aware that we work closely in that area with employers and trainers. Some work is already being done in the universities. If the Member wants to put his suggestion in writing, we will consider it.

**Mr Dallat:** I congratulate the Minister on her work in encouraging entrepreneurship, particularly among young people. Given that 90% of businesses in Northern Ireland

are small- to medium-sized, can she give us an assurance that the priority that she has given to encouraging entrepreneurship among young people will continue in the future?

**Ms Hanna:** Yes, I agree that it is essential that we concentrate on that. We do not have a great culture of entrepreneurship in Northern Ireland, and we must encourage and develop it. Although I do not wish to pre-empt the outcome of Invest Northern Ireland's work in the development of the business birth strategy, I envisage my Department's playing an important role in increasing the number of new business starts as set out in the Programme for Government 2002–05. Entrepreneurship is increasingly integrated into courses in our universities and further education institutions with the aim of contributing to an enterprise culture in Northern Ireland.

### Modern Apprenticeships

8. **Mr Beggs** asked the Minister for Employment and Learning what plans she has to increase the number of modern apprenticeship places by 2004. (AQO 204/02)

**Ms Hanna:** Modern apprenticeships are demand-led, work-based learning. They rely on interest from young people and the willingness of employers to employ and train them from day one. My Department is actively publicising the benefits of modern apprenticeships and raising awareness of them generally among young people, employers and employer representative bodies. I intend to set a target for 2003–04 of increasing participation in apprenticeships by 10%. The funding is there, and we want to work closely with employers. However, we are dependent on their co-operation.

**Mr Beggs:** The Minister said that modern apprenticeships are "demand-led". Will she be examining carefully why the money that has been allocated has not been drawn down? Is she aware of, and will she be taking into account, the target in Great Britain to raise the number of young people entering modern apprenticeships before the age of 22 to 28% by 2004? Does she accept that, like higher education, technical and craft skills are vital to our economy? Will she be giving increased measure to the development of modern apprenticeships in Northern Ireland?

**Ms Hanna:** I agree with everything the Member has said. We do all we can, and we will work with people to encourage the take-up of modern apprenticeships. The funding is available, but we are dependent on employers' co-operation to some extent. Working with employers is vital.

**Mrs Courtney:** I welcome the Minister's response. How successful is the modern apprenticeship programme in Northern Ireland in attracting young people and employers?

**Ms Hanna:** As I have already said, I would like it to be more successful. It is excellent. However, we rely on young people's interest, employers' willingness and prob-

ably also on good careers advice so that young people are aware of the opportunities available.

We work as closely as we can with young people and their parents, schools, further education colleges and employers.

3.15 pm

**Mrs Nelis:** I am pleased that the Minister intends to increase the number of modern apprenticeships. However, can she say how she plans to encourage more employers to engage in the scheme? In the Foyle constituency, which has the highest rate of youth unemployment, there has been a marked decline in the number of modern apprenticeships, especially electrical training apprenticeships. There were just 14 in 2001 and about 30 the previous year.

**Ms Hanna:** We have commissioned a review of the effectiveness of the arrangements for modern apprenticeships in Northern Ireland that will examine the respective performances and roles of the sector training councils, the training organisations and the employers' organisations in the delivery of the programme. That review should be completed in December 2002.

My Department is doing all it can to promote modern apprenticeships; they are excellent, and funding is available. However, it is vitally important to have the employers on board.

### The Beeches, Aghalee

9. **Mr Poots** asked the Minister for Employment and Learning when she intends to visit the vocational learning unit at The Beeches, Aghalee. (AQO 227/02)

**Ms Hanna:** I intend to visit the Beeches vocational learning unit at Aghalee on Wednesday 16 October 2002, and I look forward to that visit.

**Mr Poots:** I thank the Minister for confirming her visit. I had written to her earlier in the year, and she said that she intended to come in the autumn. However, she needs to bring more than herself; she needs to bring some assurances about the European funding that was withdrawn. The Down Lisburn Trust is sustaining the unit, but that cannot continue indefinitely. Her Department has a role to play in providing funding for the unit.

**Ms Hanna:** Regrettably, I do not have the resources to continue to support projects that were not successful in their applications for EU funding. However, the Executive have agreed that £6 million will be made available from the Executive programme funds to ensure that critical services provided by projects are not lost. I have had a meeting with the Minister of Education and the Minister of Health, Social Services and Public Safety, and officials from my Department are involved in a cross-departmental working group with officials from the Department of Education and the Department of Health, Social Services and Public

Safety. We are actively looking at transition from special schools to further and higher education.

### Switch from ACE to Worktrack

10. **Mr J Kelly** asked the Minister for Employment and Learning how much funding was allocated in the switch from ACE to Worktrack; and to make a statement on any improvement in efficiency. (AQO 224/02)

**Ms Hanna:** ACE was closed and Worktrack introduced in the 1999-2000 financial year. In that year just over £11 million was expended on ACE and £1.6 million on Worktrack. Worktrack's allocation in the present financial year is £9.4 million. At the end of Worktrack's first full year of operation, its performance, with regard to participants taking up sustained employment, was about the same as that of ACE. However, as Worktrack is a six-month programme, while ACE lasted a year or more, there is a considerable gain in efficiency, and I am looking at ways of raising the performance levels.

**Mr J Kelly:** Does the Minister agree that the work done by ACE is not being reflected in Worktrack? Indeed, there may be confusion about the transition from ACE to Worktrack. The systems that people were accustomed to in ACE do not seem to be reflected in Worktrack.

**Ms Hanna:** Unemployment in Northern Ireland fell from the start of the 1990s, and by the end of 1997 it was below the average level for the European Union. The greater number of people finding jobs and the continuing fall in unemployment, combined with the introduction of New Deal, made it necessary to re-examine the ACE programme.

ACE was introduced during a period of relatively high unemployment. The programme provided temporary employment opportunities for the long-term unemployed in projects of community benefit for up to 12 months, and could be extended to 18 months in the case of disabled persons. However, since New Deal is now the Government's main instrument to help the unemployed to get back to work, Worktrack complements that approach by providing temporary employment opportunities of up to 26 weeks in advance of New Deal thresholds.

**Dr Hendron:** I appreciate the Minister's comments about the switch from ACE to Worktrack, and about the improvements in efficiency. Will the Minister assure us that areas such as west Belfast, where many hundreds of young people are unemployed, will benefit from that improvement?

**Ms Hanna:** Earlier this year, independent consultants evaluated the Worktrack programme and found that there was a continuing need for it. Several recommendations on improving its effectiveness were made, including the increased use of private and public sector organisations to provide a wider range of job placements. My Department is considering those recommendations. From inform-



ation gathered by the task force on employability and long-term unemployment, we learned that examining the barriers to employment would help us to tailor our programmes more successfully.

**Mr Deputy Speaker:** Questions 15 and 17, in the names of Mr Mick Murphy and Ms Sue Ramsey respectively, have been withdrawn.

### Literacy in the Agriculture Industry

11. **Mr Armstrong** asked the Minister for Employment and Learning what steps she has taken in partnership with the Minister of Agriculture and Rural Development to address the low levels of literacy among those in the agriculture industry. (AQO 210/02)

**Ms Hanna:** I have briefed the Minister of Agriculture and Rural Development and other ministerial Colleagues on the development of the essential skills strategy. My departmental officials are working closely with the Department of Agriculture and Rural Development to ensure that the essential skills provision is integrated into their training and development programmes.

**Mr Armstrong:** The Minister's answer does not go far enough. What steps is she taking to provide training for the many people who have had to leave the agriculture industry in recent years because of low income, and who have little or no qualifications, other than knowledge of the trade of farming the land, grazing livestock, and crops, which has resulted in the success of highly profitable supermarkets?

**Ms Hanna:** The consultation on the essential skills strategy consisted of 18 seminars, and 195 responses were received. We consulted widely, in urban and rural areas, and all the key stakeholders were represented. The international adult literacy survey, which highlighted the fact that 24% of our adult population have literacy problems, showed that workers such as machine operators, and those in repetitious jobs, were often performing with low literacy. As part of the essential skills strategy, we shall establish a steering group to explore all those barriers and to discover how the most disadvantaged and excluded adults can be reached. I shall be chairing that group, and I assure the Member that I intend to progress the strategy.

**Mr Bradley:** I agree with Mr Armstrong that low literacy is prevalent among those in the agriculture industry. Some young farmers are unable to obtain driving licences because of their inability to complete the written part of the driving test. However, the solution to that is not within the remit of the Minister for Employment and Learning. What assurances can the Minister give that the needs of the agriculture industry will be fully met?

**Ms Hanna:** As I said in my response to Mr Armstrong, the Department for Employment and Learning consulted people in the rural and urban areas on the essential skills needs of those involved in the agriculture industry. The

Department was looking for the main barriers to literacy. I will do all in my power to ensure that the Department, through the essential skills action plan, targets those who need help. That is a huge challenge, but I am determined that the Department will meet it. We have set ourselves high numbers. A new curriculum has been introduced, and the Department wants to ensure that the tutors are well trained and that the teaching is esteemed. I want to ensure that the Department for Employment and Learning will meet its own challenge.

**Mr Deputy Speaker:** We should be moving to question 16, but Mr Alex Attwood is not in his place. I call Mr Gerry McHugh.

### Achievement of NVQs

18. **Mr McHugh** asked the Minister for Employment and Learning to detail the achievement rate for NVQs in each of the last 3 years. (AQO 222/02)

**Ms Hanna:** The NVQ achievement rate in the Jobskills programme is measured on a cohort basis, namely young people who enter Jobskills between 1 April each year and the following 31 March. The NVQ achievement rates for 1998-99 were 41% at level one and 49% at level two; for 1999-2000 they were 46% at level one and 51% at level two; and for 2000-01 it was 21% at level one. There is only one figure for 2000-01 because the Department looked at the key skills together.

**Mr McHugh:** I thank the Minister for her answer. Those achievement levels could be improved. Does the Minister have any innovative ideas to improve the grades? Levels one and two were mentioned, but many jobs in the higher sector of industry require level three. What is the possibility of increasing rates of achievement at level three?

**Ms Hanna:** I do not think that that is a problem. The problem is that those at key skills levels one and two are sometimes having difficulties caused by the requirement since 1999 for trainees to attain both an NVQ and the specified key skills. Although there has been an improvement in the key skill achievement rates, it is recognised that the recent introduction of the external test in key skills has exacerbated the problem for some young people. I have asked departmental officials to consider how the difficulties presented by key skills might best be addressed and to submit proposals for dealing with young people who are not ready to undertake a full framework.

We are doing better than Great Britain, but the NVQ rate has been somewhat depressed. Some school leavers are already demotivated and are not comfortable to be back in the classroom. The Department for Employment and Learning wants to get the balance between the

essential key skills — which are set by employers — and the NVQ level.

### **Task Force on Employability and Long-Term Unemployment**

19. **Mrs Courtney** asked the Minister for Employment and Learning to give an update on the progress of the task force on employability and long-term unemployment. (AQO 201/02)

**Ms Hanna:** The draft report is with the Committee for Employment and Learning for consideration before submission to the Executive for approval and subsequent publication. I am looking forward to feedback from the Committee and to taking the draft report to my Executive Colleagues and on to publication.

3.30 pm

**Mrs Courtney:** How will the Minister ensure that the work of the task force continues once its action plan has been produced?

**Ms Hanna:** The report signals the beginning of an interdepartmental approach to addressing those vital issues, and the task force recognises that more needs to be done. It is committed to ensuring that the recommendations contained in the action plan are taken forward.

Additionally, as Minister, I will lead the implementation of the employability task force action plan. I will seek support for the action plan from the Northern Ireland Executive, the Assembly, the employer representative bodies, the trade union movement, education and training providers, and, not least, the community and voluntary sector. An interdepartmental implementation group, which will report to me, will ensure that those parties take responsibility for delivering on their commitments in the action plan. Progress towards action plan targets will be further monitored through the publication of New TSN action plans. Those will reflect individual Departments' commitments to the employability task force action plan. The implementation group will also put in place a local consultative process in each targeted area.

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

### **SOCIAL DEVELOPMENT**

**Mr Deputy Speaker:** I wish to inform Members that questions 4 and 8, standing in the names of Mrs Carson and Ms Ramsey, have been withdrawn and will receive a written answer. Questions 5 and 12, standing in the names of Mr Malloy, Mr Fee and Mr Hilditch, have been withdrawn and will not require a written answer.

### **Dromore: Urban Regeneration**

1. **Mr Poots** asked the Minister for Social Development what assistance he can give to the urban regeneration of Dromore. (AQO 220/02)

**The Minister for Social Development (Mr Dodds):** My Department has prepared a strategy for town centre reinvigoration, which forms part of our new strategy for neighbourhood renewal in Northern Ireland. The town centre element has been drawn up after widespread consultation, including comments from district councils and other Government Departments. It will highlight a range of policies and incentives, which together will create the best climate within which regeneration of town centres can be accomplished. The Department for Social Development will offer advice on best practice for reinvigorating town centres and will continue to use existing policy instruments, such as environmental improvement and comprehensive development schemes, as appropriate.

Finally, and importantly, our policy will highlight the need for a unified approach by Government to ensure that all our policies complement each other with regard to promoting town centre reinvigoration. With that aim in mind, this morning I met Mr Nesbitt, the Minister of the Environment, to discuss how we could act jointly to promote regeneration in Dromore.

The Department for Social Development, which takes the lead on regeneration matters, will provide advice and general assistance to Banbridge District Council and to the local established groups in Dromore. The Department will also continue to work with the International Fund for Ireland, as agent for the urban development programme, and with the heritage lottery fund, which has appointed a project officer to run the townscape scheme in Dromore. Those practical measures will go a long way towards ensuring that Dromore is given the best opportunity to develop a town centre of which it can be truly proud.

**Mr Poots:** Does the Minister's Department recognise the scale of dereliction in Dromore? Will the Minister visit the town to see the dereliction? Can his Department provide financial assistance to the Dromore area, in conjunction with the International Fund for Ireland and the heritage lottery fund, to ensure that the schemes that are being processed by the Dromore regeneration group come to fruition?

**Mr Dodds:** I am happy to visit Dromore in my official capacity as Minister. My officials are well aware of the extent of the problems there and of the need to work with the local community, the local council and other interested groups to regenerate the town centre.

It is essential to have a proper plan from which to work. It will be difficult to commit a figure for funding until such a plan is in place. However, when it is formulated, potential sources of funding will be approached, and I

shall decide what funding can be made available from the Department's budget.

As a result of this morning's meeting, I expect that a senior official will meet a representative of the local council. It is essential that the Department speak to the various interest groups in Dromore to develop a co-ordinated approach, so that the opportunities that will exist when the new town centre reinvigoration policy is published can be grasped.

**Mr Watson:** Will the Minister update the House on the measure for town centre regeneration under Peace II?

**Mr Dodds:** Further to my Department undertaking a review of town centre regeneration and reinvigoration policy as part of the neighbourhood renewal strategy, it has also been examining the possibilities of funding town centre regeneration under Peace II. That measure has specific qualification criteria, and the majority of local councils across Northern Ireland have bid for assistance. As only £1.75 million is available, I anticipate that approximately only one third of the applicants will be successful. I hope to be able to announce the successful bids soon.

### Deprived Communities

2. **Mr McElduff** asked the Minister for Social Development what action he has taken, in the past 3 months, to assist socially deprived communities, address the legacy of conflict and encourage reconciliation. (AQO 184/02)

**Mr Dodds:** I have recently announced several programmes and measures that are aimed specifically at assisting the most socially deprived communities in Northern Ireland. For example, in July, my Department announced a £12 million European Union Peace II funding package, which will benefit 12 communities in Northern Ireland that suffer high levels of multiple deprivation and the worst effects of recent troubles.

That funding is in addition to the £11 million URBAN II funding package for inner north Belfast that was announced earlier this year. Moreover, under the auspices of the North Belfast Community Action Project, my Department has been contributing to developing a plan of short-, medium- and long-term actions to address social and community issues there, particularly actions that are aimed at building and strengthening community capacity. Specific housing strategies are being developed to provide decent homes for those living in the worst areas of conflict. Furthermore, £1.5 million was allocated recently to projects in the most deprived areas of Londonderry, two of which aim to address the legacy of conflict and encourage reconciliation.

**Mr McElduff:** Thank you, a LeasCheann Comhairle. Will the Minister meet representatives of the voluntary and community sector in Omagh, the county town of Tyrone? Will he listen to the experiences of groups, such as Focus (Forum in Omagh Community Understanding and

Support) and Omagh Community Support Forum — amalgams of town-based and rural community groups — and the Omagh Women's Area Network, about funding difficulties and discuss measures aimed at building their capacity?

**Mr Dodds:** I am aware of the contribution that the voluntary and community sector makes in delivering vital services to some of the most socially and economically deprived communities in Northern Ireland.

I recently met representatives of the Community Foundation for Northern Ireland — formerly the Northern Ireland Voluntary Trust — and I have met the Northern Ireland Council for Voluntary Action and other community organisations that provide advice and assistance throughout Northern Ireland. I am always happy to talk to representatives of the community sector.

One of the messages that people from Omagh would undoubtedly bring to a meeting would be similar to the message that such groups could bring from other parts of the Province — namely, that the community and voluntary sector is currently under some pressure. However, we are working as hard as possible to try to alleviate that through long-term strategies and also by making a bid for Executive programme funds to secure extra funding for the sector. We will continue to work on that, and I shall be very happy to meet community and voluntary sector representatives from Omagh or elsewhere.

**Mr McMenamin:** Does the Minister agree that the most efficient weapon to deal with conflict is the existence of democratic institutions? Does he agree that those who wish to pull them down are the best friends of paramilitaries who want anything but reconciliation?

**Mr Dodds:** Mr Deputy Speaker, the Member's question goes somewhat beyond the subject before us. However, with your permission, I will nevertheless be very happy to answer it. Before I come to the more political aspects, I would like to put on record in the Assembly that, in the coming months, as well as the measures which I outlined previously, I expect to publish a new urban regeneration strategy for Northern Ireland generally, which will provide a new framework for targeting resources at neighbourhoods suffering high levels of deprivation and social exclusion. I expect to announce shortly the Peace II funding package that I referred to earlier. We have also secured funding for a new community outreach programme. Those are practical measures which demonstrate our commitment to helping those who are most socially deprived in Northern Ireland.

As for the Member's rather silly comments, he would be better spending his time concentrating on those sorts of issues and trying to develop truly democratic institutions in Northern Ireland. If he believes for one minute that what is unacceptable in the Irish Republic — where the Government and the leading parties have said that they are not prepared to have representatives of an armed terrorist group in government — should be forced on us



here, he should talk to some more of his friends down South and see what the difference is.

**Mr Shannon:** The Minister has confirmed the contribution of voluntary and community groups in socially deprived communities, not only in west Tyrone but all over the Province. What moneys are available for such voluntary and community groups to assist the point of view which the Minister has put forward?

**Mr Dodds:** My Department utilises various funding programmes to support the regional and local community infrastructure in Northern Ireland. There is support for regional voluntary and community bodies such as the Northern Ireland Council for Voluntary Action, the Northern Ireland Association of Citizens Advice Bureaux and the Association of Independent Advice Centres.

There is also, of course, the district councils' community support programme, of which, as a local councillor, the Member will be aware. That in turn funds local voluntary and community groups, advice centres and resource centres. We have increased funding to that programme to allow local councils to make the decisions on where the resources should go. I believe in local democracy, and that is what local democracy really means — letting people have the decision on where such funding should go.

We also have programmes in place to support active citizenship and volunteering. The active community initiative was launched by the Prime Minister in January 1999, and its aim is to help rebuild a sense of community throughout the United Kingdom by encouraging and supporting all forms of community involvement. We also have EU measures under the programme for building sustainable prosperity. In addition, my Department has secured funding of £3 million for a new outreach programme which has been developed in conjunction with other Departments; eligible activities will include one-stop shops for advice on such issues as funding, exchanges and secondments. Priority will be given to those areas of highest social and economic need.

### Warm Homes Scheme

6. **Mr Armstrong** asked the Minister for Social Development to give an update on the uptake of the warm homes scheme. (AQO 211/02)

3.45 pm

**Mr Dodds:** The warm homes scheme is demand-led. Since it began in July 2001, more than 12,000 referrals from eligible applicants across Northern Ireland have been processed, and more than 8,300 clients have received energy efficiency or heating measures. To date, spending on the warm homes scheme exceeds £9.6 million, and we are on course to assist 6,250 households this year.

**Mr Armstrong:** Does the Minister agree that more than 170,000 households are classed as living with fuel

poverty, and that the warm homes scheme, although a positive initiative, will not go far enough to eradicate fuel poverty?

**Mr Dodds:** I agree that the warm homes scheme, on its own, will not eradicate fuel poverty. However, it is a major leap forward from where we were two or three years ago, and I am sure the Member will agree with that.

Since it began operation on 2 July 2001, over 6,500 insulations have been fitted, over 1,700 heating systems have been installed, and £9.5 million has been spent. The allocation of funds for this year is £7.98 million, and that will be supported by a contribution from the NIE customer levy. Therefore, much is being done on that front, which is very welcome. The Member will know, as I do from dealing with constituents, the valuable and important improvement it makes to people's lives.

The recent study in Beechmount, which was one of the pilot areas selected by my Department, the Housing Executive and others, showed that people are saving an average of £10 a week as a result of those measures. If we were to eradicate fuel poverty in Northern Ireland, it would save the Health Service £30 million a year — and that is year on year. We talk about dealing with the crux of the problems; that shows the importance of putting money into that scheme, as it will solve a range of problems.

We are also funding an extensive programme of heating upgrades by the Housing Executive and registered housing associations. Through the social security system, a winter fuel payment of £200 a year is made available to pensioners, and a cold weather payment is also available in severe conditions. Housing unfitness, which is a major contributory factor, is being tackled through a regime of grants. We are dealing with that in the Housing Bill by introducing a more flexible regime and targeting the areas most in need, particularly rural areas where there is much unfit housing in the private sector.

I agree that fuel poverty is a multifaceted problem. It requires a cross-departmental approach, and that is why I intend to issue a fuel poverty strategy for consultation by the end of the year.

**Mrs Courtney:** The Minister has pre-empted my question. During the Committee for Social Development's energy inquiry, we discussed fuel poverty, and I understand that the Minister's Department is setting up a fuel poverty task force. I wanted to ask when that would begin, and when the result is likely to come out.

**Mr Dodds:** I know of the Member's interest in that area. As I have said, we intend to issue the fuel poverty strategy for consultation by the end of the year. I mentioned the benefits of dealing with the issue comprehensively, and the tremendous benefits that accrue for householders lifted out of fuel poverty and for the general budget, due to the knock-on effects in health, education and other areas. I intend to move on that as speedily as possible.

I will ensure that there is proper consultation with everyone who is interested, not least the Members and Committees, who have a relevant input in the Assembly. I will continue to press the Eaga Partnership in delivering that on the ground, although they have done an impressive job. We will continue to closely monitor where the uptake is coming from. As it is demand-led, there is a need to ensure that those areas that may not be making full use of the scheme make as much use of it as they can. That must be done through publicity and highlighting the benefits of the scheme. Given the benefits that I have outlined, it is important that we continue to make progress, and the strategy to which the Member referred to is an important aspect of that.

**Mr Morrow:** Does the Department have any further plans to enhance public awareness of the warm homes scheme? The scheme has been greatly appreciated across the Province. However, not everyone is aware of it.

**Mr Dodds:** The demand-led nature of the scheme means that there will be variations in uptake from one area to the next. As I have said, the Eaga Partnership has developed an effective promotional campaign, which involves general local media advertising and the use of mailshots in co-operation with the Housing Executive and the Rate Collection Agency.

It also involves the employment of a network liaison manager to develop referral mechanisms, which includes the constituency offices of Assembly Members. I am aware that Members from all sides come across the problem when dealing with constituents on a daily basis. It is important that they have a point of reference through which to channel enquiries and get them dealt with as quickly as possible.

Those mechanisms are in place. However, Eaga and the Department continue to monitor the situation closely so that marketing activities are targeted at areas where people are in need. By and large, the uptake across the Province is good. Some areas could certainly benefit from greater uptake; others are above average. However, every part of the Province is benefiting.

### Housing Associations

7. **Mr J Kelly** asked the Minister for Social Development to detail, for each of the last 4 years, the grant aid awarded to housing associations for the provision of social housing. (AQO 218/02)

**Mr Dodds:** Housing association grants paid to registered housing associations for the provision of new-build social housing over the past four years were £55.9 million in 1998-99; £58.2 million in 1999-2000; £54.8 million in 2000-01 and £54.8 million in 2001-02.

In addition, housing associations attracted private finance of £25.1 million in 1998-99; £35.5 million in 1999-2000; £30 million in 2000-01, and £30 million in

2001-02 into the programme. Had that private finance — around £121 million — not been available, then the equivalent of around 1,800 new houses would not have been provided at no cost to the public purse.

**Mr J Kelly:** Notwithstanding the pivotal role that housing associations play in providing social housing, does the Minister agree that the massive increase of around 58% in the building costs of housing associations needs to be examined? Is there a connection between that and the amount of private finance initiative money that they are getting?

**Mr Dodds:** The general cost of public housing has been measured against the comparative rise in England. Figures were taken from a needs and effectiveness evaluation that was leaked and misinterpreted by members of the press and some Members of the House. There has, indeed, been misplaced and misguided comment on those figures.

Comparisons with the cost of providing new social housing in England are misleading for several reasons. Land costs, especially around Belfast, have risen sharply in recent years. Northern Ireland's social housing is built to higher standards and lower density.

Of course, my Department is always acutely aware of the need to deliver value for money. It has commissioned detailed research into several issues that have arisen from the evaluation — including the reason why house prices have risen so dramatically — so as to ensure that it gets the best possible value for investment in the housing programmes, as it has done in the past. The review of needs and effectiveness on housing concluded that public spending on housing in Northern Ireland has generally been effective in meeting its objectives and has delivered acceptable value for money. The suggestion that the housing budget is somehow overfunded is completely spurious. I am glad that many people in the Province share that view.

**Dr Hendron:** The Minister and his Department have spent substantial sums of money on social housing. However, in areas such as Greater West Belfast, hundreds of people have been waiting for meaningful consideration of housing, many since March 2000. Has the Minister any plans to increase funding for housing in west Belfast?

**Mr Dodds:** I can only operate within the budget available to me. Dr Hendron and other Members will have a critical role in that when voting on the Budget in the coming months. I have made pleas before, in the House, outside the House and elsewhere, for increased funding for housing.

With more funding, more houses can be built, not only in west Belfast, but in other areas of housing need. That is why I was so alarmed — indeed, annoyed — at the misreporting and nonsense in the papers recently about the needs and effectiveness evaluation. It made no sense at all. It is simply nonsense to suggest that we are

somehow overspending because more has been spent in Northern Ireland than in England on maintenance and housing, especially when billions of pounds are now being invested in England to catch up on the investment that we have made over the years — a tacit admission that we got it right all along.

We must accept that, just as I said in answer to Mr Armstrong that warm homes can have effects on the health budget and educational standards, decent, fit and quality housing can have a wide range of knock-on effects for people's educational status, health, environmental improvement and so on. It is essential that extra resources be put into housing generally — in west Belfast and other areas of the Province. I will commit myself to doing everything that I possibly can to do that, and I look for the support of Members on that issue.

**Mr Paisley Jnr:** Has the Minister any evidence, anecdotal or otherwise, to suggest that one reason why building costs are so high in Northern Ireland is the awful extortion, by members of the Provisional IRA and other paramilitaries, from companies that are trying to provide the social housing that he mentioned?

**Mr Dodds:** Rising land costs are an issue, especially around Belfast. In other areas of the Province, the scarcity of land at the right price has a knock-on effect on the ability of housing associations to acquire land for new social housing. We compete for that land with the private sector and others. Anything that contributes to higher costs is an additional problem, be it extortion demands by paramilitary groups or whatever.

Our ability to deal with homelessness, longer waiting lists, severe housing need and severe social and economic deprivation is hampered, hindered and set back when, for instance, funding that should be used to tackle those issues must be diverted into buying homes under the special purchase of evacuated dwellings scheme to transfer people threatened out of their homes by paramilitary groups. We are now looking at an underspend of well over £15 million in this year's budget as a direct result of the Castlereagh break-in, and we know where the responsibility for that lies.

### Benefits Payment Arrangements

9. **Mr M Robinson** asked the Minister for Social Development what steps are being taken to ensure that claimants who do not wish to open a bank/building society account in order to receive pension and benefit payments, will, after April 2003, retain the option of receiving such payments directly from a Post Office.

(AQO 182/02)

**Mr Dodds:** Payment by credit transfer is being introduced to modernise the way benefits are paid, to reduce social and financial exclusion by giving access to basic bank

accounts, and to reduce the fraud and abuse associated with the current paper methods of payment.

Negotiations are proceeding between the banks and the Post Office to ensure that people who open basic bank accounts will be able to access those through the Post Office. Thus it is my clear policy that people in Northern Ireland will be able to continue to collect their benefits at post offices.

4.00 pm

*(Madam Deputy Speaker [Ms Morrice] in the Chair)*

**Mr M Robinson:** Will the Minister give an assurance that any switchover will not be compulsory?

**Mr Dodds:** I assure the Member that people can collect their benefits in cash from the Post Office if they so wish. The purpose of the reforms is to tackle social and financial exclusion and to reduce fraud and abuse. Clearly, provision must be made for those who cannot or do not wish to avail of that system. There is no question of people being forced to use it, and people will still be able to receive their money weekly. They will not have to make different financial arrangements for their own accounting purposes.

**Mr Bradley:** Has the Minister had discussions with Consignia, or has he plans to meet the company regarding the retention of services in rural areas to ensure that residents in those areas continue to have a service equal to that available to urban residents?

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



*Motion made:*

That the Assembly do now adjourn.— [*Madam Deputy Speaker.*]

## NURSERY PROVISION AT MOORFIELDS PRIMARY SCHOOL

**Mr Paisley Jnr:** During the summer, I received correspondence from the board of governors of Moorfields Primary School outlining the battle in which the school has been engaged with the North Eastern Education and Library Board. That battle concerns the provision of a nursery unit in that locality and has been ongoing for several years. It began as a result of the complete absence of statutory and voluntary provision for children of nursery age in that area.

Glenwherry is a large rural ward outside Ballymena. Its vastness is one of the reasons that dedicated nursery provision is required at Moorfields Primary School. Members who are unfamiliar with the area may find the following statistics helpful. Moorfields Primary School is more than five miles from nursery provision in Ballymena and 10 miles from provision in Ballyclare, and both facilities are oversubscribed. Provision in Larne is 13 miles away. Assuming space were available at any of those locations, the distances involved make it unlikely that parents would seriously consider provision offered there. Imagine the frustration felt by the school and the residents at being denied nursery provision despite the obvious need in the area, when smaller areas and the maintained and integrated sector are catered for and receive preference in funding and provision. At best, that is discrimination; at worst, it is a sectarian policy that deprives parents and children of their rights.

The outworking of Government policy has discriminated against children in that area and deprived them of the opportunity to avail of nursery education, which the Government claim should be available to every child.

Furthermore, it makes a nonsense of this Government's intention to target social need. Women and children from rural areas are being disadvantaged by the outworking of that policy. A policy that does not target those in real need is not a policy at all. Immediate action must be taken to address that obvious need. The Government's pledge that there will be a place for every child rings hollow at Moorfields Primary School. Immediate action is required.

The facts make for stark reading. Despite the greater number of pupils and new places in the controlled sector of the North Eastern Education and Library Board over the past four years, most Pre-school Education Advisory Group (PEAG) programme places have gone to the maintained and integrated sectors. In real terms, that is 598 places as opposed to 520. That has an obvious funding implication and can affect the future of primary provision in certain areas. Departmental statistics alone prove that no part of Glenwherry's need is met. The

calculations used by the board are in error, so the Department should open afresh the allocation procedure.

Let me explain. The board estimates the shortfall at Glenwherry to be 40 places. That number results from subtracting the total pre-school provision — 44 places — from the number of P1 children, which is 84. Accordingly, it is assumed that existing provision, to some extent, meets local need. The fallacy of that approach is revealed by an analysis of the two wards served by the pre-school providers, the Country Playgroup and the Tiny Tots Community Playgroup. It emerges that Glenwherry is served by neither of those two excellent providers. Glenwherry, therefore, is not catered for and should be near the top of the list of areas requiring assistance. However, it is fifth on the list and unlikely to receive assistance.

The plain truth is that the North Eastern Education and Library Board (NEELB) and the Department of Education make no provision for pre-school children from the Moorfields area. When will that provision be made? In November 2000, Gordon Topping, the chief executive of the board wrote to the board of governors of Moorfields Primary School admitting that there is

“a shortfall in pre-school provision in the Glenwherry area and that this will be addressed as and when additional resources become available.”

It is now 2002, and no identified resources have come to Moorfields to address its obvious need.

Will the Minister put his money where the board's mouth is? A unit at Moorfields Primary School is urgently required and will go some way towards meeting local need. My questions demand serious answers, and I hope that the Minister can provide them. What resources will be allocated to Moorfields in the current financial year for a nursery unit? Secondly, what is the total provision in respect of money and the number of places for pre-school children in the Glenwherry ward? Thirdly, with no provision in the Glenwherry ward, how does the Department of Education intend to meet the Government's promise of a place for every child whose parents want it? Fourthly, does the Minister accept that there are flaws in the PEAG process report, given how provision has been calculated for Moorfields? Fifthly, will the Minister amend the PEAG programme to accommodate need at Moorfields?

The need at Moorfields is real and will affect the opportunities that its children will have in later life. The sooner they are in nursery school, the better rewarded they will be. Depriving them of that opportunity deprives a massive rural hinterland of rights which can be expected in other parts of Northern Ireland. Depriving those children, rather than those in the minority whose parents choose other sectors, is woefully wrong. The Minister should provide the necessary funds for Moorfields to enable it to keep up with the opportunities offered to children elsewhere.

**The Rev Dr Ian Paisley:** I support the subject of this Adjournment debate. The Member who has brought this matter to the attention of the House has made it known

that a parent in the Moorfields area who asks for accommodation for children in a nursery school is told to go to Ballymena, three or four miles away. In Ballymena every place has been taken, and the parent is told to go to Ballyclare, 10 miles away. Again, in Ballyclare, every place has been taken. The nearest place in which there is a likelihood, and only a likelihood, of a child's receiving nursery care is 13 miles away in Larne. There must be something frightfully wrong if children in the Moorfields Primary School catchment area are discriminated against and cannot participate in that which was promised to them by the Executive.

It is discrimination because, if money is not given, nursery places cannot be provided. Money must be given. Although other education sectors receive funding, this sector does not receive enough funding to supply adequate nursery places and fulfil the promise that was made. It is surely the duty of the Minister to ensure that that matter is rectified.

Anyone who knows the religious breakdown of the population of the Glenwherry area knows that it is largely Protestant. Why are children from that large Protestant population not given the opportunity that is afforded to other children of another faith who are provided for by a different system of education? Of course, all children are legally entitled to provision under the scheme. However, the Protestant people there are not getting their entitlement, and, because it is such a vital issue, it is only right that the House is informed and the Minister pressed on the matter.

Members know how difficult it is to rear families in Northern Ireland, which is largely due to unemployment. Sometimes it is mothers who are employed and earn the money necessary to keep the home. However, a mother can do that only if nursery provision is available for her children. It is wrong to expect a mother to travel 52 miles a day — 13 miles from Glenwherry to Larne to leave her child at a nursery school and then back again to work and the same again to collect her child when she has finished her work — to avail of the nursery place to which her child is legally entitled. That must be remedied immediately, which means that money must be made available and planning started straight away.

I am speaking on behalf of those children who deserve, are entitled to, and ought to have nursery provision, and the House is where such matters should be raised. The Department of Education must ensure that it fulfils its promises and meets its legal requirements. Therefore I urge it to consider the situation carefully to ensure that the discrimination ceases and the matter is remedied so that there is equal opportunity for all children, no matter what faith they may be of or to which school system their parents want to send them.

**Mr Kennedy:** I am glad to have the opportunity to speak on such an important subject, and I congratulate Ian Paisley Jnr for raising this at the Adjournment. I

apologise for the absence of my Colleague, Rev Robert Coulter, who is on important Assembly business elsewhere. He has made representations to me, as Chairperson of the Committee for Education, on this important matter. It might be useful to Mr Paisley Jnr and other Members to know that I have written to the chief executive of the North Eastern Education and Library Board expressing concern and asking for details of the situation at Moorfields Primary School. When a reply is made, I shall copy it to interested Members. I do not want to spend a great deal of time outlining the case; obviously local Members are in a much better position to do that. However, the matter has been raised with the Committee for Education, and it will pursue the issues involved. It is to be hoped that the Committee can come to a more satisfactory conclusion than that which pertains at the moment.

4.15 pm

**The Minister of Education (Mr M McGuinness):**

The Department of Education is responsible for the implementation of the pre-school education expansion programme, which has been one of the most significant educational developments here in recent years. It has been planned at local level by each education and library board's pre-school education advisory group, or PEAGs, as they are known. I am grateful to these groups for their expertise and extensive local knowledge, and for the vital role that they play in implementing the programme. I wish to pay tribute to them for their hard work.

Throughout the programme, the PEAGs have been responsible for identifying those areas that have a shortfall in funded pre-school provision and for determining whether that shortfall should be addressed by creating new places in the statutory or voluntary sectors. I emphasise that the resources that are available under the programme allowed only for a specific level of capital investment, and the PEAGs carefully assessed areas for which capital resources should be used.

That assessment took into account factors such as the existence of providers in the voluntary and private sectors, as well as future viability. The expansion programme is an integral part of the Department of Education's new targeting social need action plan, so levels of social disadvantage were also taken into account.

I mentioned the voluntary and private sectors to emphasise that provision of the programme is not confined to the statutory sector; indeed, the programme has established a partnership between the two. The Education and Training Inspectorate's report 'Begin with Quality', which I launched 10 days ago, reported favourably on the quality of the non-statutory centres. The North Eastern Education and Library Board's PEAG decided that, taking all relevant factors into consideration, and within the capital funding that was available to it, the provision of a nursery unit at Moorfields Primary School was not a priority. Therefore it was not included in the PEAG's development plans.

Additional funded pre-school provision in the Glenwherry and Kells ward cluster was created instead, by the allocation of 60 funded places for two playgroups in the area. Inspections by the Education and Training Inspectorate have shown that parents with children in those playgroups are being provided with high-quality places.

I am aware that there has been correspondence between the North Eastern Board's PEAG and the school about the establishment of a nursery unit. My Department has asked that PEAG to consider the need for a statutory nursery unit at the school and to give its view of the matter.

I do not accept for one minute that the controlled sector has been inequitably treated by the PEAG or by the board. I refute any allegations of discrimination by the PEAG or the board against any section of our community. The maintained and integrated sectors have, historically, had less nursery provision than the controlled

sector. However, all sectors have benefited from the creation of new provision under the expansion programme. The PEAG continues to deal with the matters that the school raised, and the North Eastern Education and Library Board and my Department will receive their advice in due course.

The expansion programme has been successful, and I anticipate that provision will rise to approximately 95% during the school year. That is over the estimated provision of approximately 90%. Therefore I am confident that the target of a place for every child whose parents wish it will be met.

We must also recognise that local issues remain in any large-scale programme. Those will usually have local causes and will need local solutions. The PEAGs and my Department will continue to work together to find those solutions.

*Adjourned at 4.20 pm.*





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# NORTHERN IRELAND ASSEMBLY

Tuesday 1 October 2002

*The Assembly met at 10.30 am (Mr Deputy Speaker [Mr J Wilson] in the Chair).*

*Members observed two minutes' silence.*

## AUDIT AND ACCOUNTABILITY BILL

### Second Stage

**The Minister of Finance and Personnel (Dr Farren):** I beg to move

That the Second Stage of the Audit and Accountability Bill (NIA 6/02) be agreed.

Last week, I introduced to the Assembly my draft Budget, which outlined how the Executive intend to spend almost £7 billion of taxpayers' money. It is a fundamental principle of public life that the Executive are accountable to the Assembly and the people of Northern Ireland for the way in which that money is spent.

The Audit and Accountability Bill deals with the mechanics of public audit. It is a technical Bill, but it is important, as public audit is a key link in the chain of accountability that gives the public confidence that their money is properly spent.

The Bill relates to public audit structures and powers and has two main components. First, it reorganises the structure of public audit in Northern Ireland. Secondly, it is a central component in our implementation of the recommendations of Lord Sharman's report, 'Holding to Account: The Review of Audit and Accountability for Central Government', following public consultation in Northern Ireland.

I remind Members of the Bill's context. The restructuring of public audit was originally included in the legislative programme for the previous session, as the audit reorganisation Bill. In that session, wider debate took place about public audit during the passage of the Government Resources and Accounts Act (Northern Ireland) 2001. The Sharman Report was also published at that time. Accordingly, my predecessor Mark Durkan undertook to withdraw the audit reorganisation Bill and to reintroduce it as the Audit and Accountability Bill, a vehicle to implement aspects of the reforms recommended in the

Sharman Report. I shall outline the proposals in the Bill to restructure public audit.

The Comptroller and Auditor General is responsible for most public audits in Northern Ireland. The main exceptions are local government and the Health Service. Health Service audits are carried out by the Department of Health, Social Services and Public Safety. In order to enhance the key principle of the independence of public audit, my Executive Colleagues and I intend that the Comptroller and Auditor General should assume responsibility for the statutory audit of Health Service bodies. The Department of Health staff who audit the Health Service will transfer to the employment of the Northern Ireland Audit Office.

Local government audits are different, as district councils are directly elected and local government is primarily funded by the rates, not by central Government. Independent auditing is still a fundamental requirement, but constitutional propriety means that local government should not be the responsibility of the Comptroller and Auditor General, who is an officer of the Assembly. It is, therefore, more appropriate that the responsibility for the audit function should remain with the Department of the Environment. However, for employment purposes, local government auditors should avail themselves of the enhanced career development and training prospects open to them as a result of their being part of a bigger organisation — the Northern Ireland Audit Office. We intend that those staff will be employed by the Northern Ireland Audit Office but will continue to be appointed to local government audits by the Department of the Environment.

It has been a matter of concern, especially to the Public Accounts Committee, that, in the course of his audits, the Comptroller and Auditor General should be able to follow public money to ensure that it is being spent as intended and in a proper manner. That means that he must have proper access to documents. The Sharman review emphasised that the Comptroller and Auditor General should have the full range of powers necessary to do his job properly.

In carrying out statutory audits and value-for-money studies, the Comptroller and Auditor General needs the power to obtain relevant documents. Those are normally available from the public body that he is investigating, but occasionally he will require access to third parties who may hold information that he needs. We could give the Comptroller and Auditor General that power if my Department were to make an Order. However, the principle of independence comes into play again. It is important that the Comptroller and Auditor General's powers should not appear to be dependent on the very Executive that he is auditing, and that is why we have chosen to include access rights in the legislation.

At present, the Comptroller and Auditor General often obtains information from third parties voluntarily.

The Bill will mean that people and bodies that have a financial relationship with Government will be required to provide access to information relevant to that relationship. The Bill, therefore, goes further than both the Sharman review and the UK Government's response to it. It requires not merely grant recipients and contractors, but also those benefiting from other kinds of financial assistance, including loans and guarantees, to provide relevant documents to the Comptroller and Auditor General. The Bill, therefore, ensures that he has the necessary powers to do his job.

The Bill also ensures that those powers do not impose too great a burden on those who hold relevant documents. It takes account of the Human Rights Act 1998 and the European Convention on Human Rights. In particular, the Comptroller and Auditor General will be aware of the rights of third parties, under article 8(2) of the Convention, not to have the state interfere unreasonably in their private lives and correspondence. The Bill provides a legal framework to cover that and states that the Comptroller and Auditor General can use the power only where it is necessary and reasonable for him to do so. He will also draw up a more detailed code of practice to explain to those likely to be affected how he will use the powers.

There are some situations in which it simply would not be reasonable to expect people to provide information. The most important of those is where a person is in receipt of a social security benefit or a similar grant for their maintenance.

It is reasonable to expect someone who received a grant to insulate a house, for example, to be able to provide receipts and papers. That is what he got the money for. However, it is unreasonable to expect someone on benefits to be able to produce receipts for every item of groceries or clothing he buys, so people on benefits will be excluded from the legislation.

Bodies under the remit of the Comptroller and Auditor General at Westminster will also be excluded as a matter of technical jurisdictional courtesy. If the Comptroller and Auditor General requires information held by such bodies, he may obtain it on consultation with his Westminster counterpart.

The Bill then deals with the extension of the number of bodies that will be subject to public audit. The Sharman review recommended that the Comptroller and Auditor General should be the auditor of all major non-departmental public bodies (NDPBs). That is a sound principle of public accountability, and the Executive intend that, where he is not already auditor of such a body, steps should be taken to appoint the Comptroller and Auditor General as its statutory auditor. The Bill is one necessary step to ensure that that happens.

However, legislation is only necessary for some NDPBs. The Comptroller and Auditor General is already statutory auditor of many executive NDPBs. Other NDPBs are not

founded in statute, so statutory amendment is not required to change their audit regimes. To fulfil the Executive's policy, statutory amendment is only part of the picture. Accordingly, the Bill lists those major NDPBs that have a foundation in statute for which the Comptroller and Auditor General is not already the appointed auditor, and for which legislative action is necessary.

It is also important to recognise that some NDPBs are advisory in nature or are small and do not have enough funds to make it desirable that we apply the full rigours of a statutory audit regime. Others are limited companies, set up under companies legislation. European Directives govern those who can audit limited companies, and that does not include the Comptroller and Auditor General. Officials in the Department of Trade and Industry in London, in conjunction with the Department of Enterprise, Trade and Investment here, are considering the best way forward on that difficult issue.

The Bill's final measure again reinforces the important principle of independence. To ensure that the Executive cannot be seen to fetter the work of the Comptroller and Auditor General, the power to appoint the auditor and accounting officer of the Northern Ireland Audit Office is being transferred. My Department will no longer exercise that power; the Assembly's Audit Committee will do so.

The Bill does not comprise the entirety of the Executive's response to the Sharman review. It comprises the element about which it is possible and desirable to legislate. We are actively considering several of the other Sharman proposals.

As regards the timetable for implementation, we intend the new proposals to apply to statutory audits and value-for-money studies taking place in the new financial year — after 1 April 2003. We also intend the transfer of audit staff to take place on that date.

The Bill deals with technical and complex matters, but its aim is simple — to ensure that our Comptroller and Auditor General's independence is not compromised and that he has all the powers that he needs to ensure that those who are responsible for handling public money are held fully accountable for the use of that money. By enhancing his powers, we enhance accountability both to the Assembly and to the citizens of Northern Ireland. The Bill reorganises audit structures to enhance independence, and it is central to our implementation of the Sharman recommendations. Accordingly, I commend the Bill to the Assembly.

10.45 am

**The Chairperson of the Committee for Finance and Personnel (Mr Molloy):** Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister and his Department for the regular briefs and updates on the Bill that they have given to the Committee. The Committee has taken a keen interest in financial accountability,



audit arrangements and the role of the Comptroller and Auditor General since the passage of the Government Resources and Accounts Act (Northern Ireland) 2001.

The Committee successfully moved several amendments to the Government Resources and Accounts Bill and accepted an assurance from the then Minister of Finance and Personnel, Mr Mark Durkan, that its concerns, as well as those of the Public Accounts Committee, on the Comptroller and Auditor General's right to follow public money would be addressed in the Audit and Accountability Bill.

The Committee welcomes the Bill and looks forward to the detailed examination of its provisions at Committee Stage. It especially welcomes the inclusion of all non-departmental public bodies within the remit of the Comptroller and Auditor General and the decision to grant him statutory access to documents held by third parties, including subcontractors, in receipt of public money.

In its response to the Department's consultation document, the Committee accepted the arguments in favour of the reorganisation of the health and personal social services audit and the local government audit, and the greater powers given to the Comptroller and Auditor General in that respect.

The Committee has not commented on the proposed transfer of powers to the Assembly's Audit Committee and will be seeking the views of Committee members on that before compiling a report. The Committee will also be consulting the Assembly's Public Accounts Committee on the Bill's general provisions and on the role envisaged for the Public Accounts Committee, which is not made explicit in the Bill.

The Committee would be grateful for clarification on several issues, and the Minister may wish to respond today. Will the Bill provide the Comptroller and Auditor General with access to all organisations that receive public money? If not, what rules will govern access? For what purpose will access be provided, and what powers of inspection will the Comptroller and Auditor General have?

What are the implications of transferring the appointment of the Northern Ireland Audit Office's accounting officer and auditor to the Assembly's Audit Committee, and what views has the Audit Committee expressed on that proposal?

The Committee for Finance and Personnel will issue a public notice inviting views on the Bill. It will target organisations and individuals that provided input to the Government Resources and Accounts Act (Northern Ireland) 2001 and will be requesting further views and information.

**The Deputy Chairperson of the Committee for Finance and Personnel (Mr Beggs):** I also welcome the introduction of the Bill, both as Deputy Chairperson and a member of the Assembly's Public Accounts Committee.

It is important when handling public money to ensure that it is well used, and that there is value for money and traceability. I welcome the fact that the Bill will widen the Comptroller and Auditor General's remit to include the Health Service, local government and non-departmental public bodies. That should bring about significant improvements.

Although the Public Accounts Committee has not gone into the detail of the accounts presented to it, the Comptroller and Auditor General has not been the main auditor and has not had the same control in directing the audits. Therefore I welcome the increased responsibility and independence given to him through the Bill.

That will be particularly significant given the increased expenditure allocated to the Health Service. There is concern that money has not been well spent there: the Committee for Health, Social Services and Public Safety has had trouble, because of the complexities of the Health Service, tracing where money has been spent. I hope that, as a result of further input from the Comptroller and Auditor General, constructive suggestions come forward that may assist the Assembly in providing better services to all.

As a member of the Public Accounts Committee, I have experienced unfortunate occasions when non-departmental public bodies have handled public money poorly. The Bill will give the Comptroller and Auditor General an increased remit to ensure that proper standards are applied not only to Departments but to every non-departmental public body. That should have been happening. However, incidents that have been drawn to the Public Accounts Committee's attention have made us aware that that has not been happening in the past. I hope that this development will increase the level of public scrutiny and increase the public's confidence in how their money is being spent.

**Mr Deputy Speaker:** It seems that a live mobile phone in the Chamber is interfering with the sound system. Members should check their phones; it is not the Deputy Speaker's.

**The Chairperson of the Audit Committee (Mr Dallat):** As Chairperson of the Audit Committee and a member of the Public Accounts Committee I warmly welcome the Minister's announcement of the new legislation. Increased powers for the Comptroller and Auditor General will enable that office to conduct audit trails that will send out a clear message, particularly to non-departmental Government bodies and, as Mr Beggs said, to the health boards and trusts, that the gravy train has at last run out of steam. The legislation has the potential to put the fat cats out of business once and for all.

The new legislation has the full endorsement of the Audit Committee and the Public Accounts Committee. Members of those Committees recognise that it will elevate public accountability to a new level, where nearly every pound of public money can be scrutinised to see whether

it was spent honestly, wisely and in the best interests of those who matter most — the people. Increased Audit Office powers mean that additional resources will have to be found to pay for the additional work. Nevertheless, I am certain that the return to the taxpayer will be at least tenfold.

One of the greatest tragedies of direct rule was the inability to ask questions about accountability. Even when the Assembly came into being and was allowed to get on with the business of scrutiny, the Public Accounts Committee had only a limited involvement. Many large bodies that guzzled huge amounts of public money were outside its remit.

The impression has been created that the health boards and trusts are bottomless pits that consume hugely increased budgets, only to provide a service that is getting worse. The Comptroller and Auditor General's increased powers mean that Assembly Members, if we are allowed to, will be much better able to ask why we have increased waiting lists for operations, why the trolley waits have become a national scandal, and why bed blocking is now the most fashionable medical term in common use. I do not, I hasten to add, single out the Health Service. There are other equally important examples that I could use, as, no doubt, other Members will.

The new legislation will allow the Assembly to delve into the affairs of many other public bodies. I hope that those who in the past foolishly described members of the Public Accounts Committee as begrudgers, because they dared question how public money was spent, will draw their horns in. I hope that they will lend their full support to ensuring that never again will we have the scandals that have gone before, and that the services provided are the very best and serve the interest of nobody but the long-suffering public.

All that depends on our ability to defend the institutions of democracy. I hope that the weeping willows who are undermining the Assembly at present, and who do not show a great deal of interest in such mundane matters as increased powers for the Audit Office and the Public Accounts Committee, will prove me wrong. Meanwhile, I thank the former Minister of Finance and Personnel, Mark Durkan, and the current Minister, Seán Farren, for their total co-operation with the Audit Committee in ensuring that the legislation has the broadest possible impact on how public money is accounted for.

**Mr Weir:** As the previous Member laid down the challenge of avoiding begrudgery — a trap into which he himself occasionally falls — I shall try to look at the Bill constructively. We cautiously welcome the Audit and Accountability Bill.

It is welcome because of the need to increase the Comptroller and Auditor General's powers. We live in an era in which money can be moved around more quickly

than before — and with more hidden quality to it, we live in an electronic age in which powers so extensive are important to ensure that public money is spent correctly. Moreover, we live in an era in which the public, rightly, has a greater expectation that their money is well spent. As such, the principle behind the Bill that greater audit and accountability powers be given to the Comptroller and Auditor General is right.

I also welcome the principles outlined in some aspects of the Bill. The fact that audit control seems to have been given to all non-departmental bodies is welcome. An increase in statutory access to documents that are held by third parties was highlighted in the Committee for Finance and Personnel by DUP members and others when discussing the Government Resources and Accounts Bill. Therefore I welcome those changes.

The Committee for Finance and Personnel, the Public Accounts Committee and the Audit Committee have also stated that the Comptroller and Auditor General should be given a proper degree of independence. The proposals contained in the Bill that afford that person the required level of independence to properly carry out his or her work are also welcomed. It makes sense that the Comptroller and Auditor General is the overseer of all Government activity. Therefore the movement of the health and local government functions into the hands of the Comptroller and Auditor General is logical.

However, I do strike a note of caution — and I mean no disrespect to the Minister or the proposals — because the Audit and Accountability Bill deals with complex financial arrangements. As such, it would be foolhardy for members of the Committee for Finance and Personnel to rubber-stamp what is before them now. The Committee will want to scrutinise the Bill to ensure that the key test is met, and, as the Minister rightly said, that test should be whether the Comptroller and Auditor General will be able to follow the money.

When discussing the Government Resources and Accounts Bill, the Finance Committee expressed reservations about the Department of Finance and Personnel's apparent proposals. At that stage, the Committee looked at several proposed amendments. The Committee did not move those amendments in the end, because assurances were given that the concerns that they addressed would be dealt with in the Audit and Accountability Bill. It appears that those concerns have been met and that the Department of Finance and Personnel made moves to ensure that that was so. However, it is important that the Committee looks at the fine detail of the Bill to ensure that the assurances given during discussions on the Government Resources and Accounts Bill have been fulfilled. I hope that that is the case, because it is important to get it right now.

I am glad that we have taken the best aspects of the Sharman Report and seem to be implementing them. How-

ever, there is an indication that the Bill rightly moves beyond the Sharman Report. In Northern Ireland — above all parts of the United Kingdom — there is a need for close scrutiny of audit and accountability. There has not been close enough scrutiny of audit and accountability for 30 years because of direct rule. However, the people of Northern Ireland are concerned that devolution has not made sufficient difference to their daily lives, and that their money is not being as well spent as it could be by this institution. It is important that Members satisfy people's interest in this matter.

Northern Ireland's public sector is larger than that of any other part of the United Kingdom, with regard to its expenditure and the vast range of bodies that can spend that money. Therefore, there is a particular need for scrutiny in Northern Ireland.

11.00 am

It is important that the Bill give greater powers to the Comptroller and Auditor General to provide sufficient scrutiny to ensure that people get value for money. The key test for any Bill is how it impacts on people's daily lives. If the Bill ensures that money is better spent and that it reaches people, rather than being wasted and spent corruptly, it will be a valuable contribution to society.

We give the Bill a cautious welcome. However, we wish to ensure that the details match up to the principles that have been outlined. We hope that, when the Bill comes back for consideration, our questions and concerns will be properly addressed. Then we can move forward together with a Bill that satisfies the vast range of opinion in the Assembly Chamber, so that people are properly represented and their money is properly spent.

**Mr Close:** I welcome the general principles enshrined in the Bill. In short, it gives the Comptroller and Auditor General greater access to follow taxpayers' money. One of the greatest responsibilities of an elected representative in a body such as the Assembly is to ensure that taxpayers' money is properly spent, in a manner and for the purposes for which the House voted it.

Over the past few years, it has come to the attention of the Public Accounts Committee that there has been a bad attitude towards the expenditure of taxpayers' money. In the past, I have characterised that attitude as "Well, it is coming off a broad back, and, therefore, it does not really matter." However, the challenge of every Member and the officials in Departments that have the onerous responsibility of accounting for taxpayers' money comes in the following questions: if it were my money, would I spend it in that fashion? Would I adopt the same attitude, or would I be more cautious about how I spent it? If they can answer those questions in the affirmative, the chances are that the taxpayer will receive good value for money and that it will be spent for the purpose for which Members voted it.

However, that has not always been the case. Yesterday, we had a discussion wherein some Members suggested that it was not necessary to fill in little pieces of paper and that money should have been poured into an organisation because the cause underlying that body was good, and I accept that. However, we are responsible for every penny of taxpayers' money, and, therefore, we should abhor any shortcuts.

Reference was made yesterday to credit cards, which we will discuss later today. There is an attitude that must be changed. The sentiments and principles in the Bill will go some way towards changing attitudes, because it is all about the independence of auditing. It is all about transparency and accountability, and, if those factors are fed into the system, we can, and should, have a better system.

I concur with Mr Weir. We are charged with the responsibility of scrutinising the Bill in the Committee for Finance and Personnel and of ensuring that, to the best of our ability, it properly fulfils the functions that we, as elected representatives speaking on behalf of the taxpayer, require and demand. I hope that the Bill will fulfil those functions, and, at a cursory glance, I believe that it will.

I thank the Minister of Finance and Personnel and his predecessor, Mark Durkan. I recall the Finance and Personnel Committee's discussions of the Government Resources and Accounts Bill. I had profound doubt about whether the avoidance of producing a Bill that would implement the recommendations of the Sharman review had more to do with expediency than with a desire to move forward. The Department has honoured its commitments, for which I commend it. I look forward to the Committee's forthcoming scrutiny of the Bill.

**The Minister of Finance and Personnel (Dr Farren):** I thank all the Members who commented usefully and positively on the general principles of the Audit and Accountability Bill. The Assembly is working together towards a common goal. I pay tribute to the Committee of Finance and Personnel's efforts to ensure that we work closely towards the goal of ensuring that the Comptroller and Auditor General will be as independent as possible and will have all the powers necessary to ensure that those responsible for handling public money are held fully accountable for its use.

It is important to appreciate that the Bill does not stand alone. It is part of a web of accountability procedures, laws and structures that have been discussed in the debate and that bring us closer to the goal of ensuring proper accountability for the use of public funds.

Several Members expressed concern about the possibility that public money is not being spent properly. The Bill, on its own, does not provide a fail-safe guarantee that mismanagement, laxity and fraud will never again occur in the public sector in Northern Ireland. Those who seek



to perpetrate fraud will continue to scheme and devise the means to do so, but we can try to develop mechanisms to prevent fraud, laxity and mismanagement as far as humanly possible, and, if they do happen, to detect them.

Although evidence of mismanagement, laxity and fraud emerges from time to time, we can be proud of the standards of accountability that existed in the public sector, notwithstanding the absence of the scrutiny by local politicians that is now possible under devolution.

My experience and the evidence demonstrate that there are high levels of probity and responsibility in all sectors of public service. We should be proud that our public service operates, by and large, to very high standards. That notwithstanding, it is the Assembly's responsibility to ensure full accountability, which is as transparent as possible.

I shall touch on some of the points raised by Members. Mr Molloy, speaking as Chairperson of the Committee for Finance and Personnel, asked for what purpose access is provided. The clear purpose is for statutory audit or value-for-money studies, particularly in the case of third parties. He also asked what powers of inspection are given. The powers are to request documents that are relevant to the audit or the value-for-money study in question from persons or bodies in certain relationships with the Government.

Mr Molloy asked about the implications of the transfer to the Audit Committee. That will give the Assembly rather than the Executive the power to appoint the accounting officer. It will enhance the independence of public audit, and the Committee for Finance and Personnel will discuss that with the Audit Committee.

Mr Beggs touched on the audit of the Health Service. The Comptroller and Auditor General is already the statutory auditor of the Department of Health, Social Services and Public Safety. This Bill will make him auditor of health trusts and boards. At present he reports to the Assembly on the findings of the primary auditors of those bodies. The auditors are frequently from the private sector. This Bill makes the Comptroller and Auditor General the primary auditor of the whole health sector. I assure Mr Beggs that the public can continue to have full confidence in the statutory audits and value-for-money studies of the health sector in the same way as before the reform.

Mr Molloy raised a point that I should have touched on regarding consultation with specific Committees, one being the Public Accounts Committee. My predecessor gave an undertaking during the passage of the Government Resources and Accounts Act (Northern Ireland) 2001 to consult on further steps to improve audit and accountability arrangements in Northern Ireland and revisit the subject of further legislation as we are doing. He said that we should carry out a consultation exercise in that regard

on all the matters covered in this Bill and on the wider issues in the Sharman review of audit accountability from September 2001 until the end of November 2001.

We received 56 written responses, including those from Departments, local councils, voluntary and community organisations, professional bodies, audit bodies and individuals. The Public Accounts Committee held a public hearing on the Sharman review on 13 June 2002, and the Committee for Finance and Personnel has also taken a very keen interest in the subject. A summary of responses to the public consultation has been prepared and is due to be published very soon.

Other Members said that they would be scrutinising the Bill in greater detail during the Committee Stage. I accept and acknowledge the compliments paid to my predecessor regarding his commitments, on which we are now attempting to deliver. That is why I feel that Members will see, in the final stages of this Bill, that the legislation will be effective and ensure that the objective of full and proper accountability will be achieved.

*Question put and agreed to.*

*Resolved:*

That the Second Stage of the Audit and Accountability Bill (NIA 6/02) be agreed.

**Mr Deputy Speaker:** The Bill now stands referred to the Committee for Finance and Personnel.

11.15 am

## HEALTH AND PERSONAL SOCIAL SERVICES (QUALITY, IMPROVEMENT AND REGULATION) BILL

### Second Stage

**The Minister of Health, Social Services and Public Safety (Ms de Brún):** Molaim go dtugtar a Dhara Céim don Bhille Sláinte, Seirbhísí Sóisialta agus Pearsanta (Cáilíocht, Feabhsúchán agus Rialachán).

Sa chaibidil ‘Ag Obair d’fhoill Pobl Níos Sláintiúla’ ina chéad Chlár Rialtais, thug an Coiste Feidhmiúcháin gealltanais creat a fheidhmiú le cáilíocht na seirbhísí a sholáthraíonn na seirbhísí sláinte, pearsanta agus sóisialta a ardú. Mar chéad chéim leis an ghealltanais seo a chomhlíonadh, chuir mé mo chuid moltaí, dar teideal ‘An Cleachtas is Fearr — An Cúram is Fearr’, faoi chomhairliúchán poiblí in Aibreán 2001. Léirigh na freagraí ar na moltaí seo go raibh tacaíocht leathan ann d’fheidhmiú na socruithe nua le taca a chur faoi cháilíocht na seirbhísí sláinte, pearsanta agus sóisialta agus le feabhas a chur ar rialú na seirbhísí agus leis an rialú sin a leathnú.

Foilsíodh torthaí an chomhairliúcháin ar 11 Meitheamh 2002. Ar an dáta céanna, d’fhógair mé mo chinntí ar phríomhghnéithe an chreata nua a leagadh amach le cáilíocht na seirbhísí cúraim agus sláinte a sholáthraítear anseo a chur chun cinn. Go bunúsach, is féidir príomhghnéithe an chreata a achoimriú mar seo leanas: córas le caighdeáin agus treoirilínte nua a fhorbairt nó na cinn atá ann cheana féin a chur i bhfeidhm; rialú na seirbhísí a leathnú le réimse i bhfad níos leithne seirbhísí a chlúdú; caighdeáin íosta cúraim a fhorbairt do sheirbhísí rialaithe; dualgas reachtúil cáilíochta a chur ar na seirbhísí sláinte, pearsanta agus sóisialta; córas rialachais ar chúram sóisialta cliniciúil a thabhairt isteach; comhlacht singil rialaithe agus cigireachta neamhspleách — údarás feabhsúcháin agus rialaithe na seirbhísí sláinte agus sóisialta — a bhunú ag a mbeidh an dá ról de sheirbhísí a rialú agus cigireacht a dhéanamh ar rialachas sna seirbhísí sláinte, pearsanta agus sóisialta; creataí forbartha seirbhíse cosúil le creataí na seirbhíse náisiúnta i Sasana, in Albain agus sa Bhreatain Bheag a fhorbairt nó a oiriúnú lena n-úsáid anseo; agus creat bainistíochta ar fheidhmiú a fhorbairt.

I beg to move

That the Second Stage of the Health and Personal Social Services (Quality, Improvement and Regulation) Bill (NIA 7/02) be agreed.

In the chapter “Working For A Healthier People” in their first Programme for Government, the Executive

made a commitment to put a framework in place to raise the quality of services provided to the community across health and personal social services. As the first step to fulfil that commitment, I presented my proposals entitled ‘Best Practice — Best Care’ for public consultation in April 2001. The responses to those proposals demonstrated widespread support for the introduction of new arrangements to underpin the quality of health and personal social services and to approve and extend the regulation of services.

The results of the consultation were published on 11 June 2002. On the same date, I announced my decisions on the main elements of a new framework designed to promote the quality of health and care services delivered here. The main elements of the framework can be summarised as follows: a system for developing new, or implementing existing, standards and guidelines; regulation of services to be extended to cover a much wider range of services; minimum care standards to be developed for regulated services; a statutory duty of quality to be introduced in health and personal social services; a system of clinical and social care governance to be introduced; a single independent regulation and inspection body — the health and social services regulation and improvement authority — to be established, with the twin roles of regulating services and inspecting governance within health and personal social services; service development frameworks, similar to national service frameworks in England, Scotland and Wales, to be developed or adapted for use here; and a performance management framework to be developed.

The Bill will give effect to the elements of the overall quality framework that require legislative backing. The Bill’s various provisions need to be considered in the context of the overall quality framework. It provides for a statutory duty of quality to apply to all health and personal social services bodies that deliver services. It establishes a health and social services regulation and improvement authority, which will be responsible for monitoring the quality of services delivered by the health and personal social services by reviewing clinical and social care governance arrangements within those services. It provides for the new regulation and improvement authority to be responsible for the regulation and inspection of an extended range of services.

Every year, hospitals here provide more than one million outpatient treatments. There are 500,000 admissions to hospitals or day procedure clinics every year. Every day, 30,000 people see a doctor or practice nurse, and 120,000 people will visit a community pharmacy. An average of 180,000 people contact social services every year. More than 20,000 elderly people are supported in their homes. The vast majority of people receive the quality of services that they require. Regrettably, however, some service users do not.

The challenge that the health and personal social services face is to guarantee a quality of service that the public can expect to receive, regardless of where they go for treatment or care and regardless of which organisation provides it. The many medical, professional and technological advances, and increased public expectation of the standards of services delivered, make it vital that health and personal social services modernise and improve in the future, to enable those services to deliver a fast and effective high-quality service. Part of the emphasis on quality agenda is on ensuring that services and treatments are delivered safely and that steps are taken to reduce risk and to avoid problems.

At present, many health and social care services, including those to children and vulnerable adults, are not subject to independent regulation and inspection. Regulated services are often not delivered according to common agreed standards, and that leads to unacceptable variations in the standard of care and treatment.

Publicity surrounding recent scandals in England, such as the Shipman case and the Bristol Royal Infirmary inquiry, combined with instances here, such as revelations about organ retention, and recent concerns about the storage of embryos and sperm samples, have shaken public confidence in our services. The introduction of a specific framework for clinical and social care governance will mark a major change for health and personal social services.

Governance arrangements are, of course, already in place to ensure overall probity, transparency and adherence to public service values. Clinical and social care governance, backed by a statutory duty of quality, will mean that, for the first time, health and social services boards and trusts will have to place the provision of high-quality services to the forefront of their statutory duties in the same way as they must adhere to statutory financial probity.

A framework for clinical social care governance will bring together all the existing activity relating to the delivery of high-quality services, including education and research, audit, risk management and complaints management. Many health and personal social services organisations have already begun to develop their own systems, based on systems elsewhere. The Bill's intention is to ensure that a uniform set of principles will be applied to our unique organisational structures, and to take account of how services are delivered here.

Health and personal social services organisations will be accountable for continuously monitoring and improving the quality of their services, and safeguarding high standards of care and treatment. Organisations will take corporate responsibility for performance and for provision of the highest possible standard of clinical and social care. The new arrangements will build on and strengthen existing activity relating to the delivery of high-quality care and treatment, including audit activity; identifying, promoting and sharing good practice; risk assessment and

risk management; quality standards; complaints management; clinical and social care effectiveness; evidence-based practice; research and education; and effective leadership and management.

To ensure independent monitoring of clinical and social care governance, a single body, the health and personal social services regulation and improvement authority, will be created. Its core functions will be to regulate and inspect services, provide advice, conduct reviews of clinical and social care governance arrangements, carry out systematic service reviews and undertake investigations. The new authority's powers will, therefore, be wide ranging.

In addition to its regulatory function, the authority will take the lead in conducting reviews of clinical and social care governance arrangements. Through a rolling programme of local reviews of health and personal social services organisations, it will independently scrutinise the clinical and social care governance arrangements developed to support, promote and deliver high-quality services.

It will also help organisations to identify and tackle serious or persistent shortcomings in clinical or social care delivery, with the ultimate goal of supporting organisations in the delivery of high-quality, safe services. The authority will have a key role in providing users, the public, the Assembly and me, as Minister, with the assurance that systems are in place to ensure that the highest possible standards are adhered to and that the risk of something going wrong is greatly reduced.

Many initiatives are ongoing to promote continuous professional development through lifelong learning and strengthening professional regulation. My proposals will bring together those initiatives so that they can be managed and monitored in one framework for improving the quality of services.

Staff must also share ideas and good practice and take responsibility for the quality of services that they provide. Staff skills represent a significant investment that organisations must maintain by enabling employees to develop their skills and practice. A highly trained, competent and confident workforce is fundamental to securing the delivery of high-quality services.

A summary of the Bill's provisions is in the explanatory and financial memorandum. The Bill is in five parts. Part I deals with the establishment of the new authority and its general responsibility. Part II covers regulatory procedures. Part III deals with the statutory duty of quality and the new body's responsibilities. Part IV lists the new body's functions. Part V deals with the authority's powers of inspection and review and the departmental power to introduce minimum standards.

I want to hear Members' views, and will, therefore, conclude my remarks. The Bill represents a radical agenda for the Executive, the Assembly, my Department and health and personal social services. Service users will



benefit from the extension of regulation to cover a wider range of services, including those delivered to the most vulnerable users — the elderly and children.

Much work is being done on those arrangements that do not require legislative backing, and much work will need to be done in the future. It will take time to achieve all that we plan to achieve. I will try to answer as many Members' points as I can at the end of the debate. If there is anything to which I am unable to respond today, I will write to the Member concerned. I commend the Bill to the Assembly.

11.30 am

**The Chairperson of the Committee for Health, Social Services and Public Safety (Dr Hendron):** I welcome the Bill. It follows through on proposals contained in the consultation document 'Best Practice — Best Care' to set clear standards for, and to improve the monitoring and regulation of, health and personal social services. I also welcome the Minister's presence in the Chamber today.

There is an increasing and justifiable focus on how money is spent and on whether value-for-money services are being provided. That is a burning issue, especially for the Health Service, which has an annual budget of some £3 billion that accounts for some 40% of Northern Ireland's block grant. The demographic trends in the preliminary census results that were published yesterday underline the increasing pressures that the Health Service will face in years to come. It underscores the need to test the effectiveness of the services provided by all Health Service bodies and to focus on areas in which performance can be improved.

The Bill's aims are positive, but they must lead to the introduction of more economical and effective work practices, minimise bureaucracy and improve quality standards. It is imperative that the Minister take the necessary steps to demonstrate that limited resources are being deployed in the most effective and efficient way for the maximum benefit of the population. Patients who use the Health Service are entitled to expect quality care that is delivered consistently across board and trust boundaries.

I am glad that the legislation has been introduced to the Assembly. It will establish a new, independent body that will assume overall responsibility for the regulation of services and for the inspection and monitoring of the clinical and social care governance arrangements in health and personal social services. We have been told that it will cost £5.6 million a year to operate the body, which is £2.8 million more than at present. The Minister must demonstrate that that investment will provide a better regional service. She must convince the public that the new authority will not simply add another layer of bureaucracy, but that it will play a key role in ensuring that healthcare standards are being met and that the issue of clinical and social care governance is being addressed.

I welcome the establishment of clinical and social care governance. For many years, the teaching profession has been subject to inspections, and many of us can remember inspectors visiting schools. As someone who practised medicine in west Belfast for many years, I often wondered why teachers should have had to undergo inspections when doctors did not. I welcome the fact that all health professionals will be subject to clinical and social care governance.

The recent inquiry into the use of human organs highlights the clear need for the establishment of a watchdog to check that corporate organisations have best-care systems in place and are adopting the right practices. The Committee for Health, Social Services and Public Safety understands that the new authority will produce an annual report for the Department and will publish the results of its inspections. As always, much of the detail will lie in the Regulations that are to follow, which the Committee will scrutinise.

The Minister, as the authoriser of the new body's work programme, must demonstrate clearly that her Department will hold the body to account. That is important. I am pleased that the Bill will give powers to the authority to assess the quality of some unregulated services that are provided by trusts, such as fostering and adoption. The Committee wants service provision in those areas to be improved to ease pressure on the children's residential care sector. It is important that the statutory duty to deliver quality be applied equally to all services that are delivered by health and personal social services, whether they are provided by the statutory, voluntary or community sector.

The Bill does not set out a timetable for the regulation of services, which will undoubtedly depend on resources. The explanatory and financial memorandum indicates that the cost of running the new authority will lead to a net increase in expenditure of £2.8 million a year. Assumptions are made about the estimated income from the services to which regulation is extended. It is also pointed out that the level of fees has not been decided, and the minimum standards for the regulated services have not been developed. Extensive consultation on those matters is needed because they will directly impact on the minimum standards for healthcare providers such as nursing homes.

The Committee will focus its attention on the funding arrangements that the Department puts in place to support the Bill's provisions. Those arrangements must ensure that the worthy aims of the legislation translate into genuine action to promote the quality of health and social care services, and that those aims do not founder because the necessary resources have not been committed. That is important. We do not want to be in a position in which, although proper minimum standards are set, staff cannot deliver them as a result of resource constraints. The Health Committee recently heard from Northern Ireland Public

Service Alliance (NIPSA) officials of the deep frustration of social workers who cannot meet the quality standards set in respect of their statutory duties towards children. Although that is the case across Northern Ireland, it is especially so in the Foyle area, as we were recently informed by social workers. I trust that any resourcing gaps that are identified by the systems put in place to establish clear standards will be immediately addressed.

The introduction of a Bill that provides a framework to improve the quality of healthcare by establishing consistent minimum standards as well as establish a system of clinical and social care governance and improve monitoring and inspection, must be welcomed. My Committee Colleagues and I look forward to exploring the provisions of the Bill in detail at Committee Stage.

**Ms Ramsey:** Go raibh maith agat, a LeasCheann Comhairle. In the previous debate, almost every Member touched on accountability and value for money in all Departments. I agree 100% with that, but it must happen across the board. That is why I was surprised at the attitude of some Members today to yesterday's debate on the Rape Crisis and Sexual Abuse Centre. With that in mind, I welcome the Bill and agree with the Minister that it introduces a radical agenda. It aims to develop overall standards in the Health Service and secures local accountability for the delivery of services. Moreover, it will improve the monitoring and regulation of those services.

Like the Minister and the Chairperson of the Committee for Health, Social Services and Public Safety, I welcome the proposal to establish a single health and social services regulation and improvements authority. Trusts and boards will have a statutory obligation towards equality, and, during the Bill's Committee Stage, I intend to ask officials exactly how that will be introduced and whether there will be sanctions against the chief executives of trusts that fail to meet that obligation. The Bill's impact will be beneficial for clients, service users and Health Service personnel. It should end the postcode lottery that can exist with quality care and that Members have referred to time and time again. The Bill will have a positive effect on protecting the rights of vulnerable people, whether in children's homes or in homes for the elderly.

I also welcome the legislation and look forward to its Committee Stage.

**Mr McCarthy:** Alliance supports the Bill to establish an authority to oversee the delivery of services by health and personal social services, as well as by our independent and voluntary private sectors. The Bill will go far towards achieving the goal of securing local accountability for the delivery of services and will improve their monitoring and regulation.

The Bill closes a variety of loopholes. Previously, some health and social services were exempt, for one reason or another, from proper regulation. For example, wholly

private GP call-out services will be included in the regulatory framework as will private primary-care practices.

The House will not be surprised to hear of my particular interest in the section of the Bill that deals with personal care. I endorse the inclusion of residential care homes in the proposed regulatory scheme. I am pleased that the Department of Health, Social Services and Public Safety considered the 1999 report of the Royal Commission on Long Term Care for the Elderly.

Personal care is defined in the Bill as:

- “(a) action taken to promote rehabilitation;
- (b) assistance with physical or social needs; and
- (c) counselling”.

Such assistance can include help with bathing, toileting, dressing and eating for people who cannot perform those tasks for themselves. The Bill recognises the distinction between the services provided in residential care homes and in nursing homes, and that is incorporated in the Bill.

Furthermore, I welcome the fact that domiciliary care agencies are to be included in the proposed regulatory schemes. Domiciliary care agencies provide vital services for people in their homes. Given the significance of personal care that is recognised in the Bill, and the services provided by nursing homes, why can the House not vote at an early date to provide personal care on the same terms as nursing care?

Nevertheless, I welcome the Bill. That such a breadth of health and social services is being amalgamated in a singular, regulatory framework will help everyone involved to deliver the best possible care and practice.

For the Alliance Party and for me, the recognition of personal care only serves to underline its significance in our society. If the Bill is passed, I shall continue to campaign for free personal care in the new regulatory scheme. The Alliance Party fully supports the Bill.

**The Minister of Health, Social Services and Public Safety (Ms de Brún):** I thank Members for their attention to the detail of the Bill and their warm welcome to its provisions. Several Members who spoke referred to the added value that will result from the establishment of the new authority, which will provide an independent check of the quality of the services delivered by the health and personal social services (HPSS) and the independent sector.

The new authority will provide service users with greater safeguards on the services that they receive; reduce inequalities and improve equity by ensuring that services are delivered consistently across the North to meet the same minimum standards, regardless of where people live and whether services are delivered by the HPSS or the independent sector; and ensure that systems are in place to address poor performance. Therefore, it will

also help to reduce the clinical negligence bill, which is an important factor for Members.

The new authority will mean that, for the first time, the quality of services provided by HPSS will be independently monitored against agreed minimum quality standards. To ensure that effective clinical and social care governance arrangements are in place, the new authority will regulate more of the services delivered to children and vulnerable adults, including some that are provided by HPSS.

Providers will not be able to register those services that are to be regulated unless they meet minimum standards, and failure to register will mean that providers may not legally continue to provide those services. The new authority will also review the quality of, and access to, services across the North.

Between 1991 and 2001, £55 million was paid in compensation for clinical negligence. It is to be hoped that the work of the new authority will reduce that amount. Its work will also ensure that people have the assurance of minimum standards against which all services will be judged.

Several Members referred to the Regulations. I agree that further work will arise, and I look forward to hearing the points that Colleagues raise during Committee Stage. It is to be hoped that I shall be able to provide further assurance then. Once the Bill's principal Regulations have been drafted, we shall consult on them before they are laid before the House.

11.45 am

I hope that I have dealt with Members' main points. As I said, I shall try to deal in writing with any points that I have not covered. I shall ask officials to look at the record, and I look forward to working with the Committee on the Bill.

*Question put and agreed to.*

*Resolved:*

That the Second Stage of the Health and Personal Social Services (Quality, Improvement and Regulation) Bill (NIA 7/02) be agreed.

## **REGIONAL CHAMBER OF THE CONGRESS OF REGIONAL AND LOCAL AUTHORITIES OF EUROPE**

### **MLA Appointment**

**Mr Ford:** I beg to move

That this Assembly appoints Seán Neeson MLA as its nominee to the Regional Chamber of the Congress of Regional and Local Authorities of Europe.

The Congress of Regional and Local Authorities of Europe is one of those bodies that rejoices in having an unpronounceable acronym. It was established in 1994 by the Council of Europe — not by the European Union. As a result, it represents 41 countries, which range from Portugal to the Russian Federation and from Cyprus to Iceland. It is significantly larger than the European Union, with which the Assembly deals more often.

Two chambers represent regional and local authorities. There are 291 full members, 18 of whom come from the UK. Of those 18, one Member of the Scottish Parliament, one Member of the National Assembly for Wales, and one Member of our Assembly sit in the chamber of regions.

The congress advises the Committee of Ministers and the parliamentary assembly at the Council of Europe, and provides a forum in which the experience of members of local and regional authorities across the continent is pooled. In doing so, it organises conferences and prepares reports on local democracy, especially that which is developing in central and eastern Europe. The congress also monitors the European Charter of Local Self-Government, to which the UK signed up in 1998. The Assembly has some catching up to do in terms of the powers and responsibilities of local government.

I have already said that one MLA sits as a full member in the chamber of regions. Cllr Jim Dillon of Lisburn City Council represents district councillors from Northern Ireland in the chamber of local authorities.

I have pleasure in proposing Mr Seán Neeson as the Assembly's nominee to sit in the chamber of regions. He has had a keen interest in European matters, which dates at least from when he was elected to the previous Assembly in 1982. Before devolution, he regularly attended meetings of the EU Committee of the Regions as a representative of Northern Ireland. He has the ability to represent the range of opinions that are in the Assembly.

I am grateful to David Trimble and Mark Durkan for supporting the concept that this nomination should go to a member of a party that is not in the Executive. I am unsure whether they acted in their capacities as the First Minister and the Deputy First Minister, or merely as party leaders, but I welcome the support of the Ulster Unionist Party and the SDLP. As well as taking party



considerations into account, Mr Trimble and Mr Durkan also readily agreed to my suggestion that Mr Neeson would be an excellent choice personally.

I frequently criticise the Office of the First Minister and the Deputy First Minister, which is my function as an Opposition Member. However, it is appropriate that I should generously praise the Ulster Unionist Party and the SDLP for their support.

**Mr Morrow:** Is the Member apologising to them?

**Mr Ford:** No. I am happy to accept anybody's support when they show some grace, but that is not always forthcoming.

As for the amendment, it is for Members to choose how they view the two candidates. It is certainly not my position to criticise Edwin Poots. However, I was slightly surprised when I read the amendment, specifically because Mr Poots was described as

"Chairman of the Committee of the Centre".

I accept that that Committee has a remit to shadow OFMDFM in all aspects of its work, including European matters, but that remit overwhelmingly refers to European Union matters, not wider European issues.

**Mr Paisley Jnr:** That is rubbish.

**Mr Ford:** Mr Paisley clearly wants to talk about waste, but we shall wait to hear what he says later on.

It should not be assumed that the Chairperson of the Committee of the Centre should be automatically proposed as the Assembly's nominee on a matter that concerns the Council of Europe, as opposed to the European Union.

Mr Poots is a member of the same city council as Mr Dillon, who sits as a representative of local authorities, and whom I mentioned earlier. Although the relationship between Mr Poots and Mr Dillon appears to be fractious, they both belong to the Unionist family. To provide a more balanced representation for Northern Ireland, and taking into account Mr Neeson's personal qualities, it is appropriate that he should represent the Assembly in the congress. I have pleasure in proposing Mr Neeson as the Assembly's nominee.

**Mr Morrow:** You were a Unionist for a while too, David.

**Mr Ford:** Not for long.

**Mr Paisley Jnr:** I beg to move the following amendment: In line 1, delete "Seán Neeson MLA" and insert

"Edwin Poots MLA, Chairman of the Committee of the Centre,".

Edwin Poots had hoped to be in the Chamber for today's debate, but he is chairing the subcommittee of the Committee of the Centre's EU inquiry. He will endeavour to join us at some point during the debate. In chairing that subcommittee, Mr Poots has the confidence of the House. It is nonsense to say that neither the House nor the

Committee of the Centre has any interest in a widening Europe, and I shall put that argument to rest. The European Union is widening and it is essential that Northern Ireland, as part of a member state of the European Union, play its role and contribute to that debate.

I agree with Mr Ford's analysis of the history of the Congress of Regional and Local Authorities of Europe. However, it would be wrong to accept that the Committee of the Centre has no interest in a widening Europe. It does have an interest in that important issue, and the Assembly must continue to play its role.

My party leader has received the largest share of the European election vote in Northern Ireland not once, not twice, but on five occasions. In 1999, 192,762 people put the DUP and its leader first in the European election, because they recognised that the DUP's voice was essential to represent Northern Ireland authentically in Europe.

My party's voice must also be heard in the appointment of the Assembly's nominee to the regional chamber of the Congress of Regional and Local Authorities of Europe, and it would be wrong to set it aside in this matter. The DUP was kept off the Committee of the Regions, on which the Alliance Party had a member. The Northern Ireland representation on that committee was woeful and disappointing, and the voice of Northern Ireland was not properly heard. It is our hope that that situation will not be repeated in such an important body as this.

Both the SDLP and the UUP already have representation in the regional chamber of the Congress of Regional and Local Authorities of Europe through council. Given the support that my party enjoys on European issues in the Province, it must be represented. It would be wrong to put a party into that body that would be boxing above its weight.

I do not want to participate in a slanging match or a history lesson about the Alliance Party's stand on European issues. However, in the European election in 1999, the people of Northern Ireland gave the Alliance Party 2% of the vote, because its voice was not authentic on European issues and was unrepresentative. Mr Neeson was the candidate who received that 2% vote. We would be doing the House a disservice if we ignored what the people of this country said only a few years ago on that issue.

Our nominee, Mr Edwin Poots, has been a local councillor for the past six years. He has distinguished himself as the Chairperson of the Committee of the Centre, an appointment that was supported by the House. He led the Committee in its most recent European report, which demonstrated an in-depth knowledge of European matters in the context of the European community and on the issue of a broadening Europe. It is essential that the person appointed has such experience and knowledge, and, as I said, he has led that Committee on European matters. That report received the endorsement of the

House, and it follows that the person best placed to take on this role is the Chairperson of the Committee of the Centre, which has a brief to consider European issues.

Edwin Poots is young, and it would send out the right message to appoint a young person, irrespective of party background, to represent a young and dynamic Ulster. It would be wrong to overlook that important point, because Northern Ireland has one of the youngest populations in Europe. Too many people would dismiss that, but it is one of our strong points.

It gives me pleasure to support the amendment. I hope that Members will consider the political and non-political arguments and will appoint the candidate who is capable, has the required knowledge and expertise, and has had the Assembly's support when dealing with European issues. If that happens, this body will be able to genuinely represent people's wishes and concerns.

I spoke to the SDLP and Ulster Unionist Party Whips, and it was made clear that neither of the nominees had the official support of those parties. It seems that something was said to Mr Ford to indicate that Mr Neeson would be regarded as the unofficial nominee of the First Minister and the Deputy First Minister. That is what was imparted this morning. The Whips said that the parties would not be voting on this, but they should vote, and they should vote for our amendment.

Members should not be left with the impression that Mr Neeson is the official nominee of the First Minister and the Deputy First Minister. If he is, Members may wish to consider whether they want to support someone who may be in the pockets of the First and Deputy First Ministers because of that. That would not send out the right signal. Mr Poots, however, has the support of the Assembly because he has been Chairperson of the Committee with responsibility for European issues.

**Mr McCartney:** When I was listening to David Ford's eulogy, in which he spoke of the UUP's and SDLP's support for his nominee, I was minded to warn him of the exhibition that he made of himself when he became the back end of a horse for a day and produced the sort of political material that, in equine terms, the back end of a horse might produce. He was then totally shafted, because, having received some sort of a promise of a review, he got absolutely nothing. He displayed a degree of political judgement that would make one wonder.

David Ford's candidate was formerly the leader of the Alliance Party, and, curiously enough, was succeeded by Mr Ford, who is now attempting to hand out some sort of consolation prize. Mr Neeson, who we are about to suggest should represent us, displayed even more monumental political misjudgement than his new leader when he decided that the Alliance Party would withdraw its candidates from contesting certain constituencies,

including North Down. I make no apologies, not so much for pointing out what happened to Bob McCartney, but for pointing out the dire consequences of that decision for Mr Neeson, whose position was rapidly usurped by his current benefactor.

12.00

Now we are required to support Mr Neeson. However, what support has he received from his own party? It failed to put him forward as a parliamentary candidate, despite his being party leader, and subsequently it gave him the bullet when it came to his continued occupancy of the august position of leader of a party that —

**A Member:** He still has a party.

**Mr McCartney:** He may have a party, but it seems to dissolve itself when elections approach. Mr Paisley Jnr has mentioned the debacle of his European representation in rather kinder terms than I would employ.

Let us look at who the Assembly is intending to send forth as its representative — a person who has not distinguished himself in his own party, who has been dismissed or discharged as being suitable for the party leadership, and who has not enjoyed the support of the rank and file of the people who voted in the European election. He is now being offered some sort of consolation prize as the party representative. If the Assembly wants to send forth as its plenipotentiary in these matters such an exhibit of political success, so be it. However, before it does so, Members should take stock of just what this candidate has offered in the past and what he now has to offer in what may be the autumn of his political career.

**Mr O'Connor:** I support the motion and Mr Neeson's appointment. Mr Neeson is a decent, honourable man with a pro-European attitude. He would do the Assembly proud as its representative in Europe. Are we seriously to believe Mr McCartney and those from the DUP who suggest that we should send an anti-European to Europe to represent our interests? The DUP leader went there to destroy Europe. We want someone who can represent us in a more positive manner. Seán Neeson is the person for the job, and I will support him.

**Mr Hussey:** Is Mr O'Connor suggesting that the majority in the House is pro-Europe?

**Mr O'Connor:** I suggest that the majority in the House would be happy to accept all the money, jobs and benefits that come from Europe.

**Mr Morrow:** I suspect that all the useful things that need to be said have already been said. However, some of Mr Ford's remarks require comment.

It is ironic that the Alliance Party has made a nomination, bearing in mind some of the comments of my Colleague Ian Paisley Jnr. It must be remembered that when Mr Neeson — who, by definition, is a decent

individual — submitted himself to the electorate, he was able to achieve only around 2% of the popular vote. I am sure that he has reflected on that, and I am surprised that he has let his name go forward in the light of his performance in the European election.

For 20 years or more, my party has consistently topped the poll in European elections. Would it not be right and proper for that to be reflected in the Assembly's nomination?

Mr Ford said that it would be verging on a tragedy if two Unionists, namely, the one —

**Mr Ford:** It was not I.

**Mr Morrow:** Mr Ford inferred it. He said that Mr Jim Dillon from Lisburn City Council was one of the nominees, and that there would be another nominee from that council. Mr Poots would not be nominated as a member of Lisburn City Council; he would be going forward as the nominee of the Assembly. Mr Ford found it — *[Interruption]*.

**Ms Morrice:** Does the Member not think that it would be more appropriate if the nominee were pro-European rather than anti-European? Or, perhaps I am wrong in that it is not from an anti-European stance that the DUP is making its nomination.

**Mr Morrow:** I hear what the Member says. However, she is an intelligent lady and she has been watching the results. She knows who has topped the poll consistently. The leader of my party has taken a stance on Europe, and we should not try to walk past what the people say. Ms Morrice may want to do that in the Women's Coalition, and that may be why it secured such a mammoth vote. However, what Ms Morrice is trying to say goes past me; I do not accept her point. It would be a total irony if Mr Poots were not the nominee of the Assembly.

Mr Neeson is a member of a party that is decreasing by the day, and, as Mr McCartney said, under his leadership it decreased even more — and that was because of him. It is imperative that Mr Poots be the nominee. After all, Mr Ford became a Unionist when it was politically expedient to do so, and I am sure that Mr Neeson will be pro- or anti-Europe whenever it is politically expedient to be so.

**Mr Deputy Speaker:** I call Mr Kieran McCarthy to make his winding-up speech.

**Mr Ford:** Wrong name, Mr Deputy Speaker.

**Mr Deputy Speaker:** I call Mr David Ford.

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

It does not take too long to respond to the positive comments in this debate, and I thank Danny O'Connor for making nearly all of them. It is bizarre that all the examples cited by DUP Members about Europe dealt

with the European Parliament, which was precisely the point that I made earlier. This motion relates to the Council of Europe and not to the European Union.

When the DUP had a party member on the Committee of the Regions in the European Union, he managed to attend about one meeting in four. We could all indulge in petty sniping.

**Mr Paisley Jnr:** Will the Member give way?

**Mr Ford:** No. I sat and listened to the Member's rubbish earlier — *[Interruption]*.

**Mr Campbell:** On a point of order, Mr Deputy Speaker. When a matter of factual inaccuracy is stated, even in a winding-up speech, the Member should, in all conscience, give way so that the accurate position can be given on the Floor of the Assembly.

**Mr Deputy Speaker:** It is entirely up to the Member whether he will give way.

**Mr Ford:** I will bow to the former Minister's advice.

**Mr Paisley Jnr:** The Member should be aware that the DUP's nominee at that time was an alternate member who was never entitled to go to any of those meetings. When the person from the Benches over there who was supposed to attend meetings did not go, he did not inform the DUP's nominee of his right to go, so he was not entitled to do so. That should never be allowed to happen again.

**Mr Ford:** I accept that I failed to use the word "alternates", and I apologise for that. It was certainly my understanding at that time that, rather than Mr Paisley's pointing the finger in this direction, the DUP member was an alternate to an Ulster Unionist, and the Alliance member was an alternate to an SDLP member. Mr Neeson, as the Alliance alternate, attended at least as many meetings as either of the full members. I cannot understand why other members did not speak to their alternates on those occasions.

The debate started off with some moderately sensible comments but degenerated into petty sniping from the Benches on my left. I applaud Seán Neeson's courage in stating the case for Europe, and, when he has had the opportunity, in playing a practical part at European level, principally in European Union institutions. He has shown that he can stand up for what is right for Northern Ireland, and he deserves the confidence of the Assembly to represent us.

*Question put, That the amendment be made.*

*The Assembly divided: Ayes 22; Noes 28.*

AYES

*Fraser Agnew, Paul Berry, Gregory Campbell, Wilson Clyde, Nigel Dodds, Boyd Douglas, William Hay, David Hilditch, Billy Hutchinson, Roger Hutchinson, Gardiner*



Kane, Robert McCartney, William McCrea, Maurice Morrow, Ian Paisley Jnr, Edwin Poots, Iris Robinson, Mark Robinson, Jim Shannon, Denis Watson, Peter Weir, Sammy Wilson.

#### NOES

Alex Attwood, Joe Byrne, Seamus Close, Annie Courtney, John Dallat, Duncan Shipley Dalton, Bairbre de Brún, Sean Farren, David Ford, Tommy Gallagher, Carmel Hanna, Denis Haughey, Joe Hendron, John Kelly, Kieran McCarthy, Donovan McClelland, Alasdair McDonnell, Gerry McHugh, Eugene McMenamin, Pat McNamee, Francie Molloy, Jane Morrice, Conor Murphy, Mick Murphy, Sean Neeson, Danny O'Connor, Sue Ramsey, Brid Rodgers.

*Question accordingly negatived.*

*Main Question put.*

*The Assembly divided: Ayes 28; Noes 21.*

#### AYES

Alex Attwood, Joe Byrne, Seamus Close, Annie Courtney, John Dallat, Duncan Shipley Dalton, Bairbre de Brún, Sean Farren, David Ford, Tommy Gallagher, Carmel Hanna, Denis Haughey, Joe Hendron, John Kelly, Kieran McCarthy, Donovan McClelland, Alasdair McDonnell, Gerry McHugh, Eugene McMenamin, Pat McNamee, Francie Molloy, Jane Morrice, Conor Murphy, Mick Murphy, Sean Neeson, Danny O'Connor, Sue Ramsey, Brid Rodgers.

#### NOES

Fraser Agnew, Paul Berry, Gregory Campbell, Wilson Clyde, Nigel Dodds, Boyd Douglas, William Hay, David Hilditch, Derek Hussey, Billy Hutchinson, Roger Hutchinson, Gardiner Kane, Maurice Morrow, Ian Paisley Jnr, Edwin Poots, Iris Robinson, Mark Robinson, Jim Shannon, Denis Watson, Peter Weir, Sammy Wilson.

*Main Question accordingly agreed to.*

*Resolved:*

That this Assembly appoints Seán Neeson MLA as its nominee to the Regional Chamber of the Congress of Regional and Local Authorities of Europe.

*The sitting was suspended at 12.30 pm.*

*On resuming (Madam Deputy Speaker [Ms Morrice] in the Chair) —*

*2.00 pm*

### CREDIT CARD ABUSE

**Mr Dallat:** I beg to move

That this Assembly notes the recent abuse of credit cards used in the payment of expenses by personnel in Government agencies, as contained in the reports by the Comptroller and Auditor General, and calls for a comprehensive review of how Government Departments and their agencies settle their accounts.

I tabled this motion because, as Chairperson of the Audit Committee and a member of the Public Accounts Committee, I am concerned that the practice of issuing credit cards in the public sector is becoming a threat to the normal financial controls that must operate when taxpayers' money is being spent. The threat to financial controls leading to misuse and abuse of credit cards is at two levels. First, there is evidence, which I shall deal with later, that credit cards are being used to subvert accountability to the Assembly for the spending of public money. That is happening because credit cards can be used to circumvent the provision of financial details in invoices and receipts, which are normally used to verify the integrity of transactions.

Secondly, it is also clear that the credit cards are particularly open to abuse in the area of travel and hospitality expenses, which are notoriously difficult to control, even in the best of systems. When there is extensive use of credit cards, there is a correspondingly significant increase in the risk of impropriety. It is important for the Assembly to highlight that problem at as early a stage as possible and to challenge Departments to provide us with assurances that they will tackle it vigorously before more harm is done to the public's perception of financial integrity in the public sector.

To gain some idea of the usage of such cards, I have submitted written questions to all Departments and the Assembly to seek details of the number of cards issued and the expenditure incurred on them during 2001-02. Some very interesting statistics emerged from my enquiries, many of which raised more questions than answers. For example, throughout the public sector, 201 credit cards have been issued, with expenditure of more than £1.5 million having been incurred on them. In other words, approximately £7,500 was spent on each card. The Department of Agriculture and Rural Development has incurred the most on its cards — almost one third of the total credit card expenditure. In contrast, some of the larger Departments have no expenditure and have not even issued any credit cards.

One surprising finding of the exercise was that the Assembly had issued more cards than any other body. In 2001-02, it had 45 cards in use, which was more than all the main Departments put together. It has also spent vastly more on credit cards than any other Department, excluding the Department of Agriculture and Rural Development — some £230,000. I highlight that because, as everyone in the House will agree, we must be absolutely sure that, when we exercise our scrutiny role over the Civil Service Departments, our own practices and procedures must be beyond reproach and fully transparent. I recognise that, if properly controlled, there are benefits from the use of credit cards. That is worth repeating. Credit cards can have benefits, if they are properly controlled.

The Government Purchasing Agency operates a card system for Departments that is intended to reduce the cost of purchasing transactions. That is eminently sensible, as the scheme is firmly underpinned with careful guidance on how and when the cards can be used, and I fully support that. It is not my intention to try to turn the clock back and stop the use of credit cards; my concern is that they must be properly controlled. Credit cards are open to abuse, therefore the operation of those controls must be subject to careful safeguards and checks. At present, the problem does not receive sufficient priority from some Departments.

Let us review the evidence to date. The first time the abuse of credit cards came to my attention was during the Public Accounts Committee's review of the Fire Authority. During the evidence session, the Committee heard that a Fire Authority official had used the departmental credit card to cover travel costs incurred by a member of his family — he used the card for personal purposes. To compound the error, the official subsequently forgot to pay the amount due, until it was drawn to his attention. That incident drew my attention to the potential pitfalls of using credit cards.

The next time that I came across misuse of credit cards was during the Public Accounts Committee's review of the Northern Ireland Tourist Board. Once more, there was evidence that an official in New York was using a card for personal purposes. However, I shall not bore Members with the details, as the Committee will report on the matter later in the session.

The latest case of credit card misuse is in the "Into the West" project. The Department of Enterprise, Trade and Investment is carrying out a review of the matter and will produce a report soon. However, such are the alleged abuses in the scheme that they have already reached the newspaper columns. I shall not comment any further on those cases because the allegations have yet to be formally reported. The Public Accounts Committee will undoubtedly consider any such report.

However, common themes emerge from each of the cases to which I have referred: the use of credit cards for

personal purchases; poor controls in the monitoring of credit card expenditure; and poor backing papers in support of payments.

One of the strengths of the Northern Ireland system is that the average man in the street has confidence in the integrity of public administration — I cannot emphasise that enough. That confidence must not be taken for granted. It is a fragile plant that could wither in the face of repeated failures of financial control and impropriety. Therefore I call on the Minister of Finance and Personnel to give the problem the highest priority before it does more extensive damage to the credibility of our beloved institutions. I would not be surprised to be told by the Minister that a great deal of work is already under way.

**Madam Deputy Speaker:** I call the Deputy Chairperson of the Committee for Finance and Personnel, Mr Conor Murphy.

**The Deputy Chairperson of the Public Accounts Committee (Mr C Murphy):** I welcome today's debate. It is interesting that we are back to debating financial probity and accountability as, earlier today, the Audit and Accountability Bill was given its Second Stage. It appears that Members are back on track with such matters, as measures to ensure that financial probity, accountability and transparency were described as technical distractions yesterday, when we wanted money thrown at projects without any such safeguards.

I support Mr Dallat's motion, and I echo his sentiments that credit cards when used in the right circumstances can be beneficial. The Public Accounts Committee has already raised the issue, and its concerns are well documented.

During the Public Accounts Committee's evidence session with the Northern Ireland Tourist Board on 30 May, the Chairperson stated:

"Public bodies issue credit cards without proper control or guidance, and the cards have become a mechanism for bypassing the normal careful treatment of hospitality and expenses. They are given to staff who, for the most part, are not trained to use them; some officials, when they get their hands on a piece of plastic for which they are not personally paying the bills, seem to lose all sense of value for money and, in some cases, all sense of propriety."

Although I was not a member of the Committee at that time, I share those concerns. However, the problem is not unique to us. The trend towards increased use of credit cards is happening everywhere. There have been cases in Britain, which have been dealt with by the Public Accounts Committee at Westminster, in which credit card misuse has featured.

What is interesting about those cases, and cases that have been dealt with locally, is that credit card misuse is almost always associated with other major problems of impropriety — lack of financial control or poor standards of administration. It is generally a symptom of more serious administrative malaise, which is why it is always important that it be fully investigated and vigorously tackled.

The Public Accounts Committee has asked the Comptroller and Auditor General to be especially vigilant in examining credit card expenditure in his audits of all public bodies in the North. I am glad to report that he has undertaken to do that, which is reassuring. However, it is not enough, as audit — by its very nature — is retrospective. That is why the real burden of dealing with the issue falls on those who have responsibility for financial control in the day-to-day operations of Departments and their subsidiary bodies. That applies especially to the Department of Finance and Personnel, which, I am sure, shares the Public Accounts Committee's concerns.

In the course of its work, the Public Accounts Committee requested the Department of Finance and Personnel to issue further guidance on the control of credit cards. I would like to hear an announcement from the Minister that adequately addresses the Committee's concerns.

**Madam Deputy Speaker:** I apologise to the Member for calling him as Deputy Chairperson of the Committee for Finance and Personnel, when it is the Public Accounts Committee of which he has recently become Deputy Chairperson.

**Mr Close:** Like Mr Murphy, I commend Mr Dallat for tabling the motion. It comes at a particularly opportune time, as reports are being prepared that highlight what can only be referred to as "dubious practices". As elected representatives, Members have a duty to taxpayers. At Budget time, Members vote to allocate taxpayers' money to various Departments, to be spent on legitimate purposes agreed by the Assembly. It is, therefore, incumbent on Members to ensure that taxpayers' money is properly accounted for in all cases.

Earlier today, the Assembly agreed the Second Stage of the Audit and Accountability Bill, which will help to open up more accounts to the scrutiny of the Comptroller and Auditor General, enable him to better follow taxpayers' money, and demonstrate transparency and accountability. This debate highlights the potential abuse of credit cards. Today, therefore, the Assembly is sending out a strong message that abuse of taxpayers' money will not be tolerated. Indeed, zero tolerance will be the benchmark.

Credit cards are, undoubtedly, a convenient and less painful way of spending money — even one's own money. However, a piece of plastic can make some people feel like millionaires. They can be tempted to dispense largesse as if there is no tomorrow, with the foolish belief that the end of the month is merely a mirage.

As guardians of the public purse, the Assembly must make certain that meaningful controls are in place to ensure, as far as possible, that abuse or careless expenditure cannot take place. It is equally important, should careless or inappropriate expenditure take place, to take strong action against any transgression. Those who have credit cards issued to them by Departments, or by the Assembly, need to remember that it is not their money. They should

therefore think at least twice before using such a card. They must be in no doubt that they will be held accountable for its use and, certainly, for any abuse.

Regrettably, my experience on the Public Accounts Committee has shown me that, at times, a distinct lack of control seems to exist in the minds not only of those who have use of a card, but, more alarmingly, in the minds of those who have a financial control function. At times, they appear to have been remiss in exercising control and authority. A crazy situation arose in the Public Accounts Committee where attempts were made to convince the Committee that expenditure on a certain credit card was totally justified even though thousands of pounds worth of receipts were missing.

2.15 pm

A credit card can fuel a bad attitude towards taxpayers' money, and we need to change that. We must put the brakes on and rein in the big spenders by ensuring that proper controls are in place. A duty of care exists not only on those who have a credit card, but on those who issue them. They too are accountable, and they must realise that.

Credit cards can be and, at times, are a temptation. Those entrusted with them should learn the lesson from the Lord's Prayer:

"Lead us not into temptation".

They should be assured that they will never be delivered from having to account for their expenditure.

I regret that the Minister of Enterprise, Trade and Investment is not in the Chamber. Yesterday, I asked a pretty innocuous question about credit card use for hospitality in New York. I want to make it abundantly clear to all Members that the reason so many questions have been asked of the Northern Ireland Tourist Board (NITB) is, unequivocally, the reluctance of the Department of Enterprise, Trade and Investment to answer fully questions posed by the Public Accounts Committee.

There is a lesson therein. When an accounting officer appears before the Public Accounts Committee, he has a duty to answer questions clearly and unequivocally, and to get directly to the point. There must be no attempt to avoid the issue, because that leads to many questions. That is why many questions have been asked about credit cards, and of the NITB in particular.

Mr McClarty raised the cost of such questions. The cost of those questions pales into total and absolute insignificance when compared to the damage the public's confidence suffers when they realise that Departments have failed to exercise control over how taxpayers' money is spent.

Let us examine some of the Public Accounts Committee's reports. The 'Report on Internal Fraud in the Local Enterprise Development Unit' uncovered £200,000 of fraud.



The 'Report on the Brucellosis Outbreak' at the Agricultural Research Institute found that more than £1 million had been wasted. A report on the community regeneration schemes has found some £8 million of loans. In the 'Report on The Rural Development Programme', the sum of money was some £50 million. The common thread that runs through those situations was a lack of control. The motion is about trying to impress "control" as the watchword and about emphasising that there is no moving away from the need to follow clear guidance and controls.

I welcome the Minister's comment yesterday that credit cards

"are a perfectly legitimate means of dealing with public expenditure provided the procedures are in place to ensure accountability." [Official Report, Bound Volume 18, p283]

The core issue, as the Minister said, is to ensure that the people who use credit cards are accountable.

Given that the Tourist Board did not even know that its New York manager was using the card and that the Minister's Department did not know whether instructions to stop using it had been issued or whether there had merely been discussion on the matter, I fail to understand how Sir Reg Empey can be satisfied that proper procedures were in place and that the manager was accountable. Control, control, control will lead to accountability. As elected representatives, we should settle for nothing less. I know and trust that the Minister will treat the issue with the importance that it deserves, and will introduce the necessary controls on the use of credit cards and the spending of public money.

**Mr Kennedy:** I am pleased to contribute to the debate and will not speak for too long. It was unfortunate that Mr Close seemed to pre-empt the Public Accounts Committee's report. That report will eventually make its way to the House where it will be given due and serious consideration.

**Mr Close:** On a point of order, Madam Deputy Speaker. The Public Accounts Committee has already dealt with the issues to which I referred. The reports are in the public domain, and if the Member doubts that, I shall gladly provide him with copies.

**Madam Deputy Speaker:** That is not a point of order.

**Mr Kennedy:** At least Mr Dallat showed some caution when discussing the matter in the absence of the appropriate Minister. It might have been more reasonable for Mr Close to have waited until the Minister at whose Department his criticisms were aimed had the opportunity to respond in the Chamber. However, I understand that Dr Farren is the Minister who takes the lead on those issues, and he is in the Chamber today. I look forward to his response.

On behalf of the Ulster Unionist Party, I stress that the abuse of credit cards is inexcusable and indefensible. It cannot be justified in any circumstance, and any

impropriety must be investigated and dealt with appropriately. We should allow the systems and procedures that have been put in place by the House, and by Ministers who are accountable to the House, to be followed before we establish ourselves as judge, jury and, perhaps, executioner. To ensure accountability, staff who are responsible for carrying a credit card should be given appropriate training and should take care to provide receipts for transactions whenever possible. I hope that the Minister will include such measures in any proposed new scheme or approach.

When commenting on this, people have a tendency to make allegations without producing evidence to back them up. There has been much public comment on the matter, and it cheapens the debate when Members resort to making such allegations in public. Members should not use the issue to promote themselves or to start a political vendetta. Unfortunately, the evidence suggests that some Members are intent on doing just that. I hope that such behaviour will be avoided in future. I look forward to the Minister's response.

**Mr C Murphy:** On a point of order, Madam Deputy Speaker. Mr Kennedy referred to political vendettas and possible motives. Has he ever declared an interest when Northern Ireland Tourist Board issues have been discussed and allegations made in the Assembly? He has frequently attacked some Members and defended others who have questioned those matters; however, I have yet to hear him declare an interest, in that he was a member of the Northern Ireland Tourist Board.

**Madam Deputy Speaker:** The Member knows, as a former Chairperson of the Committee on Procedures, that Members' interests are declared in advance in the Register of Members' Interests. I am assuming that Mr Kennedy has done that.

**Mr Kennedy:** On a point of order, Madam Deputy Speaker. It is important that I establish the fact that, as far as I know, I have registered that interest with the appropriate body.

**Mr Carrick:** In my circumstances, I can honestly claim not to be publicly or politically profiling myself for any forthcoming elections. Anything I say, therefore, is in the interests of the voter, the general public and — as Mr Close indicated — accountability. That is how it should be when it comes to the use or misuse of public funds.

In some ways, it should not have been necessary to table the motion. The vast majority of Government officials and agency staff observe the highest standards of financial propriety and are fully compliant with the guidelines for the use of credit cards. However, the issue has come to the attention of the Public Accounts Committee, and I want to emphasise to Mr Kennedy that there is ample evidence of credit card misuse in the public sector. It is clear from the Comptroller and Auditor General's reports that the public sector's use of credit cards is a growing problem.

Other Members referred to specific cases that have come to the Public Accounts Committee's attention. Those cases reveal two weaknesses about the way in which some public bodies have handled the growing number of credit cards in use. First, cards appear to be issued without proper guidance for staff on their use. That is surprising. In those circumstances, it is little wonder that some staff have abused cards and attempted to circumvent the public sector's normally strong controls for ensuring that payments and refunds of expenses are incurred properly and accounted for fully. That is strange. The evidence suggests, however, that in some cases there was a lack of knowledge about policy. It might be thought unnecessary to spell out to public servants that office credit cards should not be used for cash withdrawals or for personal expenses. However, as Mr Dallat said, experience shows that that does happen.

2.30 pm

Moreover, credit cards are often issued to senior management, and it is especially regrettable that people in management positions were responsible for several of the recent lapses — not the tea maker or the canteen lady. They have no excuse for their actions. Their personal standards should have told them that they should not misuse or abuse public funds. Senior management should set an example in how to account for expenditure.

I am concerned about a second issue. Departments must realise that it is not good enough merely to issue guidance on the use of cards. It seems that, although comprehensive guidance was issued, procedures were not in place to ensure that staff were familiar with it and that they followed it. To monitor guidance and policy is insufficient. Action would have ensured that problems were identified earlier. Indeed, it might have prevented problems from escalating to a point at which they were so worrying as to threaten to discredit the use of credit cards altogether.

I do not want it to become necessary to ban or severely restrict the use of credit cards in the public sector. There is a good case for using credit cards for some transactions, so long as the normal trail of accountability for public money is not undermined. That must be emphasised.

Sustaining accountability is a challenge for Departments, and, by drawing attention to the problem today, it is to be hoped that Members will ensure that the Minister acts promptly to put the use of credit cards in the public sector on a sound footing and so prevent the escalation of the worrying problems that we have seen in the past two years.

It should not have been necessary to have this debate. However, the Public Accounts Committee has accumulated sufficient evidence on credit card abuse to support its call

for a comprehensive review of how Departments and their agencies settle their accounts.

**The Minister of Finance and Personnel (Dr Farren):**

On behalf of the Executive, I welcome the opportunity to respond to the motion. I listened carefully to the Members who spoke. In the past few months, I have noted the concerns of the Northern Ireland Audit Office (NIAO) and the Public Accounts Committee about the use of credit cards by public bodies.

I emphasise that propriety and proper standards in public life are vital for those who are involved in the work of Government. The Audit and Accountability Bill, which Members discussed this morning, demonstrates clearly the Executive's intent to strengthen mechanisms for effective and stringent forms of accountability. The general welcome that the Bill received confirms that that intent is widely shared in the House.

The integrity of the processes of the institutions in Northern Ireland must be supported by the proper control by officials of the handling of public money, and that applies equally to the use of credit cards.

Several Members acknowledged that there are certain significant benefits in using credit cards for some types of transaction. Their use can be more cost-effective and efficient than other methods of payment, and it is important to remind Members of that. Therefore, in principle, I have no objection to their use, and I am not necessarily concerned about the number in circulation. However, the controls that are associated with their use are key, whatever their number.

There are potential problems with credit cards if they are used inappropriately or if there are inadequate internal controls. I agree with Mr Dallat's comments about the need to properly control the use of the credit cards. It is important to have rigorous safeguards, because the nature of credit cards means that those controls must be watertight. The Department of Finance and Personnel has issued guidance that makes that abundantly clear.

Mr Dallat referred to the procurement card scheme that my Department's Procurement Service operates; I encourage its use. The Government procurement card provides all the benefits and facilities of the more traditional corporate credit card, but, importantly, it can provide more security and more controls. Those include enhanced indemnities and restrictions on the monthly accounts and categories of spend. It is for those reasons that the use of the Government procurement card is recommended for all public bodies.

Mr Dallat mentioned the case of credit card misuse in the Fire Authority for Northern Ireland. In that case, the Chief Fire Officer incurred personal expenses. That was wrong, which he has acknowledged. Subsequent to the publication of the Public Accounts Committee's report, my

Department wrote to all Departments and advised them that personal expenses must not be charged to credit cards.

More recently, concerns about the use of a credit card by the Northern Ireland Tourist Board's New York office manager were highlighted in a Public Accounts Committee evidence session. The report on that case will be published shortly, and I await it with interest. I trust that it will be a further spur to addressing issues that are in the public domain, and my Department will follow up on relevant matters.

During the Tourist Board evidence session, my Department gave a commitment that it would revisit the guidance on the use of credit cards to ascertain whether it could be further strengthened and developed. My Department has now prepared revised guidelines on the use of credit cards, and those will be issued shortly to all Departments and public bodies.

Training courses already exist in matters regarding financial recording and control, and those will also be reviewed to ensure that they meet the needs of proper accountability for, and the recording of, all public expenditure.

I assure Mr Dallat and other Members that the Executive are committed to high standards in the handling of public money in Northern Ireland. Important lessons have been drawn from the cases to which I referred, and those are being taken on board in Departments by accounting officers. My Department is supporting the Public Accounts Committee in its work on the matter. Problems have been identified, action has been taken, and there will be other follow-up measures.

Let me make it clear that I welcome the work and the reports of the Public Accounts Committee in that area, and I commend the Committee for drawing our attention to several important issues.

**Mr Dallat:** I thank everyone who participated in the debate, and I especially thank the Minister for his positive response. The misuse of credit cards to date, together with the potential for further abuse, must be dealt with head-on — we have received that assurance. The incidences of credit card abuse that were described have been extremely embarrassing to the Departments involved and have greatly undermined public confidence in the Administration.

Key questions were raised today, which the Minister addressed. Are the cards required? A question that has been emphasised repeatedly is: are adequate controls in place? More importantly, have the controls been implemented? Are the cards being used only when appropriate? Where cards have been misused, have lessons been learnt? Have controls been introduced to prevent further abuse? The Minister has taken appropriate action to ensure that.

The only downside to the debate was Mr Kennedy's negative attitude — I am extremely disappointed that he

has not stayed for the summing-up — and his use of words and phrases like “vendetta” and “judge, jury and, perhaps, executioner”, although the language is more moderate than that used yesterday. I am sure that I speak for every member of the Public Accounts Committee and for every Member of the Assembly when I say — and if Billy Bell were present today, I am sure he, too, would agree — that we do not want these issues to become a political or sectarian football. Accountability to the taxpayer is too great an issue to become embroiled in petty point-scoring and name-calling. I thought that the Assembly was mature enough to deal with such matters in a reasonable and pragmatic manner. Unfortunately, some Members still have to climb out of entrenched positions. They fail to recognise that the Assembly has a prime responsibility to safeguard the taxpayers' money.

It may surprise Mr Kennedy to know that I listened carefully to Sir Reg Empey's response to questions yesterday on the credit card issued to the Tourist Board's New York manager, and, believe it or not, I agree with most of what he said. I welcome particularly the Minister's comment on credit cards that

“the core issue is to ensure that the people who use them are accountable and answerable.” — [*Official Report, Bound Volume 18, p283*]

Words must be matched by deeds, and the evidence suggests that the Department of Enterprise, Trade and Investment was perhaps the most guilty in its failure to properly control credit card expenditure.

I do not, however, want to end on a negative note. I thank again those Members who made a valuable and positive contribution to the debate, and I welcome the Minister's response, which clearly demonstrated that the Assembly is mature enough to ensure that every single penny of public money is accounted for and well spent.

*Question put and agreed to.*

*Resolved:*

That this Assembly notes the recent abuse of credit cards used in the payment of expenses by personnel in Government agencies, as contained in the reports by the Comptroller and Auditor General, and calls for a comprehensive review of how Government Departments and their agencies settle their accounts.



2.45 pm

## VICTIMS' MEMORIAL GARDEN

**Mr Foster:** I beg to move

That this Assembly recognises the heartache and suffering of the families of victims who perished as a result of the September 11 terrorist attack in the United States and welcomes Her Majesty's Government's funding for a memorial garden in remembrance of those victims. Accordingly, this Assembly calls upon Her Majesty's Government to extend the same respect to the victims who died as a result of terrorism in this part of the United Kingdom by financing the creation of a similar memorial garden in Great Britain.

Much comment has been made about victims over the years, and, of course, that has caused a great deal of heated discussion. The tabling of this motion comes on the back of recent press coverage of Rita Restorick's request for Government funding for a memorial. Mrs Restorick is outraged by the refusal of Her Majesty's Government to provide financial support for a memorial garden in Great Britain to commemorate soldiers who died as a result of terrorist acts during the Northern Ireland troubles.

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

Mrs Restorick asked the Government to pay for plaques for the trees in the Ulster Ash Grove at the National Memorial Arboretum in Staffordshire, at a cost of £72,000. At the moment, a plastic label engraved with the name of a victim is tied around each tree. There are 719 trees, each one representing a British soldier murdered in Northern Ireland. However, the Government said that they had a policy of not providing state funds for such memorials because "it would not be fair to be seen to support one group rather than another."

One can appreciate the difficulty that the Government face when dealing with the many requests for assistance. However, there is a clear lack of consistency in their actions, and they seem to have disregarded their policy.

On 13 August 2002, Tessa Jowell, the Secretary of State for Culture, Media and Sport, announced plans for a memorial garden to commemorate the victims of the 11 September attacks in the United States. The Government are contributing £1 million to the memorial at Grosvenor Square Garden in London. It is important to say that the victims of those terrorist attacks have a right to remember their loved ones that should not be denied. However, we should also be sensitive to the hearts of the victims of terrorism in Northern Ireland.

Essentially, the motion calls for equality of treatment: we wish to see parity of esteem. The families of the victims of 11 September should be able to remember their loved ones through a Government-financed memorial, and so too should the families of the victims of terrorism in

Northern Ireland. Security personnel and civilians who died as a result of terrorism should be recognised.

What have our Government done to remember the two people killed in the London docklands bomb in February 1996? In April 1993, an IRA bomb in Bishopsgate in London killed one person and injured 44. Just one year before that, three people were killed by an IRA bomb outside the Baltic Exchange in London. As far as I am aware, the Government have not directly funded any memorial for military personnel or civilians killed during the troubles.

There may be some confusion about whether we are calling for a separate memorial garden for civilians killed as a result of terrorism. The primary reason for the motion is to call on the Government to consistently adhere to their policy. For example, they should fund the plaques that Rita Restorick has been calling for. However, there is an argument that a memorial garden should be set up for civilian victims, funded by the Government.

While I was drafting this speech, I was amazed to find that the Government had consulted the families of victims of 11 September. What consultation have the Government undertaken recently with the families of the victims that I mentioned? The Government should not add to the pain and suffering of those families; they should be proud of those who, despite what some may suggest, lost their lives protecting everyone in Northern Ireland, regardless of which community they belonged to. I have a duty to those who were murdered because they paid the price for protecting me and you in this Province. Ironically, those soldiers protected the lives of people who will undoubtedly be opposed to the motion for political reasons. I hope that we will be able to have a sensible debate, and that we will not be dragged into the sectarian gutter.

It is vital to point out that, for the 719 British soldiers murdered, few murderers have been convicted. Families find it hard to deal with that pain, and our Government's hypocrisy and double standards are only another kick in the teeth. While Her Majesty's Government marked time, and, in doing so, offended many good and broken-hearted citizens, an event took place that was most offensive to those who had lost loved ones in the terrorist campaign. A gala dinner, held in Dublin some months ago, was organised by the IRA and graced — wait for it — by Sinn Féin's Gerry Adams and Martin McGuinness. Relatives were presented with a gold Easter lily for each of their dead.

That shows that an illegal army grouping is admired and recognised. Those terrorists who destroyed so many and so much over the past 30 years are seen as heroes because they destroyed so many people and broke so many hearts and homes. Meanwhile, all those innocents who suffer and sorrow over their loved ones wait in vain for some official recognition of the ash grove. That is

due to an entrenched Ministry of Defence culture that says that when in the slightest doubt, it is best to do absolutely nothing. Nobody would ever say so publicly, but some officials, officers and politicians are bending over backwards not to offend the paramilitary groups in Northern Ireland.

I think specifically of the many innocent victims who went out to do their daily chores and never returned to their loved ones. They had no intent to murder and maim. They did not go out in a premeditated fashion to murder anyone, whereas terrorists go out to destroy by whatever means.

I think deeply about the atrocities at La Mon House; Teebane; Greysteel; my home town of Enniskillen some 15 years ago; Kingsmills; Claudy, currently in the news due to the allegations coming to the fore; and Omagh, the worst atrocity in size. Those were terrible acts and inhumane deeds against a community. Are they ever pardonable? They are but a few of the brutal acts of aggression perpetrated against this community. Concentrate your mind on the blood, broken bodies and broken hearts in the aftermath. Those hearts and minds were torn asunder, never to be the same again. What a horrible thought. What an affliction upon so many innocents, yet recognition of those victims is begrudged.

All compassionate people will support the motion. Innocent victims are those who suffered at the hands of terrorists. Innocents do not go out in a premeditated fashion to murder and to destroy. It was not because of any commission or lack of commission on their part that they became victims.

**Mr Deputy Speaker:** I have received one amendment to the motion, which is published on the Marshalled List of amendments.

**Mr Berry:** I beg to move the following amendment: In line 6, after “respect to the”, insert: “innocent”.

I commend our Colleagues for tabling the motion.

It is right and proper that we discuss this sensitive issue. The events of September 11 have drawn worldwide attention to terrorism as a gross and wicked evil that must be eradicated. When bin Laden and his cohorts blew up the twin towers on September 11, he also blew up the polite fiction of romantic terrorism, which was widespread in New York regarding the ferocious, murderous and bloodthirsty campaign of Sinn Féin/IRA. We had to suffer that murder campaign for 30 years, but, sadly, many turned a blind eye to those activities. It seems that the innocent who were made to suffer so much are at last getting some deserved recognition. However, even in this, we must tread carefully.

The amendment in the name of my Colleague Maurice Morrow and me seeks to make clear precisely who the victims are, and there is a need to do so. As one writer put it:

“this is in part because the mind-twisting of the terrorist feeds the moral confusion of the West’s — the UK’s — “corrupted liberal orthodoxy. This sees a moral equivalence between terror and measures to protect against it. Believing there is no such thing as truth, it embraces lies instead and cannot distinguish victims from their victimisers.”

There is a moral imperative to distinguish between those who perpetrate crime and those who are the innocent victims of that crime. Failure to do so leads to, and creates, injustice and moral confusion. The current vogue for making everyone a victim is a direct result of the denial of moral absolutes, which is the key feature of our post-modern age.

There is a difference between those who were murdered at Greysteel, Kingsmills, Narrow Water Castle, Claudy, Omagh and, regrettably, a host of other atrocities, and those who committed such crimes. Those murdered were people going about their normal activities, whether at the shops, at work, in their church or in a pub socialising. Those are the kinds of people who were hated by terrorists no matter what side of the community they came from. They were considered as legitimate targets and were thus killed or maimed. They deserve our tears, and they deserve to be remembered.

People who set out to kill, maim and destroy deserve no tears. Whatever political logic led them to such acts did not, and does not, justify the murder, death and destruction of our innocent people. Their names should be held in contempt, as they are by decent and honourable people. They committed atrocities and heinous crimes against innocent people, and their names should not be recorded on any memorial bearing victims’ names. Many people find it sickening that those who have been active in terrorism, or who have supported it, try to excuse themselves by claiming an affinity with, and to be included in, the concept of a victim.

There is no moral equivalence between a bomber and a victim. We hear the sentimental nonsense that we are all victims. That is nothing but an attempt to excuse the perpetrators and to shift the blame to the innocent victims — as if they were partly responsible for the crime. It is to say that victims were responsible for their own deaths or injuries at the hands of terrorists. That does a double disservice to the victim and is morally repugnant to all right-thinking people.

It is imperative that a distinction be made clearly today. If it is not, the Assembly will demonstrate that it lacks the moral principles to distinguish between right and wrong. Are we to say that there is a similarity between the terrorists and the workmen murdered at Teebane, or those murdered in the bookie’s shop on the Ormeau Road? I do not think so. So long as the command not to murder remains, the distinction between the victim and the perpetrator will also remain.

I have spoken to victims' groups on many occasions. It always came across clearly that they did not want to be remembered alongside those who claimed to be victims but were really perpetrators of heinous crimes. It was also clear that terrorists, from whatever side of the community, had a choice. People in Greysteel, enjoying a pint with their neighbours and friends, did not have a choice about being murdered: it was placed on them, and crime and murder prevailed.

Terrorists do not understand exactly what has happened. They had the choice to go out and kill, or to not go out and kill. Sadly they went out and killed innocent people. Victims — from whatever side of the community — did not have a choice, whether they were worshipping God in Darkley Gospel Hall, or having a pint in Greysteel or anywhere else across the country. Gunmen came in and murdered them in front of everyone.

I support the amendment.

**Dr Hendron:** On Friday 28 June I held my last surgery in primary care — I had been in practice for around 40 years. I could go on for hours, as could many Members, about the victims who were slaughtered and about the families who are still trying to pick up the pieces.

Like other Members, I attended the funerals and looked into the graves — some of the people had been my patients. I remember attending to a young soldier on the Falls Road as he breathed his last breath. Everything that I have been taught and every feeling that I have makes me deeply resentful of taking human life, no matter whose life it is. No person has a right to take anyone else's life — whether inside or outside the womb — and I feel very strongly about that.

In all my years in primary care I had much experience of dealing with families who have had someone taken away. It was usually the father who was taken, although occasionally it was the mother. We had the case of Jean McConville, the mother of 10, who has been mentioned again recently.

3.00 pm

I also deeply resent the fact that young families are reared without their fathers every day of the week and every week of the year. It is not surprising that some of those young children, partly because of what happened to their fathers, become involved in the wrong activities, even paramilitary activities. I could go on for hours about that.

I have talked about those who have died; but there are also the injured bodies. I have known several policemen who have suffered horrific injuries. One or two of them are in wheelchairs, and their suffering continues. Children who are now adults still carry scars. However, it is not only about the scars on people's bodies, but about the scars on people's hearts and on the two communities in

Northern Ireland. I think it was Churchill who said that the alternative to peace was war. However, the reverse is also true: the alternative to war is peace.

The Assembly has no control over demands made of the Government in Britain. The idea of a memorial garden for all the victims of the troubles is a good one in principle, but it must be achieved through a broad political consensus. The location of such a garden, its nature and style, and whom it should commemorate are important considerations. That consensus should involve Nationalists, Republicans, Unionists and Loyalists; otherwise it becomes a points-scoring exercise. We have only to think of Loyalist and Republican memorials and the strife, division and hatred that they cause. Consensus has not been reached, because the community has not come to terms with its history. Therefore, the question is premature.

All victims of the troubles should be acknowledged, both individually and collectively. We have supported the Executive's extensive proposals for assisting victims. We have advocated the establishment, from public funds, of a centre for reconciliation, which would contain a state-of-the-art audio-visual archive in a central public building. Such a centre would allow visitors to hear testimonies from victims or their families. That has happened in South Africa. Moreover we would see what was happening in the process of cross-community reconciliation, and we approve of an annual day of reconciliation.

I often wonder what we can do for those who have died. My party has made proposals in that regard. However, some people would say that the mightiest voice of all is the voice of God, and I accept that. As a Christian, I remember the words of the old song:

"If those lips could only speak  
If those eyes could only see".

If only those who have been killed could speak to us. I have no monopoly on what they might say, but I feel in my heart that they would not want revenge or war. They would want peace for their families and a future for their children. It is important to remember the dead, but let us help those who have suffered. I know that many are trying to do that.

Above all, the biggest tribute that we could pay to the dead of Northern Ireland — whether soldiers, police officers or civilians — would be to make the structures of the Assembly work. The Assembly is the future for the people, especially the children, of Northern Ireland.

**Mr McNamee:** Go raibh maith agat, a LeasCheann Comhairle. Tá cúpla focal le rá agam. While the institutions of the Good Friday Agreement head for collapse, we have yet another selective motion on victims from the Ulster Unionist Party.

There are two parts to the motion. The first part deals with the events of 11 September. I have no difficulty in recognising the heartache, suffering, loss and grief of



the families of all the victims of the attack on the twin towers. That part of the motion makes no distinction between any of the victims of that terrible event. It equally recognises Irish Americans, English Americans, other nationalities and ethnic groups; it makes no distinction between blacks, whites and people from other ethnic backgrounds; and it gives equal recognition to the manual workers who were carrying out maintenance work on the building and to the company executives who worked there — all of whom perished.

**Dr Birnie:** Does the Member accept that the point about the memorial in London is that it does draw a distinction? It draws a distinction between those who died in the twin towers as a result of terrorism and those who were sadly responsible for flying the aircraft into the towers — the terrorists. That is the crucial distinction. What the Member says, therefore, is not relevant.

**Mr McNamee:** I do not accept that my remarks are not relevant. All the victims of the events of 11 September are equally recognised in the terms of this motion. There should be no distinction between the victims. All the victims and their families should receive equal recognition.

However, the second part of the motion calls for the finance to create a memorial garden

“to the victims who died as a result of terrorism in this part of the United Kingdom”.

Who will define terrorism? Members know what the Ulster Unionist Party and others mean by the “victims” of terrorism. They focus first on the victims of IRA and Republican actions and then, selectively, on the victims of other paramilitary groups. In doing so, they exclude the victims of British state forces and the victims of British collusion in this part of Ireland and in the rest of Ireland. The motion refers to victims in this part of Ireland and, in doing so, excludes victims in the rest of Ireland and in Britain.

The motion excludes the families of the victims of the Monaghan and Dublin bombings. That exclusive approach to victims is part of a wider and deeper problem in Unionism. We are eight years into the peace process, yet Unionists seem not to be prepared to accept that conflict resolution means a recognition of all victims of the conflict equally. There can be no hierarchy of victims.

The section of the Good Friday Agreement titled “Reconciliation and Victims of Violence” states that

“it is essential to acknowledge and address the suffering of the victims of violence as a necessary element of reconciliation.”

“Acknowledge” and “address” are the key words.

**Mr Deputy Speaker:** Please bear with me, Mr McNamee. Yesterday, during the debate on the Belfast Rape Crisis and Sexual Abuse Centre, which I thought was a crucial issue, I was disappointed that some Members were indulging in private conversations while Members

spoke. This debate is also on a serious issue and, again, I am disappointed to find some Members carrying on private conversations.

**Mr McNamee:** Mr Deputy Speaker, I assure you that I am not engaging in a private conversation. What I have to say is for the public to hear. The Good Friday Agreement states that it is essential to “acknowledge” and “address” the issues of all victims. Republicans have publicly acknowledged the suffering of all victims, but I do not hear anything from Unionists thus far that recognises or acknowledges all the victims of the conflict.

In my constituency of Newry and Armagh, Peter Cleary was abducted and shot dead. He was unarmed and had been searched, and he was shot dead by members of the British Army. Majella O'Hare was a schoolgirl when she was shot dead by members of the Parachute Regiment.

The motion seeks to exclude the families of those victims and to deny their loss and suffering. Many people are observing the current situation, the Ulster Unionist Party and the political institutions that arose from the Good Friday Agreement. There is a belief that Ulster Unionism is walking away from the agreement before it walks away from the institutions in January. Another paragraph in the Good Friday Agreement says that

“It is recognised that victims have a right to remember as well as to contribute to a changed society. The achievement of a peaceful and just society would be the true memorial to the victims of violence.”

The DUP has tabled an amendment that seeks to exclude victims' families further. It wishes to reduce the recognition of victims to “innocent” victims. Who will determine whether victims were innocent? Will the DUP decide? The DUP seeks to label some victims as innocent and, by implication, others as guilty. We have heard a great deal about the victims of Republican violence, and I acknowledge and accept the suffering that the actions of Republicans and the IRA have caused to the victims and their families. However, in recent months, Loyalist violence has been responsible for taking people's lives, and for making women widows and children parentless. That violence represents the greatest threat to the peace process and the process of reconciliation.

I support a call for the British Government to finance a memorial garden to acknowledge all the victims of the conflict here over the past 30 years. Sinn Féin is willing to acknowledge the suffering of all victims, including those to whom Mr Foster and Mr Berry referred. However, it will not support a motion that seeks to remember some victims and exclude others.

Go raibh maith agat.

**Mr Boyd:** It is right and proper that Her Majesty's Government provide and fund a memorial garden to commemorate the victims of the 11 September attacks. They were victims of appalling acts of terrorism against democracy and freedom. On 13 August, Tessa Jowell,

the Secretary of State for Culture, Media and Sport at Westminster, referred to the memorial garden for the 11 September victims. She stated:

"Our intention is to provide a garden that will be simple, dignified and designed to the highest quality. It will also allow for privacy and seclusion for visitors. The families affected have, of course, been consulted and the design draws on their suggestions."

However, the same rights should apply to the innocent victims who died as a result of terrorism in Northern Ireland. It is essential that Her Majesty's Government treat them equally. Regrettably, instead of the victims being treated with dignity and respect, Her Majesty's Government are treating them in a disgraceful way for political expediency. It is a scandal that relatives of servicemen who were murdered in Northern Ireland must pay £100 each if they want a permanent memorial plaque erected in memory of their loved ones. A date has not even been arranged for the dedication of a memorial garden at the National Memorial Arboretum in Staffordshire. Some regiments have agreed to pay for plaques, but others have said that the cost is prohibitive, as they have lost so many men.

It is appalling that the victims' families have been left to pay for memorial plaques for their loved ones who made the supreme sacrifice for their country against the evils of terrorism. A special dedication service for the innocent victims of terrorism in Northern Ireland was due to have taken place in September 2001 at the Ulster Ash Grove Memorial, but Her Majesty's Government have yet to arrange it.

According to the 'Daily Express' of 29 April 2002, an Army source claimed that Ministry of Defence officials are worried about sending out the wrong signals by holding an official ceremony while the peace process is at a delicate stage. The Army source added that no one would ever say so publicly, but there are officials, officers and politicians who are bending over backwards not to offend the paramilitary groups in Northern Ireland. That is a scandal. It is essential that the innocent victims who were murdered as a result of terrorism here receive the same respect from Her Majesty's Government as the victims of 11 September.

3.15 pm

I support the amended motion. A distinction must be made between the innocent victims murdered by the evils of terrorism and the terrorists who perpetrated such atrocities. All decent, law-abiding people know the difference. However, the tablers of the motion displayed grave hypocrisy. They compounded the hurt of the victims of terrorists and their families by placing the political wing of the Provisional IRA in the Government of Northern Ireland.

The families of those murdered by terrorists are justifiably angry that their loved ones have died in vain. The tablers of the motion and their party must recognise

that we have a duty as democrats to uphold the principles of democracy and the rule of law. It would therefore be a fitting tribute to the memory of the innocent victims and a fundamental requirement of democracy to exclude terrorists from the Government of Northern Ireland with immediate effect.

**Mr Shannon:** I support the amendment proposed by my Colleague Paul Berry. It gives me an opportunity to highlight the issue on behalf of the innocent victims. There has been a shortfall in the Government's attitude towards the victims of terrorist attacks in Northern Ireland. I wonder what the reasons are for not acknowledging people here; perhaps we are too far away. Many people think that the Government feel that they do not need to bother with us.

The catalogue of callous disregard for the innocent victims of terrorist activity in the Province is highlighted by the compensation procedure. Widows and parents of police officers were offered a few hundred pounds in compensation for the loss of their spouses or children. We recently heard how surviving victims who tried to obtain compensation have been treated for years. It should, therefore, come as no surprise that the Government have never offered to build a memorial garden for the innocent victims of terrorism in Northern Ireland.

There is no sign to future generations of the hurt and pain that this country has felt for the past 30 years, except the feelings in the hearts of those who have lost loved ones. There is no monument to the people who were butchered for someone else's cause, some by people associated with this Chamber, according to the headlines in yesterday's papers.

I, and many Members, have lost friends at the hands of people who stated that the deaths and carnage were acceptable war losses in their fight for patriotism. What is sickening is that I can see the faces and names of my friends and many others. I have an RUC poster on the wall of my office — Members may have similar pictures in their advice centres — that has the pictures and names of all the police officers who gave their lives in the service of Queen and country, the people and their families. Each picture tells a story of sacrifice.

Neither outsiders who visit this country nor future generations will be able to recall the names or faces of the victims. That situation must be rectified now. We must have a more significant memorial than the poster in my office.

There is no Christian way to deal with the pain other than to respect those who lost their lives in this country by establishing a lasting memorial of some kind. The bombs and bullets used against the people of this country shattered not only lives and families, they fractured communities. Every gramme of Semtex and every ounce of lead used against the people of the Province deepened the polarisation of the country.

The Labour Government have not aided the healing process; they have snubbed the hurt, the bereaved and the angry. Many people are angry about their treatment of victims. The Labour Government recognise Her Majesty's subjects who died in America — as do we — or those who died in other war-torn parts of the world. However, they have never proposed such recognition of the people from all parts of the United Kingdom and Europe who were murdered right on their doorstep. There is no difference between the victims of al-Qaeda, ETA or the IRA. We must ask why the Government have never proposed a memorial to the victims of terrorism in Northern Ireland.

Words alone cannot explain to others the pain and hurt experienced when a loved one has been brutally snatched from a loving home. However, a place of reflection and sanctity that honours the victims gives families a focus for their healing, or their anger at what has taken place. It is a permanent reminder of those who have been killed, so that their sacrifice is not forgotten and the abhorrent actions of those who work for a mythical cause are not brushed under the carpet and overlooked in all the rhetoric of the peace process.

**Rev Dr Ian Paisley:** Is it not significant that, in the British House of Commons, there is no memorial to the Rev Robert Bradford, although there are such memorials to Airey Neave and others? When a motion was tabled by some Unionist Members acting across the board, it was rejected.

**Mr Shannon:** I thank the hon Member for his contribution, which puts matters in clear perspective. There is selective recognition at Westminster. The murders of Airey Neave and Robert Bradford were equal in their horror and the impact that they had on their families, and they should have been recognised and remembered equally at Westminster as many of us remember them here.

In January 1970, during the Vietnam War, Major Michael Davis O'Donnell illustrated succinctly the thoughts of the ordinary citizens of this country when they are asked whether there should be a memorial to the victims of the troubles. His troubles were in a different place, and yet he opposed a faceless danger that was similar to that which the security forces and the innocent victims of this country have faced here over the years. The danger that he faced was similar to that faced by the ordinary people of Northern Ireland who died on our streets and thus became our heroes, and who remain in our past as a testimony to how much we have all suffered and how much we have lost. Major O'Donnell wrote:

"If you are able,  
save for them a place  
inside of you  
and save one backward glance  
when you are leaving  
for the places they can no longer go.  
Be not ashamed to  
say you loved them,  
though you may or may not have always.  
Take what they have left

and what they have taught you with their dying  
and keep it with your own.  
And in that time  
when men decide and feel safe  
to call the war insane,  
take one moment to embrace  
those gentle heroes  
you left behind."

The veterans of the Vietnam War had to fight hard for many years — and I draw the comparison with Northern Ireland — before their memorial was built, 20 years ago this year. I do not want the families or the innocent victims of terrorism in this country to have to fight for long years to get an appropriate and lasting memorial to their loved ones.

Memorial gardens in different towns have been subject to the horrors of the troubles, and some of those memorials, especially those of soldiers, have been vandalised. That has happened to a memorial to four UDR men from the Strangford constituency who were murdered by the IRA some years ago outside Downpatrick. The IRA — scum that they are — destroyed and desecrated that memorial, which the families had visited regularly and at which they had laid flowers. For a short time it was a memorial to their loved ones in that part of the country. The IRA destroyed that; they are the sort of people who have no respect for the memories of those who have given everything for this country.

We seek a place that is dedicated to those whom we have lost along the way — one place to which anyone can go to learn about the horror visited upon us for more than 30 years on the pretext of patriotism but which showed us how palpable evil really is. It is only right that the Labour Government afford the people of Northern Ireland the same respect that the victims of 11 September have been afforded in England, Wales, Scotland and elsewhere. After all, those victims have all been killed at the hands of terrorists, just as they have in this country. I support the amendment.

**Mr Armstrong:** I am honoured to support the motion. It is an important issue for the thousands of victims of 30 years of terrorist murder and mayhem, which blighted the landscape of Northern Ireland and which left many without a father, mother, brother, sister or other relative. As a former member of the security forces, I have long recognised the work being carried out to protect everyone in Northern Ireland. Today, memories of past atrocities are still vivid in the minds of many people, despite the imperfect peace. Although people can move forward, they can never forget their loved ones who died as a result of cowards and terrorists; nor should they.

I have not had the opportunity to visit the Ulster Ash Grove at the National Memorial Arboretum in Staffordshire — established by private funds and largely the work of David Childs — but one day I would like to make the trip. However, I have been reading some comments about its appearance and the effect that it has had on



some people who visited it. Rita Restorick commented that a figure or statistic on a piece of paper, which represents the number of military killed, does not hit the mind hard enough. She said that when one sees the small forest of trees, the loss and murder hits home much more.

Our Government's policy on the matter of a permanent memorial to honour those who gave their lives is shameful. In Northern Ireland, more than 700 military personnel gave their lives on behalf of their country. However, our Government — the Government of their country — does not fund a memorial. That is hurtful and disingenuous to their memory.

Her Majesty's Government recently announced their intention to create a permanent memorial to commemorate those who died as a result of the 11 September terrorist attacks. Although I do not object to that decision, the Government should look closer to home and seek to honour our own who lost their lives because of terrorists. We heard recently how the Ministry of Defence failed to fund permanent plaques on memorial trees in the National Memorial Arboretum.

In March, I was disgusted to hear that the families of IRA terrorists had been treated to a gala dinner in honour of members of the Provisional IRA. Imagine how the families of those brutally murdered by the same IRA men reacted when they heard those reports. They would have felt betrayed and disgusted.

In a recent newspaper article, SDLP Member Patricia Lewsley said that a traditional memorial would be too controversial. I refute that argument unreservedly. What is controversial about honouring those who died for the sake of their country in the war against terrorism? Certain officials have been quoted as saying that an official memorial would send out the wrong signals. It is time that our Government stood up for what is right and stopped courting paramilitaries.

In 1998 the Bloomfield Report, titled 'We Will Remember Them', recommended a memorial to victims in the form of a beautiful building with a peaceful garden. I reiterate that call and demand that our Westminster Government honour all those who have honoured us. They have let the law-abiding people of Northern Ireland down yet again. It is time to create a memorial garden.

**Mr Campbell:** It is always a privilege to follow the vivid and lucid arguments of Mr Armstrong. I thank the proposers of the motion and the amendment, and I add my support.

The critical words of the motion are "heartache and suffering"; there has been much of that over the past 34 years, and it continues. Another important word is contained in the amendment, and that is "innocent". That word is a crucial part of the motion. Earlier in the debate we heard an attempted defence — if there could be one — of the spurious argument to equate those who plant

bombs with those who suffer because of them. That argument attempts to say that he who pulls the trigger is as much a victim as the person who receives the bullet, which is nonsensical. If we took that to its logical conclusion, we should ask the American Government to pay tribute to the suicide bombers in the planes, as well as to the innocent victims who suffered in the World Trade Centre. That is utter and total nonsense.

However, there is, of course, political reasoning behind that.

It is one by which they try to ensure that people will eventually be persuaded that this was a conflict of equals — that the farmer who farmed the fields was as guilty as the person who hid in the hedgerow to kill him. They try to say that the bus driver in Londonderry was as guilty as the mob from the Provisional IRA — not the Continuity IRA, or the Real IRA — who stepped on-board his bus and attempted to kill him a few days ago. Their guns were anything but silent on that occasion.

3.30 pm

The crucial word is "innocent". The community demands that the Assembly distinguish between people who suffer as a result of violence and those who perpetrate violence. There cannot be any equivocation in the moral argument between perpetrator and victim. I, therefore, heartily endorse the motion. I hope that the House will endorse it and that Her Majesty's Government will fund such a memorial garden.

**Mr Morrow:** The tenor of the motion and the amendment was never to be that all victims were on one side. I recognise that there were innocent victims on both sides of the religious divide in the community. Many people from the Roman Catholic tradition were murdered. I condemn those killings with the same ferocity as I condemn the killing of those who are perceived to come from my community.

During my time in public life — around 29 years in Dungannon District Council — I have never sought to take the easy path of only condemning the killing of members of my own community. I condemned all killings. I live in what was then deemed to be the "murder triangle", where many innocent people were killed simply because of who they were.

I never differentiated in my condemnation. When I condemned killings, I did not insert any "ifs", "ands" or "buts". I was clear and unequivocal in my condemnation of the killing of people whom I believed to be innocent and who were killed simply because of who they were.

I welcome the fact that the proposers of the motion have agreed to include the one-word amendment — "innocent" — because Members on this side of the House make a difference between innocent victims and those who perpetrate terror. I want to make it clear that

there is a distinct difference. There must be a clear demarcation line between people who perpetrate such crimes and those who are on the receiving end of them.

I listened with interest to what Mr Armstrong said, although, I confess, I did not pick up everything. However, one point struck me. He said that the Government must stop pandering to terrorists. I agree. However, was it not his party that went arm in arm into the talks with those who have been fully engaged in terrorism during the past 30 years to hammer out the Belfast Agreement? The Belfast Agreement brought about the Assembly. Therefore, those who were engaged in acts of terrorism have helped to keep Mr Armstrong's party leader in Government. Had those two supporters, who would be aligned to a particular organisation, withdrawn their support, then Mr Armstrong's party leader would not be in place today. I see that Mr Armstrong is telling me that he supports emphatically his party leader. Therefore, he is part of that pandering to terrorists.

In my estimation, 11 September 2001 was the defining moment for the free world. On that dreadful day, the world saw the awfulness of terrorism at first hand. Was it not ironic that terrorism should hit a country that has, to say the least, been ambivalent in its condemnation of terrorism in Northern Ireland? We have repeatedly seen television coverage of that awful event. Hardly a month goes past without its being reshown to remind us. As we watch the footage of those planes crashing into the high-rise buildings, the awfulness, rawness and dreadfulness of terrorism, whether in America or Northern Ireland, is brought home vividly.

We have had to endure 30 years of terrorism. I do not remember many presidents getting worked up about what was happening here. Indeed, I hold the previous President, Clinton, more accountable than any other world leader for giving encouragement, succour and support to terrorists in Northern Ireland. He helped to build them up, and they are now recognised as statesmen. They have been elevated to the same level as those of us who passionately believe in the ballot box — and the ballot box alone — to put people into power.

Some people sit in the Assembly and in the Government by virtue of the barrel of a gun. The rest of us do not have any private armies. Until those private armies are destroyed, we cannot hold out much hope for the future peace in this country.

I will be delighted when steps are taken to recognise the innocent victims. Not all victims are dead: many are still alive. The town of Claudy is back in the news headlines this morning. We have heard about a young nine-year-old lassie who was blown to pieces while cleaning the window of her father's shop. If anyone was an innocent victim, it was that wee lassie. She epitomises what we are trying to say through the motion.

I urge everyone to support the amended motion, without any ifs, ands or buts. I say to those on the opposite Benches that we have no hidden agenda in bringing the amendment. We do not isolate victims and say that they all came from our side of the community, for that was not the case. There were victims on both sides of the community. All innocent victims should be recognised equally.

However, we draw a clear distinction between perpetrators and sufferers. It is imperative that the two are not mixed up, because to do so would be to be highly offensive. It would be an insult for the real victims if those who perpetrated crimes were remembered by the same memorial as those who are now in their graves because of those crimes.

I use but one illustration; I could use hundreds of others. For instance, how would the families of those killed in the fish shop on Shankill Road feel if the person who planted the bomb and the victims of that bomb were all classed as victims? It is not acceptable. We want to recognise the real victims, irrespective of which section of the community they came from, and I urge the Assembly to follow suit.

**Mr Kennedy:** I am slightly disappointed at the attendance in the Chamber for this debate. Although I accept that the matter is not the direct responsibility of the Office of the First Minister and the Deputy First Minister, the junior Ministers have some responsibility in that regard, and I am disappointed that they are not present.

I thank all the Members who contributed to the debate, particularly those who endorsed the motion and those who proposed the amendment. This issue is clearly important and deserves the attention, not only of Members, but of Her Majesty's Government, within whose remit it falls. The motion refers to the tragic events of 11 September 2001 and Her Majesty's Government's entirely appropriate response to them, which involves providing a memorial to the British victims murdered in that atrocity. I was pleased that many Members agreed that such a memorial should be provided to commemorate that dreadful event.

The motion is also intended to encourage and persuade Her Majesty's Government to recognise the great sacrifices made by the people of Northern Ireland and by all those who died as a result of terrorism, in whatever form, in the conflict here. As was mentioned in the debate, recommendations were included in a report by Sir Kenneth Bloomfield, but action has yet to be taken on some of them. I thank my Colleague Sam Foster, who has already said that the amendment should be included in the motion. The amendment helps to convey the intended message to the Government.

Many victims' groups are exploring ways to create lasting memorials to reflect the pain and great suffering

that has been endured in the past generation, and many of those plans are advanced. Given the importance of this issue, it might be practical to build several memorial gardens in Northern Ireland so that relatives could access them easily. Memorial centres would complement any national or regional memorial dedicated to the innocent victims who were caught up in the conflict here. I trust that, as groups advance their local proposals, they will receive practical and financial support to construct those memorial gardens.

It is essential that soldiers from regiments based in the UK mainland and Commonwealth countries who died defending the law-abiding people of Northern Ireland be remembered in memorials created here. I represent a constituency in which many members of the security forces lost their lives, and I recognise that the memory of everyone who died should be cherished.

Some have questioned the purpose of memorial gardens. I see them as a place for quiet reflection, where relatives could express their grief, but also gain comfort, great support and encouragement as they seek to rebuild their lives. They would be seen as symbols of renewal and reconciliation and would generate hope and inspire people to look to the future. They could provide opportunities for training and employment, as well as allowing others to share the great deep emotions that the victims have unfortunately experienced.

3.45 pm

In his opening remarks, Mr Foster referred to Mrs Rita Restorick's campaign for a memorial in the Ulster Ash Grove. Bessbrook Mill is the main base for the security forces in south Armagh, and in its inner courtyard, memorial trees have been planted and named, and plaques have been erected to commemorate the past generation of soldiers who lost their lives. Unfortunately, given the nature of that installation, public access is restricted.

I thank Mr Berry, whose moral distinctions were correct. He outlined that there was a choice between right and wrong.

I thank Joe Hendron for his almost lone presence on behalf of the SDLP, and acknowledge his well-known opposition to all levels of violence, especially in the constituency that he represents here, and that he has represented in Westminster. I should like, at the very least, to acknowledge his presence and his contribution.

In respect of the comments of the Sinn Féin Member, Mr McNamee, if these institutions are heading for collapse, the fault clearly lies with the Republican movement. There is a very great difference between innocent victims and the victims of self-inflicted violence, which has been the pattern of Northern Ireland's history in recent years. Furthermore, Mr McNamee referred to the

Dublin and Monaghan bombings. I remind him that the text of the motion leaves that area outside this jurisdiction.

I thank Mr Boyd, and agree that it is scandalous that the Ministry of Defence does not move forward, even in respect of memorial payments in other parts of the United Kingdom.

I acknowledge the support of Jim Shannon, and I share his concern that the recognition of this issue is, in some places, highly selective, especially at Westminster.

My Colleagues Billy Armstrong and Sam Foster condemned the recent jamboree organised by the IRA, at which, apparently, medals were handed out. It remains to be seen whether that is the clearest sign so far that the war is over, but it seriously offended the law-abiding people from both of Northern Ireland's main traditions.

I thank Mr Campbell and Mr Morrow for their clear support for the motion and for the amendment. Mr Morrow reminded the House that the Ulster Unionist Party had co-operated to some extent with what might be termed the Loyalist parties in the House, and he criticised the party for that. I remind him that when the Loyalist paramilitaries announced their ceasefire they expressed abject remorse to the victims of their violence. Rather unfortunately, Mr Morrow criticised my Colleague Billy Armstrong. Mr Armstrong wore the uniform of the security forces — something that cannot be said by every Member of the House — and helped — *[Interruption]*.

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

**Mr Kennedy:** I am almost finished. He helped to play his part and was, in fact, involved in an incident that almost claimed his life and those of his colleagues. It is unfortunate — *[Interruption]*.

**Rev Dr Ian Paisley:** On a point of order, Mr Deputy Speaker. There was an implied criticism of Mr Morrow. Mr Morrow was a member of Her Majesty's security forces; therefore, I do not want to hear any snide remarks from Mr Kennedy. He ought to have given way like a man.

**Mr Deputy Speaker:** Thank you, Dr Paisley. Strictly, that was not a point of order.

**Mr Kennedy:** I did not address my remarks to Mr Morrow alone. I simply said that not every Member could say that he or she wore the uniform of the security forces. I have no record of service in the security forces but I do, at least, recognise that Mr Armstrong made a contribution, as did other Members. Therefore, that was an unfortunate misunderstanding.

The support for the debate heartens me. It has been conducted in a mature fashion. I am sorry that attendance levels were not high. However, the issue is important, and it is to be hoped that the Government will take note; take speedy action to resolve the situation; and move in this spirit to create a lasting memorial to the innocent victims of the conflict.



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

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

*Resolved:*

That this Assembly recognises the heartache and suffering of the families of victims who perished as a result of the September 11th terrorist attack in the United States and welcomes Her Majesty's Government's funding for a memorial garden in remembrance of those victims. Accordingly, this Assembly calls upon Her Majesty's Government to extend the same respect to the innocent victims who died as a result of terrorism in this part of the United Kingdom by financing the creation of a similar memorial garden in Great Britain.

**Mr Kennedy:** On a point of order, Mr Deputy Speaker. During the debate on credit card abuse, Conor Murphy questioned whether I had registered an interest as a member of the Northern Ireland Tourist Board between 1996 and 1998. The relevant Clerk has advised me that there is no need for former members of the Tourist Board to be listed and that the register lists current or expected interests.

**Mr Deputy Speaker:** That was not a point of order, Mr Kennedy, but it was proper to give you the opportunity to put that on the record.

*Adjourned at 3.53 pm.*

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## NORTHERN IRELAND ASSEMBLY

Monday 7 October 2002

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

*Members observed two minutes' silence.*

### ROYAL ASSENT

#### Health and Personal Social Services Act (Northern Ireland) 2002

**Mr Speaker:** I wish to inform Members that the Health and Personal Social Services Bill has received Royal Assent. The Health and Personal Social Services Act (Northern Ireland) 2002 became law on 4 October 2002.

## EVENTS OF 4 OCTOBER 2002 IN PARLIAMENT BUILDINGS

**Mr Speaker:** It is clear that several Members wish to raise points of order, which is understandable, and I shall do my best to accommodate those requests. However, I caution Members and remind them that in criminal matters the sub judice rule applies strictly from the moment a person is charged until the verdict and sentence have been announced. Members must also be aware that as regards parliamentary privilege covering what they say in the Chamber, it applies to the law of defamation and not to other matters. It will not give them protection, for example, in matters of contempt of court, and I draw that to Members' attention.

Several Members have indicated that they wish to make points of order and I will now try to take them. I will be unable to take them in the order that Members wish, but I shall do my best to accommodate them. I noticed Mr Conor Murphy's hand first, then Ms Lewsley's, Dr Paisley's and Mr Foster's. I shall take those points of order first, then continue.

**Mr C Murphy:** Go raibh maith agat, a Cheann Comhairle. Will you confirm that your Office is investigating the breach of Parliament Buildings last Friday morning by armed police who did not have a warrant? In that investigation will you address the fact that members of my party were not informed by the police or Assembly staff that our offices were being searched, sealed off and raided?

**Mr Speaker:** I confirm to the House that I received notice of events taking place here, and briefed the Assembly Commission, whose members were with me at the Quebec National Assembly, as soon as was possible that morning. At the end of the briefing, we agreed that an emergency meeting of the Commission would be held today, after Question Time, when a report would be made.

I also made it my business to request a meeting with the Chief Constable, and that meeting was held at 3.00 pm on Saturday. The Chief Constable has subsequently corresponded with me, and that correspondence was received this morning. I expect further meetings to take place.

Those various matters are for the Speaker and the Assembly Commission to attend to, and we are doing so with all possible speed and, I hope, with conscientiousness.

**Mr Beggs:** Mr Speaker.

**Mr Speaker:** Order. I am trying to take the points of order in sequence.

**Ms Lewsley:** On a point of order, Mr Speaker. Did you have any prior knowledge that the police were coming here?

**Mr Speaker:** As I said earlier, we must be careful about the question of sub judice. I understand that charges

have been preferred, and obviously Friday's events may bear some relation to that. Therefore, I will seek to be as open as I can with the House, but it is also my view that when there is a cliff one drives as far away from, not as close as possible to, the edge of it. I will, therefore, be careful with regard to matters of sub judice. I trust that the Member will understand if I do not give an answer on the Floor of the House.

**Rev Dr Ian Paisley:** Mr Speaker, when you were absent, events took place at one of the Doors of the House. Two Members of the Assembly were seen on television hastening journalists and television cameras into disobeying the order that on entering the House, their machines should be checked. The Members were then seen escorting the media representatives upstairs to their room, without their cameras being checked. That is a breach of the security of the House. Anything could have been brought in inside those cameras.

The two Members, Mr Gerry Kelly and the Minister of Health, Social Services and Public Safety, then made statements, which were clearly heard. It was clear that they were justifying what they had done in advocating a breach of the security of the House. If the security of the House can be breached in that way, nobody's safety can be guaranteed or provided for. If we do not have security of entrance to the House, then we have no protection in our offices.

The other matter I wish to raise is that the House should have the opportunity to debate the matter. Everyone is debating it — in the streets, in homes and schools, and in places that people frequent. The House should be discussing this urgent business. Mr Speaker, have you called a meeting of the Business Committee for it to advise Members when it will let us have an immediate discussion and proper, open-ended debate on the matter within, of course, the sub judice rules that you mentioned?

**Mr Speaker:** On the question of a breach of security and, indeed, breach of privilege that the Member referred to — an alleged breach of security and an alleged breach of privilege — I have asked for, and have received, some initial reports, which I am pursuing. I trust that it will not be out of order to say that I have received from Dr Paisley's Colleague, Mr Peter Robinson, a specific letter in relation to the question of breach of privilege. I have met the Chairperson of the Committee on Standards and Privileges to advise him that he may expect questions of privilege to be raised, and I will forward Mr Peter Robinson's letter to him.

There are complex matters involved. Several bodies in the Assembly may have responsibilities with regard to this matter. The Assembly Commission is one, the Committee on Standards and Privileges is another, and the Speaker's Office is another. Those are just three examples. I take the matter that the Member raises very seriously,

and it is being pursued. His Colleague has done that in writing, which is entirely proper.

I have called a meeting of the Business Committee for 1.00 pm today, and a meeting of the Assembly Commission for after Question Time this afternoon, to address the various issues. It is for the Business Committee to decide precisely how it handles the requests before it.

I have noted that there has been debate and discussion about these matters in all sorts of places and in the press. I have also noted some of the comments reported in the press to be factually completely incorrect. Some of those were in relation to the House and its staff. It is important to have an early debate, but it is also important to have an informed debate on the Floor of the House — informed by proper law and procedure and by the proper facts. I know that that is what the Member and the House in general would want. There is a balance to be found between expressing the quite proper feelings of anxiety, concern, and indeed anger, which I sense in the Chamber and the community, and ensuring that, as is right and proper, it is tempered by proper process and by the facts, insofar as we are able to discern them at this stage.

**Mr Foster:** In the light of recent serious developments, particularly the implications of the potential threat to Members of the House, and being aware that the First Minister will meet the Prime Minister tomorrow, I propose that the proceedings of the Assembly —

**Mr Speaker:** Order. The Member will resume his seat. He knows perfectly well that what he is doing is not a point of order — it is entirely out of order, and I am not prepared to accept it. I shall say no more about that.

I will say that, when I met the Chief Constable on Saturday, I received an assurance that the security of the House had not been prejudiced, or rather, the most accurate way to put it is that there was no evidence that that was the case. I trust that that is of some small assistance to Members, in view of what the Member alleged earlier.

**Mr C Wilson:** Mr Speaker, some two weeks ago, I brought to your attention my concerns about security in and around Parliament Buildings at Stormont. In light of that, Mr Speaker, and as an interim step while these matters are being considered and discussed, I ask you to approach the Police Service of Northern Ireland to ensure that it has a greater presence — or, indeed, a presence per se, because police officers are not presently in evidence — in the Building. Without any slur on the work of the doorkeepers and those responsible for internal security, given the grave situation that we face, I suggest that there should be a greater police presence.

The referral of this matter to the Business Committee and the Assembly Commission creates a dilemma, because Sinn Féin is represented on those bodies. That causes me grave concerns. Can I just say —



**Mr Speaker:** Order. I think that I have been reasonably flexible with regard to points of order. I am assuming that the point of order that the Member raises is in respect of whether it is in order for him to ask for some review of security.

With regard to matters of security, the Assembly Commission has responsibility, but took an early decision to devolve that responsibility to me, as Speaker. I take that very seriously. I take seriously the concerns that the Member raised with me some time ago, and the question of proper security arrangements here. That has been a matter of ongoing and regular discussion, meetings and correspondence, and substantial and energetic activity by our staff internally. I take on board the concerns that the Member raises, but it would not be proper for me to discuss security on the Floor of the House. Indeed, that would be particularly inappropriate to the Member's point of order if he considers what he has said.

12.15 pm

**Mr P Robinson:** Last Friday's events were dramatic and significant. They could not be justified unless there was significant cause for the police to enter the Building. I do not believe that the police would have acted without that just cause. It seems to be imperative that there is a debate in the Assembly at the earliest possible moment to consider those issues. I assume that in the interrupted attempt by the Ulster Unionists to make a contribution, there is a willingness on their part to have a special recognition of the impact of those events felt in the Assembly. Therefore, I trust that they will support the Democratic Unionist Party in the Business Committee today.

Moving to the —

**Mr Speaker:** Is there a point of order?

**Mr P Robinson:** I wrote to you, Mr Speaker, pursuant to Standing Orders, which require a Member to indicate to you an intention to raise a breach of privilege and to give some indication of the nature of that breach.

On Friday, two Members encouraged — and indeed pushed through — several members of the press and media past a security check, without their being checked in person and the proper arrangements being made. They rushed them into a lift, took them through parts of the Building that are not specified for that purpose and engaged in activity that is not allowed to any other Member.

**Mr Speaker:** I must ask the Member to bring it to the point of order rather than recounting the detail of the substance.

**Mr P Robinson:** I understood that in advancing a breach of privilege, I must convince you that there is a *prima facie* case to be referred to the Committee on Standards and Privileges.

**Mr Speaker:** That is true, Mr Robinson, but there is no requirement for you to do so on the Floor of the House.

I have accepted your correspondence, on what I regard as a very serious matter. I have met the Chairperson of the Committee on Standards and Privileges, and the matter will be pursued. If there is a further point of order, I am prepared to take it.

**Mr P Robinson:** I am content if you are saying that the Committee will consider the matter. Your earlier comments implied that you had indicated to the Chairperson of the Committee on Standards and Privileges that the issue would be raised. If you are saying that you are happy to refer the matter to the Committee, I am content to leave it there. That would be the appropriate place for it to be dealt with.

**Mr Speaker:** I am happy to confirm that I will refer it. I cannot guarantee that the Committee will discuss it; that is a matter for the Committee itself. However, I can confirm that I will refer it.

The Member raised one or two other points. He referred to a point of order that I aborted earlier. The reason that I did so is that it is not in order to simply stand up on the Floor of the House and propose a motion, which is what was being attempted. That is not in order; nor is it in order — as the Member knows because he has on occasion tried it in the past — for an emergency debate to be proposed on the Floor of the House. What is possible is for the Business Committee to meet and to address the question of whether it is agreeable to business being taken. That is the purpose of the meeting today at 1.00 pm. What the Business Committee itself decides is another matter entirely.

**Mr Attwood:** Mr Speaker, you have rightly pointed out that there are concerns inside and outside the Chamber about all the events that occurred on Friday. It is certainly serious for anyone — any organisation or any party — who plays fast and loose with the Good Friday Agreement. That extends to more than one person and to more than one party in the Chamber.

Mr Speaker, in your capacity as Speaker of the House and in your particular responsibility for security in the House, you referred to conversations that you have had and correspondence that you have received from the Chief Constable. Would it be in order for you to share further with the Assembly the content of both those conversations and any letter or correspondence you received from the Chief Constable on events that occurred in the Building on Friday? If you are not now in a position to share that with the Assembly, when will you be able to share the content of the conversations and the correspondence?

**Mr Speaker:** It is in order for the Member to put the point of order, but it would not be in order for me to divulge the contents of the conversations or the correspondence at this stage, not least because the matter is *sub judice* — as he, being a lawyer, will know — and also because there are certain conversations on matters of

security which it is inappropriate to address in any case. There will be a meeting of the Commission this afternoon; I will, again, brief the Commission as fully as I am able. I have referred to an earlier briefing, and I will keep the Commission as informed as I possibly can.

It is not unlikely that at some stage, when issues of sub judice and so on are not around, it may well be that I will have to make reference to the implications of such events in my capacity as Speaker, as Chairperson of the Assembly Commission and as having responsibility as the Member describes. I trust that he will understand that I am being as open as I possibly can, but there are certain things that it is neither right nor proper for me to speak about on the Floor of the House, particularly at this time.

**Mr Beggs:** Will you confirm that being a Member of the House, or working in Parliament Buildings, gives no one immunity from criminal investigation, and that such persons are subject to the law within the United Kingdom?

**Mr Speaker:** I confirm that that is the case, and all Members would be wise to understand that. I have, by my comments at the start of these points of order, tried to draw the attention of Members to some of those points of law from which they might be vulnerable in this context. What the Member said is, of course, absolutely the case. The next Member is Mr John Kelly, and then there are a series of other Members.

**Mr J Kelly:** Go raibh maith agat, a Cheann Comhairle. Since you are the first and final arbiter of what happens in the House, were you presented with a search warrant, or was a warrant proffered to you, on the morning of this search, and if not, why not? Did any member of your staff accompany those people who searched the Sinn Féin support offices on Friday morning? Was any member of your staff present when that happened?

**Mr Speaker:** I understand the Member's questions and the import of them. I am not in a position to respond, because of the sub judice rule that I have already mentioned. The Member will not have to think very hard before he finds the connection between charges that have been preferred and the question of sub judice. It is not in anyone's interests for interference in the proper due process to be embarked upon.

In respect of the second aspect of the Member's question, he and his Colleagues will know that we have procedures when any search is taking place, either in this context or in other more prophylactic contexts. I am assured — because I have asked — that those proper procedures were followed by our staff. I cannot say further than that.

If the Member has concerns on that, or on any other score, I would welcome his bringing those directly to my attention. I did receive a formal complaint from one of his Colleagues on behalf of his party, and that matter

is being taken very seriously. I have subsequently met the Member to advise of some of the actions I have taken in regard to that.

**Mr J Kelly:** Further to that point of order, a Cheann Comhairle. Was a search warrant —

**Mr Speaker:** Order. I fear that the Member has not been listening quite so acutely to what I have said as he normally does. There are matters that I cannot speak about because they have a bearing on proceedings.

**Mr Hussey:** You have rightly referred to anger in and about the Chamber, and the integrity of the Chamber is in question, as is the case with the calling of a meeting of the Business Committee and of the Committee on Standards and Privileges. There is also the issue of the First Minister seeking a meeting with the Prime Minister. In the interests of good order, can I urge you, Mr Speaker, to suspend the business of the Chamber until those negotiations and meetings have taken place?

**Mr Speaker:** The question of a meeting that the First Minister, in any of his capacities, may have with the Prime Minister does not have a direct bearing on proceedings here. The Member knows that it is not within the power of the Speaker to simply suspend the proceedings. Standing Orders are clear on when suspensions may take place. It is not simply a matter for the Speaker to suspend proceedings of his own volition. What the Member asks as a point of order is not in order.

**Mr Hussey:** Further to the point of order, I did say "in the interests of good order". That is within your remit.

**Mr Speaker:** I trust that the Member is not implying any threat to good order. Such an implication would itself bring down the sanction of the Chair.

**Mr Gibson:** On a point of order, Mr Speaker. I note your careful handling of the situation this afternoon. Would it not be the greatest contribution that you and the Business Committee could make that an immediate motion for the removal of the gangsters of Sinn Féin/IRA be debated immediately?

**Mr Speaker:** Order. First, it is not possible to have an immediate debate. That is clear. The Member's Colleagues have explored that question substantially. Secondly, if there were any question of exclusion, there are clear Standing Orders requirements for an exclusion motion. Those relate to exclusion from ministerial office, not exclusion from the House. I trust that no one will mislead Colleagues or the public whom we serve by suggesting that the legal situation is otherwise. I trust that I have answered the Member's point as fully as I can.

**Mr Paisley Jnr:** Mr Speaker, I hope that you agree with me that it is shameful that certain Members of the House would try to turn alleged criminality onto the police, at a time when the police have tried to defend the interests of democracy. Will you confirm that on Friday

the DUP sought from your Office and the Business Committee a debate on Friday's raid of the Sinn Féin offices in the Building and the wider implications? Was that relayed to you while you were on business in Canada? Did any other party contact you at that time to make a similar request? If they did not, does that not make the claims of other parties in the House, saying that there would be dire consequences for the process, sound very hollow indeed?

**Mr Speaker:** I received a request and I am not prepared to confirm or deny in respect of any other parties, save when they raise the question for themselves. I can confirm that I was apprised of a request for a meeting of the Business Committee. However, when I asked for the specific motion or point upon which the Business Committee were to be recalled, I did not receive it. That is why there was no earlier meeting of the Business Committee, because a specific request on the point, motion or otherwise was not received. What was received was effectively a request to set aside business that had already been agreed and set down on the Order Paper. As Speaker, I was not at liberty to do such a thing; nor, indeed, would the Business Committee have been at proper liberty simply to disregard procedure. However, the Member and his Colleagues met me this morning to make a specific request, which has been acceded to. There will be a meeting at 1.00 pm.

**Mr Dodds:** In the light of Friday's events, both here and elsewhere in the Province, have you instigated any review of security vetting procedures for officials of the Assembly, and if you have not already done that, would you consider it? Should that also be extended to cover staff employed on a temporary basis by parties here? Clearly there are grave implications if the least of the allegations made is proved to be correct.

In the light of the tremendous interest that there is in the country in relation to those issues, it is clearly the desire of some Members that we should not simply proceed in the normal way.

I therefore propose that Standing Orders be suspended, particularly Standing Order 10 and such other Standing Orders as are necessary, to allow forthwith a debate in relation to the issues which have come before us, particularly as it would make no sense to proceed with business as normal.

12.30 pm

**Mr Speaker:** With regard to the Member's first question, I do not feel at liberty to discuss all that we are doing on the security side. I try to reassure the House that we are doing all that is appropriate, but one must handle things in a proper fashion, and that is what I am trying to do. I trust that Members will, for good reason, feel reassured as to how we are handling things.

I must remind the House of what I said earlier. Simply because one finds reports in newspapers does not mean that they are the truth. There are certainly a number of reports with a bearing on recent events that I know to be completely and factually incorrect — to my certain knowledge. I trust that that in itself is of some help to Colleagues.

Mr Dodds will know that even a proposal to suspend Standing Orders is a motion which must be presented in the Order Paper — and I think that he may have done so in the past, for various reasons, in his ministerial capacity. I hear what the Member says, but the order is that it must be on foot of a motion and, therefore, it is not possible at this stage.

**Rev Dr William McCrea:** Is it in order that Sinn Féin — which the dogs in the streets know is inextricably linked to a violent terrorist organisation, namely the Provisional IRA — should remain in ministerial office over the law-abiding people of Northern Ireland? The demand of the public is that action be taken now to remove Sinn Féin/IRA, and surely the Assembly has a duty to act.

**Mr Speaker:** The Member makes assumptions about duty, but there is also order. The Standing Order is quite clear. The Member may table an exclusion motion if he has sufficient support. If he checks the Standing Orders and he has sufficient support, he knows very well the route to my office, because he and his Colleagues take it from time to time. The provision for the presentation, and the requirements for the passage, of any such motion are present in Standing Orders. The Member is aware of it and has experience of doing it. It is all there. It is not a question of duty or anything else. It is there, and if the Member and his Colleagues wish to pick it up and run with it, they know the Standing Orders and the procedures that are there.

**Rev Dr William McCrea:** Further to that point of order, Mr Speaker. Is it not a fact that you have received such a motion, signed by Members of the House? In fact, the DUP is just waiting for the other Members, namely the Ulster Unionists, to sign the exclusion motion.

**Mr Speaker:** Order. The Member knows perfectly well that what I have received is not adequate under Standing Orders in terms of the amount of support required. If he can use his good offices and undoubted charm to encourage other Members to back him, so be it, but I cannot do anything further at this stage.

**Rev Dr William McCrea:** Mr Speaker, which Standing Order states that the number of signatures is not adequate for the exclusion motion to be tabled?

**Mr Speaker:** The Member will resume his seat. He knows perfectly well which Standing Order it is.

**Mr S Wilson:** Mr Speaker, perhaps you could confirm to the House whether the correspondence you obtained from the police was as a direct result of a request that you made to them for information regarding the events on



Friday. If that has been the case, have you made a similar request to the leadership of IRA/Sinn Féin in the House as to their behaviour in the breach of security on Friday? Is it not odd that members of Sinn Féin are so concerned about proper search warrants when they do not seem to have any difficulty when their crowd break into Castlereagh and other places?

**Mr Speaker:** I trust that the Member has been as careful as I cautioned. I understand that many Members feel happy to sit in a judicial position, but it is not necessarily one that is backed by law.

**Mr Dodds:** Judge, jury and executioner across the way.

**Mr Speaker:** Order. I had a meeting with the Chief Constable, and I think that Members would have deemed it irresponsible for me not to have sought such a meeting. The Chief Constable was most constructive in the conversations that we had. He then responded to me in writing as an interim to further conversations that we intend to have, and I trust that they will be held soon. No one should jump to conclusions about any of these matters.

**Mr S Wilson:** Further to that point of order, Mr Speaker. Can you confirm whether you have had similar contact with Sinn Féin about its behaviour and about alleged breaches of security, raised by my Colleagues, on Friday?

**Mr Speaker:** Order. Is the Member suggesting to me that he regards these as equal matters? I have the greatest of respect for all Members, but, on security matters, I do not put any of them in the same position as the Chief Constable of the police, who has particular responsibilities in these matters. As far as questions of privilege, and breaches of privilege by anyone in the House, are concerned, I have already advised the Member's Colleagues that I am addressing that matter. That, therefore, is not a new point of order. However, if he really wants me to regard the Chief Constable in the same light, and with the same responsibilities, as others that he has mentioned, I am afraid that he is mistaken — I will not.

**Mr S Wilson:** Further to that point of order, Mr Speaker.

**Mr Speaker:** Order. I will take this further point, and, if it is not a point of order, the Member may have some difficulty getting a further one at another stage. Does he wish to make a point of order?

**Mr S Wilson:** I wish to pursue the matter further. Have you made any contact with the leadership of IRA/Sinn Féin regarding the breach of security at this place on Friday?

**Mr Speaker:** Order. I have already advised the Member that I was approached by Sinn Féin and have had discussions with Sinn Féin about the matter.

**Mr S Wilson:** About the police?

**Mr Speaker:** I am not prepared to say what I have had discussions about, but the Member should not assume that that is a "No".

**Mr Paisley Jnr:** Under Standing Orders 61 and 63, the Keeper of the House is entitled to take action against intruders not only to the Assembly precincts but to the Building. What steps did the Keeper of the House take to prevent the intruders who were invited in by Minister de Brún and Gerry Kelly — who appeared to break every rule in the book — from entering the Building? What investigations followed?

**Mr Speaker:** Order. I have been generous in my acceptance of points of order. This matter has already been addressed, and there are internal inconsistencies with what the Member raises. People are not intruders if Members have invited them in.

**Mr Paisley Jnr:** According to the Standing Order —

**Mr Speaker:** Order. The way in which visitors enter the Building may be a breach of privilege or order, but the Member's Colleagues have already clearly raised that, and I have advised on this. I am very satisfied that they raised it properly. The Member may not think that they have done it well enough, but I think that the matter has been addressed fairly fully.

**Rev Dr Ian Paisley:** Further to that point of order, Mr Speaker. I would like to make it clear that until the House can have a debate, and a time is announced for it, my party will not deal with the regular business of the House.

**Lord Killelooney:** Since a staff member of Sinn Féin in the Building is now the subject of prosecution, and since Sinn Féin also has an office in the national Parliament of the United Kingdom, would it be a matter of courtesy for you to officially advise the Speaker of the House of Commons of the circumstances that arose here on Friday?

**Mr Speaker:** I am astonished that the Member thinks it necessary for me to give advice from this place to the Speaker of the sovereign Parliament. However, it would also be unwise for me to make any remarks about a matter that is sub judice.

**Lord Killelooney:** There is a danger — *[Interruption]*.

**Mr Speaker:** Order.

**Mr Neeson:** Will you confirm that the business in the House this afternoon will be as printed on the Order Paper? Will you also confirm that all the Ministers will fulfil their ministerial responsibilities and present themselves to take questions at Question Time?

**Mr Speaker:** The Member knows me well, but I suspect that he overestimates my capacities in those regards. The House will follow the Order Paper as best it can. However, the idea that I can control anything other than the order of business, such as Members themselves, is what I, in my professional role, would call a wish fantasy. I trust that Members will act with decorum, but I cannot ensure the presence of any particular Member.

**Mr P Robinson:** Will you clarify, or reflect upon, the response that you made to my Colleague Mr Paisley Jnr about your definition of an intruder? Your definition, as recorded in the Official Report, may have implications for the work of the Committee on Standards and Privileges. Surely, anyone who enters this Building without having made proper arrangements, whether invited by Members illegally or not, is an intruder and must be so considered.

**Mr Speaker:** I wish the matter were so simple.

**Mr P Robinson:** It is as simple as your response.

**Mr Speaker:** I remain with what I said: I wish the matter were so simple. Members should not forget that we are talking about pass-holders.

**Mr Boyd:** On a point of order, Mr Speaker. Is it the case that, under Standing Orders, the only way of excluding IRA/Sinn Féin from ministerial office is with the support of the SDLP, and that in reality the only way of removing IRA/Sinn Féin from the Government is for all Unionists to resign from the Executive and collapse this charade of government?

**Mr Speaker:** The Member has described one way of addressing the matter. However, I would like to think about whether it is the only way. There are many creative politicians here and many different ways in which things can be achieved.

**Mr Molloy:** On a point of order, Mr Speaker. One expression of the creative nature of the politicians here was the view that David Trimble would be saved by the storm troopers who were put in here on Friday. Will you confirm that you will ask the head of the storm troopers — the direct descendants of the B-Specials — if their weapons were put through the Assembly's scanning equipment? Will you treat them as intruders?

**Mr Speaker:** Order. I listened with care to what the Member said. I would be cautious to confirm very much, given some of the references that he made, save to say that I take seriously the concerns which underlie what he said, and they form part of our exploration of matters. As I said, an initial report will be brought to the Assembly Commission. However, it will be only an initial report because there are legal and other complexities which require further investigation.

Being patient is not a problem for me, but, in all fairness, the Minister of Agriculture has been patiently waiting to make a statement to the House.

12.45 pm

**Mr Paisley Jnr:** On a point of order, Mr Speaker.

**Mr Speaker:** I have taken a substantial number of points of order. If this were more important than the rest, it should have been taken as one of the earlier points. It is time for us to move on. If the Member wishes to bring the matter to my attention outside the House, I invite him to do so. We have had three quarters of an hour of

points of order, and he has been on his feet on a number of occasions. *[Interruption]*.

Order. I am not prepared to take the point of order at this juncture. The Member has had a number of opportunities to raise a point of order. If this point is more important than the rest, he got the order wrong.

## NORTH/SOUTH MINISTERIAL COUNCIL

### Agriculture

**Mr Speaker:** I have received notice from the Minister of Agriculture and Rural Development that she wishes to make a statement on the North/South Ministerial Council sectoral meeting on agriculture held on 27 September 2002 in Downpatrick. I ask Members leaving the Chamber to do so as quietly as they may.

**The Minister of Agriculture and Rural Development (Ms Rodgers):** Before I make my statement, I should like to say that I very much regret that the DUP has withdrawn, since the Chairperson of the Committee for Agriculture and Rural Development will not be present to fulfil his duties to the Assembly, his Committee and the agriculture industry.

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

The seventh meeting of the North/South Ministerial Council in its agriculture sectoral format was held at the St Patrick Centre, Downpatrick on Friday 27 September 2002. I chaired the meeting and was accompanied by Mr James Leslie, junior Minister in the Office of the First Minister and the Deputy First Minister, who has also agreed the content of this statement. The Irish Government were represented by Mr Joe Walsh TD, Minister for Agriculture and Food, and Mr Éamon Ó Cuív TD, Minister for Community, Rural and Gaeltacht Affairs.

The recent restructuring of Government Departments in the South meant that the majority of items discussed at the September meeting fell within Minister Walsh's area of responsibility. Minister Ó Cuív's Department has specific responsibility for the item relating to cross-border rural development.

The Council considered a paper on co-operation in the field of animal health and noted that it had previously agreed to the establishment of an animal health steering group and some working groups tasked with examining specific issues. In relation to those issues, the Council noted a paper stating the principal policy differences, the possibilities of convergence and the timetable for action to achieve such convergence. The Council endorsed the paper as a further contribution to the development of an all-island animal health strategy and acknowledged that further progress on aligning policies and measures was fundamental to the development of the strategy. The Council noted the indicative timetable for convergence and also agreed that officials should seek to finalise discussions with the authorities in Great Britain before final agreement of the strategy by the North/South Ministerial Council.

The Council also considered a progress report on the work of the steering committee on cross-border rural

development. In April 2002 the Council endorsed the principle of an area-based approach to cross-border rural development, and at the September meeting it was agreed that the steering committee should initiate action to invite applications from partnerships for the selection of four or five geographically defined border areas under INTERREG. The Council noted that the steering committee would have to give further consideration to an appropriate response to the recommendations arising out of the cross-border education, training and research study. The Council was pleased to note that the Rural Community Network and Irish Rural Link have been successful in their application to deliver the cross-border community development measure of Peace. The total aid being provided amounts to 970,000 euros. The aim of the measure is to provide support for the development of a cross-border strategy to address the problems of weak community infrastructure and marginalisation in border communities.

The Council then considered a paper on plant health, pesticides, diagnostics and research co-operation and noted the continued level of cross-border activity in that sector since the last meeting and new developments with the pesticides monitoring and registration review. The Council also noted the proposal to organise reciprocal familiarisation visits, workshops, training and ring tests for diagnostic purposes as a means of improving cross-border scientific and technical co-operation in plant health, including forestry.

The Council agreed that Departments, North and South, should explore the establishment of a plant health risk assessment panel and approve the identification of lead figures in each jurisdiction to initiate and develop effective cross-border action.

The Council had an initial discussion of issues relating to EU matters and areas of co-operation within each sector that could be proposed for the future North/South Ministerial Council work programme. Those discussions arose from a commitment reached at the fourth plenary meeting of the North/South Ministerial Council, which was held in Armagh on 28 June 2002.

The Council then considered salary increases for chief executive officers of North/South implementation bodies, and, subject to the approval of Finance Ministers, approved salaries and salary range increases for chief executive officers based in Northern Ireland, with effect from 1 April 2002. It was proposed that this year's annual increase for all chief executive officers based in Northern Ireland should be based on Senior Northern Ireland Civil Service pay increases.

The Council also agreed that its next meeting would take place in the South, in December 2002. The text of a communiqué for issue after the meeting was agreed upon, and a copy has been placed in the Assembly Library.



**Mr Savage:** I welcome the Minister's statement. The Rural Community Network and Irish Rural Link will need the finance that is available. When will applications and schemes be assessed? When will there be real development in those rural areas of high unemployment?

**Ms Rodgers:** With regard to the Peace II programme, the Rural Community Network, in partnership with Irish Rural Link, was successful in its application to deliver the measure. Those organisations will establish the cross-border network, which is expected to be operational in December 2002 and January 2003. Applications will be accepted then.

**Mr McMenamin:** When will the cross-border community development measure of Peace II be operational?

**Ms Rodgers:** I have answered that question in my answer to the previous one, which was about the same issue.

**Mr McHugh:** Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister for the progress of the important meetings of the North/South Ministerial Council.

I have particular interest in the convergence and harmonisation of animal health policies, of which there are many, on both sides of the border, so that there is an all-Ireland system. The steering group on animal health was to produce an animal health policy by 31 September. Is that still on course?

What was the pay increase for chief executive officers? What are their salaries now?

**Ms Rodgers:** It is hoped that the steering group will finalise the all-island animal health strategy by the end of the year. The differences between North and South are outlined in the matrix. There are differences of approach in dealing with brucellosis and tuberculosis. I will take account of the consultation on the review of brucellosis and tuberculosis and of the policy in the South.

Northern Ireland differs in its approach to sheep identification. I am considering bringing forward proposals on that issue later in the year.

In the South, measures are being introduced to mirror the action taken to control Aujeszky's disease in Northern Ireland.

Salaries for chief executive officers differ from job to job and are a matter for the Department of Finance and Personnel.

**Mr Ford:** Further to Mr McHugh's question, how soon does the Minister expect full co-ordination of brucellosis and TB health measures, North and South, given the major problems that they create for both farming economies?

With regard to the plant health risk assessment panel, has the Minister taken any note of the grave concerns in Northern Ireland about the introduction of genetically modified organisms, given that some testing is ongoing in

the South? Will she do anything to ensure that Northern Ireland can maintain its current green image and remain GM-free?

**Ms Rodgers:** There is no question of introducing GM organisms into Northern Ireland. The Executive have not taken a position on that. I can only give my party's position, which is very much opposed to the introduction of GM organisms into Northern Ireland. The Executive have not yet discussed the matter, but I do not imagine that there will be much enthusiasm for it.

To answer the Member's first question, I hope that the final common strategy will be agreed by the end of this year. The working groups have been considering all the areas involved. Did the Member ask for any other details?

**Mr Ford:** What is the timetable for action rather than strategy?

**Ms Rodgers:** My policy review on brucellosis and TB is currently out to consultation. There are points of difference between here and the Republic — the capping of compensation payments, for instance. Those are quite controversial issues. When I get the result of the consultation, I will consider it carefully and discuss it with the Committee for Agriculture and Rural Development and the Assembly before making a final decision. Given that disease does not recognise the border, I want to work towards having similar, converging policies, North and South. There are implications for both sides if there are different policies.

**Mr Bradley:** In view of the current political climate, would the collapse or suspension of the institutions have implications for the work in hand in the North/South Ministerial Council, especially on the negotiations preceding the mid-term review of the common agricultural policy (CAP)?

**Ms Rodgers:** I would be extremely concerned if the institutions were to collapse, and the agriculture industry would have particular reason for concern. The Member asked about the mid-term review of the CAP. It is no secret that Northern Ireland and — I was going to say UK, but — English interests have very different priorities. The UK Minister will have different views, and a Minister appointed through direct rule to represent Northern Ireland will, of course, take the UK Minister's line. To put it mildly, that would not be helpful to us in the run-up to those negotiations, especially considering the dynamic that has been introduced through the North/South Ministerial Council, whose agreed priorities have been endorsed by the Assembly and in the South. Again, those priorities are not similar to those expressed by the UK Minister.

A return to direct rule would rob Northern Ireland of the important opportunity to have its own voice in negotiations and to articulate the priorities for the industry here. That is not a political point; rather it is one that indicates the practical reality that the farming community will face.

1.00 pm

## WATER QUALITY AND PLANNING

**Mr Deputy Speaker:** I have received notice from the Minister of the Environment that he wishes to make a statement on water quality and planning.

**The Minister of the Environment (Mr Nesbitt):** I am putting the following remarks on the public record for at least two reasons. First, the construction industry, potential householders and other sectors need clarity and certainty. Secondly, this is a matter of genuine and general public interest to elected representatives and their constituents.

Downpatrick provided an early example of an unfolding problem, and Members may recall the debate in the Assembly. At that time we sought, and achieved, a solution to the difficulties experienced in the Downpatrick area. As I did not want that situation to be constantly repeated across Northern Ireland, thus giving rise to continued uncertainty, I implemented the following approach to address the wider issues across Northern Ireland: to analyse the problem, thus providing a context for developing a solution and, in the meantime, holding applications recommended for refusal by the Environment and Heritage Service (EHS); to consider what we should do, how we should do it and to set a clear timetable for achieving an outcome; to provide a mechanism to evaluate and review progress regularly in striving to meet that timescale; and, having agreed the way forward, to inform the House and the public fully and promptly.

Members are well aware that Northern Ireland's sewerage infrastructure falls well below modern standards. As the environmental regulator, I have worked with Mr Peter Robinson, because the operation of the sewerage system is the responsibility of the Department for Regional Development. The Department for Regional Development also has a clear duty through its Water Service to comply with EU and domestic water-quality standards.

Members are also aware that the Department of the Environment's Planning Service has been holding — I emphasise not refusing — some applications in some areas as a result of concerns expressed by the Environment and Heritage Service about the environmental compliance and pollution implications of further development pending urgent consideration of the way forward by both my Department and the Department for Regional Development.

I take this opportunity to do two things. First, I would like to explain why it was necessary to hold some applications. Secondly, I would like to explain the agreed way forward. I have already referred to deficiencies in the sewerage infrastructure. It has been recognised that they

are not the fault of this devolved Administration; rather they reflect the decades of underinvestment before the matters became a local responsibility. As environmental regulator, I am concerned about those deficiencies. Peter Robinson and the Department for Regional Development, as operators of the system, are also concerned.

The deficiencies exist within an increasingly stringent legal and environmental framework. In particular, the EU Urban Waste Water Treatment Directive introduces increasingly demanding standards for sewage treatment and effluent discharges to our watercourses. Domestic environmental standards are also tougher. The Assembly will recall the Public Accounts Committee report on river pollution that called on my Department, and the Environment and Heritage Service in particular, to take a much more rigorous approach to environmental regulation, not least in respect of discharges from waste water treatment works. The law is now much less tolerant of pollution than it was before, and that trend is continuing.

To illustrate the point, I will use two important indicators that are monitored by the Environment and Heritage Service in its role as environmental regulator. First, compliance of sewage treatment works with EU standards fell from 53% in 2000 to 35% in 2001. Secondly, compliance with domestic standards fell from 81% in 2000 to 57% in 2001. That compares with 95% compliance in England and Wales for at least the past five years.

It is important to note that the situation reflects the increased stringency of the regulatory standards and not an overall deterioration in the system's performance. This forms the background against which the Environment and Heritage Service and the Planning Service operate.

Furthermore, it is important to understand that my Department has a statutory duty to promote the conservation and cleanliness of Northern Ireland's water resources and waterways. In that context, and in the light of the significant reduction in Water Service compliance with EU and domestic standards, the Environment and Heritage Service expressed concern about the implications of further development with regard to environmental compliance and pollution risks in 56 locations across Northern Ireland. The concerns identified by the Environment and Heritage Service were sufficiently serious to raise complex and far-reaching legal, environmental, operational and resource issues. Those issues touched on the functions of the Department for Regional Development's Water Service as well as those of the Department of the Environment's Environment and Heritage Service and Planning Service.

Initial legal advice emphasised the need for a precautionary approach, taking account of both European and domestic law, and for careful consideration of the issues. The Planning Service therefore decided to hold — again, I emphasise “hold” and not “refuse” — planning applications for developments that the Environment and

Heritage Service had recommended for refusal pending detailed examination of the issues.

That examination has proved more complex and has taken longer than we wished. It has, undoubtedly, been a source of real difficulty and concern for the construction industry as well as for actual and potential householders. I have met with representatives of the industry several times, and the Quarry Producers Association, and have apprised them of our deliberations. I have kept the Executive and the Committee for the Environment fully apprised, and I have met several delegations regarding the issue.

Needless to say, the linked issues required the Department of the Environment and the Department for Regional Development, Peter Robinson and myself to work closely together, as well as consideration by the Executive as a whole. The essence of that work has been a location-by-location examination of the compliance problems and the work needed to resolve them together with a comparison of the projects and priorities in the Water Service capital works programme. The aim was to determine whether the necessary improvement work is programmed and over what period. I am grateful to Peter Robinson and his staff for their efforts in undertaking the work.

I am glad that that co-operation has allowed us to develop a pragmatic approach, designed to balance the need for physical development with the need to protect the environment. It is important to emphasise that balance — or compromise, if you like — is at the heart of the issues I am reporting to the Assembly today. The approach that we, as Executive Ministers, have adopted reflects an acknowledgement that an absolute constraint on development in those areas with a significant degree of non-compliance with environmental standards until such time as the deficiencies in the sewerage infrastructure can be corrected would have a crippling effect on physical development across Northern Ireland. Such an approach, despite the high level of environmental protection it would have afforded, would have carried a high price in respect of constraints in economic growth and social progress.

I shall now turn to the agreed way forward and address four aspects of the issue. First, there are the environmental considerations. The joint Environment and Heritage Service/Water Service examination of the 56 locations identified 14 areas where the environmental impact is low. Remedial works in the current Water Service capital works programme should be completed within three years at five of those locations, and within five years at a further seven locations. No remedial works are planned for the remaining two areas. However, because of the low environmental impact, the Environment and Heritage Service will not object to the granting of planning permission. The Planning Service will complete the processing of the affected applications and will issue decisions. Where the decision is to approve the application, development may normally begin immediately.

In the remaining 42 locations, where the environmental impact is medium or high, remedial works are scheduled for completion within three years at 23 locations and within five years at a further 19 locations. In those cases, the Environment and Heritage Service will alert the Planning Service to the environmental issues, but will not object to the granting of planning permission. Moreover, in those cases the Planning Service will complete the processing of affected applications, issue decisions and, if approved, work may normally begin immediately. A complete list of the 56 locations, together with an environmental comment, will be available at the following web site: [www.ehsni.gov.uk](http://www.ehsni.gov.uk).

I emphasise that, in the context of development control, the Environment and Heritage Service provides advice; it does not direct the Planning Service. The Planning Service will, as it must, determine each planning application on its merits, taking into account all relevant factors, including the Environment and Heritage Service's advice.

The result of that approach is that those planning applications that have been held on a precautionary basis pending an examination of the issues, and future planning applications in all 56 locations, will be processed to decision. Although I appreciate that that will be welcome news to the construction industry and more generally, I also acknowledge that it means that developments will continue to connect to the public sewer in areas where the current inadequacy of the sewage collection and treatment systems is having a high or medium environmental impact, and will continue to do so for some years, pending completion of the Water Service's capital works programme.

As environmental regulator, that situation does not rest comfortably with me, nor does it, I am sure, with Members. The Executive have adopted that pragmatic approach to protect people's jobs and livelihoods and to ensure that the objectives for economic growth and social progress outlined in the Programme for Government are not jeopardised.

In the first instance, our approach is based on the Water Service's commitment to deliver the capital works programme as currently planned, subject to the completion of statutory processes. In considering future funding, the Executive have not agreed any increase in the capital budget for the Department for Regional Development's Water Service. At my request, and to inform the Executive's discussion, the Minister for Regional Development, Mr Peter Robinson, provided a paper outlining the additional resources that the Water Service would need to provide interim solutions at some locations in advance of the main schemes, to settle the advance plans' start dates at other locations, and to undertake by traditional procurement some schemes currently comprising a public-private partnership/private finance initiative



package. The Executive noted the paper and agreed to consider the way ahead in Water Service investment as part of the infrastructure strategy to be developed between now and the final Budget in December.

To assist their consideration, the Executive agreed to commission from Peter Robinson further details of the costs that he provided and his proposals for meeting them, including his plans for re-prioritisation and restructuring.

My officials in the Environment and Heritage Service will monitor progress carefully in the capital works programme and the continuing environmental impact of development, especially in the high-and medium-impact locations. They will work closely and at senior level with Water Service officials. My aim is to avoid any serious exacerbation of pollution in those areas. I therefore caution that, in the longer term, it may not be sustainable to continue to connect developments to non-compliant sewerage systems in which remedial works remain some way off. However, I will keep the situation under continuous review, considering the balance between environmental protection and facilitating development, and will do so in an open and transparent way, fully involving the Chamber and the industry.

Peter Robinson and I have agreed that developers should also introduce proposals to meet infrastructure deficiencies, and we will encourage them to do so. It is to be hoped that my statement provides certainty and clarity for the construction industry and actual, or potential, householders who have been affected by the problem. I am mindful that continuing to hold up planning applications could have drastic implications for house supply and house prices and could potentially destabilise the housing market, which is a vital element of the Northern Ireland economy.

Therefore, we have identified the source, level and nature of the environmental and legal risks, established a clear timetable to deal with funding issues, which is a vital element of the approach that I have outlined today, established clear monitoring and review mechanisms by way of a close and clear relationship between the Department of the Environment and the Department for Regional Development, and sought to encourage opportunities for the construction industry to assist in the solution of those problems. I commend the statement to the Assembly.

1.15 pm

**Mrs Carson:** I welcome the Minister's statement, which is much needed. The Minister has made the best of an extremely bad job in trying to make some sense of the issue.

We must comply with the stringent — the Minister's word — European legal environmental framework, which is enshrined in the EU Urban Waste Water Directive. Our almost-obsolete sewerage systems hold effluent that goes into the river system; that concerns me. Eutrophication of our rivers and lakes is a problem, and in the Lough

Erne system we have not only our own system, but the problem of pollution coming from the Republic of Ireland. I ask the Minister to consider that, because it concerns me greatly. Water is abstracted from the Lough Erne system and goes into domestic water, so I hope that the Minister will consider all those standards.

I welcome the Minister's report, and I look forward to its being implemented as soon as possible.

**Mr Nesbitt:** I thank the Member for saying that I am making the best of a bad job. However, it is the usual saying: you cannot control the hand of cards that you are dealt; it is how you play that hand.

Mrs Carson mentioned eutrophication and pollution from the Republic of Ireland. Under the EU Urban Waste Water Directive, we are considering river basins and how water should be standardised. Part of that process involves cross-border work, because at least one of the basins is transnational between Northern Ireland and the Republic of Ireland. All those issues will be dealt with in due course. There is no quick fix to the problem of river pollution.

**Mr A Maginness:** I thank the Minister for his statement, which everybody welcomes. The statement and the proposed action aim to create certainty and clarity. However, I am not certain that that will have been achieved as a result of the statement, because it is so dependent on getting a clear timetable for the Department for Regional Development to deal with the funding issues. Clarity and certainty are also dependent on the creation of monitoring and review mechanisms.

Will the Minister assure the Assembly that that timetable for funding can be reached fairly quickly to provide clarity and certainty for the public?

**Mr Nesbitt:** I thank Mr Alban Maginness for saying that everybody welcomes my statement. I am beginning to worry whether people from all sides welcome it, but I take the point.

As regards certainty and clarity, we all remember the debate about development in Downpatrick. I did some interviews then, and the word "widespread" was used. The question was asked about where the next development would take place. I said that we should put a hold on development and ascertain the depth of the planning problem. I am clarifying where the 56 problems are, their depth from an environmental perspective, and when there is likely to be a capital works programme to rectify those difficulties.

Mr Maginness said that he was unsure about the clarity of the matter. There are two financial elements. There is the capital works programme to which the Department for Regional Development agreed. It was on that basis alone that I gave the chronological listing of up to three years or up to five years. Having said that, the reinvestment and reform initiative and various other programmes

are necessary, and the Executive have commissioned the Minister for Regional Development to introduce further information. I cannot answer that.

I have identified the problem from a planning point of view, brought it to the public domain and made everyone aware of the implications. I have no doubt that Members often hear about constituents' housing concerns on this. I have given the issue a space for planning development to take place, and I look to the Department for Regional Development to bring forward that additional capital programme and to discuss and agree its funding in the Executive. That will bring the certainty and the clarity that are required. We all agree that sewerage infrastructure is behind that of the rest of the United Kingdom, never mind the rest of Europe.

**Mrs Nelis:** Go raibh maith agat, a LeasCheann Comhairle. I welcome the Minister's statement; it is better late than never. Was he aware that sewerage infrastructure was well below standard and that the Department of the Environment was required to comply with the EC Directive in January 2001? If he was aware of that, why were planning restrictions introduced a year and a half later in May 2002?

Will the Minister give clarification on the Culmore sewage treatment works, which was given planning permission in 2001? Even if that proposal proceeds now, it will take three years to complete. The Water Service's representative stated on television some weeks ago that the money was available to proceed with the Culmore sewage treatment works. However, the Minister, Mr Robinson, contradicted that some weeks later in the Assembly. Will the Minister say when the Culmore sewage treatment works proposal will proceed and what possible restrictions developers are likely to encounter as a result of the delay? Has the Minister discussed with his counterpart in the Department for Regional Development the alternative that developers will have to resort to, in the form of modern cesspits and packaged treatment plants, which will have a far more serious environmental impact than the current discharges to water, worrying though they may be.

**Mr Nesbitt:** The Member said that my statement was "better late than never". I stress that this is an extremely complex issue because of the geographical breadth and depth of the environmental risk that the Department is taking on these sewage treatment works. I maintain that it was worth stepping back to identify the magnitude of the problem. Unless or until we quantify the problem, we will not be able to identify the proper solution.

The Member said that the sewerage infrastructure is "well below standard" and that it was supposed to comply with the European standard in January 2001. She is correct. That was the date when the European Directive raised the bar and 200 extra sewage treatment works were brought into the reckoning. That led to a lowering

compliance level, and only 35% of our sewage treatment works are now in compliance. However, consider the chronology: only when the figures were brought together in March 2002 did the proportion of non-compliance become apparent. Statistics for a specific year apply only after the year has run, at which time they are analysed. It is similar with balance sheets and public accounts; the balance sheet for the year ending 2001 would not be presented until, perhaps, March, April, May or June of the following year. There is a time lapse.

In March 2002, when the magnitude of non-compliance became known, which paralleled the debate in the Assembly about Downpatrick, action kicked in to identify the problem and find a solution and a way to monitor the situation, and we had to be clear about what we were doing.

I do not plan to get into a discussion about an individual sewage treatment works, and I hope the Member understands that in relation to her third point on Culmore sewage treatment works. That is why I made sure that the information is available on the Department's web site. People can search for Culmore waste water treatment plant. It will be categorised as having a high, medium or low environmental impact. The web site will define simply each of those categories. If anyone wishes to ask me, I will explain them. The web site states when the capital works programme is meant to be completed, because only when the programme is complete will the risk of pollution be eliminated. There is clear information on the Culmore waste water treatment plant on the web site, because it was one of the 56 hot spots.

I hasten to add that there is a small complication. It has been said that there are infrastructure problems, and there are. Effluent may be entering a river, but, depending on the speed of the flow and the volume of the water, the dilution of the sewage may take place very quickly. Therefore, there may not be pollution.

As I said, the information is on the web site, but I will help the Member. I am told, and I thank those who told me, that the plant at Culmore will take up to three years to meet the standards. However, there is no significant impact on Lough Foyle at present. The problem is the sewerage system.

**Mr Deputy Speaker:** I have granted some licence with regard to the length of questions and answers because of the relatively small number of Members who have indicated that they wish to speak.

**Mr Hussey:** I welcome the co-operation at ministerial level on this issue. We all realise that that was absolutely essential. The Minister spoke about having to work with the hand that he was dealt. The Minister's flush was facing a royal flush from European Directives.

The Minister referred to compliance with EU standards. What are the compliance levels in other European

countries? I share Mr Alban Maginness's concerns about the timetable of infrastructure improvement that will be needed. I trust that, to achieve the timetable, we will not consider short-term fixes that would cause problems beyond the five-year period. Does the statement take immediate effect?

The Minister also stated that it is important to understand that his Department has a statutory duty to promote the conservation and cleanliness of Northern Ireland's water resources and waterways. We all understand that and support his Department's efforts to achieve its aims.

Mr Deputy Speaker, I hope that you will forgive me for speaking slightly at a tangent. Will the Minister make every effort to consult with the Department of Agriculture and Rural Development and the agriculture industry with regard to future legislation on water cleanliness, particularly in relation to the disposal and spreading of slurry? Will he ensure that a practical approach is adopted that will not further disadvantage our agriculture sector? Furthermore, will he ensure that any decisions are based on sound scientific facts and figures, and that conclusions will also follow that pattern?

I understand, as I am sure the Minister does, that, with regard to pollution, there are concerns that nitrate levels are being studied, when there is a suggestion that phosphate levels should be studied.

**Mr Nesbitt:** I am conscious, Mr Deputy Speaker, that you mentioned the length of questions and answers. This matter has been exercising people's minds and, therefore, I wish to exorcise it from their minds.

Mr Hussey mentioned the statistics for other European countries. I do not have those to hand, but they will be supplied to Mr Hussey when I can obtain them. I share his concern, and I have placed that fact on the record. We want to get the matter right because of those concerns.

I cannot read the writing for the next answer, so I will move on.

Regarding the statement, it is having immediate effect.

1.30 pm

Mr Hussey mentioned a third point. It is rare for me to be on my feet without being asked a question about agriculture. I share the Member's concern. I wish to, and do, work co-operatively with the Department of Agriculture and Rural Development and the farming industry. He mentioned scientific fact. Policy should be based on evidence, not emotion. That applies to many issues, not just this one. I am conscious that he mentioned nitrates, phosphates and the causes of eutrophication. I am also conscious that John Gilliland, the president of the Ulster Farmers' Union, has made this point clearly to officials and to me. I will ensure that the decisions to be taken on slurry, sewage and the causes of the problems will be based on scientific evidence.

**Mr Dallat:** I also thank the Minister for his statement and compliment him on the high priority that he attaches to environmental issues. I want to introduce the issue of flags — not the controversial kind, but blue flags, which are critical to our tourism strategy. Given the restrictions on upgrading our sewerage system, will the Minister assure us that we can retain our blue flag beaches in the interests of tourism?

**Mr Nesbitt:** I am conscious of the debate about a certain sewage treatment works discharging effluent into a certain part of the coastline in Mr Dallat's constituency. Thus, I can understand the angle from which he comes. I wish to see the blue flag dimension maintained and enhanced here. We want to see our beaches protected and preserved, and that is all that I need to say at this juncture.

**Mr M Murphy:** Go raibh maith agat, a LeasCheann Comhairle. I also welcome the Minister's statement. In recognising the high price of constraints on economic growth and social progress, the Minister has agreed that the risk of pollution is not a comfortable one. Will he assure the House that any planning application will be adhered to, that the environmental risks will be considered and that no short cuts will be taken by the construction industry?

**Mr Nesbitt:** I am sorry; I missed a key part. Mr Murphy asked me to ensure what?

**Mr Deputy Speaker:** Perhaps you could clarify, Mr Murphy.

**Mr M Murphy:** Will he ensure that no short cuts are taken by the construction industry?

**Mr Nesbitt:** I missed the words "no short cuts". I also thank Mr Murphy for his commendation. I am getting worried about this approval.

Mr Murphy pointed out an environmental aspect that we all recognise exists. I will ensure that no short cuts are taken. I have made it very clear that one of the four key elements is to monitor and review. It is no good identifying a problem or trying to find a solution unless there is monitoring to ensure that that solution is answering the problem, a normal and natural business practice.

We have also established a close relationship between the Department of the Environment and the Department of Agriculture and Rural Development, akin to what happens in Britain where the environmental regulator and the Department work together. I am, or I represent, the environmental regulator, and I assure Mr Murphy that no short cuts will be tolerated in this context. We all recognise the difficulties, and we are all trying to move forward, mindful of the poor level of infrastructure we have for sewage works in Northern Ireland.

**Mr Savage:** In the Ministers press release this morning, he stated that this is a problem that he and his Department inherited due to underinvestment in former



years. I note that he said that many planning applications are on hold. Is that because the sewage treatment works are not up to scratch and cannot cope? When will all the plants in rural areas be able to cope and be brought up to an acceptable standard?

Farmers in the Lough Neagh area have had difficulty getting onto their land due to the wet weather during the past year. Will steps be taken to lower the water level?

**Mr Nesbitt:** The sewage treatment works are performing as they have been. The proportion of non-compliance has been increased by the EU Directive raising the standard and the fact that some sewage treatment works were brought into the reckoning during our assessment. Some may not be up to standard. Sewage discharge can lead to pollution, depending on whether it dilutes quickly in the river.

However, there is a problem, and we have tried to identify it and to find a way forward. We have tried to make the problem and the solution known in the public domain. That will require careful monitoring. It is also an integral part of the process. The situation will be monitored, and those sewage treatment works that are not up to standard will be brought up to standard fairly quickly — the number of years is estimated. We wait to see what further capital provision comes through the various strategic investment initiatives that are planned over the coming weeks with the Department for Regional Development. I have given the lead from a planning point of view, and I look to the Department for Regional Development to play its part.

The water level in Lough Neagh is a matter for the Department of Agriculture and Rural Development. I am conscious of the other aspect of pollution referred to by Mr Hussey.

**Mrs Courtney:** The construction industry, planners and developers have been waiting for this news for a long time. I also welcome the Minister's response to Mr Hussey that it would take effect immediately. That will be good news for those who may be in the process of laying off workers, and it is good news for the construction industry as a whole.

**Mr Nesbitt:** I thank Mrs Courtney for her comments.

## EMPLOYMENT BILL

### Consideration Stage

**Mr Deputy Speaker:** Members will have a copy of the Marshallled List of amendments detailing the order for consideration. There are five groups of amendments, and we will debate the amendments in each group in turn, as indicated in my grouping list. I remind Members intending to speak that, during the debates on the five groups of amendments, they should address all the amendments in each particular group on which they wish to comment. Once the initial debate on each group is completed, any subsequent amendments in the group will be moved formally as we go through the Bill, and the question on each will be put without further debate. The questions on stand part will be taken at the appropriate points in the Bill. If that is clear, I shall proceed.

*Clauses 1 to 3 ordered to stand part of the Bill.*

**Mr Deputy Speaker:** We now come to the first group of amendments for debate — amendment No 1, with which it will be convenient to debate amendment No 2.

#### **Clause 4 (Statutory adoption pay)**

*Question proposed,* That the Clause stand part of the Bill.

**The Minister for Employment and Learning (Ms Hanna):** I beg to move amendment No 1: In page 21, line 32, after "Act" insert

"(except section 167 ZP(1) to (3))".

*The following amendment stood on the Marshallled List:*

No 2: In clause 8, page 24, line 16, leave out paragraph (a) and insert —

"(a) after sub-paragraph (f) (issues relating to entitlement to statutory sick pay or statutory maternity pay) there shall be inserted —

"(fa) subject to and in accordance with regulations made for the purposes of this paragraph by the Department for Employment and Learning with the concurrence of the Board, to decide any issue arising as to, or in connection with, entitlement to statutory paternity pay or statutory adoption pay;"'. — [*Ms Hanna.*]

**Ms Hanna:** Amendments No 1 and No 2 cover clause 4 and clause 8 respectively. I have tabled the amendments in order to clarify the Bill's powers to make Regulations. Clause 4 inserts provisions on statutory adoption pay into the Social Security Contributions and Benefits (Northern Ireland) Act 1992. It provides my Department with the power to make Regulations on statutory adoption pay. However, statutory adoption pay may have effects on social security benefits such as incapacity benefit. Therefore, the Department for Social Development also needs powers to make Regulations in that area. Amendment No 1 confers that necessary power on the Department for Social Development.

Clause 8 inserts provisions about decisions and appeals on statutory paternity and adoption pay into the

Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999. The Department for Social Development normally makes Regulations under that Order. However, it is right that the power to make Regulations about entitlement to statutory paternity pay and statutory adoption pay should be vested in my Department, which has the policy responsibility for those matters. Amendment No 2 confers that power on my Department. The amendments ensure that the Regulation-making powers in question are conferred on the appropriate Department. The amendments are purely technical in nature, and I seek the Assembly's approval of them.

**The Chairperson of the Committee for Employment and Learning (Dr Birnie):** Both amendments are of a technical nature. They are necessary to provide enabling powers to the Department for Employment and Learning and the Department for Social Development. I urge the House to support them.

*Amendment No 1 agreed to.*

*Question put and agreed to.*

*Clause 4, as amended, ordered to stand part of the Bill.*

*Clauses 5 to 7 ordered to stand part of the Bill.*

#### **Clause 8 (Decisions and appeals)**

*Amendment No 2 made:* In clause 8, page 24, line 16, leave out paragraph (a) and insert —

“(a) after sub-paragraph (f) (issues relating to entitlement to statutory sick pay or statutory maternity pay) there shall be inserted —

“(fa) subject to and in accordance with regulations made for the purposes of this paragraph by the Department for Employment and Learning with the concurrence of the Board, to decide any issue arising as to, or in connection with, entitlement to statutory paternity pay or statutory adoption pay;”’. — *[Ms Hanna.]*

*Clause 8, as amended, ordered to stand part of the Bill.*

*Clauses 9 to 12 ordered to stand part of the Bill.*

#### **Clause 13 (Flexible working)**

*Question proposed,* That the clause stand part of the Bill.

**Mr Deputy Speaker:** Members should note that amendments No 3, No 4, No 5, No 6 and No 7 are inter-dependent. If amendment No 3 is not made, I shall not call the remaining amendments.

**Ms McWilliams:** I beg to move amendment No 3: In page 28, line 14, after “child” insert “or disabled dependant”.

*The following amendments stood on the Marshalled List:*

No 4: In page 28, line 24, after “child” insert “or disabled dependant”. — *[Ms McWilliams.]*

No 5: In page 28, line 27, after “Article” insert

“which is made in respect of a child”. — *[Ms McWilliams.]*

No 6: In page 28, line 29, leave out the words from “or” to the end. — *[Ms McWilliams.]*

No 7: In page 28, line 39, leave out from beginning to “child” in the second place it occurs and insert

“In this Article any reference to a disabled dependant is to a dependant”. — *[Ms McWilliams.]*

**Ms McWilliams:** Amendments No 4, No 5, No 6 and No 7 are consequential to amendment No 3. The lead amendment arises from our concern about parents with disabled children, and the eligibility of those disabled dependants beyond the age of 18 years.

The Employment Bill does not make it clear if the right to flexible working will be extended to parents with disabled children who are 18 years or older. There are 7,000 children under the age of 18 with disabilities in Northern Ireland. The statistics for those over 18 years were queried, but there may be approximately 14,000 adults with some kind of disability between the ages of 18 and 44. However, how many of their parents are working and would benefit from access to flexible working? In practice, some but not all might benefit from that. As the Bill stands, the parents of disabled children who depend on them beyond the age of 18 are not entitled to the provisions of the Bill.

*1.45 pm*

Parents of disabled dependants have great needs, and extensive research has been carried out by the Joseph Rowntree Foundation, which has done admirable work over the years, on the role of carers. However, the research to which I refer is a study of parents with disabled children who are now adults. The study is called ‘Juggling Work and Care: the experiences of working carers of older adults’. As part of the study, the foundation interviewed 40 families who have tried to combine employment with caring for disabled adult children. They point out the difficulties that such parents have in sustaining secure but flexible work and how, as a consequence, many such families are trapped into poverty. Some had to give up work and were then dependent on benefits, but they do not want to be on benefits; they prefer to be out working to avoid feeling isolated and vulnerable, but they cannot reconcile the two. Now, for the first time, we have a Bill that is concerned with parental rights on flexible working, but it denies those rights to one of the most needy groups of all — the parents of disabled children who are over 18 years of age.

There was a widespread assumption about the mothers of disabled dependants being available for work at any time, if they were in work. As a consequence, that group was often afraid of being labelled “in need” and therefore needy. They did not want that to continue. They wanted to be able to speak about their special needs as parents of disabled dependants. When they were out of work they suffered excessive personal and financial hardship. If this Government can do anything about linking up pieces of legislation and preventing poverty — particularly the poverty of those with disabled children or disabled dependants — let them do it in the Employment Bill.

The foundation's study concluded that if the Government were to give employees a right to ask for flexible

working arrangements, it would greatly help the parents of disabled dependants, since employees would have a legal right to have that request considered seriously by employers.

The Committee for Employment and Learning asked an official if there was any forthcoming legislation to take on board the role of carers. I am talking about the parents of disabled dependants, not other carers, although I hope that some day the Assembly will have legislation to deal with carers' responsibilities and rights in work. The official said that as far as he was aware no such legislation was being considered, so this amendment must be incorporated into the Employment Bill. If it is not, it will be lost.

The Committee for Employment and Learning took evidence from Ms McSorley from the Equality Commission for Northern Ireland, who said:

"The Commission certainly feels that the right should be made available in relation to disabled children while they remain dependent."

Likewise, Prof Barry Fitzpatrick of the Equality Commission for Northern Ireland said:

"The reconciliation of working and family life makes for better workers. If people are not given this sort of leave it will affect how they work. A sensible leave system covering the purposes for which people want time off is better than them taking leave regardless of the rules."

I have no doubt that that was the purpose of the legislation in the first place, and, therefore, it addresses the needs of parents whose children are under the age of six and parents who have disabled children up to the age of 18. Those disabled children will remain, to all intents and purposes, children, as in the word "dependants" of their parents, beyond the age of 18. Ann Hope, from the Northern Ireland Committee of the Irish Congress of Trade Unions, rightly said:

"The key issue should be the needs of the child and the parents and not an artificial age barrier."

Why is age 18 the cut-off point for disabled dependants? A departmental official responded to the Committee's inquiry. He stated:

"I do not recall whether the Department used statistics or whether it simply came to a conclusion following the consultation and suggestions made in that about the age of disabled and non-disabled children whose parents should be entitled to flexible working hours."

Consensus emerged that the appropriate age was six for non-disabled children and 18 for disabled children. The next words are extremely important. He said:

"The decision was probably not made in a scientific way."

Given all the scientific and empirical evidence about the needs of parents who have disabled children over the age of 18 but with the same needs as children under the age of six, I urge the Minister to become more scientific and extend them that right in this legislation. What will happen to parents whose children have reached the age of 18 by the time that the Bill is passed? Given that it is

going to be prospective, they may have exactly the same needs as they previously had. We must address those needs.

The Bill implicitly states that if the contractual rights were there before they reached the age of 18, they may still have those rights after the age of 18. What happens to those who can be regarded, to all intents and purposes, as dependants — who are entitled to disability living allowance, which is the eligibility criteria — but who will be denied that right?

Given that the evidence was rather unscientific, it may lead to cases of indirect discrimination. Equality legislation under section 75 of the Northern Ireland Act 1998 proves that people with or without dependants are not discriminated against in that category. The Equality Commission tells us that there is currently much confusion about the role of carers, particularly women who have caring responsibilities. If we do not include this amendment, we will add to that confusion. For example, if I were working and had a child who was under 18, and someone were working with me whose child had just turned 18 and had become incapacitated as the result of an unfortunate sporting accident, those two parents would have entirely different rights, yet that person's needs might be greater than mine.

With that mind, I am concerned that the Bill is unclear about what will happen to the group who are under the age of 18, after they become 18. However, it is equally important that Members should address the needs of those in poverty, particularly given that it is a priority in the Programme for Government, allow them the opportunity to work, give them flexible working rights and the same rights as those who have dependants under the age of 18.

**Dr Birnie:** I thank Prof McWilliams for raising this issue, which was discussed at length in several Committee meetings. It is sufficiently important to merit being raised again today.

The Bill, as it stands, states that the right of parents to request flexible working should be limited to cases where the child is aged under six or, if the child is disabled, 18. In a desire to be as helpful as possible to parents of disabled children, the Committee considered the possibility of removing the age limit of 18. However, the majority of Committee members determined against that course of action. The Committee identified two main problems, which seem to be attached also to the amendments.

First, the use of the term "disabled dependant" in amendment No 4 will widen the measure to include all dependants, not simply offspring. That is an important distinction that will widen the provision, no matter what the original intention of the amendment was. If that amendment is accepted, it will significantly change the nature of the Bill.



Secondly, there is a concern about the compliance and budgetary cost of the measure. When taking evidence, the Committee detected a certain lack of precision on the part of the Department about how many parents of disabled children would benefit from the provisions as they stand. That, in turn, makes it difficult to estimate how a wider casting of the net might increase eligibility and cost. That said, on page 74 of the Committee's report there are figures provided by Assembly Library and Research Services which include the number of people claiming disability living allowance plus attendance allowance, and which show that up to 211,000 people could be affected if we went for a form of words such as "disabled dependant".

If the Assembly is to go down that road, it will constitute a major policy change. It can be argued that that change should be considered, whatever its merits. It does have some merit, but such a change should be considered in its own right, rather than being introduced through amendments to the Bill.

Although I am bound to restate the view of the majority of Committee members on the subject, I appreciate that the amendments raise important policy issues. The position of carers other than parents must be considered, and I urge the Minister to do so, because it is part of the general theme of tackling the so-called work/life balance.

The Bill is concerned with granting the right to request flexible working. In the case of parents of disabled children, that right exists until the child reaches the age of 18. However, as Ms McWilliams pointed out, if flexible working is granted, there is a question about whether that right continues after the child reaches the age of 18. As I understand it, it would continue. However, given that that is a sufficiently important issue, it would be useful if the Minister would clarify the position of such cases.

In other words, once flexible working has been granted to a parent, does that continue once the disabled child has passed the age of 18? In previous discussions, a majority of the Committee came down against this group of amendments, although I concede that there was another view.

However, I should certainly like to hear the Minister's views this afternoon regarding some of the issues raised by Ms McWilliams, particularly on two points. First, what does the Department propose regarding equitable treatment of carers in the round — other than simply those who care for children? Secondly, what happens once the right to flexible working has been granted but the child is no longer under the age limit specified in the Bill?

2.00 pm

**Ms Gildernew:** Go raibh mile maith agat, a LeasCheann Comhairle. I support the amendments. The issue was discussed at length on several occasions, as the Chairperson of the Committee for Employment and Learning has said, and we took a vote on it. Although

the Chairperson kept talking about the majority of the Committee, that majority was of only one. Committee members were, by and large, very sympathetic to the view that a person who has a disabled child under 18 years of age and who is entitled to flexible working arrangements should be able to continue those hours after the child has turned 18.

We all know families with children who are over the age of 18 but who are still very much dependent on their parents. Those families have many problems to deal with. People come to me about matters as simple as lowered kerbs in the town centre so that they can get about adequately in a wheelchair. They come to me about the benefits system and the disabled living allowance for their children. They come to me about transport and educational arrangements. Often an entire family is disabled by the circumstances in which it finds itself with a disabled child.

If we are to do something good to benefit the wider community, we must be more imaginative and creative in bringing about legislation that will make a real difference to people's lives. Extending the flexible working arrangements to families who have children over the age of 18 who are still dependent would make a huge difference.

The Committee has discussed the issue at length. I agree with much of what Monica McWilliams said on the issue and support her amendments. It is critically important that we try, in the limited time that we have left in this Assembly — and it might be even more limited today than it was last week — to pass legislation that will improve people's lives. These amendments, if carried, will do that, and I support them. Go raibh mile maith agat.

**Ms Hanna:** I understand that, in proposing these amendments, the Member intends to give the parents of disabled children the statutory right to continue with flexible working arrangements when their child passes the age of 18. Secondly, she would like the right to flexible working for the parents of disabled children who are over 18 years of age when the parents request flexible working arrangements.

I fully support the Member's sentiments. Indeed, I have worked for many years with the parents of disabled children. I share their concerns. After all, just because a disabled child turns 18 years of age does not mean that it is no longer dependent on its parents. Parents of disabled children still require the right to flexible working arrangements when their children become adults.

The Employment Bill confers on parents of disabled children the right to request flexible working arrangements, not just until children reach six years of age, but throughout the childhood of a disabled person. Although the request for flexible working hours must be made

before a child with a disability reaches the age of 18, the flexible working arrangement does not end at that point.

I want to clarify what would happen in practice with regard to flexible working arrangements under the provisions of the Bill. When the parents of a child under the age of six, or of a disabled child under the age of 18, request flexible working arrangements, the employer and employee will enter into dialogue to explore how the request can be accommodated without there being a detrimental effect on the employer's business. I am confident that the request can be facilitated in most cases and that a mutually suitable arrangement will be reflected in the permanent employment contract between employer and employee.

The permanent contract would continue indefinitely until an event occurs, such as the employee leaving, the employer ceasing to operate, a new contract being established or a contract being varied. A contract can only be varied, or a new contract entered into, after due consultation involving both parties. The contract would continue indefinitely. Therefore, a situation would arise in which employees who are parents of disabled persons over the age of 18 would continue with that flexible working arrangement.

I cannot agree with Ms McWilliams's amendment. It would confer the right to request flexible working arrangements beyond the targeted beneficiaries of the Bill. I sincerely appreciate the fact that parents of disabled children over the age of 18 when the application is made for flexible working arrangements will miss out: that goes beyond the targeted beneficiaries of the Bill. However, the Department will review the legislation and if it is working successfully for employer and employee, the Department may extend its scope. I hope that the Member will feel able to withdraw her amendment.

**Ms McWilliams:** I am pleased that it was clarified that much debate took place in the Committee and that the majority was only one. Had the Committee considered the issue at greater length, certain members might have been won over by some of the arguments. It is good to have the Minister's clarification that the contractual arrangement could be varied for those who have the right and are beyond the age of 18.

However, I was taken by the Minister's own words when she said that a disabled person's dependency does not necessarily end at the age of 18. I am heartened that the Minister, having worked with the parents of disabled adults, understands their needs. I believe, therefore, that it is possible for the Assembly to work on the amendment. I am not referring to the wider interpretation that covers all carers of dependants. I agree that that may require further legislation. I am referring to the working parents of a disabled dependent child or adult who is beyond the age of 18. The Assembly must legislate for that group. Therefore, the amendment must stand. If it is passed, the

Assembly can agree upon the legal wording that will accommodate that group.

Given the current political situation, it would not serve us well to leave it out of the legislation and to have to tell interested groups that we may return to it one day. The time is now, and it is a good time to include the amendment in the legislation.

*Question put, That amendment No 3 be made.*

*The Assembly divided: Ayes 19; Noes 35.*

#### AYES

*Eileen Bell, Seamus Close, David Ervine, David Ford, Michelle Gildernew, Billy Hutchinson, John Kelly, Kieran McCarthy, Barry McElduff, Gerry McHugh, Monica McWilliams, Francie Molloy, Jane Morrice, Conor Murphy, Mick Murphy, Sean Neeson, Mary Nelis, Dara O'Hagan, Sue Ramsey.*

#### NOES

*Roy Beggs, Billy Bell, Esmond Birnie, P J Bradley, Joe Byrne, Joan Carson, Robert Coulter, Annie Courtney, Michael Coyle, John Dallat, Ivan Davis, Mark Durkan, Reg Empey, Seán Farren, Tommy Gallagher, John Gorman, Tom Hamilton, Carmel Hanna, Joe Hendron, Derek Hussey, Danny Kennedy, Lord Kilclooney, James Leslie, Patricia Lewsley, David McClarty, Alasdair McDonnell, Alan McFarland, Michael McGimpsey, Eddie McGrady, Eugene McMenamin, Éamonn O'Neill, Ken Robinson, Brid Rodgers, George Savage, David Trimble.*

*Question accordingly negatived.*

2.15 pm

**Mr Deputy Speaker:** As amendment No 3 has fallen, consequential amendments No 4, No 5, No 6 and No 7 shall not be called.

*Question put and agreed to.*

*Clause 13 ordered to stand part of the Bill.*

*Clauses 14 to 18 ordered to stand part of the Bill.*

*Schedule 1 agreed to.*

#### Schedule 2

*Question proposed, That the schedule stand part of the Bill.*

**Ms Hanna:** I beg to move amendment No 9: In page 37, line 32, at end insert —

*"The Industrial Relations (Northern Ireland) Order 1992 (NI 5)*

*In Article 84A(1) (claims and proceedings to which Agency arbitration scheme applies)—*

(a) after 'tribunal' insert 'under, or';

(b) after 'contravention of' insert—

*'(za) Article 112G(1) or 112H(1)(b) of the Employment Rights (Northern Ireland) Order 1996 (flexible working);'*  
and

- (c) in sub-paragraph (a) for 'the Employment Rights (Northern Ireland) Order 1996' substitute 'that Order'."

*The following amendment stood on the Marshalled List:*

No 11: in page 39, line 7, at end insert —

*"The Industrial Tribunals (Northern Ireland) Order 1996 (NI 18)*

. In Article 20(1) (claims and proceedings to which provisions as to conciliation apply)—

- (a) in sub-paragraph (c)—
- (i) at the beginning insert 'under, or';
- (ii) after head (vii) insert—
- '(viii) Article 112G(1) or 112H(1)(b) (flexible working);' and
- (b) in sub-paragraph (e) at the beginning insert 'under, or'."
- [Ms Hanna.]

**Ms Hanna:** Amendments No 9 and No 11 have the effect of enabling the Labour Relations Agency both to conciliate in disputes about flexible working and to extend its binding arbitration scheme to such disputes. A key principle behind the flexible working provisions is that of promoting dialogue. It is important to encourage employers and employees to find solutions that suit both. Conciliation and arbitration can help to achieve that. It is in everyone's interests to ensure that disputes be settled to the satisfaction of the parties without recourse to the tribunal system. The flexible working provisions lend themselves well to conciliation and arbitration, which are well suited to resolving straight-forward cases. Essentially, the issues to be resolved are factual rather than legal. The Labour Relations Agency has much expertise in the areas of conciliation and arbitration. The resource should be made available when disputes arise over flexible working. To that end, I have tabled the two technical amendments.

**Dr Birnie:** The Committee supports the principle of this group of amendments, whereby individuals can choose to use the Labour Relations Agency instead of industrial tribunals. I therefore urge support for them.

*Amendment No 9 agreed to.*

**Ms Hanna:** I beg to move amendment No 10: In page 39, line 1, leave out lines 1 to 3 and insert

"in sub-paragraph (e) after '134' insert ' , 135C'."

This amendment will have the effect of exempting members of the armed forces from the Bill's flexible working provisions.

As drafted, those provisions apply to all employees, and that, by and large, is how it should be. However, if national interest requires it, members of the armed forces are placed in the unusual position of being deployed at little or no notice. Those unique working conditions make it impractical to apply flexible working arrangements to service personnel.

The Minister of State for the Armed Forces and the Ministry of Defence requested that I accept their proposed amendments, and for the reasons given, I decided to agree. The Ministry of Defence intends to explore how it can, nevertheless, comply with the spirit of the legislation, subject to overriding operational requirements.

**Dr Birnie:** The Committee considered the proposed amendment and sought clarification from the Minister, whereby it was pointed out that the exemption would not apply to emergency services such as the Ambulance Service or the Fire Service. The Committee supports the amendment in principle.

*Amendment No 10 agreed to.*

*Amendment No 11 made:* In page 39, line 7, at end insert —

*"The Industrial Tribunals (Northern Ireland) Order 1996 (NI 18)*

. In Article 20(1) (claims and proceedings to which provisions as to conciliation apply)—

- (a) in sub-paragraph (c)—
- (i) at the beginning insert 'under, or';
- (ii) after head (vii) insert—
- '(viii) Article 112G(1) or 112H(1)(b) (flexible working);' and
- (b) in sub-paragraph (e) at the beginning insert 'under, or'."
- [Ms Hanna.]

**Ms Hanna:** I beg to move amendment No 12: In page 39, line 7, at end insert —

*"The Employment Relations (Northern Ireland) Order 1999 (NI 9)*

In Article 24 (1) (power to confer rights on individuals) at the end add—

- '(g) the Employment Act (Northern Ireland) 2002.'."

Amendment No 12 will enable my Department to extend the rights conferred by the Employment Bill to additional classes of workers. The Committee for Employment and Learning has expressed concern that the Bill's provisions do not cover the relatively small group of workers not classed as employees. The right that the Bill confers applies to employees for several practical reasons, which have been accepted by the Committee.

I am sympathetic to the Committee's interest in the rights and benefits afforded to workers. My Department recently issued two related consultation documents on employment status and working conditions for temporary and agency workers. I look forward to hearing views that may arise from the public consultations on individual employment rights, including those introduced by the Bill. The Employment Relations (Northern Ireland) Order 1999 gives the Department the power to extend the rights contained in some existing employment legislation. Some of the rights introduced by the Employment Bill will be covered by that power because they are inserted in existing legislation. Other rights are, however, only



contained in the Bill, and to ensure that they can be extended, I tabled amendment No 12.

**Dr Birnie:** Amendment No 12 is especially significant in the context of the two consultation exercises that the Minister mentioned. As she rightly said, the Committee urges that this opportunity be used to consider whether “workers” could in some cases be given rights equal to those that apply to people who are defined as “employees”. The Committee supports the amendment in principle.

*(Mr Speaker in the Chair)*

*Amendment No 12 agreed to.*

*Question put and agreed to.*

*Schedule 2, as amended, agreed to.*

*Long title agreed to.*

**Mr Speaker:** That concludes the Consideration Stage of the Employment Bill. The Bill stands referred to the Speaker.

2.30 pm

## Oral Answers to Questions

### FIRST MINISTER AND DEPUTY FIRST MINISTER

#### Reinvestment and Reform Initiative

1. **Mr Beggs** asked the Office of the First Minister and the Deputy First Minister (OFMDFM) what provisions have been made, in the draft Budget, for the Office’s plans regarding the reform and reinvestment initiative. (AQO 250/02)

**The First Minister (Mr Trimble):** Our office is taking the lead in developing legislation on behalf of the Executive to establish the strategic investment board and to allow for the regeneration, through the reinvestment and reform initiative, of former security and military sites. The draft Budget does not contain specific provision for the strategic investment board or for the costs associated with the transfer of sites because we were unable to quantify those meaningfully when proposals for the draft Budget were drawn up. The situation will be reviewed when the final Budget is prepared and when work on the initiative is taken into account in the next few months.

The provision in the draft Budget for infrastructure for 2004-05 and 2005-06, which was announced on 24 September, is insufficient to tackle our infrastructure deficit. More is needed for our capital programmes, but more will come through the reinvestment and reform initiative, which we hope will be announced later in the autumn.

**Mr Beggs:** Does the First Minister agree that the reinvestment and reform initiative provides an important financial opportunity to address the water and sewerage infrastructure deficits which exist throughout Northern Ireland and which are restricting development in my constituency? Does the Minister agree that the reinvestment and reform initiative could play an important role in maintaining existing jobs and, perhaps, in creating new ones?

**The First Minister:** The Member is correct; the object of the exercise is to address the infrastructure deficit and to provide resources for it. We already have a significant increase in resources, thanks to the immediate measures that we negotiated with the Treasury, and we expect legislation to be forthcoming from Westminster that will give us a substantial borrowing power that will greatly add to our available options. Of course, the Administration and the Assembly must consider carefully how those options are exercised.

**Mr S Wilson:** Will the First Minister confirm that all the infrastructure work that was referred to in the last question could be carried out by the existing Departments, without setting up an expensive strategic investment board or expensive development corporations, as proposed in the Strategic Planning Bill? Will he tell the House whether setting up new quangos is consistent with the promises that he made to sweep away quangos as a result of administrative reform? Does he not find it grotesque that, while talking about tumbling the institutions, he is in the process of putting through a Bill that is designed only to give him more opportunities to promote his cronies?

**The First Minister:** The Member is tempting fate by using the word “grotesque”, and I shall not pursue that further. There is substantial underinvestment in infrastructure, and a substantial job must be done. The initiative is not merely about reinvestment; it is about reinvestment and reform. The intention is to improve how we do things, and the Administration has not been as effective as we would have liked in pursuing public-private partnerships and exploring the options there. We are centralising expertise so that the 10 Departments do not each have to reinvent the wheel. That is why we want to attract skills and disciplines from parts of the private sector to improve the effectiveness and efficiency of the system. It will be cost-effective, but working through the existing Departments — the old silo-type system — has clearly been inadequate and is unlikely to be adequate for our current situation. I am sorry that the Member is such an old stick-in-the-mud.

**Mr Speaker:** I wish to advise the House that question 5, standing in the name of Mr Fee, has been withdrawn and will receive a written answer.

## Equality Commission

2. **Mrs E Bell** asked the Office of the First Minister and the Deputy First Minister to give an update on the implementation of the Equality Commission’s legal services’ audit report recommendations; and to make a statement. (AQO 244/02)

**The Deputy First Minister:** In January 2002, the Department queried the Equality Commission’s increasing expenditure on legal fees. The Department asked the Commission to carry out an internal audit of its financial systems and procedures relating to the legal services budget. We agreed the terms of reference for the audit, which covered three distinct areas: the reasons for the increasing expenditure on legal fees; a review of the processes for commissioning and paying legal fees and budgetary financial management and approval systems; and a review of systems and processes in the legal division as a whole, with reference to the integration of services across all the legislative grounds.

The auditor’s final report on the first two areas was presented to the Equality Commission on 5 July, and the

Department asked the Commission to draw up an implementation plan for the recommendations. That has been accomplished and is being monitored by the Department. Significant progress has been made on implementing those recommendations.

The third part of the review, which will include benchmarking the legal services directorate against other organisations carrying out similar functions, is due to be completed by the end of November.

**Mrs E Bell:** I thank the Deputy First Minister for his answer to that important question. Does he agree that recent newspaper reports on this, which I understand are generally inaccurate, must be dealt with, so that staff morale is not further undermined?

**The Deputy First Minister:** I recognise that concerns have arisen over newspaper reports. Staff morale is a significant factor, and the Department hopes to ensure that any damage is compensated for by progress. As well as that, those who want the Equality Commission to be available to give support must have their confidence in and concerns about the Commission addressed.

**Mrs Courtney:** Is OFMDFM concerned that some people have had legal assistance withdrawn at short notice, and was it aware that that would happen? Does OFMDFM agree that the Equality Commission is well funded, and can it say what support it provides?

**The Deputy First Minister:** I agree that the Equality Commission is well funded. It gets £6.7 million each year while the Northern Ireland Human Rights Commission gets only £750,000 and the South’s equality authority gets 5 million euros — about half the funding for twice the number of people. The Commission may spend up to £1.8 million on legal assistance this financial year. That is well over budget. Last year it is estimated that the UK Disability Rights Commission spent £220,000.

OFMDFM was not aware that the Equality Commission had started to withdraw assistance at short notice, and as it was concerned about that, it met with the Equality Commission. OFMDFM is monitoring the situation to see what additional resources should be made available to it this year to ensure that important aspects of its work are carried forward, while dealing with increased expenditure on legal fees. OFMDFM wants to ensure that assistance is not withdrawn at short notice and that the large increase in expenditure and legal aid do not prevent the Commission from carrying out other important aspects of its work. OFMDFM has also agreed measures to assist the Commission to manage its legal aid strategy. The Equality Commission is not a legal aid body and should not be expected to act as such. At a personal level, I would like to see legal aid made available for such cases.

**Mrs Carson:** Will the Minister agree that, in the past, the Equality Commission has been too willing to back every case brought to it and that that has been the cause

of its financial problems? That policy has also discredited the Equality Commission in the eyes of the public.

**The Deputy First Minister:** Unlawful discrimination is unacceptable. The Equality Commission is a strategic enforcement body that enforces existing anti-discrimination law and uses its resources to ensure the development of legal issues. Support to complainants is one of the ways in which the Equality Commission can fulfil its functions to eliminate unlawful discrimination and to promote equality of opportunity.

Last year, in recognition of the increasing proportion of its budget that was being taken up by legal fees, and of the need to bring a more strategic focus and coherence to the consideration of requests for assistance, the Equality Commission undertook a review of its legal assistance strategy. The review identified the need for a more strategic use of its legal budget. Again, I make the point that the Equality Commission is not responsible for providing legal aid and cannot be expected to act as if it is. Legal aid is a reserved matter, and it is the Lord Chancellor's policy not to provide legal aid to tribunal cases. I have already given my view on that matter.

### Executive Meeting

3. **Mr McClarty** asked the Office of the First Minister and the Deputy First Minister to outline the date of the next Executive meeting and what will be on the agenda. (AQO 251/02)

**The First Minister:** There is a schedule, but unless there are some dramatic developments, I have great difficulty in seeing how the Executive, as presently constituted, can meet again.

**Members:** Hear, hear.

**Mr McClarty:** Is it conceivable that, had security matters rested with the Executive, infiltration to the extent admitted by the Secretary of State would have happened under the First Minister's watch?

**Mr S Wilson:** He helped it.

**Mr McClarty:** I will get back to my point and leave Flipper to get on with it.

Furthermore, would the question of concealing stolen documents to that scale of for more than three months have arisen?

**The First Minister:** The Member raises hypothetical points, and some of those matters may be unknowable. However, there is no doubt that serious questions must be asked about how the Northern Ireland Office conducted its business and the level of regulation that it imposed. I hope that, at an appropriate time, in the not-too-distant future, the Secretary of State will institute a proper inquiry into what happened on his watch and put the findings in the public domain.

**Dr Hendron:** Will the First Minister or the Deputy First Minister ask the Executive, if and when they meet, to recall the Minister for Regional Development's triumphant statement to the Assembly on 20 May this year? The Minister announced approval for development at Harland & Wolff's harbour estate of land that was no longer required for shipbuilding, permitting the financing of a new business plan. Will he establish whether the proposal of 200 redundancies is part of that business plan, or whether it is an attempt to free up even more Harland & Wolff land for disgraceful speculative profit at the expense of those unfortunate workers?

**The First Minister:** There was a brief discussion of those matters at the Executive's last meeting. Sir Reg Empey gave the Executive an account of the development of the situation. As I recall — and I hope that I recall accurately — the protective notices with regard to redundancy were necessitated by the state of the construction of vessels at Harland & Wolff; the second ship is about to be completed. He also told us about discussions on the development of the harbour estate. Plans are being prepared, and these matters will be brought before the Executive again, when appropriate. With regard to the redevelopment of the estate, an effort is being made to include more light industry and commercial development as a means to replace the jobs that are threatened and the jobs that have already been lost.

**Mr McElduff:** Go raibh maith agat, a Cheann Comhairle. Will the First Minister speak and act with caution — as a lawyer, he ought to know to do so — so as not to further prejudice legal proceedings against an individual who works in this Assembly?

**The First Minister:** The phrase about beams and motes comes to mind, with regard to the behaviour, not only of the Member who asked that question, but of his party. If he considers the way in which his party and his associates have behaved over the course of recent weeks and months, he might have thought twice about asking such a question.

2.45 pm

### Third-World Link

4. **Mr Dallat** asked the Office of the First Minister and the Deputy First Minister what progress has been made towards establishing a linkage with a Third-World country; and to make a statement. (AQO 247/02)

**The Deputy First Minister:** No official or formal links have yet been established between the Executive and a developing country. However, we recognise that the people of Northern Ireland have a long and well-renowned tradition of supportive links with developing countries through the valuable work of Concern, Trocaire, Christian Aid and other charities. I had intended to visit Malawi in late August to see the excellent work being carried out



by Concern and other relief organisations. However, due to my mother's terminal illness, I was unable to go.

In the Assembly we have already established an all-party group on international development. We need to consider how the work of that group and perhaps the activities of something such as the commonwealth local government good practice scheme, which is funded by the UK Government, can assist in developing stronger and more valuable links with developing countries, as recently reflected in the Member's comments during the Programme for Government debate.

**Mr Dallat:** I applaud the Minister's interest in Third-World issues. Is he aware that Coleraine Borough Council has recently established a linkage with the city council in Zomba in Malawi, the country that he referred to? Will he encourage other councils to consider similar procedures? Assuming that normality breaks out in the House, would he avail of an early opportunity to visit Malawi so that he can reinforce the Assembly's concern for the people of Africa and the Third World generally?

**The Deputy First Minister:** The links being developed between Coleraine Borough Council and Malawi through the twinning process are worthy of our fullest support. I would certainly encourage other councils to follow that sort of initiative. I am aware that in the past similar initiatives were undertaken by Derry City Council in relation to Kebele 37 in Addis Ababa. More recently, there have been some links between Derry and El Salvador. Sharing experience and expertise between local authorities and developing countries can lead to mutually beneficial relationships through which we can all learn. In circumstances where many of us like to tell each other that the eyes of the world are upon us — when the truth is the eyes of the world more generally roll up to heaven every time we seem to put ourselves into another crisis — it is right that that we take a wider view of the world and see our responsibilities and our role in that world context.

**Mr Paisley Jnr:** Is the Deputy First Minister content that his partner in Government has already got Third-World links with a terrorist guerrilla organisation in Colombia? Does he not believe that it sets a bad example to the Third World that we have gunmen established in our Government? During the last 72 hours, has the First Minister expressed to the Deputy First Minister a willingness to remove his Ministers, who prop up Sinn Féin in this Government?

**The Deputy First Minister:** The Member is referring to matters that are the subject of legal proceedings in Colombia. We must let those events take their course there.

In circumstances where there are all sorts of stories about all sorts of conversations and records of conversations being leaked and briefed, I will let the Member receive whatever leak he has or may get of any conversation that I have had with the First Minister through the DUP's

normal course, rather than taking the opportunity to reveal those conversations here.

**Mr McCartney:** In view of the fact that we now have a Health Service that has the longest waiting lists in Europe, a sewerage infrastructure that forbids the development of property and a water system that is currently inviting fines from the EU, does the Deputy First Minister agree that we have much in common with Third-World countries and much to learn from their experiences?

**The Deputy First Minister:** We face significant challenges in relation to infrastructure and the public service estate. We have undertaken the reinvestment and reform initiative precisely because we face those significant challenges due to the backlog of underinvestment during direct rule. We treat those problems seriously.

As to likening those challenges to some of the challenges that the Third World faces, I would say — as I would in relation to any developing countries — that the best context in which they can face those challenges, and manage those public expenditure and public service issues, is by having truly democratic arrangements available and in operation.

### Strategic Investment Body

6. **Mr Molloy** asked the Office of the First Minister and the Deputy First Minister to give an update on the proposals for the creation of the strategic investment body. (AQO 230/02)

**The Deputy First Minister:** Following the announcement of the reinvestment and reform initiative in May, we established a project board, on which all the parties in the Executive are represented, to advise us on the way forward on the development of the strategic investment board. During the summer the project board considered the detailed arrangements for the strategic investment board and how it should function.

At the Executive's meeting on 23 July, it was agreed that work should begin immediately to prepare the necessary legislation to establish the strategic investment board. The Strategic Investment and Regeneration of Sites Bill was introduced on 30 September and will have its Second Stage tomorrow. We hope to complete the Bill's passage through the Assembly and for it to receive Royal Assent by March 2003. There is confidence for you.

In the coming weeks the project board will undertake more detailed work to define how the board will carry out its functions and to identify the types of skills and expertise required to enable the board to operate successfully. It will also address other key issues, such as corporate governance and accountability.

**Mr Molloy:** I thank the Minister for his confidence. I hope that we will get it all done by the end of the week. I hope that we will have that situation. Will the Minister

explain the role of the investment body in the likely public-private partnership (PPP) or private finance initiative (PFI) contracts?

**The Deputy First Minister:** The board will be there at a broad level to serve the Executive's strategic investment approach and centralise the expertise needed to manage the increased levels of capital investment that we are hoping to achieve using the reinvestment and reform initiative. It is hoped that by so doing we will reduce the amount of money that ends up being spent on consultants in our capital undertakings from one contract and project to another.

In providing that advice to the Executive, and in assisting the various Departments in their undertakings, the strategic investment board will be helping to form and advise on Executive views in relation to the use of PPPs where they are deemed to be appropriate as one part of that overall strategic investment portfolio. They are only one part of that, and it is to be a part that adds to the net investment that we are able to achieve, beyond what would be available to us under conventional procurement.

**Mr Poots:** Given that we are having a review of public administration in an attempt to create a more efficient Government, why are the First Minister and the Deputy First Minister introducing a Bill that will create a strategic investment board at a cost of £3 million a year plus set-up costs, up to five development corporations costing between £750,000 and £900,000 a year, and a plethora of new civil servants to be added to the Office of the First Minister and the Deputy First Minister? Are they not satisfied with having more staff in their office than Bertie Ahern and Tony Blair have, and do they now also want to create an office with more staff than George Bush has?

**The Deputy First Minister:** The strategic investment board will be there to serve the investment programme of the Executive at large and to ensure that we will be able to improve and increase the capital expenditure that we are undertaking. We have to do that in dramatic ways.

Members will recall that they often criticise cases of underspend and delays involving capital projects. The idea of a strategic investment body is to cut through many of those problems by having expertise centralised and available in Government to support the work of the different Departments and the Executive, and also to reduce the undue reliance on outside consultants. Members often criticise the constant reliance of Departments on outside consultants and want us to do more in-house in a programmed way. That is exactly what the strategic investment body is about.

Consistency is a bit much to ask for, but Members may recall that some time ago all parties represented on the Committee for Finance and Personnel supported a report calling for a new central driver for capital expenditure. The type of case set out in the Committee for Finance

and Personnel's very good report into public-private partnerships and private finance initiatives is exactly the one that we are answering with our proposals for this body.

### Sure Start (Shankill Road)

7. **Ms Lewsley** asked the Office of the First Minister and the Deputy First Minister to make a statement on the Deputy First Minister's visit to the Sure Start project, Shankill Road, Belfast. (AQO 261/02)

**The First Minister:** The Deputy First Minister visited the Shankill Sure Start project at the Alessie Centre on Belfast's Shankill Road on 17 September. That project operates from three early year family centres — the Alessie centre, the Hanna centre and the Martin centre, which are located in the greater Shankill area. Those centres provide high-quality settings for a range of activities covering play development, health and well-being, and parenting and education. The centres also host a range of drop-in facilities, parent and toddler groups, art and craft sections and one-to-one support services.

The Deputy First Minister was given a presentation on the work of the Shankill Sure Start project. He met with parents and users of the service and saw at first hand the impressive range of facilities, activities and services being delivered to children and families. Giving our children the best possible education, and encouraging people to learn and develop throughout their lives, has a fundamental place in the Programme for Government.

We recognise the longer-term benefits associated with early years education, and the Executive are providing additional support through the Sure Start programme, targeting children under four and their families in areas of need. Initiatives such as the Sure Start project on the Shankill Road help to promote a positive image of the area and demonstrate what can be achieved through communities and statutory agencies working together in partnership.

**Ms Lewsley:** Does the First Minister recognise the immense value of such visits, particularly to the staff and the children? Will he consider making a comparable visit to a disadvantaged community in a Nationalist area of Belfast?

**The First Minister:** I take both of the Member's points. It is one of the great pleasures for the Deputy First Minister and me, and, indeed, other Ministers, that we can go and visit people delivering services at the sharp end and see what is happening. It is good for us, it is good for them, and it is good for the service. It is one of the pleasures of this business and helps to compensate for other aspects that are not always such a pleasure.

In relation to the Member's specific proposal, there is a certain parallel that if the Deputy First Minister goes to the Shankill, people say that I should go somewhere else. I shall look at that proposal sympathetically.

## Devolution and Financial Allocations to Health

8. **Dr McDonnell** asked the Office of the First Minister and the Deputy First Minister to outline the effect of devolution on the overall allocation of financial resources to health. (AQO 274/02)

**The Deputy First Minister:** From the outset, the Executive and the Minister for Finance and Personnel have identified health as one of our main priorities and continue to treat it as such. Since devolution, the Executive have agreed substantial additional resources year-on-year for health and personal social services. During the period 2000-01 to 2003-04, the health budget will have increased by £1.1 billion to over £3 billion, representing growth approaching 60% over the period, and an average growth of 12.8% over that period.

The draft budget announced on 24 September offers £300 million more for health than would be provided through the simple application of the Barnett formula based on changes in English health expenditures. The draft Budget proposals further provide year-on-year increases of 4% and 7.7% in 2004-05 and 2005-06. Health funding for those two years will be further increased by allocations from Executive programme funds and the reinvestment and reform initiative.

**Dr McDonnell:** Has there has been any assessment of the impact of this money on the National Health Service?

Has it visibly reduced waiting lists? I separate waiting lists for a first appointment from bottlenecks for surgery. Have the bottlenecks or secondary waiting lists for surgery been cleared? If not, why not?

3.00 pm

**The Deputy First Minister:** The number of people awaiting treatment is a huge concern, and the Minister of Health, Social Services and Public Safety has confirmed that there will be an expansion in hospital capacity over the next one to two years. The reinvestment and reform initiative has already financed additional capacity that will amount to 100 beds; it is intended to provide additional elective surgery and there are also plans to improve cardiac and cardiology surgery.

There must also be increased investment in community and intermediate care to help to avoid, where possible, hospital admission, to provide for earlier discharge, and to deal with the sort of bottlenecks to which the Member refers.

**Mr Speaker:** That brings to an end the time for questions to the First Minister and the Deputy First Minister.

**Rev Dr Ian Paisley:** On a point of order, Mr Speaker.

**Mr Speaker:** I do not normally take points of order during Question Time.

**Rev Dr Ian Paisley:** Mr Speaker, will you tell the House if the business for tomorrow has been changed? Will the Business Committee tell Members what it is going to do with the motion?

**Mr Speaker:** Order. The Member knows that I do not take points of order during questions to the First Minister and the Deputy First Minister, but I have already indicated through the usual channels that I will take a question at the end of Question Time. I assume that Dr Paisley's question is one that may well be asked, but I will take it at the end of Question Time.

## REGIONAL DEVELOPMENT

### Public Transport

1. **Mr Byrne** asked the Minister for Regional Development what immediate proposals he has to increase the number of people using public transport. (AQO 263/02)

**The Minister for Regional Development (Mr P Robinson):** Mr Speaker, I commend the Business Committee for the decision that you will announce later.

**Mr Speaker:** Is the Minister indicating that the point of order might not actually be a question of acquiring information from the Speaker?

**Mr P Robinson:** You got your chance and you blew it, Mr Speaker. The consultation proposal, 'A New Start for Public Transport in Northern Ireland', which I issued on 17 September, would see the Northern Ireland Transport Holding Company and its Translink bus and rail subsidiaries amalgamated into a new, dynamic, publicly owned operating company, Transport Northern Ireland. It would also establish an independent public transport regulatory body. Significantly, I am also proposing the progressive injection of private sector finance and expertise into the public transport market insofar as it makes sound commercial sense and is acceptable to the wider community. I am convinced that these proposals would lead to improved public transport provision.

I also propose to issue shortly a consultation paper on extensions to the concessionary fare scheme. If the Assembly is prepared to allocate the resources to enable me to introduce such extensions, I am confident that they will increase public transport usage as well as benefiting less-well-off members of society.

As for capital investment, Translink has 23 new trains on order, has completed work on the Bangor line relay, and will commence work on the Belfast to Whitehead relay this year. Translink is also continuing to upgrade its ageing bus fleet. With the assistance of 50% grant aid from the Department for Regional Development, Translink is expected to spend £5.4 million this year and £11.4 million next year buying about 130 new low-floor buses.



These developments should make rail and bus travel more attractive.

Looking further ahead, the 10-year regional transportation strategy includes many measures to encourage greater use of public transport such as refurbishment of stations, improved passenger information systems, more park-and-ride facilities, more quality bus corridors, more town bus services and a rapid transit system for Belfast. However, the outcome for public transport will ultimately be determined in the budgetary process, and I trust that I can call for Mr Byrne's support in this regard.

**Mr Byrne:** Does the Minister agree that the number of journeys travelled on public transport declined last year by 2%, and that, therefore, a proactive approach must be taken by Northern Ireland Railways, Ulsterbus and Citybus to make public transport more attractive? Does he accept that the Department for Regional Development has a public responsibility to ensure the increasing use of public transport, including rural areas beyond the Belfast metropolitan area?

**Mr P Robinson:** In spite of the statistics showing significantly increased use of public transport by senior citizens as a result of the free fares scheme, unfortunately there has been a 2% downturn in the number of passenger journeys on public transport. That is a disturbing trend, and it encouraged me to introduce the consultation document 'A New Start for Public Transport in Northern Ireland'.

Evidence elsewhere in the world shows that where private sector finance and expertise has been introduced into public transport, it has reversed that decline. It has also shown that where public transport is the responsibility of the public sector, the figures decline. That is one factor that we can use to turn the figures around and ensure greater usage.

The Member will know, coming from west Tyrone and also from his background on the Committee for Regional Development, that unless we can raise the standards of the product that we offer to the public, we will not encourage more members of the public to use public transport — hence the injection of Assembly funds into railways and new buses. That kind of good service with regular, dependable, comfortable buses and trains is more likely to encourage people to use public transport than anything else.

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

## Pedestrian Crossings

2. **Mr McCarthy** asked the Minister for Regional Development what formula is used to assess the need for pedestrian crossings. (AQO 241/02)

**Mr P Robinson:** Roads Service receives many requests for the provision of controlled pedestrian crossings, whether pelican or zebra. Requests are assessed using a

formula based on national guidelines to ensure a consistent and equitable approach. Consideration is given to sites if

$$P \times V^2 > 0.5 \times 10^8$$

where P is the number of pedestrians crossing the road per hour, and V is the number of vehicles per hour.

The purpose of the formula is to assess the degree of conflict between pedestrians wishing to cross a road and the number of vehicles using it. The formula acts as an initial sift. If the threshold is exceeded, the site is considered in more detail, and other factors are taken into account when making the decision. Those factors include vehicle speed, road geometry, accident history and proximity to shops, schools, community centres, hospitals, and so on.

This is an important matter and, therefore, I have asked the Roads Service officials to review the formula and the other factors taken into account to ensure that pedestrian crossings are provided where they will be of most benefit. In undertaking the review, my officials will consult the Committee for Regional Development.

**Mr McCarthy:** I was going to take down the formula, but I got lost. I will get it in Hansard tomorrow.

The Minister will be aware of the demands from elderly people and parents of young children for crossings to ensure safe passage across busy main streets. In the circumstances, can the Minister promote a reduced formula, which would provide crossings and, thus, reduce the risk of injury or fatality?

**Mr P Robinson:** I have asked my officials to report to me after the review. The existing formula — complex though it is — can be tweaked to allow more crossings. It simply involves changing the factor 0.5 in the formula. Nonetheless, there are requirements if we are to be able to fund additional pedestrian crossings. That is another factor that depends on budgetary issues.

**Mr McCarthy:** What about saving a life?

**Mr P Robinson:** Sometimes it does not save lives. That depends on the circumstances in the area. The more pedestrian crossings there are, the less regard cars pay to them, and especially to zebra crossings. Many factors must be taken into account. I am happy to allow my officials to speak to the Member, if he wants to submit views to the review. The Department will consult with the Committee for Regional Development to hear its views on the formula and any changes to it.

**Mr Shannon:** Will the Minister confirm that he intends to change the criteria along the lines that he discussed with elected representatives and community groups at a meeting in Ards and bring them into line with the needs of the people of Northern Ireland? When does he envisage consultation starting and finishing, so that the communities of Ballywalter, Greyabbey, Kircubbin, Millisle, Ballygowan and Comber can benefit from it?

**Mr P Robinson:** The review is under way. I asked officials to carry it out, so, naturally, I assume that they have begun it. It would be unhelpful for me to make any assumptions about its outcome before I have heard what the Committee for Regional Development has to say or what the review establishes.

During the meeting in Ards, I was made aware of several factors, which can be just as important in judging the dangers as the numbers of pedestrians or vehicles. The Department wants to see if the formula can reflect more accurately the danger to people crossing a road, as opposed to the number of pedestrians or vehicles on it.

**Mr Hussey:** The Minister has answered my query in part. To take the issue of traffic calming beyond pedestrian crossings, I understand that he is looking objectively at the figures and formulae that seem to cause Mr McCarthy so much concern. I urge him to ensure that the review takes a more subjective approach to traffic-calming measures, because it can be difficult for rural communities to meet the indicative figures that the formulas require.

**Mr P Robinson:** Leaving aside pedestrian crossings, traffic-calming measures are determined by a scoring system, which is based on several factors. I am concerned about moving away from objective criteria. If a Minister determines his own subjective criteria, people will question his decisions, and he will have no defence unless he operates according to objective criteria. For that reason I would far prefer to use objective criteria that adequately respond to the dangers that exist in an area rather than subjectively decide, according to the mood of the moment, the most appropriate point to have pedestrian crossings or traffic-calming measures.

### New Railway Station (Lisburn)

3. **Ms Lewsley** asked the Minister for Regional Development to give the proposed timescale for the construction of the new railway station at Lisburn.

(AQO 270/02)

**Mr P Robinson:** Translink has plans for a new bus station at Lisburn in its corporate plan for 2002-03 to 2004-05, and it has already commissioned an economic appraisal on its construction, which is due to be completed by the end of the year. If the option to construct a new bus station is accepted by the board of the Northern Ireland Transport Holding Company and by my Department, the next step will be to put the proposal out to tender. The project can commence when that process is completed, and it is hoped that work will begin before the end of this financial year.

3.15 pm

**Ms Lewsley:** Will there be adequate provision for disabled access to the new station? Currently, people in a wheelchair and parents with prams have to cross the lines to reach the other side of Lisburn's railway station.

**Mr P Robinson:** I am happy to confirm that, when I last spoke to Translink about disabled access, it made it very clear that it considered that a priority, not merely for stations which it is constructing but for rolling stock. When we have more details of the proposal, I shall be happy to sit down with the Member and the group with which she is associated to examine the proposal and see if she considers it as adequate as Translink no doubt would.

**Mr Poots:** Can the Minister confirm that there are problems with the site proposed by Translink and that meetings have taken place between it and the local council? Are we set on the site which Translink currently wants, or is there a possibility of identifying other sites which may be closer to the railway station and more conducive to traffic flows in Lisburn city centre?

**Mr P Robinson:** I am not aware of any problem with the site. I know that Lisburn City Council would prefer it to be somewhere else. However, the site identified by Translink is one to which it has legal access, and which is, therefore, its obvious choice. It is an operational matter that the council will no doubt wish to take up with Translink directly. However, a station in the middle of Lisburn can be a help to the city centre and should not be considered a nuisance by anyone.

### Storm Drainage Impact Assessment

4. **Mr K Robinson** asked the Minister for Regional Development if he has taken steps with his Colleague, the Minister of the Environment, to have a storm drainage impact stage inserted into the planning process for new housing development. (AQO 268/02)

**Mr P Robinson:** The development planning process is a matter for the Department of the Environment. I am advised that, as part of that process, the Department of the Environment consults with the Rivers Agency of the Department of Agriculture and Rural Development about potential sites for housing and other developments. The Rivers Agency assesses the potential for flooding in the area and whether preventative measures regarding improvements to infrastructure would be required if the site were zoned for development.

There is also consultation with the Water Service, the Roads Service and, where necessary, the Rivers Agency, on planning applications for specific housing developments to ensure that they have adequate facilities for the discharge of storm water and that it will not create or exacerbate flooding problems in the area. The Water Service advises the Planning Service on the availability of water and sewerage services and any difficulties envisaged relating to the capacity of the existing public sewerage infrastructure and the proposed timing of new or improved infrastructure to absorb new development.

I am also advised that some planning applications for housing developments require the submission of an en-

vironmental statement under the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999. Such environmental statements must take account of any significant environmental effects likely from the proposed development and include a description of the measures envisaged to prevent, reduce and, if possible, offset any significant adverse effect on the environment.

Those arrangements ensure that the potential impact of storm-water discharges arising from proposed housing or other developments is properly considered at the stage of the development plan or development control in the existing planning process.

**Mr K Robinson:** I thank the Minister for his very brief answer. What other significant steps does he plan to take to improve the storm-drainage requirements in the vicinity of new housing and commercial developments — and, indeed, those already in existence for at least the past 10 years — with specific reference to the prevention of flooding incidents such as those which have occurred or are likely to occur in parts of Newtownabbey and Carrickfergus?

**Mr P Robinson:** The instances to which the Member refers resulted from significantly higher rainfall than had been experienced for a considerable time. The Assembly will always have a judgement to make regarding the level at which storm drainage facilities should be available.

If the Assembly wants to raise standards, it will have to cough up and give the Department the funding with which to do that. However, the existing planning mechanism gives the Planning Service, the Water Service and the Rivers Agency sufficient ability to consider the storm drainage implications of any planning application. The planning process does not require a new stage. It already includes consideration of that element of planning.

**Mr McElduff:** Go raibh maith agat, a LeasCheann Comhairle. Can the Minister give details of his views on the provision of physical measures, such as mini-roundabouts, which are aimed at reducing the speed of visitors going into, and leaving, housing developments?

**Mr P Robinson:** I can confirm that the speed of traffic will have no impact on storm drainage.

**Mr Deputy Speaker:** Mr Attwood is not in his place, so I call Mr Sean Neeson.

### Flood Damage Compensation

6. **Mr Neeson** asked the Minister for Regional Development, pursuant to AQO 40/02, why his Department has refused to compensate people in East Antrim whose properties were damaged by the severe floods in June 2002.

(AQO 254/02)

**Mr P Robinson:** Entitlement to compensation from the Department is not automatic. For a claim to be successful, it must be shown that the Department failed

to carry out its statutory duty or was negligent in some other way. Every claim is, therefore, thoroughly investigated. If no evidence of negligence by the Department is found, the claim is turned down.

Following the serious flooding that occurred on the evening of Friday 21 June 2002, the Department received 346 claims for compensation. However, the Department's investigation revealed that the flooding was caused by the exceptional thunderstorms and heavy downpour that occurred that night. Those extreme weather conditions were localised. Flooding in the worst-affected areas — parts of Newtownabbey and Carrickfergus — was exacerbated by water that ran off higher ground. Therefore, in the absence of any other significant factors, the Department believes that it has a defence in law against the claims. In those circumstances, they must be turned down.

As with all claims, the Department's decision can be challenged through the independent legal process. Claims like those, where the value is under £2,000, fall within the jurisdiction of the Small Claims Court. However, before any claimants consider that step, I believe that it would be helpful if I had the benefit of an independent opinion from senior counsel on the correctness or otherwise of the Department's position. I have, therefore, asked my officials to arrange that, and the independent opinion is expected soon. A copy of senior counsel's opinion will be lodged in the Assembly Library.

**Mr Neeson:** Many of my constituents received letters from the Department for Regional Development stating that the flooding was an act of God. However, many of the areas that were worst affected by the flooding in June 2002 have been affected regularly — places such as Chichester Square and the lower Woodburn Road. Taylors Avenue in Carrickfergus was flooded and devastated for the third time in a year. Flooding regularly occurs on the Shore Road at Whiteabbey. Many of the residents who are affected by that simply cannot afford house insurance. Many of them have great difficulty getting house insurance because of the regularity of the flooding. Is it not time that the Minister, his Department and the Rivers Agency accepted their responsibility towards my constituents in East Antrim?

**Mr P Robinson:** The rights of the Member's constituents are no different to those of other Members' constituents elsewhere in the Province. The same criteria must apply to all. If the Member is suggesting that the Department should fork out money irrespective of the circumstances or whether there was any negligence on its part, that would be absurd. The Assembly simply could not afford to do that. Therefore, negligence on the part of the Department must be clearly shown before any compensation is paid.

I am happy to consider circumstances where there is a case for negligence. However, I honestly believe that I will not have to consider such a case, because the Depart-



ment's compensation agency attentively considers any details that suggest that the Department would be unable to sustain a refusal of a claim in court. We are, therefore, keen to ensure that a payment is made where there is a case. With so many cases involved, rather than simply follow the basis of the Department's initial consideration, I determined that I would have the case considered by independent senior counsel to examine the Department's legal position.

I have also asked the Department to instruct senior counsel to provide a clear guideline on the circumstances in which it is right and legally required for the Department to make compensation payments. I propose to put a copy of that guideline in the Assembly Library. It will be useful for Members to recognise circumstances that, according to the law as it stands, will give entitlement to compensation and those that are unlikely to. It does not remove anybody's right to take legal action, but it will give some indication of the circumstances in which a case is likely to be successful.

I can well understand, for I have seen it too many times in my own constituency, the anguish suffered as a result of flooding. However, every flood is not the result of negligence by the Department for Regional Development or the Water Service. We must recognise that if the Assembly were simply to pay every claimant who submitted an application, it would have a very considerable bill to pay, and money would have to be taken from other heads of expenditure.

**Mr Beggs:** Will the Minister acknowledge that, in refusing all compensation claims, his Department appears to be telling my constituents that it is not at fault and that its agencies never contribute to flooding? Could blocked drains and culverts have contributed to flooding? Will he acknowledge that, where the Roads Service has had to carry out remedial work to repair faulty culverts, that agency's blocked structures will have contributed to the flooding of some of my constituents' properties?

**Mr P Robinson:** If blocked drains are the result of negligence by the Department, the Member's constituents will have a valid claim. However, if, for instance, the Water Service staff clear blockage in a drain on a Thursday, it is blocked on a Friday and flooding occurs, nobody could say that the Department was negligent. Staff cannot stand for 24 hours of every day at every drain throughout the country. That would not be negligence in those circumstances. Therefore, it is necessary to show that the Department has been negligent in how it has dealt with drains and other matters of its responsibility.

### Belfast to Bangor Road

7. **Mrs E Bell** asked the Minister for Regional Development to make a statement on the current situation regarding the Belfast to Bangor road (A2). (AQO 252/02)

**Mr P Robinson:** The A2 Belfast to Bangor road is one of the arterial routes into Belfast. It has a two-way traffic flow of almost 40,000 vehicles a day and is of high strategic importance. Safety along the route is of particular concern, and in recent years the Roads Service has implemented several measures directed at improving road safety.

This summer, the Roads Service carried out two important schemes specifically directed at improving the safety and structural condition of the road. One scheme involved resurfacing the section of the road between Whinney Hill and Ballygrainey Road and included a junction improvement at Whinney Hill, localised widening at Cultra Avenue and central hatching between Whinney Hill and Ballygrainey Road. The other scheme involved amendments to the layout and provision of traffic signals at the junction of the A2 Rathgael Road/Old Belfast Road, which has the worst history of accidents on the A2. In addition, work to replace a safety barrier at a tight bend near Seahill continues.

The benefits arising from those improvements are already apparent to all users of the road. I assure the Member that the Roads Service will continue to monitor the road with a view to introducing, where appropriate and practical, further measures to address any safety problems that can be remedied by engineering.

**Mrs E Bell:** I thank the Minister for his comprehensive answer. I congratulate the Roads Service on the improvements to that busy road, especially at Rathgael and Seahill. However, I ask the Minister to ask his Department to take note of the dangers of entering and exiting side roads to the expanding residential development along that road.

3.30 pm

**Mr P Robinson:** We are happy to monitor that road regularly and to look at any increase in the number of cars using it, the velocity of traffic or any change in drivers' behaviour — those are among the Roads Service's normal duties. Often the first reaction of Members, other elected representatives and others to a road accident is to blame the road. I must put on record that staggering statistics are available that show that in all but 2% of road accidents the fault lies not with the road but with the driver.

### Pumping Station (Holywood)

8. **Mrs Carson** asked the Minister for Regional Development in relation to correspondence received by his Department concerning a sewage pumping station in The Coaches, Croft Road, Holywood, to outline measures he has taken, and proposes to take, to address the issues raised. (AQO 245/02)

**Mr P Robinson:** The Water Service will adopt sewerage infrastructure constructed by private developers provided the infrastructure meets the specific requirements set out

by Water Service under article 17 of the Water and Sewerage Services (Northern Ireland) Order 1973. The sewage pumping station at The Coaches, Croft Road, Holywood was constructed by Hagan Homes, which developed The Coaches' housing site. The Water Service was advised that the pumping station has not been adopted due to legal difficulties that relate to the transfer of the land on which the pumping station is located. The Water Service has been in contact with Hagan Homes and its legal advisers on many occasions about the issue, but, regrettably, despite those approaches, it has not yet been possible to bring the matter to a conclusion.

## THE ENVIRONMENT

**Mr Deputy Speaker:** Question No 2, which stands in the name of Mr Mick Murphy, has been transferred to the Department for Regional Development and will receive a written answer.

### Planning Service Enforcement Officers (Belfast)

1. **Ms McWilliams** asked the Minister of the Environment how many Planning Service enforcement officers he plans to employ for the Belfast area; and to make a statement. (AQO 238/02)

**The Minister of the Environment (Mr Nesbitt):** Three planning officers are devoted to enforcement duties in the Belfast divisional planning office. They comprise one higher professional and technology officer, and two professional and technology officers. Those officers have dedicated administrative support. In addition, a proportion of senior management time in the division is devoted to enforcement work. I have moved to strengthen the management of the development control and enforcement sections in the Belfast division and other divisions, and that should have a positive impact on the Belfast division's ability to deal with enforcement casework.

As the Member is aware, a Bill is before the Assembly to streamline and considerably strengthen my Department's enforcement powers. The aims of the Planning (Amendment) Bill are to make it simpler and easier for the Department's enforcement officers to take enforcement action against those who flout planning law, to make available to the Department tough new enforcement powers and to make stiffer penalties available to the courts. I plan to review enforcement staffing levels in Belfast and other planning offices after the Bill becomes law.

**Ms McWilliams:** I remind the Minister and the House that the answer that he has given to me is exactly the same as the one he gave to me on 30 April 2002, which was that three full-time enforcement officers were employed and that he would move to strengthen

the management of the development control and enforcement sections in the Belfast division. That was his answer on the 30 April, and it is still his answer in the first week of October. I visited the office recently and know that there is only one enforcement officer, who is dealing with 777 cases. Two officers are on leave. What does the Minister mean when he says that he has

"moved to strengthen the management."?

My constituents would be in despair to think that five months later the answer remains the same. There are not three officers in place — there is only one.

**Mr Nesbitt:** I empathise entirely with what the Member said about the lack of enforcement officers. There is a total of 21 officers throughout Northern Ireland — four of the divisional planning offices have three officers each, and three of the offices have three officers each. Many thousands of enforcement cases are brought each year; I am aware of the problem. However, there is a certain thing called money, which is needed so that we can have more enforcement officers in place. It is hoped that that money may come through in the Budget process.

One issue that must be addressed in the Budget process is the planning process itself. I hasten to add that a strengthened Planning (Amendment) Bill is in the offing, with new enforcement powers, increased fines and penalties for non-compliance. I hope that, collectively, those provisions will act as a deterrent to the lack of will to abide by the law. In that context, when the Bill is passed, the necessity for additional staff will be reviewed.

**Mr Shannon:** I welcome the Minister's response, at least in relation to the provision of new enforcement officers, if not the intention to deliver them. Will he confirm that, although there is a need for more officers in Belfast, the same need exists in other areas, for example in the Ards borough? Moreover, does he agree that, with the Department's reluctance to employ extra enforcement officers, many enforcement actions are on hold? Does he not feel that action should be taken to clear those up? Some of them have been on hold for 12 to 24 months.

**Mr Nesbitt:** I agree that there are other areas in Northern Ireland besides Belfast. I referred to all of the areas in Northern Ireland where officers were placed. There is no reluctance on the part of the Department of the Environment — and certainly not on my part — to ensure that the law is enforced. I repeat: I want to see planning decisions taken efficiently and effectively for those within the law, and I want those outside the law to be dealt with as efficiently and effectively.

**Dr Birnie:** Regarding planning enforcement in south Belfast, could the Minister inform the House as to the current position regarding the building of some apartments, together with a lift shaft, in the principal's house at Union Theological College, which break a historic skyline?

**Mr Nesbitt:** Union Theological College is a very important listed building. At the “Look up to Belfast” seminar last week, we saw that other places in the world try to maintain their listed buildings by utilising them, improving them internally and ensuring that they are in good stead for usage. That is what has happened to Union Theological College. It has been retained in ownership and continues to be used as it was previously used. I recognise that the skyline has been broken asymmetrically. However, the building fulfils what could be called “international standards” for its type in that nothing can be removed from what was put in place originally.

Section 19 of the Disability and Discrimination Act 1995 requires us to make buildings available to the disabled. Having said that, when I received the written question I examined the process by which this decision was reached by the Environment and Heritage Service very closely.

### Development of Brownfield Sites

3. **Ms Lewsley** asked the Minister of the Environment what measures he is taking to encourage developers to use brownfield sites for new developments?

(AQO 271/02)

**Mr Nesbitt:** The regional development strategy sets an aspirational target of 60% of new urban housing growth in settlements of population of 5,000 or more, to be accommodated in existing urban limits as defined at the 2001 baseline year. That has been referred to as the brownfield target. The strategy also advocates that the potential for achieving the target is to be assessed through the development plan process using urban capacity studies. My Department is already carrying out urban capacity studies in association with the preparation of current plans. These will be published along with each draft plan to provide the public with the technical reason behind the choice of housing sites. My Department adopts a sequential approach in allocating lands for housing in the preparation of development plans.

Urban capacity studies form the important first stage by identifying potential sites within the urban limits. Allowance is then made for windfall sites — for example, sites in urban areas that become available over the course of the plan period due to unforeseen land use changes.

Lands are allocated on greenfield sites, including locations where extension to existing settlements may be necessary to meet the balance of housing growth as identified in the regional development strategy. Land is allocated for housing in the development plan in phases. The emphasis in the first phase is on the development of land in the existing urban limits, which will ensure that priority is given to brownfield sites in the allocation of land for urban housing growth.

**Ms Lewsley:** Other measures could be taken to encourage people to use brownfield sites. Does the Minister agree that the best incentive to encourage people to do that is to veto greenfield sites?

**Mr Nesbitt:** That is the fascinating dimension of planning: the tensions all around. Ms Lewsley would prefer developers to be encouraged to use brownfield sites only, whereas others want to use greenfield sites as well. Planning depends on striking a balance between conflicting and competing demands: urban and rural; and sustaining the environment while providing for economic growth. Many and varied tensions must be resolved, and, although I welcome Ms Lewsley’s suggestion that there may be other options, my solution to urban capacity studies, windfall land and greenfield sites focuses my mind on brownfield sites.

**Rev Dr William McCrea:** The Minister accepts that it is important to encourage developers to build on brownfield sites. Does he accept also that there are problems because many area plans are out of date? Does he, therefore, accept that it is urgent that up-to-date area plans be drafted so that brownfield and greenfield developments remain in proper proportion?

**Mr Nesbitt:** Although I do not wish to be disrespectful, my answer will be brief. Dr McCrea, the Chairperson of the Environment Committee, is correct. Many of the plans are out of date, so new plans need to be drafted quickly. If anyone objects to a plan, it goes to a public inquiry, and, as always in planning, many people object. However, I agree with Dr McCrea’s remarks.

**Mr McClarty:** Will the Minister tell the House what steps he is taking to ensure that town cramming — and I mean town cramming, not town planning — resulting from an overprovision of high-density developments or apartments, which are out of keeping with an area, is avoided?

**Mr Nesbitt:** General planning law provides various policy planning statements (PPS). For example, PPS 7, ‘Quality Residential Environments’, deals with the problem of town cramming — plans for new buildings must show their relationship with existing developments. Also, the Department for Regional Development is introducing PPS 12, which takes a holistic view of the need to provide a suitable environment, with green areas and space, for those who chose to live in urban areas. Therefore there are various means of ensuring that town cramming is avoided.

### Waste Disposal and Recycling

4. **Mrs E Bell** asked the Minister of the Environment to make a statement on any meetings which have taken place with district council environmental departments regarding waste disposal and recycling. (AQO 267/02)



**Mr Nesbitt:** My Department has regularly met representatives of district councils, mainly through the strategic inter-group forum, which comprises representatives from the Department and the three waste management partnerships. The forum was established to assist with the implementation of the waste management strategy, which was published in March 2000. Recently, it has focused on finalising the partnership's waste management plans and funding.

Recycling is a significant element in the three final draft plans that were submitted to the Department at the end of June 2002. The allocations to councils under last year's waste management grant scheme were largely spent on the infrastructure needed to support those recycling targets. A similar pattern of expenditure is expected this year. Officials and I have met with individual councils and groups of councils about a range of waste management issues. Waste management is a standing item on the agenda of my quarterly meetings with the Northern Ireland Local Government Association. My Department and I value such close contact with councils, because it is vital to the successful implementation of the waste management strategy.

3.45 pm

**Mrs E Bell:** I was aware that some work was being done, but I was unaware of its extent, and I thank the Minister for that.

Does the Minister agree that educating the public is another essential part of the strategy in the development of waste disposal and recycling? Will he give me some idea about what is being discussed in his meetings on that subject?

**Mr Nesbitt:** I agree that it is important to educate the public, and I thank Mrs Bell for her complimentary comments about how far the process has moved. We are all part of the waste problem; therefore, we must all be part of the solution. We must be aware of the contribution that we can make. Resources have been spent on public awareness, and £1.5 million is available for that over three years. Surveys on our Wake up to Waste campaign showed that there was 30% more use of waste disposal and recycling units in certain district council areas, for example. Other statistics show that people are more aware of the need to deal with waste. Therefore we are confident, to a certain extent, of a heightened awareness of the problem of waste. It is now for this Administration, working with the three partnership councils that are legally responsible for waste disposal, to develop plans that will bring us to the point of reducing, reusing and recycling waste.

**Mr M Murphy:** Go raibh maith agat. Will the Minister detail what funding support packages are available for education and awareness?

**Mr Nesbitt:** I must have wax in my ears today, because that is the second time that I have had difficulty understanding Mr Murphy. Could he speak slightly louder?

**Mr M Murphy:** What funding support packages are available to district councils for education and awareness?

**Mr Nesbitt:** As I said, district councils contribute to that. The funding that is available is primarily for councils to begin implementing waste management plans — for example, we have a waste management grant scheme that goes to councils, for which £3.85 million is available this financial year. However, that is still awaiting the approval of the Department of Finance and Personnel. Public awareness is dealt with through schemes funded by the £1.5 million that I mentioned to Mrs Bell. A total of £7.4 million is available for various measures to ensure that there is education about waste management and various available methods of dealing with waste.

**Mr Hussey:** The Minister will be aware of district councils' growing problems with refrigerators and freezers — one is tempted to say that the figures make chilling reading. Will the Minister tell the House what steps his Department is taking to comply with the proposed EU Waste Electrical and Electronic Equipment Directive on the disposal and recycling of refrigerators and freezers?

**Mr Deputy Speaker:** If the Member were referring to washing machines, I would ask the Minister to come clean about it.

**Mr Nesbitt:** Do you want me to come clean about that, Mr Deputy Speaker? When the Member mentioned chilling, it reminded me of something that my daughter said to me the other day. I was getting a little animated, and she said "Take a chill pill, Dad"; in other words, she said that I should chill out. Perhaps that is also appropriate.

The disposal of fridges and freezers has been a problem. Grants totalling £250,000 have been made available to district councils for that, and we are awaiting the return of tenders for a contract to deal with that problem. We anticipate that we could be in a position to have the outstanding fridges dealt with by an all-island contract towards the end of the year.

**Mr Gibson:** I have listened with interest to the Minister's replies. Does the Minister not think that a regional approach to waste disposal and recycling would be much better than having three different councils involved in the programme?

Secondly, it is not possible to meet the EU Directive unless the disposal of recyclable items is honestly dealt with. Recycled glass and waste paper have always had an indifferent market. Has the Minister researched whether proper recycling markets can be established, on a wider basis than this region, which would make it possible to meet the requirements of the Directive?

**Mr Nesbitt:** I appreciate Mr Gibson's question, as he deals with the nub of the issue — the regional basis of waste disposal and recycling. He mentioned also the possibility of carrying out research in other regions. I

have considered other areas and found that two traits arise throughout Europe and the rest of the world. The first is that it takes up to 10 years to get to the required standard, and the second important point is that there is a three-way split in waste disposal, the first two of which account for 30% each — recycling and landfill. The remainder is a gap that is filled, even in the most environmentally friendly countries, by what is called waste to energy; thermal; or that encapsulating word “incineration”. Dr McDonnell found his visit to an incineration plant in Copenhagen very informative.

There are problems to be solved, and we must bite the bullet. The volume of our waste is much too high and must be dealt with. Compared with an average of 30% of waste going into a hole in the ground in Europe, 95% of our waste follows that route. We have a long way to go, and we must be realistic about the matter.

On the issue of sustainable markets, £1.4 million out of that £7.4 million is allocated to providing such markets for recycled goods. I have considered the issue throughout Europe and further afield, to Japan, to find out how the most developed and environmentally friendly countries deal with waste. We have a long way to go to reach that standard.

**Mr Deputy Speaker:** Mr Dalton is not in his place, so I call Mrs Carson.

### **Wind Farm Planning Application and the Tourist Board (Tappaghan Mountain)**

6. **Mrs Carson** asked the Minister of the Environment, in relation to the proposed Tappaghan Mountain wind farm application, why the Northern Ireland Tourist Board was consulted, as it had not previously been consulted on wind farm planning applications.

(AQO 232/02)

**Mr Nesbitt:** While it is not always the practice to consult the Northern Ireland Tourist Board in relation to wind farms, the Department considered it necessary to do so in County Fermanagh because of the number of wind farm planning applications, the quality of the landscape and the need to protect natural tourism assets.

The proposed wind farm at Tappaghan Mountain is one of three current planning applications for wind farms in County Fermanagh. The Northern Ireland Tourist Board is being consulted about each of these proposals in order to obtain information required to arrive at a planning decision.

**Mrs Carson:** I am delighted that consultation is being carried out with the Tourist Board, as Fermanagh depends greatly on tourism. Does the Minister agree that consultation with the Tourist Board should continue in respect of the erection of all wind farms across the Province? Our renowned landscape will be spoiled. Will the Minister

undertake to explore and, perhaps, seed-fund other forms of renewable energy, especially from farmyard waste?

**Mr Nesbitt:** That is another fascinating question about renewable energy. Northern Ireland is a region of the United Kingdom, which is the fourth richest economy in the world, and therefore much energy is needed. The question is how we provide the energy, whether it is renewable energy, or fossil fuel, which adds to carbon dioxide emissions. Those are fundamental questions that need to be asked. Mrs Carson mentioned consultation on wind farms. If a windmill is made of two or more turbines connected to a wind farm, or if a windmill has only one turbine, but is in excess of 15 metres high, an environmental statement must be made requiring consultation. Mrs Carson's question fundamentally concerned the forms of renewable energy. That is a fascinating question that is easy to ask, but difficult to answer.

**Mr McHugh:** Go raibh maith agat, a LeasCheann Comhairle. If there is to be a preponderance of wind farms in areas such as Fermanagh, principally because of the lack of areas of outstanding natural beauty (AONB) status, and because companies carry out very limited consultation with local people, the Minister will find that, although we are all for green energy, there will be difficulties in the coming years in locating green energy generators in the right places. Lack of AONB status could mean that the tourism value of places such as Fermanagh will be destroyed by the preponderance of wind farms.

**Mr Nesbitt:** I assure Mr McHugh that the tourism dimension is very important, although it is not within my remit. The tourist industry in Northern Ireland makes up a small proportion of the gross domestic product (GDP) compared with Scotland. If we could raise that to the same level as in Scotland, the industry would be much enhanced. This raises the matter of wind farms on the north coast. The wind turbines can be seen on the horizon on the Glens of Antrim as one travels up the M2 to the Antrim coast. With regard to sustainable development, a balance must be found between sustaining the economy and protecting the environment. The protection of the environment is an essential, axiomatic element of tourism.

### **Section 115 Limit**

7. **Mr McElduff** asked the Minister of the Environment to detail the circumstances in which his Department will permit an increase in the section 115 limit imposed on district councils for expenditure on special purposes; and to make a statement. (AQO 239/02)

**Mr Nesbitt:** Section 115 of the Local Government Act (Northern Ireland) 1972 makes provision for district councils to incur expenditure for special purposes. The legislation imposes a limit on such expenditure in any one financial year, equivalent to half a penny in the

pound on the rateable value of the district. The Department advises councils of this figure at the beginning of each financial year. I have no power to increase this statutory limit, but there is a case for reviewing the provision as the limit was fixed many years ago. I will address the matter when the appropriate legislative opportunity arises.

**Mr McEliduff:** I thank the Minister for his detailed answer. Does the Minister accept that councils should be empowered to act to ensure well-being? Councils should have the maximum opportunity to decide how to invest ratepayers' money on priority local concerns, in the best interests of the community.

**Mr Nesbitt:** The Member used the words "maximum opportunity", but in the context of section 115, the advice is that councils should ascertain the extent of other statutory powers before making recourse to section 115. For example, the new Local Government (Miscellaneous Provisions) Bill proposes enhanced financial powers with regard to economic development. That is a possible way to deal with the matter.

**Mrs Courtney:** I welcome the Minister's statement. Derry City Council has discussed the matter quite a bit because of concerns for people who were away from home, and whom we could not visit. I welcome the fact that the Minister will review this aspect of local government, and I look forward to seeing that happen in the next Assembly.

**Mr Nesbitt:** Again, I thank Mrs Courtney for her comment, rather than her question.

### Environment and Heritage Service

8. **Mr Hilditch** asked the Minister of the Environment what measures he proposes to reduce the time taken by the Environment and Heritage Service in providing responses regarding planning applications.

(AQO 234/02)

4.00 pm

*(Madam Deputy Speaker [Ms Morrice] in the Chair)*

**Mr Nesbitt:** Together with the Planning Service, my Department's Environment and Heritage Service has reviewed the effectiveness of the arrangements for consulting on planning applications. The review identified weaknesses in the consultation process, most of which were attributable to resource pressures in the Environment and Heritage Service. It also identified some areas where improvements could be made quickly.

To address the pressure, a bid for additional resources was made in the spending review 2002. The proposed allocations to my Department in the draft Budget do not suggest that it will be possible to meet the resource pressures. However, I will not be able to come to a

definitive conclusion until the Budget is finalised later in the year.

The Environment and Heritage Service and the Planning Service are introducing early improvements that are not dependent on new resources being obtained.

**Mr Hilditch:** Will the Minister specifically examine the number of planning applications in the Carrickfergus town centre area, where the Environment and Heritage Service has engaged consultants to work on its behalf? When the developers get the problems identified by consultants out of the way and they are about to progress, they suddenly find a new set of problems. That has resulted in some applications being in the system since around 1999.

**Mr Nesbitt:** First, I have one general point. There are approximately 3,400 applications a year. Some of those involve the built heritage and some involve the natural heritage, so there are in total 5,236 consultations. There are not many staff to deal with those, the same problem that applied to a previous question.

I am conscious of 4 Governors Place in Carrickfergus. That is a rather complex planning application because it involves demolition, retention of listed buildings and some apartments. The Environment and Heritage Service consulted a second time on that. I understand that the planners will meet the architect to see if we can reach a best outcome. That meeting is forthcoming. However, I stress that there are always tensions in planning that must be resolved.

**Madam Deputy Speaker:** I am afraid our time is up. Mr Sean Neeson was to come next, and I assume that the Minister will respond with a written answer.

**Mr Nesbitt:** That is my regret.



## FUR FARMING (PROHIBITION) BILL

### Consideration Stage

**Madam Deputy Speaker:** Members will have a copy of the Marshallled List of amendments and will note that there is only one amendment for debate. That will be debated when we reached clause 5. The questions on whether clauses of a Bill stand part will be taken at appropriate points in the debate. If that is clear, we shall proceed.

No amendments have been tabled to clauses 1 to 4. Therefore, I propose by leave of the Assembly to group those clauses for the question on whether they stand part.

*Clauses 1 to 4 ordered to stand part of the Bill.*

#### **Clause 5 (Compensation for existing businesses)**

*Question proposed, That the clause stand part of the Bill.*

**The Minister of Agriculture and Rural Development (Ms Rodgers):** Before I move the amendment, I want to say that it is very regrettable that the Chairperson of the Committee for Agriculture and Rural Development Committee has absented himself from the House and is not here to respond to my amendment. I am moving the amendment in response to the Committee's views, which I have taken seriously.

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

**Ms Rodgers:** It is regrettable that the Chairperson is putting his own party political stunts ahead of his duties to the Committee, the Assembly and to —

**Mr Berry:** On a point of order, Madam Deputy Speaker. Is it in order for the Minister to make a comment against the Chairperson when she is not fully aware of the circumstances of his absence?

The Chairperson of the Agriculture and Rural Development Committee is meeting the Security Minister on important matters, including that of the Claudy bomb allegations.

**Madam Deputy Speaker:** Thank you, Mr Berry, for giving us details of the whereabouts of the Committee Chairperson. Minister, please continue.

**Ms Rodgers:** I beg to move the following amendment: In page 3, line 35, at end insert —

“(4) The scheme shall provide that payments shall not be made under the scheme in respect of a business which was first carried on after a date specified in the scheme”.

The amendment relates to clause 5, which deals with compensation for existing businesses. Clause 5, subsection (3), provides that the Department may make a scheme to provide for compensation for those affected by the ban on fur farming and sets out what such a scheme shall include. In its scrutiny of the Bill, the Committee for Agriculture and Rural Development thought that it would be desirable

if the Bill were to make express provision so that a compensation scheme would specify a deadline after which no payments would be made. I have accepted the Committee's view on that and propose that the Bill be amended by the provision of a new subsection (4) to clause 5.

The amendment does not affect the substance of the Bill. It is a clarification of the terms to be included in any scheme that the Department may make.

**Madam Deputy Speaker:** I call the Deputy Chairperson of the Committee for Agriculture and Rural Development, Mr Savage.

**The Deputy Chairperson of the Committee for Agriculture and Rural Development (Mr Savage):** Thank you, Madam Deputy Speaker.

**Mr Berry:** On a point of order, Madam Deputy Speaker. Given the reason why the Chairperson of the Committee for Agriculture and Rural Development was unable to attend, will the Minister withdraw her remarks?

**Madam Deputy Speaker:** The Member gave the reasons why the Chairperson was not available in the Chamber. The point of order you raise is not a point of order. There is no Standing Order referring to that. I call Mr Savage.

**Mr Morrow:** Further to that point of order, Madam Deputy Speaker. Did the Minister not refer to the Chairperson carrying out stunts, and she knows perfectly well that that is not the case? Would she now have the good grace to withdraw the scurrilous remarks she made?

**Ms Rodgers:** In my view the reason is academic; as Chairperson of the Committee, he should be here to respond to the amendment.

**Madam Deputy Speaker:** I move to — *[Interruption]*.

**Mr Morrow:** Further to that point of order, Madam Deputy Speaker. The Minister said that the Chairperson was carrying out “stunts”. She can twist and turn all she wants, but we are simply asking her to withdraw those remarks. He is not participating in stunts; he is at another meeting.

**Madam Deputy Speaker:** Order. That is not a point of order. It refers to remarks that were made. We will look at Hansard and come to a conclusion on that.

**Mr Savage:** I thank the Minister and her Department for tabling the amendment. It is what Committee members wanted.

**Mr McHugh:** Go raibh maith agat, a LeasCheann Comhairle. I support the amendment. Every member of the Committee agreed that it was necessary for animal welfare, and to ensure that no one could start a business anywhere in the North to get compensation after the Bill was enacted.

*Amendment agreed to.*

*Question put and agreed to.*

*Clause 5, as amended, ordered to stand part of the Bill.*

*Long title agreed to.*

**Madam Deputy Speaker:** That concludes the Consideration Stage of the Fur Farming (Prohibition) Bill. The Bill stands referred to the Speaker.

## **COMPANY DIRECTORS DISQUALIFICATION BILL**

### **Further Consideration Stage**

**Madam Deputy Speaker:** No amendments to the Bill have been tabled. The Further Consideration Stage of the Company Directors Disqualification Bill is, therefore, concluded. The Bill stands referred to the Speaker.

## **CHILDREN (LEAVING CARE) BILL**

### **Final Stage**

**The Minister of Health, Public Services and Public Safety (Ms de Brún):** Go raibh maith agat, a LeasCheann Comhairle. Molaim go ritear an Bille Páistí (ag Fágáil Cúraim) anois. I beg to move

That the Children (Leaving Care) Bill (NIA 5/01) do now pass.

*Question put and agreed to.*

*Resolved:*

That the Children (Leaving Care) Bill (NIA 5/01) do now pass.

## **PROTECTION OF CHILDREN AND VULNERABLE ADULTS BILL**

### **Committee Stage (Period Extension)**

**The Chairperson of the Committee for Health, Social Services and Public Safety (Dr Hendron):** I beg to move

That, in accordance with Standing Order 31(5), the period referred to in Standing Order 31(3) be extended to 22 November 2002, in relation to the Committee Stage of the Protection of Children and Vulnerable Adults Bill (NIA 22/01).

The Committee for Health, Social Services and Public Safety is examining the Protection of Children and Vulnerable Adults Bill. It is a significant piece of legislation and runs to over 50 clauses. The Committee warmly welcomes the Bill, which contains important provisions to enhance the protection of children and vulnerable adults. The Bill breaks new ground, and it is important that the Committee be able to devote sufficient time to scrutiny of its provisions, and to discussion of the impact it will have on organisations working with children.

Related issues include whistle-blowing and the making of disqualification orders for persons deemed to be a risk to children. In order to be satisfied that the Bill can fully deliver on its intent and provide safeguards for vulnerable young adults, the Committee asks that the Committee Stage of the Bill be extended to Friday 22 November 2002.

*Question put and agreed to.*

*Resolved:*

That, in accordance with Standing Order 31(5), the period referred to in Standing Order 31(3) be extended to 22 November 2002, in relation to the Committee Stage of the Protection of Children and Vulnerable Adults Bill (NIA 22/01).

## AGRICULTURE (AMENDMENT) BILL

### First Stage

**Mr Armstrong:** I beg leave to lay before the Assembly a Bill (NIA 10/02) to include horses within the definition of agricultural animals; and for connected purposes.

4.15 pm

**Mr J Kelly:** On a point of order, Madam Deputy Speaker. Does that include donkeys or just horses?

**Madam Deputy Speaker:** That is not a point of order: that is information, which you had the opportunity, I assume, of seeking from the Member.

*Bill passed First Stage and ordered to be printed.*

**Madam Deputy Speaker:** The Bill will be put on the list of pending business until a date for its Second Stage has been determined.

## FIRE SERVICES (APPOINTMENTS AND PROMOTION) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2002

### Prayer of Annulment

**Mr Berry:** I beg to move

That the Fire Services (Appointments and Promotion) (Amendment) Regulations (Northern Ireland) 2002 (SR 283/2002) be annulled.

Members of the Committee for Health, Social Services and Public Safety had differing views on the motion: some were for and against it; some were for and against the Regulations. My Colleague, Iris Robinson, Committee members from the Ulster Unionist Party and I have made our concerns clear. The Fire Services (Appointments and Promotion) (Amendment) Regulations (Northern Ireland) 2002 were brought before the Committee in July, just before recess, and several members raised concerns at its motive, particularly at this time.

Concerns were raised about the equivalent experience and qualifications required, article 39 of the European Community Treaty, and the need to maintain the morale of firefighters. Concerns were raised by the Fire Brigades Union about the poor consultation on the Regulations put before the Committee. Some Committee members, including myself, asked if this was a political move by the Minister of Health, Social Services and Public Safety.

The Regulations provide for equivalent “experience” and “qualifications”. Members are aware of the many tragic incidents that have taken place in Northern Ireland over the past 30 years and more. One thing that has held Northern Ireland together is the experience and dedication of our firefighters across the board — regardless of religion. We had, and still have, conscientious, eager and professional firefighters.

There are questions about the definition of equivalent “experience” and “qualifications”: there is no clear definition in the Regulations. The legal teams of the world will tell us that it is not important to include a clear definition. However, the Fire Brigades Union, my Colleagues and I believe that this is important.

The Department of Health, Social Services and Public Safety is throwing the responsibility for determining equivalent experience and qualifications to the Fire Authority for Northern Ireland selection panel. The Fire Authority has expressed several concerns about that — and I am sure, Madam Deputy Speaker, that you will have noticed those in the press recently. The responsibility should not be left to the Fire Authority: there should be a clear definition of the equivalent experience and qualifications required in the Regulations.



Members may ask what the equivalent experience and qualifications are. We were told that Her Majesty's Inspectorate would be able to provide guidance, but that will not be the case. Her Majesty's Inspectorate will not be able to provide guidance to the panel as stated by the Department in its letter to the members of the Committee for Health, Social Services and Public Safety. The Fire Authority for Northern Ireland has been advised of this, and I would like that clarified today.

No other profession in the country would permit outside entry at its highest level. It is like asking a road engineer to become head of brain surgery at the Royal Victoria Hospital: it is complete nonsense. Northern Ireland must have someone who is able for the job. In Northern Ireland there are men and women from each side of the community who would be capable of doing the job.

Article 39 of the European Community Treaty brings in the issue of the Good Friday Agreement. The post of Chief Fire Officer was previously designated as a public service post, so why is that not the case now? It is a public service post in other brigades in the United Kingdom, including London. Departmental officials told the Committee that the situation in Northern Ireland had changed since the Good Friday Agreement, and that therefore this exception was no longer justified. That is a joke, because we have seen how the Belfast Agreement has delivered anarchy, not just over the past couple of days in the Building but throughout the community. Article 39 must remain for security reasons.

Over the six years since the signing of the agreement, the level of violence has increased dramatically. There are more bomb attacks than ever, blast bombs have been fired at firefighters, there are daily attacks on firefighters, there is regular terrorist targeting and training, there was the incident in Colombia with FARC, and there are many other issues.

The Chief Fire Officer must remain in close contact with the Chief Constable and the General Officer Commanding in talks on many sensitive security matters. It is a delicate post. It is a crime to throw away the article and open the gate to anyone outside the UK. A person from Northern Ireland would be best for the post, given the security problems and the trouble on the streets.

It is ironic that the Regulation has not been introduced anywhere else in the UK. Departmental officials told the Committee that other Departments in the UK are examining this, but that is all they are doing. This is a political move by the Sinn Féin/IRA Minister.

Firefighters' morale is low as a result of attacks on them across the country. Career development and progression is greatly promoted in the Fire Service in Northern Ireland. Many male and female firefighters have worked through the ranks to senior positions, hoping that some day they will gain further promotion, but, if

the Regulation is enacted, it will send out a message from the Department that no firefighters in Northern Ireland are capable of doing the job.

People have said that it does not stop anyone in Northern Ireland from applying for the position, but the fact that the Minister is trying to move the Regulation to open up the position of Chief Fire Officer to anyone outside the UK is a clear political sign. It is also a sign that she thinks no one in Northern Ireland is capable of filling the position.

**Mr Paisley Jnr:** Does the Member appreciate that it is important to employ someone who is capable of interacting directly with the Chief Constable in this role? The Member has already identified that, but the Minister does not interact with the Chief Constable except for guldering at his officers on the steps of Stormont. It would be useful to have someone who could interact appropriately with the Chief Fire Officer, especially in the event of a strike. Vehicles have been set aside for the police to do the job if that happens. It is, therefore, essential to have the right people interacting with the police at the right time.

**Mr Berry:** I wholeheartedly agree. The way the Minister shouted at members of the Police Service of Northern Ireland on Friday was a disgrace. The Health Minister's attitude was despicable, and she showed her true colours in the way she acted against the forces of the law.

I agree wholeheartedly that the Chief Fire Officer of Northern Ireland must be able to deal directly with the Chief Constable. It is clear that the Minister of Health, Social Services and Public Safety does not take the opportunity to do that. Given the current possibility of a strike, we need someone who can interact closely with the Chief Constable and the General Officer Commanding. Therefore, I fully understand Mr Paisley Jnr's remarks.

Concern was raised by the Fire Brigades Union. When the issue came to the Committee's attention, I spoke to representatives of the union, and I was astonished to learn that they knew nothing about the Regulation. Members might ask why the union needed to know about the Regulation. The bottom line is that the Fire Brigades Union, which represents 95% of all firefighters in Northern Ireland, has the right to know about any changes. The decent thing to do would be to let them know that the senior post of Chief Fire Officer was open for appointment.

When the Regulation and the Department's two amendments appeared, I asked the officials whether the Fire Brigades Union had been consulted; it had not. It was consulted after the Regulation was drafted in the middle of July. However, its representatives first found out about the Regulation when I approached them. I find it grossly insulting that the Minister and her Department did not consult the union sooner rather than later.

We must ask whether the Regulation is a political move. I have no doubt that the smokescreen of the Minister, her Department and others will be to say that they have received legal advice, and that retaining the existing qualifications required for Chief Fire Officer could have legal implications. The Committee received weak legal advice. The advice, which was consistent with that given to the Department, was that

“the retention of the existing qualification requirements for the Chief fire officer probably cannot be justified, particularly in light of a relaxation of nationality requirements for public service posts”.

This does not make it clear that retaining the existing qualifications would be illegal. The word “probably” cannot be justified. As far as I am concerned, the legal argument is flawed; it is a smokescreen raised by the Department and the Minister. The Minister’s ultimate goal is political. This is a political move against the UK Fire Service, but she is going through the back door. Other members of the Committee and I do not buy it.

The Department keeps telling us that it is examining it, and that other Departments are examining it. Nowhere else in the United Kingdom has this taken place; only in Northern Ireland. We must zoom in to see the real problem, which is that we have a Sinn Féin/IRA Minister in the Department of Health, Social Services and Public Safety who is prepared to promote such issues for purely political reasons. She is prepared to forget about the morale of the firefighters and everything else in order to push this Regulation through for political reasons.

There are people in Northern Ireland and in the Northern Ireland Fire Service who are capable of filling that senior position, no matter what religion they are. We have had people capable of this position in the past, and if it were opened up again, we would have capable candidates today.

I am concerned that disciplinary action was taken against the two acting Chief Fire Officers.

Is it a move to discredit the two gentlemen already in post? I should like the Department to clarify that today, for it stinks right through the whole system. There could be political moves on the part of the Minister to push this through.

4.30 pm

I trust that the whole House will back us, and our motion, today. I also hope that it has listened clearly to the Fire Brigades Union, which represents 95% of firefighters in Northern Ireland. If we say that we are ignoring their views and do not agree with them, their morale will be very much affected.

Many men and women have enjoyed career development and progression through the Northern Ireland Fire Service. Are they to be told that they might not have the opportunity because the Minister intends to open the

floodgates and let anyone across the world apply for the position? In the Northern Ireland Fire Service we have men and women capable of taking on that position.

Today the Department must throw away the Regulations and forget about the flaws and the legalities of the whole thing; that is a smokescreen. The Minister and her Department must look to the Northern Ireland Fire Service for the position of Chief Fire Officer. We have the men and women who are capable of it.

**The Chairperson of the Committee for Health, Social Services and Public Safety (Dr Hendron):** Like Mr Berry, I have nothing but the most profound respect for all the firefighters in Northern Ireland. Having been on the front line in West Belfast all down the years, I have seen their courage and their actions.

I should like to take this opportunity to explain the Committee’s support for this Statutory Rule. As Mr Berry explained, the Committee’s decision was not unanimous; it was carried by a majority of six to two. Nonetheless, I am confident that the decision was well-informed, balanced and took full account of the issues raised.

The Committee’s duty was to scrutinise the Statutory Rule and establish whether it was sound regarding its intent. The Committee has delegated responsibility for its technical scrutiny to the Examiner of Statutory Rules, whose report I shall return to later. The aim of this Statutory Rule is to widen the pool of qualified potential applicants for the post of Chief Fire Officer for Northern Ireland beyond the United Kingdom in order to attract the strongest possible field of candidates. That is based — in my view, quite rightly — on the promotion of equality and is consistent with the freedom of movement of workers across the European Community. As the substantive post of Chief Fire Officer has been vacant for some time, it is important that this legislation be progressed as soon as possible.

In the light of concerns raised by the Fire Brigades Union, the Health Committee spent a considerable time considering the proposed legislation. It took evidence from departmental officials and representatives from the Fire Brigades Union. The union representatives voiced concern that the Fire Authority for Northern Ireland had not consulted it on the proposal.

Although the Department says that consultation took place, it appears that that was only when the proposal for the Statutory Rule had reached an advanced stage. That is regrettable and is not consistent with open and transparent government. I trust that lessons will be learnt. Had the Fire Brigades Union been consulted from the outset, the Department might have had more success in convincing its leadership of the merits of the proposed change and allayed fears about any possible dilution of qualification standards in respect of the post of Chief Fire Officer.

Turning to the Statutory Rule, I wish to deal first with the legal implications of retaining the existing qualification requirements for Chief Fire Officer. The Health Committee sought the advice of the Assembly's legal services regarding the Regulation's aims. The advice, which was consistent with that given to the Department, was that

"the retention of the existing qualification requirements for Chief Fire Officer probably cannot be justified, particularly in light of a relaxation of nationality requirements for public service posts."

The current Regulations could be seen as discriminating against those who are not UK nationals by unnecessarily reserving posts to that group.

The Treaty on European Union 1997 provides for the free movement of workers without discrimination on the grounds of nationality. While Governments may classify certain public services as exempt from the freedom of movement legislation due to their "state sensitive" nature, I understand that the Department does not consider such an exclusion to be justified with respect to the post of Chief Fire Officer. That took account of the fact that few of the equivalent posts in Great Britain have such an exemption. It also took account of the situation in Northern Ireland following the Good Friday Agreement. I am not aware of any counter legal arguments having been made in support of the existing arrangements. The Minister may wish to confirm that I have interpreted the Department's views correctly on both of those matters.

In its evidence to the Committee for Health, Social Services and Public Safety, the Fire Brigades Union underlined the importance of ensuring that the Chief Fire Officer has the ability and necessary training to do the job properly and effectively. Clearly, the Chief Fire Officer must command the respect of the entire fire-fighting force if there is not to be a serious loss of morale among members. To that end, I want to address the concerns raised by the Fire Brigades Union with regard to the proposed legislative changes.

The union voiced concern that the proposals would, in effect, introduce a two-tier system and undermine the existing arrangements whereby senior officers aspiring to the highest positions of command must have completed the highly respected brigade command course. As a consequence of those concerns, the Committee wrote to the Department to seek clarification on what was meant by extending eligibility for the post to potential candidates who "possess equivalent qualifications" to a person who had completed the brigade command course. The Department took account of the concerns raised, and it amended the draft Statutory Rule to include the requirement for non-UK nationals to have "experience" and "qualifications" that are equivalent to those that are already in place in the Northern Ireland Fire Service. The Department has advised that judgements on the equivalence of qualifications and experience would rest with the Fire Authority on the advice of Her Majesty's Inspector of Fire Services.

Committee members had concerns that the word "equivalent", for the purposes of experience and qualifications, was not defined. I understand that the Department's legal services have confirmed that it would not be advisable to prescribe in law the equivalence of qualifications and experience in respect of the requirements for the post, as that would result in the need for future sporadic amendments to the legislation. The Committee has no reason to doubt the integrity of the Fire Authority, relying on the professionalism and expertise of Her Majesty's Inspector of Fire Services, to rigorously apply the new arrangements fairly. I believe that that will ensure that there is no dilution of the high standards that are currently required for the post of Chief Fire Officer.

I disagree with the argument made by some that the proposed legislation is, in some way, a slight on the capabilities of local senior fire officers. The high calibre of Northern Ireland's fire officers is beyond dispute. Their selfless bravery and professionalism, which I referred to earlier, particularly in protecting lives and property during the 30 years of the troubles, is unquestionable. While the legislation serves to widen the pool of potential quality candidates, it does not in any way preclude any candidates from Northern Ireland or Great Britain from applying for, or being successful in, the competition. Of course, any unsuccessful candidate would have the facility to appeal to the Equality Commission if they felt that they had been unfairly treated. I am confident of the ability of local senior officers to demonstrate their qualification for the job in any such competition.

In his technical scrutiny of the Regulations, the Examiner of Statutory Rules made three comments. First, there was a breach of the 21-day rule, and the Department was remiss in not following established practice in laying Regulations. Secondly, it would have been more logical to insert regulation 4(1)(a) after regulation 4(2), and, thirdly, it would have been better to have expressly stated in the Regulations that it was for the Fire Authority to decide what experience and qualifications were equivalent to those set out in regulation 4(1)(a).

The Committee will consider the Examiner of Statutory Rules' report at its next meeting. However, the examiner has confirmed that his comments are relatively minor points that do not invalidate the Regulations. He has brought his comments to the Department's attention and has suggested that it may wish to bring forward an amendment in due course to tidy up the Regulations. The Committee will make its views known to the Minister on how this Statutory Rule has been handled. Although there are lessons to be learned for the future, they do not invalidate the rationale of the Regulations.

On behalf of the Health, Social Services and Public Safety Committee, I urge Members to support this progressive piece of legislation. It is consistent with the principle of freedom of movement for workers within the



European Community and aims to ensure that the Northern Ireland Fire Service has the best possible pool of potential quality applicants for the post of Chief Fire Officer.

**Mr J Kelly:** Go raibh maith agat, a LeasCheann Comhairle. In proposing the motion, Assembly Member Berry talked about politicisation and mentioned the Minister and Sinn Féin/IRA, yet the entire thrust of his address was to politicise the Fire Service in this part of Ireland. The motion is not about the competence of the Fire Service. As other Members have said, no one has in any way attempted to criticise, diminish or belittle the Fire Service; neither is the amendment an attempt to prevent internal promotions within the North of Ireland Fire Service.

The amendment does not propose that no one from within the North of Ireland Fire Service can become Chief Fire Officer. It is about equality of opportunity. As Joe Hendron said, it is about casting the net wider so that those from America, Germany, France, Italy or the other part of Ireland can apply for that job. All the amendment does is extend that notion of equality. It does not in any way disbar, disallow or prevent promotion from within the North of Ireland Fire Service.

Earlier today we were discussing leaked information, yet Mr Berry has been leaking information from the Health Service to the Fire Brigade unbeknownst to any member of the Health Committee. Consistently — *[Interruption]*.

**Mr Berry:** On a point of order, Madam Deputy Speaker. It is cheap that the Member is talking about leaked documents, given what happened on Friday. Let him provide the evidence. He made an allegation, and I want him to withdraw it.

**Mr J Kelly:** The Member said it in his speech. Apart from anything else — *[Interruption]*.

**Mr Berry:** On a point of order, Madam Deputy Speaker. I said that I had raised this issue with the Fire Brigades Union in July — not in September or October, but in July. It was legitimate of me to raise the issue. It was during consultation. As a Health Committee member, I asked members of the Fire Brigades Union whether they were aware of the Regulations, which they were not. Where is the crime in that? Does the Member not want the Fire Brigades Union to be consulted?

**Madam Deputy Speaker:** Thank you for that clarification. I assume that the matter has been clarified for Mr Kelly.

**Mr J Kelly:** Clarification will wait for another day. We can only go on what we hear and what we are told.

We have spoken to firemen about what they are about. We have explained to the Fire Brigades Union the content, impact and import of the amendment. The entire objective of the motion seems to be to prohibit and confine; to create a closed shop in the North of Ireland Fire Service where no one outside the North of Ireland Fire

Service ought to be promoted to Chief Fire Officer. That cannot be right — there is no openness, transparency or accountability in any sense of the word.

4.45 pm

In opposing the motion, the Department is clear in its use of words. The amendment allows a person to apply if he or she

“has acquired experience and qualification equivalent”

to the original requirements. That fits in with what the Fire Service has said. There may be merit in ensuring that the Regulations to ensure such equivalence are comprehensive and robust. However, there is nothing in the wording of the amendment that could be objected to by anyone concerned with equality of opportunity and ensuring that the best person for the job gets the job, irrespective of where he comes from. I oppose the motion.

**Mrs E Bell:** I support Mr Berry’s prayer of annulment. I agree with him, even if only in this matter. Can Members listen to what I have to say before they comment? We have recently spoken in the House about attacks on firemen and women by mindless thugs on our streets. Most of us have supported the firefighters’ battle to achieve a new wage structure to replace the existing 25-year-old one. The firefighters regard the proposed appointment and promotion Regulations as yet another attack on them. Those Regulations are not being considered for the other 57 of the 58 fire brigades in the United Kingdom. The existing Regulations are currently protected by the Treaty of Rome. However, it is argued that they must be altered here to achieve equality in accordance with the so-called needs of Northern Ireland. Such a change is not necessary at this stage and would also be extremely dangerous because it would open up senior positions to people in the European community who might not necessarily have the practical experience and who may have some communication shortcomings. In the heat of an emergency, a split-second delay could prove fatal. I hope that people understand my practical concerns.

In one area of the Republic, under Regulations similar to those proposed, a chief fire officer who had absolutely no background in or experience of actual firefighting was recently appointed. Add possible communication problems to that and there could be trouble.

**Mr J Kelly:** Does the Member agree that the appointment of a chief fire officer in the other part of Ireland was conducted in conformity with the Regulations that apply there and that the Regulations that apply here would prohibit someone who did not have the equivalent qualification — in other words, the training that is required in the Fire Brigade in Britain or elsewhere?

**Mrs E Bell:** I am not exactly sure what the Member means. I am sure that the person who was recruited in the South was recruited under the South’s Regulations. This is a matter of United Kingdom Regulations and the

Northern Ireland Fire Brigade, which is still part of the United Kingdom, whether we like it or not. Firefighters in Northern Ireland regard the proposal as an insult because they think they are being treated differently from other firefighters in the UK. They fear that it would de-professionalise their service and open it up to non-experienced personnel, thus placing them at even greater risk than they already are.

As I said, I am making practical comments at this stage. No one in this Chamber can be in any doubt that I and my party have always supported the equality legislation.

**A Member:** Selectively.

**Mrs E Bell:** Our support is not selective. We support equality legislation. However, because something is, in general, desirable and right, it does not mean that every application of it has been desirable or right. We have complained about the process of the equality legislation — there have been many delays. All of a sudden, however, this idea turns up. It should be considered, but only on a UK-wide basis. At this stage no change should be made that would be to the detriment of any firefighter.

**Mr J Kelly:** What changes should be made?

**Madam Deputy Speaker:** Order.

**Mrs E Bell:** The proposed change is not for good, practical reasons. Such changes should only be made when the equality legislation for the whole of the UK is examined. That should be the case until Northern Ireland is put into the South. I support the motion.

**Madam Deputy Speaker:** Given the number of Members who wish to speak in the debate and the time that we have made available, I ask the remaining Members to limit their contributions to five minutes.

**Mrs I Robinson:** I support the prayer of annulment motion brought by my Colleague on the Committee for Health, Social Services and Public Safety, Mr Berry. The position of Chief Fire Officer in Northern Ireland is a crucial post and, as some Members intimated earlier, the person in post must interact with the Chief Constable and the General Officer Commanding.

Morale among our firefighters is very low, following their high-profile campaign for better pay and a greater recognition of their role in society. Meanwhile, frequent mindless attacks on them continue across the Province. Firefighters take their lead from their superiors, so it is important that those who represent them, the face of firefighters, have their utmost respect and support. As the Fire Brigades Union representatives informed the Committee, firefighters may live or die on vital command and control decisions taken by senior officers.

I oppose discrimination, wherever it is found and from whatever source it emanates. The person most suitable — the best-trained, the most qualified and the one most likely to do the job best — should always get the job.

That is why I so deplore the discrimination that exists in policing. Young men and women can fail to become police officers, even though they know that they were better candidates than others who were chosen. That often means rejection from a career that the unsuccessful applicant has always had an ambition to pursue, perhaps even following in the footsteps of other family members.

I do not want to see discrimination in the Fire Service. I want the Chief Fire Officer to be the best person for the job. For that to be the case, he or she will require an intimate knowledge of Northern Ireland. As a result of our tragic history, heading an organisation such as the Northern Ireland Fire Brigade requires a familiarity with the Province's geography and the cultural issues whose significance remains throughout our society. It is not as if we have a limited pool of potential candidates from whom to choose. Under current legislation, our Chief Fire Officer could be appointed from officers throughout the 59 UK fire brigades who have completed the brigade command course at Fire Service college. Does it not seem peculiar that the Sinn Féin Minister now wishes to change the legislation to allow for applications from outside the United Kingdom? It has been claimed that to maintain the current legislation would be unlawful. However, other legal advice rubbishes that supposition.

Why are the other 58 fire brigades in Great Britain not seeking amendments to their legislation? Is it any wonder that firefighters' leaders fear that it is not about ability or equality of opportunity, but purely a political decision by a Minister pursuing an all-Ireland agenda.

The Fire Brigades Union also fears that political factors were behind the recent controversies surrounding the Fire Authority. Is it just coincidence that the only two Northern Ireland Fire Brigade officers who are in a position to apply for the Chief Fire Officer post have recently been made subject to disciplinary investigations?

In the Irish Republic, a two-tier entry system means that senior officers can possess little experience in command and control issues for large-scale incidents such as bomb scenes. For example, the chief fire officer in Wexford graduated in civil engineering in 1998 and worked as a building control officer for a consultancy firm until she was appointed assistant chief fire officer for Mayo.

Firefighters in Northern Ireland support the integrated personal development system promoted in the UK Fire Service, and, especially now, when pay and conditions are under discussion, it would be ridiculous for firefighters to do anything that might weaken their links with colleagues in Great Britain. As such, the appointment of a chief officer from outside the UK would run counter to the integrated personal development system. Firefighters wish to pursue that pathway of career progression and development, not to introduce a two-tier system. I support the motion.

**Mr Dallat:** I am quite sure that the prayer of annulment was not inspired in heaven; it is more likely that it was enunciated in less hallowed places, among people who have a vested interest in ensuring the retention of restrictive work practices. Why else would anyone want to limit the potential pool of applicants for the post of Chief Fire Officer? I cannot think of another reason.

I am sure that Mr Berry will reassure the House that his intervention has not been influenced by anyone in the Northern Ireland Fire Brigade who may be a potential applicant to the vacant post. I raise that issue, not as an allegation of impropriety, but to enable Mr Berry to go on the record with a crystal clear assurance that he has had no contact with anyone who may benefit from the annulment of the Regulations, which enable — *[Interruption]*.

**Mr Berry:** I thank the Member for giving way. I can say honestly in the House that no one, including the acting Chief Fire Officers, has consulted me about the issue. I have had discussions about the positions with the Fire Brigades Union but, I stress, never with an acting Chief Fire Officer.

**Mr Dallat:** I raised the issue to give Mr Berry the opportunity to go on record and state that he has not been influenced in any way and because I know that, in the past, he has tabled leading questions relating to the Fire Service, which I felt at the time were inspired by personal contact. However, I have no proof.

There are serious issues relating to the future development and reform of the Fire Service, and, although there has been a tendency to put all the blame on the beleaguered Fire Authority, there are real concerns about the ability of some people in the Fire Brigade's management team. I say that because many of the recommendations made by the Public Accounts Committee have not been implemented and, in some cases, have been obstructed.

In such circumstances, I suggest that a new broom is needed to clean out everything that is wrong in the Fire Service. However, in saying that, I do not take away from the sterling work of firefighters in the past 30 years. I do not want anyone to confuse the two issues.

To reimpose restrictive practices would not be in the interest of genuine reform, but would be construed as either politically motivated to prevent applications from the Republic or a clumsy attempt to enhance the prospects of existing personnel. Of course, such practice is contrary to the ethos of the EU, of which we are a member.

5.00 pm

I shall conclude, because I know that you are anxious, Madam Deputy Speaker, that speeches be short. Do we potentially tell a firefighter or a fire chief who served in New York on 11 September and who wanted to apply for a job in the North that they are unqualified? I should think not. Mr Berry, in his single transferable speech,

told the House that his little prayer was not inspired by the angels but by other factors. However, those factors have nothing to do with improving the Fire Service and more to do with retaining the closed shop.

**Mr Shannon:** I support the motion that my Colleague Mr Berry moved and that was ably spoken to by another Colleague, Mrs Robinson.

I must put on record my concern about the Minister's decision to consider this matter. In common with many others, I have no doubt that that decision is purely politically motivated. Members have said that they wish to ensure that there is equal opportunity of employment. That is true; however, if we follow the procedures and changes that the Department of Health, Social Services and Public Safety has proposed, that equality will not follow. For example, an officer in the Irish Army who transfers into the Irish Fire Service, and who may be insufficiently qualified to hold that position, can then apply for a position in the Northern Ireland Fire Brigade. That is wrong; in order to obtain a post in Northern Ireland people here must be qualified, have abilities, have passed exams and have done all that is necessary. For someone down there to get in through the back door is unfair and must be opposed.

The issue has been discussed in many councils, and my own, Ards Borough Council, has put on record its opposition to the proposed changes. Many other councils have done likewise, and, as a result, the momentum against the proposals has grown across the Province.

The Minister's proposals discriminate directly against those in Northern Ireland who wish to become Chief Fire Officer. As long as that continues, she and her Department stand condemned over fair play and fair employment. It is only fair that the same rules apply to everyone who must go through our selection procedure.

The changes also attack the firefighters' morale. My Colleagues have mentioned that attack on their morale. It is clear that many firefighters feel let down and undermined and that the proposed change in legislation tramples on their motivation and role.

If this were happening in any other sphere of employment, cries about fair play, fair employment and discrimination would be heard from unions and elected representatives. Yet that is what we face in this instance. It is ridiculous that the Minister will be allowed to make changes and manipulate employment guidelines to suit a political agenda. Let us look at the issue and give the job to the best candidate. Let us ensure that everyone has the same opportunity to apply for that job, and let us not allow the Minister and her Department to ride roughshod over the feelings of Members, those in the Fire Brigades Union and all those who wish to apply for the job but who are unable to do so.



I support my Colleague's motion, and I ask Members to support him. We cannot allow manipulation to occur for political motivations in the Chamber. It is political engineering, which is unacceptable and cannot be supported.

**The Minister of Health, Social Services and Public Safety (Ms de Brún):** Go raibh maith agat, a LeasCheann Comhairle. Ba mhaith liom mo bhuíochas a ghabháil leis an Uasal Berry as an rún seo a thabhairt os comhair an Tionóil. Tá sé tábhachtach go dtabharfaí faoi na ceisteanna a ardaíonn an rún seo agus go dtuigeann Comhaltaí an fáth ar leagadh síos an Rialachán leasaithe agus na himpleachtaí a ghabhann leis ó thaobh comhionannais agus dlí de.

I dtús báire, bhí an leasú seo riachtanach lena chinntiú go mbeidh gach ceapachán feasta cothrom agus cóir faoi reachtaíocht an Aontais Eorpaigh. Cinnteoidh an leasú fosta go mbeimid in ann na hiarratasóirí is fearr a fháil do phost an Phríomhoifigh Dóiteáin tríd an phost a oscailt don réimse is leithne iarratasóirí san Eoraip agus níos faide ó bhaile. Tríd sin a dhéanamh, cinntíonn an leasú fosta go gcoimeádfar an t-ardchaighdeán taithí agus cáilíochtaí atá riachtanach don phost.

D'fhéach an dréachtleasú a chuir mé faoi chomhairliúchán i mí Iúil leis sin a bhaint amach trí éileamh ar iarratasóirí cáilíochtaí a bheith acu atá inchurtha leo sin atá riachtanach don phost faoi láthair. Mar fhreagra ar na hábhair inní a léirigh Ceardchumann na mBriogáidí Dóiteáin, áfach, éilíonn an leasú go mbeadh taithí fosta ag iarratasóirí ar dhóiteáin a smachtú sular féidir glacadh leo i gcomhair agallaimh.

I thank Mr Berry for bringing the motion to the Assembly. It is important that the issues raised be addressed and that Members understand why the amending Regulations were laid, along with its implications for equality and legality. Regardless of the fact that I hold a different opinion, it is important to have the opportunity to debate the matter.

First, the Regulations is necessary to ensure that any appointment made is fair and equitable under EU legislation. The Regulations will also ensure that we can attract the best possible candidates for the position of Chief Fire Officer by opening up the post to a wide range of applicants in Europe and further afield. The Regulations will also ensure that the high standard of experience and qualifications required for the post are maintained. The draft Regulations, which I circulated for consultation in July, sought to achieve that by calling for candidates to have qualifications equivalent to those currently required.

In response to concerns expressed by the Fire Brigades Union, however, the Regulations now before the Assembly also requires candidates to have equivalent firefighting experience before they can be accepted for interview. Therefore the Regulations include a new clause that

allows candidates from anywhere in the world, with equivalent qualifications and experience, to apply.

It is important to note the nature of equivalence. The word "equivalent" means equal in value; having the same meaning or result; tantamount to or corresponding. Any applicant who does not have the necessary experience and qualifications will not be called to interview. Critics of the clause continue to claim that it will, somehow, dilute the stringent standards that exist. How can that be the case, if candidates are expected to have the same qualifications and fire service experience? To suggest that an engineer or a building inspector without these qualifications and senior level firefighting experience could be appointed as a result of the legislation is simply nonsense. They would not even be interviewed.

The example of the appointment of a female Chief Fire Officer in Wexford is quoted again and again and was mentioned in the House today. It is used so often to argue against the Regulations that it must call into question the critics' other arguments against the Regulations. Is it concern over standards that motivates them, or is it fear that a woman could apply, and be accepted for, such a post?

It is important for Members to understand that the Regulations does not affect, in any way, applications from serving members in brigades in GB or here, provided they have the appropriate qualifications and experience. All it does is extend the field to other suitable candidates in exactly the same way as the field is extended for all the other important jobs Members may see advertised in newspapers.

Apart from the sensible and practical reasons for endorsing the Regulations, there are also compelling reasons to do with equality. Under European legislation, Governments are required to facilitate the free movement of workers in the European Union. That means that the existing legislation discriminates against qualified candidates from the rest of Europe and elsewhere. Such indirect discrimination leaves the appointment process open to legal challenge. I have been advised that any such challenges would be successful. It has been mistakenly reported that the post of Chief Fire Officer is automatically exempted from the requirement to be open to other EU citizens. This is not the case. Such an exemption cannot be justified here. It is worth noting that it does not apply to the post of Chief Constable of the PSNI. The Chief Fire Officer's post, under article 39(4) of the EEC Treaty, was previously designated as a public service post, which meant that non-UK nationals were prevented from applying for it. On the basis of legal advice, the Department no longer considers that the post justifies a public service exemption.

Few fire brigades in GB attract this exemption, and the situation here, following the Good Friday Agreement, does not justify the exemption. Unless it was held that there were good reasons for not allowing European

nationals from outside GB and here to apply for public posts, this public service exemption, which blocks such nationals from applying, could be judged by the courts to amount to discrimination.

In answer to Paul Berry's argument that the person holding this post will need to interact with the Chief Constable of the PSNI, I must point out that the exemption does not apply to the Chief Constable.

The views of members of the Fire Brigades Union were sought and received during consultation, and the original proposed Regulations were amended to specify that equivalent qualifications and experience would be required, consistent with some of the concerns that they raised. During the consultation, the Committee found out about certain matters before the Fire Brigades Union, because it consistently sought and received early sight of departmental proposals.

With regard to the proposed Regulations, the Department wrote to the Committee for Health, Social Services and Public Safety on 1 July. That was followed by formal consultation on 5 July, with a range of organisations including the Fire Brigades Union, the Retained Firefighters Union, the Fire Authority and district councils. The Fire Brigades Union responded to the consultation letter of 5 July on 20 August. Following receipt of the response, the proposals were amended in line with some of the concerns that it expressed.

Questions have been raised about the morale of firefighters here, and the suggestion has been made that that could be affected by the proposed Regulations. It is a nonsense to suggest that someone from elsewhere, without relevant firefighting experience, would be eligible for the post. To suggest that the Regulations allows amateurs to apply is, by definition, an insult to existing firefighters. Equivalent qualifications and experience are required. Morale could be damaged to a far greater extent by the suggestion that people here would be able to compete only if no one else were allowed onto the field.

The Regulations in no way reflect on the suitability of potential candidates for this post — here or elsewhere. There have been made because of practical, legal and equality issues. Under these Regulations, qualified officers in the Fire Brigade remain eligible to apply, as can suitably qualified officers from fire brigades in Great Britain.

We decided not to wait until such changes had been made elsewhere, because we all recognise the importance of this post being filled substantively, as a matter of urgency. The post is about to be advertised, and therefore we cannot wait for changes to be made elsewhere before we act. Were we to do so, our legal advice is that we would be open to legal challenge.

**Madam Deputy Speaker:** Will the Minister draw her remarks to a close?

**Ms de Brún:** There are a couple of technical issues that Dr Hendron raised with regard to the Regulations.

**Madam Deputy Speaker:** Those must be dealt with speedily as you have only a few seconds.

**Ms de Brún:** Given that I have run out of time, I will write to Dr Hendron about those matters.

5.15 pm

**Mr Berry:** I have listened with intent to several Members who spoke during the debate. I listened to the Chairperson of the Health Committee, Joe Hendron, who said that it is important that we widen the pool. As far as I am concerned, our pool is wide enough at present. We have capable men and women in Northern Ireland. Dr Hendron's Colleague John Dallat can shake his head at me, but I believe that we have the men and women in Northern Ireland who are able to carry out the position of Chief Fire Officer, even if Dr Hendron disagrees.

I agree wholeheartedly with the Chairperson of the Health Committee that the post must be filled. I call on the Department to get its finger out, get rid of these Regulations and appoint a Chief Fire Officer to Northern Ireland, given the circumstances that we have.

**Mr J Kelly:** Will the Member give way?

**Mr Berry:** I do not give way to Members of Sinn Féin/IRA. *[Interruption]*.

**Madam Deputy Speaker:** Order.

**Mr Berry:** The Democratic Unionist Party is fit enough to deal with those people.

We have heard much about the legal implications. Let us consider the wording. The legal advisers returned to the Department and said that the word "probably" cannot be justified. If that is the legal advice, that person should get the sack. That is not clear guidance for us as a Committee.

We have also heard people say that this annulment will discriminate against people across the world, in places such as Germany. Anyone who says that we are going to discriminate is a hypocrite. These Regulations are discriminating against the Northern Ireland firefighters who have gone through the ranks — people who have developed their career and progressed through the Fire Service for 30 years. If the Regulations were to go ahead, those people would be clearly discriminated against. The Minister's attempt to have those enacted is once again a political move.

We then had the words of John Kelly — what a courageous man. He said that he would question the motives behind the motion. He said that the motion's object was political. Who is political today? The Minister of Health and Mr red-faced John Kelly. He went on to talk about leaked documents. Sinn Féin/IRA's spokespersons are the last people who should be talking about

leaked documents in the Assembly today, given the circumstances of Friday past.

We move on to the issue of equivalency, qualifications and the firefighters' morale. That is being basically laughed off. Forget about the morale of the firefighters, even though the Fire Brigades Union has consulted with us all and made it known that it is against these Regulations because they basically say to the men and women of the Northern Ireland Fire Service, no matter what their religion, that there is no one capable within its ranks.

I thank Eileen Bell and Iris Robinson. Iris Robinson said that the Chief Fire Officer must be aware of the geography and culture of Northern Ireland. We are aware that the Minister of Health will not be in close consultation with the Chief Constable and the General Officer Commanding (GOC) for her own political reasons. Over the past 30 years, we have been aware of Sinn Féin/IRA's view of the police. It has been in close contact with the police, because it has pointed the gun at them and has murdered many police officers across the streets of Northern Ireland. It is clear that it is not going to consult closely with them.

But we need a Chief Fire Officer who is prepared, capable and aware of the geography of Northern Ireland. While the Minister will not consult with the Chief Constable of Northern Ireland, especially after all her screaming in the corridors of this Building on Friday, we need a man or woman capable of taking on this position.

**Mr Hussey:** I am sure that Mr Berry would agree with me that those people from all over the world who are interested in serving the community of Northern Ireland are welcome to come along and join the Northern Ireland Fire Service and work their way up to a position where they can apply for the post.

**Mr Berry:** I agree wholeheartedly with my Colleague Mr Hussey.

The only part of the Minister's comments worth listening to was her disgraceful comment that we are trying to discriminate against women. While the Minister for Health, who is a woman, has done a bad job in the Department of Health, Social Services and Public Safety, that does not mean that any other woman who applies to be the Chief Fire Officer would fail. It is clear that the Minister of Health has failed in her Department, and I trust that she will also fail today. I trust that the annulment will be accepted.

The consultation in relation to this has been disgraceful, as shown by the concerns of the Fire Brigades Union. It will affect the morale of the Northern Ireland firefighters. This is a clear political move by the Minister, Sinn Féin/IRA and her Colleagues to get this through. *[Interruption]*.

**Madam Deputy Speaker:** Order.

*Question put.*

*The Assembly divided: Ayes 36; Noes 24.*

## AYES

*Roy Beggs, Billy Bell, Paul Berry, Esmond Birnie, Gregory Campbell, Mervyn Carrick, Wilson Clyde, Robert Coulter, Ivan Davis, Nigel Dodds, Sam Foster, Oliver Gibson, Tom Hamilton, William Hay, David Hilditch, Derek Hussey, Roger Hutchinson, Gardiner Kane, Danny Kennedy, James Leslie, David McClarty, William McCrea, Alan McFarland, Maurice Morrow, Ian Paisley Jnr, Ian R K Paisley, Iris Robinson, Ken Robinson, Mark Robinson, Peter Robinson, George Savage, Jim Shannon, David Trimble, Peter Weir, Jim Wells, Sammy Wilson.*

## NOES

*Alex Attwood, Michael Coyle, John Dallat, Bairbre de Brún, Sean Farren, Tommy Gallagher, Michelle Gildernew, Carmel Hanna, Denis Haughey, Joe Hendron, Gerry Kelly, John Kelly, Patricia Lewsley, Alban Maginness, Alasdair McDonnell, Barry McElduff, Gerry McHugh, Monica McWilliams, Francie Molloy, Mick Murphy, Dara O'Hagan, Eamonn O'Neill, Sue Ramsey, Brid Rodgers.*

*Question accordingly agreed to.*

*Resolved:*

That the Fire Services (Appointments and Promotion) (Amendment) Regulations (Northern Ireland) 2002 (SR 283/2002) be annulled.



5.30 pm

## POINT OF ORDER – PERSONAL STATEMENT

**Rev Dr Ian Paisley:** On a point of order, Madam Deputy Speaker. In a previous debate a savage attack was launched on me and on what I was doing when the Minister of Agriculture and Rural Development was speaking. I make no apology in the House to anybody when I am representing those who have been bereaved, shot and maimed by the IRA. I was with the Minister of State with responsibility for security, on her invitation; she brought the meeting forward so that I might make an issue of those who have suffered so tragically in recent days in the constituency that I represent. To be told that that is a stunt is an insult to the memory of the people who have suffered.

**Madam Deputy Speaker:** Order. I am aware that the Member was interested in making a personal statement, but I advise him that he must seek permission from the Speaker to do so. That personal statement may or may not be made following the Speaker's decision tomorrow morning.

**Mr Campbell:** Further to that point of order, Madam Deputy Speaker. Given the comment made by the Minister of Agriculture and the representations made by Dr Paisley, will you offer the Minister the opportunity to withdraw her comments?

**Madam Deputy Speaker:** This issue was discussed in the debate when the remarks were made, and the request was made for a personal statement. I have given Mr Paisley the opportunity to write to the Speaker so that his request can be considered. Both Members were given the opportunity to explain themselves during the debate, and I will leave it at that.

*Motion made:*

That the Assembly do now adjourn. — [*Madam Deputy Speaker.*]

## MATERNITY PROVISION IN SOUTH BELFAST

**Ms McWilliams:** Clearly, there is as much concern about the needs of women who are giving birth — [*Interruption.*]

**Madam Deputy Speaker:** Order. Members must leave the Chamber quietly.

**Ms McWilliams:** There is a great deal of concern about maternity services in the Belfast area. I want to detail the times that women have been promised a centralised maternity hospital in Belfast. In 1996, 'Seeking Balance', which became known as the McKenna Report, was published, and that was followed in 1997 by the Donaldson Report.

In the minutes of a meeting of the Eastern Health and Social Services Board on 15 April 1999, Mr William McKee, chief executive of the Royal Victoria Hospital, said that he had been invited to draw up a business case in spring 1998 for a new hospital costing approximately £19 million. Then in 1999 — when there were maternity services at the Jubilee Maternity Hospital and the Royal Maternity Hospital — a consultation document was published, and on 27 January 2000 the Minister, making an announcement about the interim arrangements, said that people should be reassured that it would not be the final move.

On 27 January 2000, the Minister said:

"My firm intention is to have the new hospital in place in five to six years' time."

In June 2001, the findings of a review group on acute hospitals were published. In November 2001, a specification for a new centralised maternity hospital was issued. In June 2002, 'Developing Better Services' was produced. It was the outcome of the review group's findings on acute hospitals. A footnote on chapter 4 states:

"A new Centralised Maternity Service will be sited on either the Royal Group or the Belfast City Hospital site. Maternity services at the Mater Hospital should directly link to this Service."

By June 2002, the Committee for Health, Social Services and Public Safety was informed that the specifications for the Royal Jubilee Maternity Hospital would be produced and then subjected to a 12-week consultation. From 1996 to June 2002, there have been consultation documents, requests for specifications and references in documents that reviewed maternity services in Northern Ireland, but we are still awaiting the outcome of the consultation. On and on it has gone, and the morale of those awaiting the outcome has been at such a level that some serious

questions need to be asked. There is no mention in the draft Programme for Government of the new centralised maternity hospital in Belfast.

The physical inadequacies of the Jubilee Maternity Hospital and the Royal Maternity Hospital were highlighted as far back as 1996. The Jubilee Maternity Hospital has now gone, and there has been a merger between it and the Royal Maternity Hospital, but, undoubtedly, the physical inadequacies remain. Mr McKee, the chief executive of the Royal Group of Hospitals, pointed out at the time, when accepting a refurbishment cost of £1.8 million, that it would only be a temporary measure as he wanted a new centralised hospital.

In 1997, the Donaldson Report stated that the ultimate goal was to develop a new unified hospital with a regional perinatal centre. It stated that plans should be drawn up without delay, and an unambiguous timescale should be established for their implementation. Instead of that new build, two old hospitals have been combined into one hospital, and there have been two costly judicial reviews.

In the review of acute services, comments were made about what might happen to the maternity services in Lagan Valley Hospital and Downpatrick Maternity Hospital. In Downpatrick and Lagan Valley there are 1,556 births; in the Mater Infirmorum Hospital there are 1,059 births; and in the Royal and Jubilee Maternity Hospital there are 4,712 births. Therefore, there are potentially about 7,327 births — and there could be multiple births among those figures. That means that many people will be affected by this decision.

What would a women-centred service look like? Women should be asked what they want, and their levels of satisfaction with the current service should be tested. Does the service, as it stands, have the support of women who use it? Is it producing good clinical outcomes for mothers and babies?

In 1996, the cost in the reports was predicted to be between £10 million and £15 million. In 2002, the cost is estimated at an exorbitant £204 million, following an economic appraisal, which was carried out two years ago. Is there any commitment to provide resources for a new centralised maternity hospital, given the costs that have been highlighted in the appraisal, because, search as I may, I cannot find them? Yet we remain with questions on the safety of a small and rather old maternity hospital, which continues to be refurbished. I understand that the refurbishment is continuing with the installation of a pipe system for lab specimens.

For the majority of mothers, giving birth should be a normal experience that takes place without the need for complex medical treatment for either the mother or the child. It should be recognised that maternity services should be centred on women, who should be considered to be partners in the decision-making process. They

should be offered fully informed choices about the type of care that they will receive, and every effort should be made to accommodate the choices that they make.

I welcome the review of acute hospitals' proposals for midwife-led units. However, as I understand it, only one pilot unit will be created between the Downe and Lagan Valley Hospitals. That has implications for the new centralised maternity hospital. I understand that some women have the choice of case-led and midwife-led care, but we are left with a question about what we will do about over 7,000 births in the near future.

Midwives' morale is low. Some of the staff of the Jubilee Hospital chose not to move to what is known as the Royal Jubilee Maternity Hospital, so the complement of midwives and neonatal specialists is down. Often the neonatal units are under so much pressure that they must find space for mothers and babies in other hospitals, and sometimes the mothers who are moved out must be moved back again. That raises serious questions about the care that they receive.

The number of mothers electing to give birth in the Royal Jubilee Maternity Hospital is decreasing. Those women are going elsewhere. In January 2001 six consultants in obstetrics and gynaecology wrote to me and to the Minister. That letter, which demonstrates their morale, said:

"In the interests of open and accountable government we call on the Health Committee to initiate an urgent enquiry into the Department of Health's handling of the maternity issue. We call on the Minister to urgently tackle the issue of maternity and gynaecological services in Belfast and beyond and to initiate a fair, open and just consultation process."

Although that letter was written in January 2001, they are still waiting for an outcome.

There is great concern about all the services. When will the Minister decide on, and confirm funding for, a new centralised maternity hospital, given the promises that she made as long ago as 2000? Will she give priority to the provision of centralised maternity and gynaecological services in Belfast in the final Programme for Government, given that it was not even mentioned in the draft programme? How can Members support the Minister's securing early funding and a commitment to a fast-track project timetable?

We have waited for more than six years for that project. A decision is to be made after the 12-week period of consultation, which will follow the submission of two specifications from the Belfast City and Royal Hospitals, which were promised at the start of the summer. I initiated this debate on the Adjournment because I was led to believe that consultation would begin at the start of this parliamentary session, but we are still waiting. It is extremely important, therefore, to know when the consultation document will be prepared to enable the project to begin.

What has the Minister done to secure funding — funding for this mainstream capital project does not seem to be mentioned in the Budget? Has the Minister visited the Royal Jubilee Maternity Hospital, and is she aware of the current conditions there? I understand that recent steam and sewerage problems on the site have given much cause for concern.

5.45 pm

I have raised the issue of hygiene standards in the House before; the serious problems with the steam and sewerage systems on that site, which we know is old, are obviously dangerous.

How will the Minister ensure that the views of women who are using obstetric and gynaecological services are heard? When I say “a women-centred service”, I mean that both for maternity and gynaecological services. We know the links that must be made with oncology, particularly in relation to urology. Those are women’s complaints, so any service must address them together rather than separately.

Has relevant UK evidence-based research on the location of maternity and gynaecological services, and the links between them, been taken into consideration? We are more than aware of links made with paediatric services. However, I continue to emphasise that, if we are to have a women-centred hospital like there are elsewhere in the United Kingdom, we must constantly prioritise the interaction between gynaecological services, which are lifelong, and those for maternity.

Finally, how will the Minister ensure that gynaecological services are given appropriate consideration in the current consultation? I say that because, when I first entered the House as a Member for South Belfast, I had high hopes that it would not be long before we found ourselves with a new, purpose-built hospital. It now looks like the Assembly is going down, but even had it lasted to March or April 2003, I would have left office without any purpose-built, centralised maternity hospital having been secured. I made that a priority when I was elected, and I sincerely hope that, as I go around the doors, I shall be able to tell my constituents that it has not been lost for ever.

**Dr Birnie:** I am grateful to Ms McWilliams for giving us an opportunity to consider this important matter. In fact, it is at least the third time in the life of the Assembly that the issue has been addressed. As Ms McWilliams rightly said, there is a long history to how we got to where we are now — the McKenna Report, the Donaldson Report and, more recently, the judicial review.

In a sense, we must start from where we are rather than where we might ideally wish to be. At the time of the earlier debate on the choice between the Royal Victoria Hospital and the Jubilee Maternity Hospital sites, a fear was expressed that a merger of the two units, especially

at a single location at the Royal Victoria Hospital, would lead to a “shoehorning” into one inadequate building. As Ms McWilliams has pointed out, there is some evidence that that has become the case. The worrying aspect, as Ms McWilliams also said, is that what we were told would be an interim solution seems to be becoming an unsatisfactory medium-term or even relatively permanent solution, to the detriment of the well-being of mothers, mothers-to-be and their babies.

In their previous existences, both the Royal Victoria Hospital’s maternity unit and the Jubilee Maternity Hospital seemed to have a distinct ethos of care, especially in the style of treatment during delivery. One point that I should like to raise is that, in the management of the single combined unit, there should be an attempt to take what is best from the ethos of both sides of the merger. Admittedly, that will be a difficult task, but I hope that it will at least be attempted in order to maximise choice for mothers-to-be. Perhaps preserving, maintaining and improving choice should be an underlying theme in this debate. Of course, that is subject to the two other main considerations — cost and coverage for emergency cases. Much uncertainty has been generated by the current situation, and some of the ill effects were well evidenced in Prof McWilliams’s speech. Finally, I urge the Minister to end that uncertainty and to secure ring-fenced funding for this care and treatment.

**Dr McDonnell:** I am pleased to take part in the debate. I agree with the last two Members that we must act urgently to ensure that better maternity services are available for Belfast, and south Belfast in particular. The question of maternity services has been unresolved for far too long. Other Members have outlined its various phases, events, reviews and inquiries. The longer the debate continues, the longer the Health Service provision for women suffers. It is far below what is acceptable.

I was glad that Ms McWilliams introduced the issue of women’s health in general. It is not just a matter of maternity services; it covers many complex issues, which, along with maternity services, must be placed at the top of the Assembly’s health agenda. Full gynaecological services must be maintained to a high standard, and they must be built, maintained and developed on the Belfast City Hospital site. Gynaecological services need considerable investment. Much of that investment must be made in parallel with the new cancer centre at Belfast City Hospital, because much gynaecological ill health is associated with cancer risks and scares.

New life — the pregnant woman, the unborn baby and the newborn child on its mother’s knee — stirs an emotional response in most of us. However, many women incur disease or injury as a consequence of maternity and childbearing. Because we were concerned by the publicity over certain issues of women’s health, a few years ago my partners and I carried out a survey of about 200



women between 45 and 55 who were not seeking medical attention. Of the 200, 199 required attention but were not seeking it. Many of those women's problems arose either directly or indirectly as a result of childbirth. Consequently, many of those women were severely embarrassed, if not severely handicapped.

It is not enough to discuss childbirth; the Assembly must make women's health a higher priority. As a GP, I have found that many middle-aged women between 45 and 55 look after everybody but themselves — their children, their grandchildren, their husbands and, often, elderly parents. Their own priorities and health are not served.

I hope that the Minister responds to my plea. It is essential that we resolve the debate about maternity services and attempt to ensure that services are not only maintained but improved in a brand new hospital designed to meet the needs of all mothers. Shoehorning the Jubilee into the Royal Hospital was perhaps efficient and cost-effective, but it was certainly not as effective as regards patient satisfaction as it should have been. There is an overload. The building cannot cope because its facilities are inadequate most of the time. We should remember that not all babies are born to schedule. There may be a large number of births one week and a smaller number the next. The hospital could cope if the number remained level, but in some weeks there are more births than others.

Choice is necessary and important. Cost may be an issue, but the quality of care, including the surrounding social care, is equally important. It is not just an issue of the mother and her unborn child; extended families must also be considered and accommodated.

Every child has the right to be born in circumstances that provide the best possible start to life. The debate between the Jubilee and the Royal Maternity and the opposing claims and counter-claims drew the focus on the rivalry between the two institutions before their amalgamation. It became a political football, and the focus of the debate was switched from where it should have been — building the new hospital. The new hospital should have been half-built by now and well on its way to being established.

The old Jubilee site was user-friendly and accommodating. Many are worried that, since the move, the Royal has dominated maternity services. Traditionally, the Royal was seen as less user-friendly and perhaps more clinical. I hope that that will change. Any new hospital should be extremely user-friendly, not just for the mother and the child but for the extended family.

Unfortunately, many will see the debate about the new maternity hospital as one institution's ambitions of empire building. Although the debate was not absolutely conclusive, the argument that the maternity hospital had to be based close to the children's hospital appears to have won.

Extended gynaecological services, and women's health services generally, should perhaps be located close to the new cancer centre at the City Hospital in the long term. They are not a thousand miles apart, but that proximity is nevertheless important for the plethora of gynaecological needs that relate to cancer pathology rather than maternity provision.

**Mr M Robinson:** Madam Deputy Speaker, in welcoming the opportunity to take part in this discussion today, I would commend Monica McWilliams for securing this timely Adjournment debate on an issue of such importance.

Due to the political and legal wrangling which previously surrounded the debate on the location of maternity services in Belfast, nearly three years later we are no nearer to a decision. The fact that the report, which will be made available this month, will then be put out for a further 12-week consultation process once again delays the making of a final decision. I cannot understand how such an important subject has been allowed to fall so far behind schedule.

This debate has been ongoing for a number of years, and the length of time which the Department of Health has taken in producing this report has, in fact, further damaged the delivery of maternity services in Belfast, thus posing further delays on the building of a state-of-the-art maternity unit which would provide many benefits to expectant mothers.

I trust that this consultation process will be used far more effectively than it was previously, when the most important people in the debate — mothers — were not adequately consulted. It is important that all parties concerned are afforded the opportunity to take part in the consultation process and to have their views made known. The primary concern in the debate is that any decision which is made will be of benefit to those requiring the use of maternity services and that women will receive the best possible maternity services.

6.00 pm

The process has been dogged by delay after delay after delay. Unfortunately, the Department, which will be making its report available later this month, has allowed the process to fall further behind schedule. This delay is further damaging the Health Service, which is already at breaking point and is lurching from one crisis to another. Since maternity services were located to the Royal Hospitals, it has become clear that it is not adequately equipped to take on the extra responsibility which came with this change in location. Maternity wards at the Royal Victoria Hospital are under severe pressure and are severely overcrowded, meaning that many new or expectant mothers are not receiving one-to-one personal care from midwives.

Staffing levels are also under tremendous pressure and morale is at an all-time low, which accounts for the increase in the numbers leaving the profession. We cannot afford to get this decision wrong. Modern maternity services require modern maternity facilities and unfortunately the Royal Hospitals are currently not in a position to offer that standard of service.

The decision which is made regarding the location of maternity services in Belfast must not be politically motivated and must be based on what is best for the people who will access these services. Any decision which is reached must take into account the views which are received during the consultation process. These opinions cannot and must not be ignored. That consultation process will take up much time and money, money that would be better spent being pumped into our health system, which is at breaking point.

**Mr J Kelly:** Go raibh maith agat, a LeasCheann Comhairle. I do not want to rehash the unseemly political wrangle that occurred during the debate about services for the Royal Victoria Hospital and Belfast City Hospital, which led to a judicial review after the Minister had made her decision.

The underlying theme of the debate should be care for the mother and the child. It should focus on care of pregnant women who are at the stage when they must go to hospital and the need to ensure that proper services are provided for them wherever they are taken. There is no doubt that all of Belfast needs adequate maternity services. Moreover, services in the rest of the North of Ireland are inadequate. A new state-of-the-art facility is needed in Belfast, but I understand the Minister's caution, given the possibility of another judicial review.

We must examine maternity services throughout the Six Counties. Rural areas deserve a first-class service as much as any other area. When that debate took place three years ago, rural residents were angry that two major hospitals that stood cheek by jowl were engaged in a controversial argument over where the maternity services should be placed, while west of the Bann and other areas had no adequate maternity service. I welcome the introduction of the two pilot stand-alone midwifery-led units in Downpatrick and west of the Bann, which will give women more choice. I urge the Minister to instigate a review of those pilot units as soon as possible.

**Ms Mc Williams:** I was not aware that a decision had been taken on where the midwifery-led unit for the east of the Province is to be situated. I know that it was to be a choice between Lagan Valley and Downpatrick. Perhaps the Member knows something that we do not.

I am aware that people in rural areas may have asked those questions about the Royal and Jubilee Maternity Hospitals. However, I emphasise that it is the regional centre and, at that time, there were more than 6,000 births. Women from rural areas were, therefore, dependent on the

decision regarding the location of the new centralised maternity hospital because, in the long run, many of them would have to use it.

**Mr J Kelly:** Perhaps I should have said "east of Belfast", but Mick Murphy was whispering in my ear and that might have put Downpatrick into my mind.

East of Belfast and west of the Bann, I was urging the Minister to provide women with greater choice, and the two pilot stand-alone midwifery-led units will do that and get away from the controversy between the Royal Victoria Hospital and Belfast City Hospital. I urge the Minister to instigate a review of those pilot units as soon as possible to enable the establishment of as many midwifery-led units as are needed. It is an excellent idea which should be pursued. People west of the Bann — and I must be parochial — are very much taken with it.

**The Minister of Health, Social Services and Public Safety (Ms de Brún):** Is ceist thábhachtach le tamall anuas í soláthar seirbhísí lárnaithe máithreachais i mBéal Feirste. Tháinig athruithe suntasacha ar sholáthar seirbhísí máithreachais i mBéal Feirste le blianta beaga anuas, agus is beag ábhar a bhí chomh conspóideach nó a spreag oiread spéise agus díospóireachta. Léiríonn díospóireacht an lae inniu go bhfuilimid uilig aontaithe go bhfuil na seirbhísí is fearr tuillte ag máithreacha agus ag leanaí. Glacaim leis go bhfuil difríochtaí móra agus dáiríre ann maidir le conas is fearr seirbhísí máithreachais a sholáthar. Tá sé de chúram ormsa a dhéanamh amach cé na socruithe seirbhíse is fearr a sholáthróidh seirbhísí máithreachais éifeachtacha sábháilte nua-aimseartha i mBéal Feirste agus taobh amuigh de.

Tá mé tiomanta an t-ábhar seo a thabhairt chun críche; críoch a chinnteoidh go mbeidh na seirbhísí máithreachais is fearr agus is inmhathanaí ann do mhná, do mháithreacha agus do leanaí sa toadhcháil.

Mar is eol do Chomhaltaí, nascadh seirbhísí an Ospidéal Mháithreachais Ríoga agus Ospidéal Mháithreachais na hIubhaile i mBealtaine 2002. Ní raibh sé seo beartaithe ach mar bheart eatarbhach, agus ag an am sin ba é an t-aon rogha praiticiúil é. Tuigim an inni atá ar Chomhaltaí go bhfuil an foirgneamh seo sean agus nach bhfuil sé cóirithe le seirbhísí máithreachais ardchaighdeán a sholáthar don aonú agus fiche céad. Sin an fáth a bhfuil mé ag féacháil le cinneadh a dhéanamh ar shocruithe seirbhíse sa toadhcháil.

For some time, the provision of centralised maternity services in Belfast has been an important issue. There have been significant changes in the delivery of maternity services in Belfast in recent years, and few issues have proved so controversial or generated so much interest and passionate debate.

Today's debate has, once again, demonstrated our shared agreement that women, mothers and babies deserve the best possible services. I appreciate that there were genuine

and strongly held differences of opinion with regard to the best configuration and delivery of maternity services. It is my task to determine the arrangements that best deliver modern, safe and effective services which cover Belfast and beyond. I am committed to bringing this issue to a conclusion that ensures that we have the best and most sustainable maternity services for women, mothers and babies in years to come.

During the debate, Members said that services at the Jubilee and Royal Maternity Hospitals were amalgamated at the Royal Maternity Hospital in May 2002. That was intended only as an interim measure and, at that time, was the only practical option available.

I recognise Members' concerns that the current building is old and ill equipped to deliver a quality maternity service for the twenty-first century, which is why I am seeking to reach a decision on the future service arrangements. Recognising that the current facility has deficiencies, I fully endorse Members' comments on the commitment, and it is vital that we ensure that the new facility is brought forward to the benefit of all. I also pay tribute to the dedication of the staff of the hospitals and all the staff of the Royal Jubilee Maternity Hospital are to be commended for delivering a high-quality service in sometimes less than ideal circumstances. I fully accept the need to resolve the issue. Staff deserve a modern working environment, and mothers and babies deserve the best possible service.

Members referred to the various delays since 1996 in bringing the issue to a successful resolution. Monica McWilliams, in particular, referred to my statement of January 2000, in which I said:

"It is my firm intention to have the new hospital in place in five to six years' time".

I also said:

"This issue has been on the table since 1996. This long period of uncertainty has not been good for maternity services, either locally or regionally. It has not been good for staff, who have seen earlier decisions come and go, and it most certainly has not been good for mothers-to-be."

At that time, my decision was overturned, which, of course, impacted on the timing of the project.

In respect of the forthcoming consultation and the process that I have re-established, I have been determined from the outset to ensure that the process is open, thorough and inclusive. This has taken some time. However, if we are finally to move towards a new hospital, I need hardly remind Members of the importance of getting the process right. We can ill afford another round of delay, occasioned by a further legal challenge.

The current process is built around a specification for the new maternity unit. When I announced details of it in June 2001, I stated:

"Following a period of public consultation the specification will be formally issued to the Belfast City Hospital and Royal Group of Hospitals Trusts, and each will be invited to submit proposals for developing the maternity unit on their respective sites."

At that time, I also confirmed that the trusts' proposals would form the basis of a second consultation process, which has the advantage of being open and transparent.

Importantly, it also gives ownership of the options to the two trusts and facilitates an open and free discussion of the issues. I could have initiated a less complex process, which would have allowed me to arrive at a decision much earlier. However, I determined that it was much more important that the approach was sufficiently robust to address the concerns of all parties, to provide for a final decision demonstrably based on the facts, and that such a process should address some of the questions that Members asked today about the involvement of those who wish to make use of the service.

In the light of the responses to the initial consultation process, the specification had to be amended, primarily to enable the trusts to consider the option of centralising gynaecology services alongside, or as part of, the centralised maternity hospital. In the light of that additional option, it was necessary to extend the time frame for the development of the proposals. Officials did, however, make it clear to the Committee that they expected the document to be available by the end of September 2002. I can confirm that the consultation document is being printed and will be issued within the next two weeks.

6.15 pm

That document is extensive. It incorporates the trust's proposals as well as the health estates' professional assessment of the existing Royal Jubilee Maternity Service. Both trusts have sought to demonstrate the particular advantages that their respective sites can offer.

The inability of the neonatal unit to accept admissions is an infrequent occurrence, but it has happened three or four times in the past two and a half years. Indeed, it occurred in the Royal Maternity Hospital and in the Jubilee Maternity Hospital prior to the amalgamation.

Ms McWilliams asked whether I had visited the Royal Jubilee Maternity Service recently. I visited that unit to observe its operation, but in recent weeks senior officials from my Department have visited the hospital on three occasions. I am being kept fully informed of the state of the services there.

In the summer there was an incident in which a sewer in the hospital became blocked, but relevant experts addressed the problem immediately. Unfortunately, the contractor worsened the problem briefly before it was resolved rapidly. That is not a repetitive problem. The steam problem was caused by a broken bedpan washer and was repaired immediately. Such incidents can and do occur in any such facility.



An economic appraisal suggested that a new hospital would cost £204 million. The likely cost of such a hospital is expected to be between £30 million and £40 million at today's prices. It is unclear from where that figure of £204 million comes; it could possibly represent the present net value of a time stream of services over an extended period.

In line with normal practice, funding for a new facility is not determined until the final business case has been agreed, and this is still some way off. I cannot seek to commission a new building before I have reached a formal decision about its necessity. The accepted rules about public sector investment require that my Department consider a range of options. Those include a refurbishment option, which will be included in the consultation document; however, in this case, I am certain that this is not a viable way forward. As I have said, the health estates have taken that forward. I will examine the best route to secure funding once I have reached a decision. My previous decision on the matter was overturned, so I must make a new one.

I have deliberately chosen to follow an open and transparent approach to developing and consulting on proposals that will ensure that mothers are adequately consulted. Interest groups and patients' representatives have been involved at each stage. I look forward to mothers and families being involved fully in the forthcoming

consultation process, and I encourage them to play a full role. As I said, I shall issue the document for public consultation within the next two weeks. I am committed to reaching a final decision as soon as is practicable. However, Members know that there are certain question marks over how that will proceed in the present circumstances.

I have made no decisions about the merits of either site or the need for linkages to particular services. I aim to make the information available so that a considered and informed debate on this important issue can take place. As I have stated previously, mothers and babies deserve, and have the right to expect, the best possible maternity services. That must be our primary concern.

The debate today has flagged up some important issues that I hope will be picked up on more fully in the forthcoming consultation. I listened carefully to Committee members' views and look forward to their further advice as the consultation proceeds. I am delighted that, as a result of the matter being raised by Ms McWilliams, we have been able to consider it.

I encourage Members to consider the consultation document carefully and to reserve judgement on the location of the maternity hospital until they have had a chance to consider and digest the proposals presented by the trust.

*Adjourned at 6.20 pm.*

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## NORTHERN IRELAND ASSEMBLY

## STRATEGIC INVESTMENT AND REGENERATION OF SITES BILL

### Second Stage

Tuesday 8 October 2002

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

*Members observed two minutes' silence.*

### ASSEMBLY BUSINESS

#### Events of 4 October in Parliament Buildings

**Mr Speaker:** I wish to refer to two points of order raised yesterday. In a reply to Rev Dr William McCrea, I directed his attention to Standing Orders in respect of exclusion motions. I should, of course, have directed him to the Northern Ireland Act 1998. The precise reference is section 30(5)(a).

Mr Attwood, on a further point of order, asked me whether I would make correspondence from the Chief Constable available to the House. I have taken further advice on the matter, and I have placed a copy of the letter from the Chief Constable in the Assembly Library.

**Mr P Robinson:** On a point of order, Mr Speaker. Will you confirm that the Chief Constable, in his correspondence to you, took nothing away from the necessity for such a search of the Sinn Féin/IRA offices but merely from the nature of the operation and the number of police officers deployed?

**Mr Speaker:** The Member refers to the content of the letter. It is fair to say that the letter speaks for itself.

**Mr Speaker:** I have received a letter from the First Minister and the Deputy First Minister in respect of the Second Stage of the Strategic Investment and Regeneration of Sites Bill. I wish to draw the letter to the attention of the House. The letter reads as follows:

“We are writing to request your permission to withdraw the Second Stage of the Strategic Investment and Regeneration of Sites Bill scheduled for Tuesday 8 October.

We regret that, due to the current exceptional circumstances, we will not be available for the second reading of the Bill.

We are aware of the significance of this Bill and believe it is right that we should take it through the Assembly.” —[*Interruption*].

Order.

“We apologise for being unable to be in the Assembly today and would very much appreciate if the Bill could be re-scheduled at the earliest opportunity.”

**Mr S Wilson:** On a point of order, Mr Speaker. Is it in order for the First Minister and the Deputy First Minister to rush a piece of legislation to the House, admit that the legislation will not even go through the normal consultative process and then snub the House by refusing to come along to listen to the views of the House on this controversial legislation that is designed to add to their empire, to the quangos in Northern Ireland and to the cost of administration?

**Mr Speaker:** I am somewhat puzzled by the Member's remarks because they bear no relation to what I have just read out. In case the Member was not listening or is unclear, he said that the First Minister and the Deputy First Minister do not intend to come to hear the House. The letter actually says that they wish to withdraw the Second Stage because they do wish to be here to hear the views of the House. I trust that that is clear. What is being requested is that the Bill's Second Stage not be moved today but be moved at a later stage. It is not to be moved today because the First Minister and Deputy First Minister cannot be here. I trust that I have made clear what the letter says as distinct from what the Member said.

**Mr Dodds:** On a point of order, Mr Speaker. Fantasy-land ideas continue in the light of that announcement. Do the First Minister and the Deputy First Minister think that their junior Ministers are incompetent? I am sure that you will confirm that there is nothing to stop the junior Ministers in the Office of the First Minister and the Deputy First Minister from proposing the Bill. They have filled in previously for the First Minister and the Deputy First Minister. Is it not true that the Bill was rushed, as my Colleague Sammy Wilson has said? The Bill received no consultation at all with the relevant vested

interests that must be consulted. The First Minister and the Deputy First Minister are probably so embarrassed by their lack of preparation that they are not in a position to come to the House today.

**Mr Speaker:** Order. That is not a point of order. In respect of the Member's comments about junior Ministers, they will speak for themselves, and the First Minister and the Deputy First Minister may speak for themselves —

**Mr Dodds:** Then let them speak.

**Mr Speaker:** Order. I would simply draw attention to the fact that the previous point of order raised by his Colleague was to the effect that the First Minister and the Deputy First Minister would not wish to be here to hear the Assembly. I simply draw attention to that other point of order. However, I am here to address points of order of a procedural kind, not order of a political kind.

**Mr B Hutchinson:** Further to that point of order, Mr Speaker. What will be the procedure with my amendment once suspension kicks in later this week?

**Mr Speaker:** I can only refer to the first part of the Member's question as far as order is concerned. At this juncture, I would consider his reasoned amendment still to stand for the present. There is simply a rescheduling of the time at which it would be taken. However, as far I am concerned, his reasoned amendment still stands.

His question is particularly appropriate because this is the first occasion on which there has been such a reasoned amendment to a Second Stage. Therefore it is worthwhile putting on record that this technical device to cause a Bill to fall will remain available to be used if the Member wishes to proceed with it when a further date for the Second Stage is scheduled.

## POINT OF ORDER

### Booking of Press Suite

**Rev Dr Ian Paisley:** On a point of order, Mr Speaker. Is it in order for a Department to book the Press Suite for eight hours so that no other party in the House can use it today?

**Mr Speaker:** Yes. It is entirely in order for Members of the Assembly to book facilities, and it is not uncommon that it is done for a day, whether in respect of the Long Gallery, press facilities or other facilities. The matter was drawn to my attention, and I made some suggestions for other, I hope appropriate, facilities that may be able to be made available. I understand there is a degree of pressure as far as accommodation is concerned.

## REVIEW OF POST-PRIMARY EDUCATION

### Report on Responses to Consultation

**Mr Speaker:** I have received notice from the Minister of Education that he wishes to make a statement on the review of the post-primary education report on responses to consultation.

**The Minister of Education (Mr M McGuinness):** The publication of the Burns Report a year ago launched the second phase of the review that began with research by Prof Tony Gallagher and Prof Alan Smith into the effects of our selective system of secondary education. Our thanks are due to them for their extensive research, which provided the basis for the work of the post-primary review body.

We also owe a great debt of gratitude to Gerry Burns and the other members of the review body, and I want to place on record my thanks for their important work in producing such a helpful and thought-provoking report.

The review body's report was far-reaching and challenging, and it stimulated thinking across the education sector and beyond about the full range of issues associated with post-primary education. It has been the catalyst for one of the biggest public debates seen in recent years — certainly the biggest in education.

When publishing the review body's report for consultation, I invited comments on the proposals, suggestions for modifications to the proposals and suggestions for alternative arrangements. I extended the consultation period until 28 June 2002 to ensure that there was adequate time for everyone to consider the very complex and interrelated issues raised by the review of post-primary education.

From the outset I was determined to seek comments and views from as wide a range of interests as possible. To ensure that all sections of our community had the opportunity to respond, my Department conducted an unprecedented consultation with five strands. I sincerely thank the civil servants in my Department who assisted me throughout the process. Their work was of the highest quality, and I appreciate it very much.

I held 28 meetings with key interests between February and July to hear at first hand their views on the review body's proposals and their suggestions for future post-primary arrangements. I invited written submissions, and over 1,300 responses were received from our education partners, schools, churches, higher and further education and training, business, political representatives, the voluntary and community sector, human rights and equality interests, and the public.

A detailed response booklet, together with supporting information in the form of a video and consultation pack,



was issued to all schools, institutes of further and higher education, training organisations and a range of community groups. Booklets were returned by 510 schools. That represents 40% of our schools and constitutes the largest ever response from schools to a consultation exercise conducted by my Department.

A household response form was issued to each household seeking the public's views on the Burns proposals. Over 200,000 household response forms were returned, which represented 16% of the adult population. Approximately one fifth of the people who returned the forms took the time to include additional comments. A survey was also carried out in a representative sample of 2,000 homes. The views of young people aged 14 to 19 were sought through a series of focus groups facilitated by the Northern Ireland Youth Forum.

10.45 am

I met the Committee for Education to discuss the arrangements for the consultation generally and also to discuss detailed aspects of the video and support materials. The Committee made helpful comments, many of which were incorporated into the materials. I thank the Chairperson of the Committee for Education, Danny Kennedy, and the members of the Committee, for their help. Last April, Sammy Wilson tabled a motion for an Assembly debate on the review body's report. I thank him for initiating one of the best debates in the House on any issue. Members made thoughtful and considered contributions, and I listened carefully to all the views expressed.

Throughout the past year I have emphasised repeatedly my determination that the consultation on the post-primary review would be open and transparent. To ensure that it was, I made a commitment to produce a report drawing together the views expressed in the responses to the consultation and to put that before the public for everyone to see and consider. The report published today fulfils that commitment. Copies have been made available to MLAs, and the full report is available on my Department's web site. Copies will be issued next week to all schools, our education partners and other organisations that responded to the consultation.

In their responses to the consultation, many organisations and individuals welcomed the opportunity afforded by the review to give their views on post-primary education. Many also commented favourably about the way in which the consultation was conducted. The consultation generated a healthy public debate. I have no doubt that that contributed to the impressive response received to the different strands. The debate was lively, sometimes passionate, but generally mature, well informed and constructive.

*(Madam Deputy Speaker [Ms Morrice] in the Chair.)*

I know that our partners in the education and library boards, the Council for Catholic Maintained Schools

(CCMS), the Northern Ireland Council for Integrated Education (NICIE), Comhairle na Gaelscolaíochta, the Governing Bodies Association (GBA), the Transferor Representatives' Council, the Northern Catholic bishops and many other organisations consulted widely with their members in formulating their responses.

Many schools held meetings to discuss the issues with staff and parents. Some also included pupils, to ensure that their responses reflected the views of the entire school community. There were many contributions to the debate in the newspapers, which played an important part in ensuring that the wider public was kept informed about the range of opinions and arguments on all the issues.

It is always easier to be critical of someone else's proposals than to produce your own. I was particularly encouraged, therefore, that so many organisations devoted considerable time and energy to thinking through how our current arrangements could be improved. In their responses, they suggested modifications to the review body's proposals or outlined alternative arrangements. I thank all of them for the time and commitment that they invested in the review.

My Department analysed the submissions over the summer months and has summarised the responses from all the strands in the consultation report published today. The report sets out the responses to each of the main recommendations in the review body's report and includes other issues raised by respondents. The report provides a full picture of the consultation responses but has been kept to a manageable length to make it accessible to as many people as possible. In the interests of openness and transparency, anyone who wishes to delve further into the responses to the consultation can access my Department's web site, where they will find copies of the main submissions received, along with further statistical tables analysing the responses from the household response forms, the omnibus survey and the detailed response booklet.

Three key messages emerged from the consultation: the demand for change; the obligation to focus on the needs of the child as a learner; and the emerging consensus on key issues. The responses to the consultation demonstrate a clear and unequivocal demand for change. Many respondents acknowledged the achievements of the current system but argued that it was not adequate or acceptable for the future. They criticised the current arrangements as unfair and failing to meet adequately the needs of learners. They pointed to the skewing of the primary school curriculum in favour of preparing children for the transfer test and to the detrimental and stressful impact that it has on children with the damage to their self-esteem and the creation of more losers than winners.

They argued that the current system perpetuates social and class divisions and militates against equality of opportunity — particularly for those from disadvantaged backgrounds. There was also a widespread view that the

system is inflexible and does not recognise the differing needs of children.

Almost all responses to the consultation supported the abolition of the transfer test. Those who wish to retain academic selection also accepted that the transfer test and associated coaching are unsatisfactory and that change is needed. There is widespread dissatisfaction with the current post-primary arrangements. The feeling is that they do not meet the needs of children and are not adequate for our society and economy in the twenty-first century. There must be change, and the status quo is not an option.

The second message arising from the consultation is the obligation on all of us to focus on the needs of the child as a learner. Human rights and equality obligations demand that the rights of the child are taken fully into account in the post-primary review and that the links between education and other human rights are reinforced. There was almost universal support for the guiding principles proposed by the review body, and particularly for the first two. They stated that each young person should be valued equally and that all young people should be enabled to develop their talents to the full.

There was a widespread view among the main education partners that the prime focus must be on the needs of the child as a learner. Children develop at different rates and have a wide range of talents, aptitudes and learning abilities. A consistent theme in comments about future arrangements was that they should ensure that education provision meets the needs of individual pupils. Society and the economy in the twenty-first century require a broader range of knowledge and skills than in the last century, and new post-primary arrangements must offer a wide range of curricular options, promote parity of esteem for all curricular choices and pathways and provide flexibility between them.

The third message arising from the consultation is that there is an emerging consensus on key issues, including the problems of the current system and the changes that are needed. In some quarters the debate has been crudely and inaccurately presented as one between two clearly opposing camps. The reality is very different. It is clear from the responses to the consultation that there are significant areas of consensus. In other areas, there is agreement over the aims and desired outcomes, but differences over how they can be best realised.

While there was little support in the consultation for the review body's model in its entirety, varying degrees of support were expressed for individual recommendations. There was a strong consensus on a number of the review body's proposals, including the guiding principles, the abolition of the transfer test, the development of a pupil profile — although views differed on what that should contain and how it should be used — and the need for greater co-operation and collaboration among schools.

The predominant view was that academic selection should be ended, although some support for this proposal was subject to certain conditions being met. Most of those closely involved in education, the education partners, primary and secondary schools and the churches, supported the ending of academic selection. However, there was also substantial opposition to this proposal, particularly from the grammar school sector and the majority of those responding to the household response form.

There was little support for two of the proposed admissions criteria, proximity to the pupil's home and having a parent on the teaching staff of the school, and for collegiates as proposed in the review body's report. The consultation has demonstrated consensus on the need for a common curriculum to age 14 and for 14 years as a more appropriate age for parents and pupils to consider and make choices about the curricular options or pathways that best suit the interests, needs and abilities of the young people. There was agreement that new arrangements should offer flexibility on curricular choice and be able to accommodate changes of direction by young people.

Many responses also argued for a range of approaches so that post-primary arrangements could reflect local needs and circumstances. Throughout the review I have consistently said that I want to build consensus about the new arrangements. Building consensus remains the best way in which to make progress, and the considerable consensus demonstrated by the responses to the consultation provides a sound platform from which to move the review forward.

I want now to turn to the transfer test. The consultation has clearly shown that there is overwhelming support for the abolition of the test, and that requires a positive response. There are those who fear that the Department will move too quickly; others fear that we will move too slowly. I am aware that many parents are anxious about the possible effects of change on their children. However, there will be no chaos in the education system, nor will children suffer as guinea pigs during transition to new arrangements. Change will be implemented in a considered, planned manner, which will lead to real improvement in our education system.

The current arrangements, including the transfer test, must remain in place until decisions are taken on the post-primary review. The existing system must be managed, and the education of children currently in schools must be protected while the Department plans new arrangements.

The review body suggested that ending the transfer test in 2002 would be the earliest date on which changes could be introduced, and that would be subject to the outcome of the consultation process that the Department has just completed. To ensure that schools, parents and pupils know where they stand, I can confirm that the transfer test will take place in November 2003. Those pupils who are currently in primary six will, therefore, sit the test next

year, and they will transfer to post-primary education in September 2004 under the current arrangements.

Although the transfer test must be held next year for practical reasons, I make it clear to the Assembly and to the people that it has no place in the future of education here. I am firmly resolved that it shall be abolished. It is unfair and damaging to many pupils, and it has adversely affected too many young lives. The consultation has confirmed the overwhelming support for its abolition.

Throughout its history the 11-plus branded most of our children failures: the real failure was not the children but the 11-plus itself. That injustice must be brought to an end. I am, therefore, announcing today that the transfer test will be abolished. I am determined that this will happen as soon as is practical, and my proposals for the way forward will ensure that the 11-plus is consigned to history at the earliest possible date.

That brings me to the next stages of the review. It is important that everyone, including myself, takes time to consider the responses to the consultation process in detail. I want to hear the views of key stakeholders in education on the responses to the consultation, and, in the light of my decision on the transfer test, on how best to progress the post-primary review before I introduce my proposals on the next steps. Any new arrangements and their implementation must be shaped by the responses to the consultation and must build on emerging consensus.

The views of MLAs are important in the process. I have tabled a motion to enable the Assembly to take note of the publication of the consultation report: that motion will be debated here next Tuesday. I had intended to discuss the report with the Committee for Education on Thursday, but that will be rearranged as early as possible. I look forward to both discussions.

Our main education partners must be fully engaged in the process of developing and implementing proposals for new post-primary arrangements. That is crucial. I have, therefore, planned a series of meetings with key education interests to seek their views on the responses to the consultation process and on how best to take forward the next stages of the review. Those meetings will take place with the education and library boards, the Council for Catholic Maintained Schools, the Northern Ireland Council for Integrated Education, Comhairle na Gaelscolaíochta (the Council for Irish-Medium Education), the Governing Bodies Association of Voluntary Grammar Schools, the teachers' unions, the Council for the Curriculum, Examinations and Assessment, the Northern Catholic bishops, and the Transferor Representatives' Council, representing the main Protestant churches.

The first meeting has been arranged for 5 November, and meetings will continue throughout November. In determining the way forward, I will carefully consider the views expressed by our education partners at those meetings,

along with the views of the Assembly and the Committee for Education and the responses to the consultation.

I will announce my proposals for the next stages of the review in December this year.

*11.00 am*

My objective in advancing the post-primary review is to create an education system that raises standards for all pupils, is fair to all pupils, and provides a modern education system for the twenty-first century. The consultation provided three key messages: there is widespread demand for change, which cannot be ignored; there is an obligation on all of us to focus on the needs of the child as a learner, which must be paramount in considering future arrangements; and there is emerging consensus on key issues, which provides us with a platform on which to build new arrangements.

If we keep the focus on the needs of children as learners, we can build on emerging consensus to achieve the objective of creating a modern, fair education system that enables all young people to fulfil their potential, irrespective of their backgrounds or circumstances. That is a truly worthy objective, and I will work towards it with the help of our education partners, Assembly Members and the Committee for Education as we take the post-primary education review to the next stages.

**The Chairperson of the Committee for Education (Mr Kennedy):** I welcome the opportunity to speak in this important discussion on the publication of the responses to consultation. However, it is regrettable that the document was not made available until half an hour before the Assembly met. It is even more regrettable that the Minister's statement was not made available to Members until 10.30 am. If the Minister wishes everyone to participate in the discussion, Members ought to have been given the opportunity to read those documents.

This is an opportunity to question the Minister, and the Committee for Education wishes to consider the report in detail. As the Minister said, he and his officials will meet the Committee to examine the outcome of the review.

Can the Minister confirm that the topic of discussion with key stakeholders will be the results of the consultation rather than proposals on the way forward? Does he intend to consult further on any proposals for the way forward? Will he make a commitment to bring any proposals to the Committee for consideration? Does he acknowledge that the Burns Report's proposals are not acceptable as a way forward? When the Minister issued the household response form, he said —

**Madam Deputy Speaker:** Order. I realise that it is important that the Member asks those questions as Chairperson of the Committee for Education. However, the Member is asking his fifth question, and he must conclude his questions.



**Mr Kennedy:** Thank you for that advice, Madam Deputy Speaker. I will endeavour to make as many questions as possible available to the Minister. It is crucial that he has an opportunity to answer them.

I refer to the results that were published in today's report on responses to consultation, in particular to responses to the question of whether academic selection should be abolished. Will the Minister accept that the majority of parents, teachers and all those who were consulted rejected the abolition of academic selection?

**Ms de Brún:** A LeasCheann Comhairle. On a point of order, Madam Deputy Speaker. Is there any guidance on Members' asking questions?

I recall the Chairperson of the Committee for Finance and Personnel recently being stopped when taking much less than three and a half minutes.

**Madam Deputy Speaker:** I do not normally take points of order during questions to a Minister, but this debate is obviously very important: that is not to imply that other debates are not. The normal procedure is that Chairpersons and Deputy Chairpersons are given slightly longer for questions than others. Mr Kennedy has had ample opportunity to put his question, and the Minister will now respond.

**Mr Kennedy:** On a point of order, Madam Deputy Speaker. You have taken the unusual step of accepting a point of order from a ministerial Colleague of the Minister —

**Madam Deputy Speaker:** Order. Mr Kennedy, if you put your point of order, I shall accept it now.

**Mr Kennedy:** My point of order is that it is the normal courtesy of the House to a Chairperson. Given the time constraints that Members —

**Madam Deputy Speaker:** Order. I have given that response to Ms de Brún's point of order, and we shall go ahead exactly as I said because of the time constraints. The Minister will respond.

**Mr Kennedy:** On a point of order, Madam Deputy Speaker. I implore you to allow the Chairperson of a Statutory Committee some opportunity —

**Madam Deputy Speaker:** Order.

**Mr Kennedy:** —to ask relevant questions —

**Madam Deputy Speaker:** Order.

**Mr Kennedy:** — not only on behalf of his Committee but also on behalf of the political party which he represents.

**Madam Deputy Speaker:** Order. Given the time constraints to which the Member has referred, he will appreciate that this is time-wasting. I am aware that the Chairperson has put five questions, and it is important that the Minister be given the opportunity, which he has requested, to respond to them.

**Mr M McGuinness:** I consider the next stage of this process very important indeed. At the beginning of the process many people — not officials in my Department — said to me that the house would come down on top of me like a tonne of bricks if I tried to deal with the 11-plus. We moved through a process of research conducted by two eminent professors. The review body chaired by Gerry Burns carried out an incredible amount of work, and the consultation process was of vital importance.

The most striking feature of that process was the willingness of all those involved in education, on all sides of the debate, to be positive and constructive on how we move forward. It is a mood that I should like to sustain through what I consider to be the next stage of the process.

Many MLAs will appreciate that it is better that we move forward in a spirit of co-operation because this is about children. It is about the future of all our children, not just my children or Danny Kennedy's children, and we have a responsibility to manage the process as best we can.

In answer to Mr Kennedy's question, I intend to move forward sensibly, building on the good mood in education to deal with the important challenges before us. I shall not go to the education partners in the course of my November deliberations with a *fait accompli*. I shall continue to build consensus; and there is a good spirit abroad to do so.

I have clearly signalled to the Assembly that I shall come forward with my proposals at the end of that process. I wish to do so in co-operation with everyone, including the Committee for Education, which will have an opportunity to discuss the report, and those issues can be dealt with in debate here. I shall also meet with the Committee. Regarding further consultation on alternatives, I must say that the review body and my Department have already undertaken two broad consultation exercises. It is now time to take the review forward, working closely with the education partners to develop proposals that will take account of all the views expressed.

The need for change has been firmly established, and the majority now wishes to see proposals for new post-primary arrangements. Indeed, the Committee for Education, in the finalisation of its report into the matter, accepted that change was essential. Many respondents acknowledged the achievements of the current system of academic selection but argued that it was not adequate or acceptable for the future. The predominant view that emerged from consultation was that academic selection at the age of 11 should end.

**Mr Kennedy:** That is nonsense.

**Madam Deputy Speaker:** Order.

**Mr M McGuinness:** Some support was dependent on certain conditions being met. I want to outline who was in favour.

**Mr Kennedy:** On a point of order, Madam Deputy Speaker.

**Madam Deputy Speaker:** Two exceptions have been made on points of order. If Members want to raise points of order, they must raise them after the questions to the Minister. Otherwise, the time will be eaten into.

**Mr M McGuinness:** Members should listen carefully to what I have to say. Those in favour were the five education and library boards, the Council for Catholic Maintained Schools, the Northern Ireland Council for Integrated Education, Comhairle na Gaelscolaíochta, the Council for the Curriculum, Examinations and Assessment, the five main teachers' unions, the Catholic Heads Association, the Association of Head Teachers in Secondary Schools, two thirds of schools, the Northern Catholic bishops, the Transferor Representatives' Council, the institutes of further and higher education that responded, the Confederation of British Industry, the SDLP, Sinn Féin, the Alliance Party, the Progressive Unionist Party, the Women's Coalition, the Workers' Party, thirty of those people who responded to the household response form, the majority of the voluntary and community interests that responded, the Human Rights Commission, the Children's Law Centre, the Committee on the Administration of Justice, the Northern Ireland Committee of the Irish Council of Trade Unions, and the Northern Ireland Public Service Alliance.

Opposition came from the Governing Bodies Association, the Secondary Heads Association, one third of schools, two thirds of those people who responded to the household response form, rural interest groups, the UUP, the DUP, four district councils, the Institute of Directors, and the majority of 16 training organisations.

It is clear from the way that I have laid the report before the Assembly that this was a multi-stranded approach. It is totally wrong of Members to select the statistics that suit them and to ignore the rest.

**A Member:** Such hypocrisy.

**Madam Deputy Speaker:** Order.

**Mr Kennedy:** It was the Minister's baby.

**Madam Deputy Speaker:** Order.

**Mr M McGuinness:** The Ulster Unionist Party is opposed to the proposal for common admissions criteria. However, the majority of responses to the household response form, and in the omnibus survey, supported the proposal. The Member is being selective in identifying the responses that suit his and his party's agenda.

I am the Minister of Education. It is my responsibility to be fair and objective, to consider the responses from

all strands of the consultation, and to determine what is in the best interests of all of Northern Ireland's children.

**Mr Kennedy:** On a point of order, Madam Deputy Speaker.

**Madam Deputy Speaker:** I have ruled that points of order will be taken after the questions to the Minister. *[Interruption]*. Order. I am standing. I will not rule on that again.

**The Deputy Chairperson of the Committee for Education (Mr S Wilson):** I do not think that I have seen the Minister squirm so much since he was asked on 'Newsnight' whether he was a member of the IRA.

Does the Minister not agree that he has retreated from the position that he said he intended to see through during the lifetime of this Assembly? The 11-plus is to stay for the rest of this Assembly's lifetime, and for a further two years.

Does he agree that he has been given a slap in the face, or — to use his parlance — a punishment beating, by the people? The majority of households have said that they oppose the central proposition of the Burns Report, that academic selection should be ended. The majority of teachers have said that academic selection should stay. Despite the gloss that the Minister has put on the figures, he has been comprehensively told, by all but the education mafia, that the people of Northern Ireland want academic selection to remain. According to his Department's survey, more people have said that they want academic selection to stay than have said that they want the 11-plus to be abolished.

As he has given a commitment to the first group, will he also give a commitment to the second group that, in response to what the people have said, academic selection will be retained? Will he assure the House that he will not continue to squirm and try to avoid the conclusion that the people of Northern Ireland have come to?

11.15 pm

**Madam Deputy Speaker:** Order.

**Mr M McGuinness:** If you will permit me, Madam Deputy Speaker, I will ignore some of the nonsense that has been offered this morning.

The Member raised two issues. I have given a clear commitment to abolish the test and will be working with our education partners to determine a way forward to enable that to happen as soon as possible. Abolishing the test without new arrangements for transfer would create chaos within the system and cause anxiety and concern among pupils, parents, teachers and schools. I am not prepared to do that.

Some people will say that I am moving too fast; others will say that I am moving too slowly. I want to move at

the right pace that enables me to work with education partners and determine arrangements that will allow change to be implemented in a planned and orderly way.

In relation to academic selection, it is just not good enough for people to select results from one strand and ignore everyone else's opinions. I have been very forthright about this. The reality is that a majority of respondents to the household response form — 64% — did not support the end of academic selection. Those responding to the household response form constituted 16% of the adult population. Analysis shows that they included disproportionate numbers of those with children currently or previously at a grammar school. *[Interruption]*.

**Madam Deputy Speaker:** Order. The Minister is entitled to be heard.

**Mr Hamilton:** So are the people.

**Mr M McGuinness:** Analysis shows that they included disproportionate numbers of those with children currently or previously at a grammar schools and those from the more prosperous areas of the North. Although that is an important body of opinion that must be taken into account, it cannot be construed as representing the views of the entire public. I have said all along that the consultation was multi-stranded and that reliance should not be placed on any single strand.

The public's views were expressed in a variety of other ways through the responses of schools, representative organisations in the community and voluntary sectors, churches, political parties and education partners. I will be taking into account the public's views as expressed through all strands of consultation, together with the other responses, in determining the best way forward.

Some people in the House may choose to exercise themselves on all those issues, but I appeal again to everyone on all sides of the House to recognise that children must be the central focus of our attention here. This is not about party political point-scoring or one-upmanship; it is about moving forward to face up to the challenges posed by the results of the consultation and by the unhappiness in society about the current arrangements. It is about sitting together in a positive and constructive spirit. That spirit exists outside this House, throughout the wide breadth of opinion within education. If that is the view, if people agree with it and are not prepared to challenge it, there is a huge responsibility on Members to add to and enhance that mood by continuing in a spirit of co-operation.

**Madam Deputy Speaker:** I urge Members and the Minister to be as brief as possible, as many Members wish to put questions to the Minister.

**Mr Gallagher:** I welcome the Minister's comments on the transfer test. I am pleased that those comments recognise the SDLP's long-held view on the matter. The consultation report also contains strong support for many

of the SDLP's other suggestions, such as the development of pupil profiles. The report shows a clear rejection of the collegiate system and a desire for it to be replaced by the development of co-operation among all secondary schools. We must build on the goodwill and the good work of educationalists, teachers and school governors.

Does the Minister accept that any society that is based on justice must have at its heart an education system that is based on "equality of opportunity"? However, that term does not appear in the consultation report. Will the Minister ensure that the next document on the review of post-primary education will not only contain the term "equality of opportunity" but will have the capacity to develop and deliver equality of opportunity for all our children?

**Madam Deputy Speaker:** Order.

**Mr Gallagher:** When are we likely to see a paper on the matter from the Department?

**Mr M McGuinness:** Mr Gallagher's remarks contain nothing with which I can disagree. In fact, I agree with all of what he said. The whole concept of equality is vital, and it underpins the Good Friday Agreement. In our approach to that challenge, I have always been conscious that, when examining the minutiae of the faults in our education system, it is essential that everyone accept that a modern education system for the twenty-first century must be provided. That means that choice must be available for parents and children. I remind Members that the first two guiding principles proposed by the review body state that

"each young person should be valued equally; and all young people should be enabled to develop their talents to the full."

My commitment to equality is absolute. When will people see the next stage? I have made it clear to the Assembly today that I intend to introduce proposals in December. However, that will not happen until I have had critical discussions with education partners in the coming weeks. When the proposals are introduced, Tommy Gallagher and all Members who believe in a progressive approach will welcome that important change.

**Mr C Murphy:** Go raibh maith agat, a LeasCheann Comhairle. I wholeheartedly welcome the Minister's announcement. Does the Minister agree that people, including the household survey respondents and the education bodies, have clearly expressed widespread support for an end to the 11-plus? That support demonstrates that there is a broad acceptance that the primary-school curriculum has traumatised and alienated many children, and created a two-tier system. The Minister, therefore, has an obligation to act on that broad consensus.

In a week during which shipbuilding appears to have ceased to be an industry here, during which the Minister has announced profound changes to the future of the education system, does the Minister agree that it is ironic that Unionists on the Benches opposite, who profess



such a passionate interest in those subjects, are engaged in such an unseemly scramble — *[Interruption]*.

**Mr Kennedy:** Where is the question?

**Mr C Murphy:** I have asked the Minister whether he will agree with me.

**Madam Deputy Speaker:** Order.

**Mr C Murphy:** The Member should settle himself down.

**Madam Deputy Speaker:** Order. Mr Murphy, I would appreciate understanding what your second question is in a nutshell.

**Mr C Murphy:** I shall repeat the question for your benefit, Madam Deputy Speaker, and for the benefit of those Members on the opposite Benches who are hard of hearing.

Does the Minister agree that it is ironic that, in the week during which the shipbuilding industry appears to be coming to an end, during which he has announced profound changes to the future of the education system, Unionists on the opposite Benches, who profess such a passionate interest in those subjects, are engaged in an unseemly scramble to see who can be first out of the very institution that will give —

**Madam Deputy Speaker:** Order. The question is not related to the 11-plus.

**Mr C Murphy:** It is related to the future consultation on the 11-plus, but the people who profess such an interest in those matters will not be here for the future consultation.

**Madam Deputy Speaker:** Order.

**Mr M McGuinness:** In answer to that question, it is important to say that almost all of the responses supported the abolition of the transfer tests, because the tests are unfair; they are inappropriate to the current and future educational needs of learners; they skew the primary school curriculum; and they have a detrimental and stressful impact on children.

Without dealing specifically with the controversy in regard to the Member's last question, it is important to say that, throughout this process, I have articulated my deeply held belief that, as we move forward, the concern is to improve the educational opportunities of all our children — regardless of where they live, whether it be the Bogside, the Shankill Road, Portadown or Maghera.

**Mrs E Bell:** The Alliance Party believes that this should be a milestone on the way to a better education for our children. I hope that we will have the opportunity to continue the consultation exercise and the debate in the Committee for Education and in the Assembly. It would be a dreadful indictment of all of us, and our children would suffer, if this exercise were to be suspended because of

prevailing political circumstances. My party welcomes the Minister's clear statement on transfer tests and the end of the 11-plus, and we will take part in the consultation to ensure that that is carried out as quickly as possible.

Because of the late receipt of the Minister's statement, my three questions relate only to the statement. Academic selection has already been discussed, and I appreciate what the Minister said. However, how will those concerns be directly addressed in the consultation exercise? On a practical level, with regard to the timetable for the end of the transfer tests, how will parents of children in primary 5 and primary 6 be assured that future stress will not be placed on those children during the transition period?

In general, I welcome the comments at the end of the statement. However, I am sure that the Minister will not be surprised at my next question. Whatever results from the consultation, will specific details on addressing the needs of children with special educational difficulties be included in this fairer education system that enables all young people to fulfil their potential, irrespective of background or circumstances?

**Madam Deputy Speaker:** Order.

**Mr M McGuinness:** I thank the Member for the constructive role that she and others have played throughout the course of this debate. With regard to the concerns identified by the Member, I have said time and time again that I want to build consensus on the new arrangements. Meetings with key education interests will be held in November to discuss their views on the responses to the consultation and how best to take forward the next stages of the review.

In developing the way forward, I shall consider carefully the comments and views expressed by our education partners at those meetings, together with the views of the Assembly and the Committee for Education, and the responses to the consultation. I shall announce my proposals for the next stage of the review in December.

I am aware of the anxieties and concerns of parents and teachers regarding change. The Member was right to draw attention to that. I assure Members that the interests of children will continue to be my prime concern throughout the review. I said earlier — and I want it to be absolutely clear — that there will be no chaos in the education system. Neither will any children suffer as guinea pigs. Changes will be introduced in a planned and orderly manner to safeguard the education of children in school. My objective is to improve our children's educational experiences and to improve standards for all. I shall work closely with our education partners to achieve that.

In respect of replacing the transfer tests with another test, the response to the consultation showed overwhelming support for the abolition of the tests.

11.30 am

As I have said time and time again in the House, revised tests will have the same weaknesses as the current arrangements. I have made clear my commitment to abolish the transfer test, and it is not my intention to replace it with another test that will effectively perpetuate the weaknesses in the current system.

**Mr B Hutchinson:** I welcome the Minister's statement, which, because it concerns future of generations of working-class children, may address the most important decision to be made by the Assembly. Unfortunately, the media are likely to focus on the events of Friday 4 October rather than on this debate.

In line with targeting social need, how does the Minister propose to secure equality of access for all children who sit the transfer test next month? Will he consider a voluntary collaboration pilot scheme to include maintained, controlled, integrated and special schools? Is the Minister aware that such a voluntary collaboration network operates in north Belfast? Does he propose to review initial teacher-training programmes to facilitate the changes in the education system?

**Mr M McGuinness:** Although we cannot pre-empt the outcome of next month's meetings with the education partners, a review of the initial teacher-training programmes must be given serious consideration. We know that there will be new arrangements of which initial teacher training must take account.

Children from disadvantaged backgrounds constitute only 8% of pupils in grammar schools. The objective of the post-primary arrangements must be to ensure that all pupils, regardless of where their gifts lie, can progress and fulfil their full potential. I am seeking post-primary arrangements that provide flexible, diverse and high-quality choices to suit the varied needs, abilities and aptitudes of all our children. I passionately believe, as do most sensible people, that every child should be given the opportunity to succeed. My aim is to develop new arrangements that will address the weaknesses of the current system, be fair to all pupils and enable all pupils to fulfil their potential, irrespective of their background and circumstances.

The current academic selection system disadvantages low-income children in the following ways: pupils from the least disadvantaged schools are almost three times more likely to achieve a grade A than pupils from the most disadvantaged schools; the proportion of pupils in grammar schools entitled to free school meals is only 8% and has been declining in the past five years; disadvantaged pupils are only half as likely as other children to achieve five good GCSEs, grades A-C; and pupils from disadvantaged Protestant areas benefit least from the current system.

I have a tremendous amount of sympathy with Billy Hutchinson's comments. His contribution to the debate,

like the contributions of many other Members from all sides of the House, has been constructive and positive, which, as we continue the review, is the mood that we must capture. The positive mood exists in the education system. There is a good relationship between my Department and the education partners. There are difficult issues that must be faced up to, but we are well placed to do that. It is critical that we continue to work in a positive way. We must respect strongly held views from all sides. I have detected a strong mood of co-operation, which I have no doubt will carry over to the important deliberations that will take place in November before I bring my proposals to the Assembly in December.

**Ms McWilliams:** The Minister's statement is important. It sends the message from the Assembly that there is an emerging consensus about the widespread consultation, for which I thank the Minister. It was good that a household survey was conducted. However, were its findings broken down by class? Often only those who have the capacity to respond to household surveys do so, and lower income families do not. Was that the case, because, if so, that may have had an impact on the findings?

Given the emerging consensus about the Burns Report, it seems that the issues we have to resolve are the common admissions criteria and the opposition to the collegiate system. Given that the issue of proximity to schools seems to have caused the greatest divergence of opinion, will the Minister tell us what he plans to do about that in the interim? What does he plan to do about the inequities of the school transport system and how will he address that issue in the long term?

**Mr M McGuinness:** I made it clear in a previous debate that my Department was working on a review of school transport. However, I am conscious of the points that Ms McWilliams made. There is no doubt that we shall have to consider the issues raised today as we move forward. That said, we must recognise that it would be wrong of me to pre-empt the outcome of our deliberations with our education partners next month. We shall have to see what transpires from them before we proceed.

As regards Ms McWilliams's point about class, we could not put all of the information about breakdown by class in the booklet published this morning because, had we done so, Members would not have been able to carry it home. As I said during my speech, further information is available and can be found on the web site.

As regards the household response form, the response was much lower from people in socially disadvantaged areas than elsewhere. However, it is important to point out that we should not focus exclusively on any one strand of the consultation. The views of the socially disadvantaged are fully represented in the responses from community and voluntary groups as well as in those of the umbrella bodies, such as the Northern Ireland Council for Voluntary Action (NICVA), schools in disadvantaged

areas, the churches, political parties and human rights and equality groups.

Views on the proposals for the common admissions criterion were mixed. Many views were expressed on the individual criteria, and a lottery system was the most commonly suggested alternative tie-breaker. We must give considerable thought to the outcome of the consultation, and I have no doubt that, as we proceed through November, we shall face up to the challenges that the matter holds for us all.

**Mr K Robinson:** I shall reserve judgement on the report. I have had unfortunate experience of welcoming reports, only to find that the devil was in the detail. I am fascinated by the Minister's crocodile tears for the people of the Shankill Road: I am sure they appreciate his tears given the previous occupations of some of his Colleagues and their nocturnal visits to the Shankill Road.

I am very concerned that the Minister has taken a selective approach to the statistics. It is unfortunate that Members received the booklet less than half an hour before arriving at the Chamber, and we got the Minister's statement only on arrival at the Chamber Door — Members have not had an opportunity to dissect the documentation properly.

Would the Minister define the term "key stakeholder" and how that compares with "educational partners", a term he bandies across the Chamber a lot? Who are the educational partners and who are the key stakeholders?

Will the Minister assure the House and the concerned parents of Northern Ireland, who have made their feelings clear on some areas that the Minister has chosen almost to ignore this morning, that the consultation on the skew our education system to suit his view of society? I heard one or two comments earlier in the debate that concerned me further —

**Madam Deputy Speaker:** Order.

**Mr K Robinson:** Will the Minister also assure the House that the Committee for Education will be consulted and given adequate opportunity to make its views known and have them taken into account more meaningfully than heretofore? I notice that the Minister has all of his cheerleaders around him this morning, but perhaps that shows just how uncertain he is of this particular case —

**Madam Deputy Speaker:** Order. When the Deputy Speaker is standing, the Member will sit down.

**Mr K Robinson:** The matter is far too important —

**Madam Deputy Speaker:** The Member will sit when the Deputy Speaker is standing. Mr Robinson, order.

**Mr K Robinson:** This is far too important, Madam Deputy Speaker, to allow the Minister away —

**Madam Deputy Speaker:** Mr Robinson, are you challenging the ruling of the Deputy Speaker?

**Mr K Robinson:** Madam Deputy Speaker, I am trying to make an educational point.

**Madam Deputy Speaker:** I ask the Member to resume his seat.

**Mr K Robinson:** Madam Deputy Speaker, I have found that in previous important debates when a member of a Committee attempts to make an important point, he or she, unfortunately, never —

**Madam Deputy Speaker:** I ask the Member to resume his seat.

**Mr K Robinson:** Madam Deputy Speaker —

**Madam Deputy Speaker:** I will not ask again, Mr Robinson.

**Mr K Robinson:** Madam Deputy Speaker, may I make my point?

**Madam Deputy Speaker:** Will the Member resume his seat?

**Mr K Robinson:** Madam Deputy Speaker, may I make my point?

**Madam Deputy Speaker:** The Member will resume his seat while the Deputy Speaker is standing. Those are the Standing Orders that I assume the Member is acquainted with.

**Mr K Robinson:** Madam Deputy Speaker, I have waited patiently this morning. I am also required to attend another extremely important Committee in the House, and I would like to make my point to the Minister.

**Madam Deputy Speaker:** I am warning the Member.

**Mr K Robinson:** Madam Deputy Speaker, the Minister has dilly-dallied this morning and time has gone by —

**Madam Deputy Speaker:** I am warning the Member that I will name him and ask for him to be removed. I have given fair warning to you, Mr Robinson.

**Mr K Robinson:** Madam Deputy Speaker, I am making sure that I can make my point. I have given up my place on another Committee. The Minister has wasted time this morning.

**Madam Deputy Speaker:** I ask the Member to withdraw from the Chamber.

**Mr K Robinson:** Madam Deputy Speaker, that is —

**Madam Deputy Speaker:** I ask the Member to withdraw from the Chamber.

*The Member withdrew from the Chamber.*

**Mr M McGuinness:** The description of key stakeholders can be found at appendix 7 of the document. I will not go through each one, as the list is very long.



**Mr Gibson:** Madam Deputy Speaker, I apologise for being late for this important debate. It must be realised that it is the same distance from Beragh to Stormont as it is from Stormont to Beragh.

I will ask serious questions of the Minister. Some parts of the Gallagher Report have been drawn to my attention and to the attention of other Committee members. *[Interruption]*.

**Madam Deputy Speaker:** Order.

**Mr Gibson:** Parts of that report were the basis for the Burns Report. I have discovered that references in the ‘Effects of the Selective System of Secondary Education in Northern Ireland’ are not found in the Gallagher Report. In a letter, the Vice Chancellor of Queen’s University described that as “unfortunate”. It is alleged that those references were published, but that is incorrect. The Minister based much of his thinking on that first premise. If there is a suspicion of a flaw in the original Gallagher research, we should know whether that research was tested by his academic peers. Such a flaw would cast suspicion on the whole exercise. I want the Minister to treat that question seriously.

Last week, at the end of the Labour Party conference, the leader of the working-class population said —

**Madam Deputy Speaker:** Order. Mr Gibson, I am sorry, but you will be aware that time is important.

**Mr Gibson:** Madam Deputy Speaker, I will be brief with my questions. The representative of the working-class population of the United Kingdom said that we are now in a post-comprehensive period.

Can the Minister ignore such a statement and continue to advocate comprehensive education? I ask the Minister to consider those serious questions. I am concerned about the original statement.

11.45 am

**Mr M McGuinness:** I have a short answer. The Gallagher and Smith research has never been challenged seriously by anyone. In relation to the second point, there is no doubt whatsoever that during our discussions with the education partners we will have plenty of opportunities to deal with that. That is how I intend to deal with it.

**Mr A Maginness:** On a personal and lighter note, this morning over his boiled egg, my son Charlie, who is in P7, asked, “Daddy, could you ask that man in Stormont who is in charge of education to get rid of the 11-plus?” I can now go home armed with the knowledge that the Minister has at long last abolished the 11-plus. Many schoolchildren and parents throughout Northern Ireland will be delighted. Alas, it comes too late for my son, Charlie. Perhaps the Minister will make an exception for him this year. *[Interruption]*.

**Madam Deputy Speaker:** Order. Mr Gibson and Mr Paisley Jnr, resume your seats.

**Mr Paisley Jnr:** Will the Member give way?

**Mr A Maginness:** No, not during questions. This is a very unruly crowd — it is a very unruly class.

There have been mixed responses to the Burns proposals by the public generally and by academics.

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

**Mr A Maginness:** However, there is a consensus against the 11-plus. That is beyond peradventure. The consultation has demonstrated consensus on the need for a common curriculum to the age of 14. Has the Minister proposals in the pipeline to create a common curriculum up to the age of 14 to meet that clear demand?

**Mr M McGuinness:** Strong views were expressed about the need for a common curriculum to the age of 14, and we will undoubtedly have many opportunities to deal with that. There was strong support for a common curriculum and for a broader range of curricular choices to be available to all pupils in Key Stage 4. Nobody should be under any illusions about that. We will deal with it, and we hope to outline to everyone how we intend to advance the issue in the proposals that we will submit in December.

I also want to tell the Member that I am going to write to Charlie to tell him that he has got his wish. *[Interruption]*.

**Madam Deputy Speaker:** Order.

**Mr McHugh:** Go raibh maith agat, a LeasCheann Comhairle. The behaviour of some members of the Education Committee on the opposite Benches has been completely disgraceful. It seems that they have not read Standing Orders and do not know to ask questions during statements instead of making long-winded statements.

**Madam Deputy Speaker:** Order. Get to the question, Mr McHugh.

**Mr McHugh:** I welcome the Minister’s statement on the abolition of the 11-plus, as do most people. Does the Minister not agree that even though the so-called grammar school lobby was effective in mobilising its supporters to complete the household survey, the people have spoken clearly about the 11-plus? That has implications for the future structures of post-primary education, its curriculum and assessment.

**Mr M McGuinness:** It is open to any group to make its views known on matters of major public interest. The grammar school campaign has a legitimate interest in this. The Governing Bodies Association conducted a public advertising campaign in the newspapers, and many grammar schools held meetings with parents to discuss the Burns proposals.

That was reflected in the responses to the household survey, which showed a higher response rate from parents with children attending, or who had attended, grammar schools than from other parents. However, that does not in any way invalidate the views expressed. It is clear that many of those parents have genuine concerns about the potential impact that change will have on education standards. I shall take those concerns into account when new arrangements are being developed. My objective is to raise standards for all pupils.

**Mr Hamilton:** I remind the Minister of the inadequate answer that he gave to questions on academic selection. I point out to him, to the House and to the Public Gallery, which may not yet be aware of the report, that 579 responses — 510 from schools and 69 from further and higher education institutes, community groups and training organisations — expressed a wish to see an end to academic selection.

Opposed to that were the views that were sought from 200,551 households. Some 64% of respondents favoured retaining academic selection. The Omnibus Survey reflected that view. From a sample of 2,200 members of the public, 54% favoured retaining academic selection.

When we look at parents — *[Interruption]*.

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

**Madam Deputy Speaker:** There is no giving way.

**Mr Hamilton:** No, I shall not. Therefore, 64% of parents were in favour of retention. Interestingly, when one looks at the figure for schools that claimed to oppose academic selection, one sees that 62% of the teachers surveyed favoured retaining it. A figure that has not been quoted, and which is contained in the report's summary, is that the opinion of primary and post-primary pupils was divided equally for and against academic selection. Therefore, even within — *[Interruption]*.

**Madam Deputy Speaker:** Will the Member get to his question?

**Mr Hamilton:** Yes. Some 50% of pupils were in favour of academic selection. In the light of those overwhelming figures in favour of academic selection, how can the Minister of Education stand before the House and say that the predominant view is that academic selection should be ended? Did the Minister of Education not go to the country to seek people's views, thinking that he would hear what suited him, only to get a reaction that he did not expect? Instead of respecting the will of the people, he is trying to impose his will on the people.

**Mr M McGuinness:** I again remind Members that the household response form is only one strand of the consultation. Sixteen per cent of the adult population responded, from which just under two thirds were opposed to ending academic selection. Their views are important and will be taken into account. However, we must look

at the wider picture and consider the greater number of people who did not respond, and also the responses to the other — *[Interruption]*.

**Madam Deputy Speaker:** Order. Order. The Minister is entitled to be heard.

**Mr M McGuinness:** The majority — *[Interruption]*.

**Madam Deputy Speaker:** Order.

**Mr M McGuinness:** The majority is based on the fact that there was support for ending academic selection from all five education and library boards, the Council for Catholic Maintained Schools, the Northern Ireland Council for Integrated Education, Comhairle na Gaelscolaíochta, the Transferor Representatives' Council, institutes of further and higher education, the five main teachers' unions, two thirds of schools, 30% of those who responded to the household response form — *[Interruption]*.

**Madam Deputy Speaker:** Order.

**Mr M McGuinness:** — a majority of the voluntary and community interests that responded, the SDLP, Sinn Féin, the Alliance Party, the Progressive Unionist Party, the Women's Coalition, the Workers' Party, the Northern Ireland Human Rights Commission, the Children's Law Centre, the Committee on the Administration of Justice, the Northern Ireland Committee of the Irish Congress of Trade Unions, the Northern Ireland Public Service Alliance and the Campaign Against Selection.

Conditional support also came from the northern Catholic bishops, the Confederation of British Industry, the Council for the Curriculum, Examinations and Assessment and the Catholic Heads Association. Opposition came from the Governing Bodies Association, the Secondary Heads Association, one third of schools, two thirds of those who responded to the household response forms, rural interest groups, the Ulster Unionist Party, the DUP, the four district councils that responded, the Institute of Directors and a majority of the 16 training organisations that responded. That is clear. *[Interruption]*.

**Madam Deputy Speaker:** Order.

**Mr O'Neill:** Detention is in order, Madam Deputy Speaker.

**Mr Hamilton:** Expulsion would be better.

**Madam Deputy Speaker:** Order.

**Mr O'Neill:** There was a clearly expressed volume of support for pupil profiles. However, almost everyone seems to have his own ideas about what "pupil profile" means. How will the Minister be able to progress the development of pupil profiles to the satisfaction of all, being conscious of the administrative burden that might fall on teaching staff and of the interesting academic arguments about pupil profiles?

**Mr M McGuinness:** The concept of pupil profiles has been universally welcomed as a way of providing

better information for parents and informing decisions about meeting the needs of learners. There are concerns about the use of pupil profiles in the transfer process, the need for consistency and fairness and the increased workload and pressure on teachers. However, I shall discuss that key issue in my meetings with the main education interests to consider how best to progress the next stages of the review.

**Mrs Nelis:** Go raibh maith agat, a LeasCheann Comhairle. Most right-thinking people would welcome the abolition of the injustice of the 11-plus. *[Interruption]*.

**Madam Deputy Speaker:** Order.

**Mrs Nelis:** In the city where I live, that injustice resulted in the introduction of a busing system. That was not in Boston, where they bused in the failures and bused out the successes in the various estates. I welcome the Minister's announcement. Does he agree that any future system must provide not only equality of opportunity, but also equality of access and provision, issues that emerged as a result of the consultation process?

**Mr M McGuinness:** I am satisfied, given the constructive way in which the entire process has moved along over the past couple of years, that we can face up to the issues raised by Mrs Nelis. I have already addressed the central theme of her question. I shall not do the Assembly the disservice of giving another long answer.

## STRATEGIC INVESTMENT AND REGENERATION OF SITES BILL

### Second Stage

*The following motion stood in the Order Paper:*

That the Second Stage of the Strategic Investment and Regeneration of Sites Bill (NIA 8/02) be agreed. — *[The First Minister (Mr Trimble) and the Deputy First Minister (Mr Durkan).]*

*Motion not moved.*

## ENERGY BILL

### Second Stage

**The Minister of Enterprise, Trade and Investment (Sir Reg Empey):** I beg to move

That the Second Stage of the Energy Bill (NIA 9/02) be agreed.

The energy scene in Northern Ireland has changed considerably in the last decade, and the pace of change shows no sign of slowing.

The next decade will bring a further raft of changes: EU Directives will require full market opening in electricity and gas; the gas networks will be substantially developed outside the Greater Belfast area; and the new North/South gas interconnection will be developed. There are associated developments in new, modern, efficient generation capacity and electricity interconnection, and there is interest in greatly increasing the proportion of Northern Ireland's energy from renewable sources.

12.00

These exciting developments will bring enormous opportunities to Northern Ireland, but they will also bring challenges. It is crucial that Northern Ireland be positioned to meet those challenges and to use the changes to get the best results for its consumers. The Energy Bill will help us to achieve that. The items included in the Bill have been identified through consultation exercises as priorities requiring legislation. It is my intention that the Bill will enable Northern Ireland to meet the immediate energy challenges that it is likely to face.

There is more to be done, and I expect that further legislation will be necessary in due course. The Department of Enterprise, Trade and Investment is developing a new energy strategy for Northern Ireland for the next 10 years or so to fulfil a Programme for Government commitment, and I expect that more legislation will be necessary to give effect to that strategy. However, the issues that have been included in the Energy Bill will be important in setting the framework within which to develop any new strategy.

The issues included in the Bill result from several public consultation exercises to which there were almost 200 responses. In October 2001, the Department issued a consultation paper on renewable energy entitled 'Realising the Potential'. Responses to the paper supported the introduction of an obligation on electricity suppliers to encourage further growth of renewable energy in Northern Ireland. I welcome the wholehearted endorsement of such a mechanism by the Committee for Enterprise, Trade and Investment and its comprehensive and valuable energy inquiry report.

In March 2002, the Department sought a wide range of views on the direction of a new energy market strategy



through the publication of 'Towards a New Energy Market Strategy for Northern Ireland'. That paper sought views on priority energy issues requiring legislation to be taken forward in a Bill in the lifetime of the Assembly. Among the priorities that the Department identified at the time were changes to consumer representation arrangements, changes to the regulatory framework, and postalisation of gas conveyance prices. The Department also sought consultees' views on other issues.

Accordingly, the Department developed a draft Energy Bill that was issued for consultation in June of this year along with the draft equality and regulatory impact assessments. The Department outlined at that time its intention to add to the Bill, before its introduction in the Assembly, provisions enabling the restructuring of energy business activities to enable Northern Ireland to meet European obligations and to allow full market opening to proceed.

In setting a new regulatory framework and introducing changes to the consumer representation arrangements, the Energy Bill moves the consumer — particularly the vulnerable consumer — to the centre of the energy agenda.

Clauses 1 to 6 and schedule 1 create a new Northern Ireland Authority for Energy Regulation. This will bring energy, electricity and gas regulation together in Northern Ireland for the first time, and it will allow the authority to take account of the interests of consumers of gas when considering electricity issues and vice versa. This important change removes the artificial distinction between the two industries, reflecting the closer relationship between the sectors.

The authority structure is modelled on the structures in Great Britain under the Utilities Act 2000, but it is my intention that the Northern Ireland authority should be tailored to the needs of Northern Ireland. It has been given a name that reflects its distinctiveness. The Northern Ireland authority should not require many members; rather, members should be required to bring to matters of regulation their experience and expertise in relevant energy areas.

I intend that the present regulator, Douglas McIlldoon, will become chairman, and the Department will liaise with him before appointing other members. The Bill also enables the authority to co-operate with persons in other member states. This provision is aimed at increasing North/South co-operation on all-island issues but will also enable the authority to explore wider European issues.

Clauses 7 and 8 bring responsibility for energy consumer representation issues together under the remit of the General Consumer Council for Northern Ireland. I announced my intention to reform energy consumer representation matters in this way in August 2001, and the Committee for Enterprise, Trade and Investment supported that approach in its energy report. Like the Committee, I

believe that consumers will be best served by having a single point of contact for advice and information.

In consequence of the new arrangements, the Bill abolishes the Northern Ireland Consumer Committee for Electricity. I commend that committee for its sterling work on behalf of electricity consumers and for the dedication of its members and chairperson. The General Consumer Council for Northern Ireland will continue to build on that work, and the enhanced powers under the Bill will enable the council to be a strong voice for energy consumers in Northern Ireland.

The authority and the council will have a close working relationship, and clause 9 reflects that by requiring information flows between both organisations and obliging them to draw up and publish a memorandum setting out the arrangements for securing co-operation between them. The authority and the Department are given new principal objectives and duties in relation to electricity and gas, and they are set out in full in clauses 10 and 12.

The principal objectives for electricity and gas are different. For electricity, the principal objective is to protect the interest of consumers, where appropriate, by promoting effective competition. For gas, the principal objective is to promote the development and maintenance of an efficient, economic and co-ordinated gas industry in Northern Ireland. That reflects the different stages of the electricity and gas markets in Northern Ireland and can be contrasted with the position in GB, where both markets are relatively mature.

In relation to electricity and gas, however, consumer issues have been moved much higher up the agenda. In particular, the Department and the authority, in exercising their duties under the Bill, are required to have regard to the interests of vulnerable consumers, defined as those who are disabled or chronically sick, of pensionable age, with low incomes, or, in the case of electricity, those who live in rural areas. Those vulnerable consumers may have particular issues with regard to energy, and this provision acknowledges that.

Part III of the Bill, which covers clauses 14 to 25, requires the General Consumer Council for Northern Ireland to establish a group in connection with its energy-related functions. It gives the council a wide range of functions in relation to electricity and gas. Those include keeping itself informed about consumer issues and views; providing and publishing advice and information; and dealing with complaints. The council is given strengthened powers in relation to electricity and gas matters. It can require information from the new regulatory authority and from licence holders, and it can conduct investigations.

Part IV of the Bill, which covers clauses 26 to 37, contains important new provisions creating new licences for electricity and gas. They position Northern Ireland to

conform to the requirements of European Directives requiring the separation of energy company business activities to move to full market opening.

The effect of clauses 26 to 30 will be to enable more than one company to hold an electricity transmission or gas conveyance licence in a particular area. That will be done by allowing more than one company to carry out different functions in relation to the same transmission or conveyance assets. The different roles and functions will be specified in the licence conditions of the respective companies. The most immediate need for the provisions in the electricity sector relates to the desire to see the legal separation of the system operation activities in Northern Ireland Electricity from the company's asset ownership function. Depending on the outcome of the present discussions on gas postalisation arrangements, there may be a similar need in the gas sector.

There are additional provisions in clauses 36 and 37, supplemented in schedule 2, to alter the scope of licensable activities either by making licensable activities that are not currently licensable, or by removing activities from regulatory control. The provisions give the Department additional flexibility to make further changes, if necessary, to comply with European Directives or otherwise to ensure the most appropriate energy market structure for Northern Ireland.

Any Orders made under those clauses would be subject to affirmative resolution in the Assembly. In addition, before an activity that is not currently licensable can be made to require a licence against the wishes of anyone carrying out that activity, the Competition Commission must indicate that it is against the public interest for the activity not to be regulated.

Clauses 31 and 32 of the Bill provide, among other things, that licence conditions may enable the application of a levy through an increase of the charges to a licence holder. I introduced those provisions primarily to ensure that certain costs associated with future development of the electricity market in Northern Ireland can be spread across all customers, thereby avoiding the problem of stranded costs.

Nevertheless, there have been various proposals for such a levy provision in order to reduce the cost of capital in the energy sector. The proposition is that banks would take greater comfort from such a provision, which could guarantee a revenue stream from consumers to lenders. The banks, therefore, would be likely to lend at lower rates of interest. Those more efficient financing arrangements, it is suggested, could then be substituted for existing arrangements, and consumers would be the beneficiaries of the consequent reduction in repayments.

I invite the proponents of such a proposal to consider how the provision that is included in the Bill might be used in developing their ideas into specific proposals, which must

address potential state-aid issues and tax implications before any consumer benefit can be fully assessed.

Clauses 34 and 35 alter the current position with regard to changes to electricity and gas licences following a reference to the Competition Commission. The changes introduced by those clauses give the Competition Commission the final say in determining the licence modifications which should be made to remedy matters that the Commission has identified as operating against the public interest following a reference from the authority, thereby securing greater certainty of outcome in such matters.

The authority will still put forward its proposals about the appropriate modifications, but the Competition Commission can substitute its own, if it feels that they are more appropriate.

In Part V of the Bill, clauses 42 to 47 strengthen the existing enforcement powers of the authority and give it new powers to enable it to carry out its functions effectively. The provisions enable the authority to impose fines on licensees of up to 10% of the turnover of that licensee for breach of licence conditions, certain statutory obligations or, in relation to electricity, standards of performance.

There has been keen interest in the issue of renewable energy. Clauses 49 to 55 of the Bill, which constitute Part VI, provide the legislative basis for establishing a renewables obligation in Northern Ireland to stimulate the generation and consumption of electricity from renewable sources. The renewables obligation will require electricity suppliers to provide evidence in the form of renewable obligation certificates (ROCs) that they have supplied a specified proportion of renewable electricity to consumers.

Renewables obligations exist already in Scotland, England and Wales. The ultimate intention is that ROCs should be tradable throughout the UK. That will require amendments to the Electricity Act 1989 in Great Britain and the Renewable Obligation Orders that were made under that legislation in Scotland, England and Wales. Contacts with Ministers and officials in the Department of Trade and Industry and the Scottish Executive are continuing with a view to establishing a UK-wide trading arrangement and agreeing the necessary legislative changes.

I have always been careful to point out the need to maintain a balance between the strong interest in renewables and the additional costs associated with ambitious targets for their development. The target for the proportion of electricity from renewable sources will be set in the context of the energy strategy that is being developed, and I will continue to work closely with the Committee, the new authority and the General Consumer Council for Northern Ireland on that matter.

Part VII of the Bill contains several miscellaneous matters that I do not intend to describe in detail. However, clauses 56 and 57, which enable postalisation of

gas conveyance charges, are vital elements of the Bill, because postalisation is absolutely necessary to enable the north-west, South/North gas project to go ahead. Postalisation will mean that the charges for conveying a therm of gas through designated pipelines will be the same regardless of the distance that it is conveyed or the number of pipelines through which it is conveyed.

12.15 pm

The Executive have endorsed postalisation, and introducing legislative provision in the area fulfils a commitment that I made to the Executive in September 2001 when they approved grant aid for the project. The provisions enable the Department to designate pipelines that are to be subject to the postalised charge, and allow the Department or the authority to modify gas licences where necessary or expedient for the purposes of implementing the postalisation arrangements or to facilitate their efficient operation.

Some of the gas companies have expressed concern at the postalisation provisions, which are modelled on provisions in the Utilities Act 2000 for bringing the new electricity trading arrangements into operation. I am due to hear those concerns first-hand later this month, and in the light of those discussions I shall decide if adjustments which do not constrain our ability to effect postalisation are required.

Clause 58 of the Bill will replace the current temporary savings provisions in section 6 of the Industrial Development (Northern Ireland) Act 2002. It enables the Department to make energy-related payments for certain purposes.

The Bill's provisions will be brought into operation by a commencement Order, as provided for in clause 62. The postalisation provisions will be the exception, coming into operation immediately on the Bill's enactment. Subject to satisfactory progress on the Bill's Assembly stages, I would like the changes to the regulatory and consumer-representation arrangements to take effect from 1 April 2003.

The provisions in this Bill will be very important in enabling Northern Ireland to move forward with the ongoing changes to its gas and electricity sectors. I commend it to the Assembly.

**The Deputy Chairperson of the Committee for Enterprise, Trade and Investment (Mr Neeson):** I welcome the Bill. As the Assembly is well aware, the Committee has demonstrated a great deal of interest in energy policy. Indeed, the Committee's second very detailed inquiry was into energy, and we welcome the many provisions in the legislation that reflect the Committee's deliberations and recommendations.

I do not intend to go over old ground and rehearse earlier debates. Suffice it to say that the Committee's recommendations covered five broad areas: the cost of

electricity; improving energy efficiency; renewable energy; the extension of the gas network; and the development of the all-island energy market. Most of those areas are covered to a greater or lesser extent in the detail of this very complex piece of legislation. Of course, the Bill also deals with other issues that were not in the Committee's report, and the Department has agreed to consider certain matters that were in that report for future legislation.

In the few minutes for which I am allowed to speak, I hope to concentrate on the areas of concern that we have identified in the Bill as it stands and give a commitment to the Assembly that those and all areas within the Bill's scope will be scrutinised in the detail that one would expect from a responsible Assembly Committee.

The most fundamental concern of the Committee is that electricity prices in Northern Ireland are still too high. Not only that, but a disproportionately high number of people experience fuel poverty. Although the question of fuel poverty is primarily the responsibility of the Department for Social Development, and tackling fuel poverty requires a fundamental belt-and-braces approach from across the Government, the Committee will scrutinise the Bill in fine detail and explore whether it can be amended in any way with the result of reducing prices for the consumer. There are ongoing deliberations between members of our own Committee and members of the Committee for Social Development to see whether a joint approach might be made on the issue.

That will include giving consideration to whether the Department should be instructed to make provision for the issue of consumer bonds. The Committee believes that the option for such a provision should be in the Bill, and we may well introduce an amendment on the issue. Regardless of whether the Department takes such a course, we believe that the opportunity should be provided in the legislation. As the Minister said, certain organisations will meet him, and they will meet me soon to discuss those issues.

The Committee has given its full support to extending the gas network in Northern Ireland, which means, in the first instance, that the gas pipeline will be extended to the north-west. The Committee will closely scrutinise the Bill's provisions that legislate for the postalisation of gas supplies. The Committee intends to confirm that proposals that are designed to ensure that gas costs are the same for all consumers mean exactly that — that those who live and work in outlying and disadvantaged areas pay no extra charges. That is why I welcome the Minister's commitment. I am aware that he has come under pressure from various quarters on that, but it is an issue that the Committee feels very strongly about.

The Committee's advocacy of the greater use of renewable energy is on record; in practice, that means the extensive development of wind farms. The Committee feels that the Department is not being ambitious enough



in its attempts to meet the targets that were set by the Kyoto Protocol. The Committee will consider whether to propose amendments to the Bill that will enable Northern Ireland to take its rightful role as the pacesetter in generating renewable energy throughout these islands. That was reflected in the Committee's report on energy.

The Committee will also examine whether the Department has followed the provisions of Great Britain's Utilities Act 2000 too closely. There are arguments for and against following "parity legislation" word for word in Northern Ireland after laws have been passed at Westminster. However, there can be no dispute that the energy market in Northern Ireland is different from that in Great Britain. We have higher electricity prices, a greater reliance on oil, and a rudimentary lasting gas infrastructure. Despite the interconnectors, Northern Ireland's electricity industry has what amounts to a monopoly on electricity supply. Is slavishly following Westminster legislation appropriate in those circumstances?

There is, of course, much to be applauded in the Bill. Without wishing to prejudice further deliberations by the Committee, I can give a guarded welcome to the new Northern Ireland Authority for Energy Regulation and to transferring certain responsibilities in that field to the General Consumer Council for Northern Ireland. The Committee recommended that in its report. Although welcoming that, I can give the Assembly a commitment that those parts of the Bill will undergo the same detailed scrutiny as the more controversial areas.

Finally, facilitating the establishment of an independent transmission system operator should be welcomed. It will mean that in future responsibility for the transmission of electricity will be divorced from responsibility for the generation of electricity. That removes a potential conflict of interests, which should benefit the consumer. The legislation does not detail how the transmission system operator should operate. The Committee will probe departmental intentions on that matter.

The Bill is laudable legislation, which, I suspect, the Committee will generally support. In many ways, it reflects the changing nature of the energy market in Northern Ireland, in the island of Ireland, in the British Isles and in Europe. However, the Committee intends to scrutinise the legislation thoroughly. It has already publicly advertised for submissions from all interested bodies.

**Mrs Courtney:** Like the Deputy Chairperson of the Committee for Enterprise, Trade and Investment, I do not intend to say much other than to welcome the Second Stage of the Bill. During its inquiry, the Committee received many written and oral submissions. It made many constructive visits to places that have renewable energy policies, such as Denmark and Brussels.

The Committee visited those places to see renewable energy facilities, particularly in Denmark, which has one

of the most energy-efficient heating supply systems in the world due to the implementation of combined heat and power (CHP) technology. That was also evident during one of the Committee's case study visits to Brook Hall estate at Culmore in Derry.

The Committee's main objectives in visiting Denmark were to see how for example diversification, creating energy from waste, could be achieved; to consider a strategic challenge to the inequitable generation contracts, which had been negotiated at the time of privatisation; and to see at first hand the renewable energy market and its potential in the global market, which could make up to £1 billion a year by 2010.

In Denmark, the Committee also saw the operation of an offshore wind farm — a project currently under discussion here. The Danish wind farm was built in November 2000 and consists of 20 2-megawatt wind turbines. It is situated just three kilometres outside the port of Copenhagen. The expected annual electricity production is 90,000 megawatt hours, which equals the electricity consumption of 20,000 Danish households and represents approximately 3% of Copenhagen's power consumption. The visit illustrated to the Committee the advantages and disadvantages of wind energy. It will certainly inform part of the debate about the proposed wind farm off the north-west coast.

The visit to Brussels provided the Committee with an opportunity to become more familiar with European energy policy within the Commission. Now that all EU Directives are being scrutinised much more closely, we must make ourselves aware of the energy policy. There have been discussions about burning Orimulsion at Kilroot. Seeing Orimulsion plants at first hand informed the Committee about what it was considering and whether it could recommend Orimulsion to the Minister.

The Committee made 45 recommendations, which have mainly been supported by the Minister. However, he did not support the first recommendation on nuclear energy. The Committee wants the nuclear power reprocessing plants on the western seaboard of Great Britain to be eventually replaced with sustainable energy facilities.

The Committee was quite troubled by electricity costs and was awaiting the outcome of the Department's consultation on its paper entitled 'Towards a New Energy Market Strategy'. We welcome the Minister's decision on licensing and the extended powers being given to the General Consumer Council for Northern Ireland.

The Committee felt that the energy efficiency levy should be increased to £5 per household per annum. As the Deputy Chairperson said, it would be used to help eradicate fuel poverty. There have already been discussions on that with the Department for Social Development.

The combined cycle gas turbine electricity project at Coolkeeragh is now going ahead. I am glad that the

Minister said that the postalisation of gas and electricity costs must be borne equally and equitably by all domestic and commercial consumers. Support should also be sought from the EU and other sources to meet the cost of current and future gas pipeline extensions.

The Committee wants to ensure the future of the all-island energy market. Of course, that requires adequate electricity and gas interconnector capacity, strong charging policies with effective regulation, and strong consumer protection. The Executive should investigate the possibility of abolishing the Government royalty tax, thus reducing the differential in corporation tax between the Republic of Ireland and Northern Ireland to enable companies to trade in a more equitable all-island energy market.

As the Deputy Chairperson said, targets for renewables are probably set too low. The Committee is aware of the considerable cost to the consumer. Having seen such measures in operation in Denmark, they are probably a more expensive part of electricity charges. However, because of the climate change levy, the difference in pricing between here and Great Britain, and the length of time it took for gas to be introduced here, the Committee feels that derogation should be extended. The Minister has given us an assurance that derogation will be sought for 10 years rather than the current five years, and the Committee welcomes that.

As the Deputy Chairperson of the Committee for Enterprise, Trade and Investment said, the Committee spent much time and energy on clause-by-clause scrutiny of the Bill to ensure that it will benefit all consumers in Northern Ireland. I welcome its introduction by the Minister and can assure him that we will give it an advantageous reading.

12.30 pm

**Dr O'Hagan:** Go raibh maith agat, a LeasCheann Comhairle. I too will be brief. I thank the Minister and am sure that he would agree that, although the Committee retains its right to challenge and be critical of the Department and the Minister, our relationship with both provides a good example of how well partnership arrangements can work. I enjoyed working on this — I found it interesting. It is a shame that much of the valuable work done to date will now be brought down by the political crisis.

Mr Neeson, the Deputy Chairperson of the Committee for Enterprise, Trade and Investment adequately represented many of the Committee's views, particularly those on the emissions target. The Committee is broadly agreed on that. I will not rehash all those issues, but I want to make several points about the Bill.

First, I would like the new arrangements for regulation and consumer representation to include all perspectives on

energy and to pay particular attention to domestic consumer representation, especially for those on low income and other vulnerable consumers. That may require changes to the process of application to the General Consumer Council or a change in criteria for potential members — such changes would not be beyond the council's capability. I expect that any appointments to the General Consumer Council will adhere to equality principles. I would also be interested to hear a detailed response from the council about how it intends to fulfil the duties proposed in the legislation, so that we can assess the impact of those changes.

The issue of the fuel poor has much exercised the Committee and, I am sure, the Minister and the Department. The Minister may find it worthwhile to recognise the fuel poor as a distinct vulnerable group in the legislation and to make the necessary provision for that. The extension of the natural gas infrastructure should be wholeheartedly supported; so too the principle of a common tariff. Pricing according to location is an exclusive measure that will contribute to further uneven economic development and may contribute to the exclusion of those customers who could gain most from a natural gas supply — people on lower incomes and the fuel poor. I broadly welcome the Bill. At this stage, we do not know when the Committee will be able to scrutinise it in more detail, but I look forward to having the opportunity to do so. Go raibh maith agat.

**Sir Reg Empey:** I am grateful to the Members who contributed to the debate. I will try to deal with the points as they arose. The Deputy Chairperson of the Committee for Enterprise Trade and Investment, Mr Neeson, expressed his concern at the high electricity costs. He is preaching to the converted. However, many of the energy measures that we have been dealing with over the past few years have begun to lay foundations for change.

There will be additional competition. There are now North/South and east-west interconnectors for gas and electricity. The nature of the contracts and our high dependency on fuel costs, which are passed on directly to the customer, have been long-term problems for us. Nevertheless, after the regulator's transmission and distribution review, and the likely substantial rise in electricity costs in the Republic, the differential is beginning to narrow, or at least it has been prevented from becoming any worse. Electricity prices in Great Britain are artificially low, and it will not be possible to sustain those prices in the distant future. The basic foundations for substantial change are being put in place.

*Mr Deputy Speaker (Mr McClelland) in the Chair.*

Mrs Courtney referred to the fact that the North/South interconnector is in place. However, we cannot trade fully on that interconnector. Although it has a substantial capacity, the Republic's distribution network cannot yet handle it. Substantial investment is necessary, and we have pressed the authorities to examine the issue closely. The invest-

ment will come, but much work must be done on the distribution network's infrastructure before the full benefit of that trade can be achieved.

Mr Neeson referred to renewables, and he is correct to say that it is the responsibility of the Department for Social Development to introduce legislation to address fuel poverty issues. I support his view that there must be co-operation at a high level, and we must have regard to the definition of "vulnerable consumers". Dr O'Hagan made that point in her contribution. "Vulnerable consumers" should cover the majority of those who are in, or are at risk of being in, a fuel poverty situation. Approximately 170,000 households in Northern Ireland come into that category. There is work to be done in that area.

Mr Neeson also mentioned parity legislation, which is not simply carbon-copy legislation. Our consumer arrangements are totally different from those in Great Britain. He also referred to the issue of capital, as other Members have done in previous debates. I refer Mr Neeson and others to the press release I issued when I introduced the Bill. I invited proponents of such a proposal to consider how the provision, now included in the Bill, might be used to develop ideas into specific proposals, which would have to address potential state aid issues and tax implications before any consumer benefit could be assessed fully. I am prepared to examine that issue, as is the Committee. However, if we go down that road, we must ensure that we can identify genuine and real benefits and that it is not done simply because somebody thought it was a good idea at the time. It must benefit the consumer.

Several Members, including Dr O'Hagan, mentioned consumer representation arrangements. The General Consumer Council for Northern Ireland already represents consumers, and clause 14 of the Bill requires the council to consider the interests of consumers on low incomes. The Bill also obliges the council to prepare and publish a forward work programme.

Dr O'Hagan's point goes to the core of public appointments. We know that the rules are strict, including the guidelines issued by Sir Leonard Peach, the former Commissioner for Public Appointments for Northern Ireland. Although one must be as fair as possible at all times, there is a valid point about the number of people who feel able to apply for jobs. The application process is tiresome and, for many, a daunting task. There is a question over whether someone from such a vulnerable background would get over the different hurdles, including meeting the criteria and passing the interviews. Such things could militate against someone from a vulnerable group. Undoubtedly, there is a problem. It is not, however, confined to the General Consumer Council; it applies to the whole public appointments sector.

In an effort to be fair to people, in my opinion, the pendulum has swung too far. The process is much too

elaborate. Members debated the 11-plus earlier. Mr Deputy Speaker, although, given your background, you might be good at the 11-plus, if the rest of us were to sit the test, how many would pass? The hurdles that ordinary people must overcome to be employed in public bodies are too high and too complicated. That is something for all of us to consider; it is not specific to this case.

I am conscious that, in making the changes to representation work, we must demonstrate that those who are directly affected have a voice. The question is whether that can be achieved within the strictures of the public appointments process if we do not have much discretion in such matters. I am not sure of the answer to that question; perhaps it should be discussed during the Committee Stage.

Members expressed support for the postalisation of the gas network, which is a critical element of the Bill. Without postalisation, it will not be possible to get the gas pipelines approved and built.

Postalisation sounds very complicated, but it is relatively simple. We already have postalisation for electricity: a unit of electricity in Belleek is the same price as a unit in Larne, and rightly so. If people were charged the true cost of conducting a unit of electricity to Belleek, it would be prohibitive. Similarly, postalisation of gas would spread potential access to such a natural resource as widely across the population as possible. This is the only way in which that can happen.

Of course, the term "postalisation" is derived from the postal system. It costs the same to send a first-class letter from Belfast to Lisburn as it does to send a letter from Belfast to Plymouth or to the highlands and islands. The principle is that a single price transports a unit around. If we stray from that principle, we will encounter serious difficulties. We must ensure that postalisation occurs. There are details to be discussed on how best to introduce it, and I will hold discussions with interested parties in the coming weeks. However, I am convinced that the principle of postalisation is sound and that we can finalise the details as we progress the Bill.

While we proceed with the legislation, we must remember our end target. Because of the structures that we inherited, systems operation is done in-house by Northern Ireland Electricity. We want to separate that out.

*12.45 pm*

Any authority that may be created will not be huge; it will be very small, run by a handful of people. The existing regulator, Mr Douglas McIlldoon, will chair it, and one or two others with particular skills and expertise may help him. We do not intend to create an elaborate structure.

As with the General Consumer Council, we are removing one body and amalgamating it with others to form one because we want to create a one-stop shop that



is a centre of excellence. That is no reflection of the work that the Committee for Enterprise, Trade and Investment has done on electricity, but Northern Ireland is a small place, and it makes sense to have all the consumer representatives and experts working under one body. It is not a complicated concept, but it will help.

As we proceed to the next legislative stage, I will appreciate the support of the Committee. Renewables are high on its agenda. We must set a target — people think that we have done so already, but we have not. We are discussing targets through the energy strategy, and we will reach a conclusion. People must remember that if you set a target for renewables, however desirable, there is a cost. Mr Neeson began the debate by saying that we have high electricity costs. I want to see as much renewable energy as possible, but we must remember that there is a price to be paid.

People think that the windmills can be erected here, there and everywhere, that biomass can be used and that the more of those we have, the more renewable energy we have. It is not as simple as that. Wind will realistically be the source of over 90% of our renewable energy, but people are not picking up on the fact that it tends to be in remote areas — on mountains, at the coast and so forth. By definition, the distribution network in those areas is fragile because of their remoteness. The intermittent nature of wind energy means that the system cannot technically absorb large bursts of electricity that are followed by none. The consumer must be constantly supplied with electricity. If a system receives huge surges followed by a withdrawal of those surges, it must be replaced. The distribution network must be technically strengthened in many of those places, which will be a major cost. People must understand that, and that point is not coming across in the debate.

Offshore wind was mentioned, and we know that there is local concern about it. That is going through a year-long process, and we will see what is proposed at the end of that. Ultimately, windmills will be placed in prominent places, either offshore or on top of mountains. People will be able to see them, because that is where the wind is. Therefore, if we want renewable energies, and as most of it in Northern Ireland will come from wind, we must either decide to tolerate their visual impact environmentally or accept the surreptitious gradual erosion of our environment through the emission of CO<sub>2</sub> and other gases into the atmosphere. All developed countries must make that choice, and, in common with those countries, we must debate that.

A difficult choice must be made, and we know locally that that is the sort of thing that we want in somebody else's backyard but not in our own. Biomass has the advantage of being able to supply a constant flow of electricity; the supply from wind, on the other hand, is more intermittent. However, realistically, the potential

for biomass is limited because of the amount of material that is available to keep the machines going and the likely cost. Willow and other materials are usable and good. The technology will improve, as will our performance, in time. However, that will not be done for nothing, and it is fine as long as everybody understands that.

In conclusion, I thank the Committee for how it conducted its report into energy and for its handling of these matters. I look forward to working with it as it considers the Second Stage of the Bill. If amendments are suggested to the Bill, the Department and the Committee will co-operate in the spirit of partnership that has marked our work. We are endeavouring to get the best deal for the consumer and to ensure that our economy is as competitive as it can possibly be in relation to our neighbours who hitherto have had significant energy advantages over us.

*Question put and agreed to.*

*Resolved:*

That the Second Stage of the Energy Bill (NIA 9/02) be agreed.

**Mr Deputy Speaker:** The Bill now stands referred to the Committee for Enterprise, Trade and Investment.

## **LIMITED LIABILITY PARTNERSHIPS BILL**

### **Final Stage**

*Resolved:*

That the Limited Liability Partnerships Bill (NIA 9/01) do now pass. — [*The Minister of Enterprise, Trade and Investment (Sir Reg Empey)*]

## **OPEN-ENDED INVESTMENT COMPANIES BILL**

### **Final Stage**

*Resolved:*

That the Open-Ended Investment Companies Bill (NIA 10/01) do now pass. — [*The Minister of Enterprise, Trade and Investment (Sir Reg Empey)*]

## FAIR PRICE COMMISSION

### **Mr Savage:** I beg to move

That this Assembly notes the disastrous situation of agriculture in Northern Ireland and urges the Minister of Agriculture and Rural Development to establish a Fair Price Commission with one of its principal functions being to investigate the distribution of profits within the Agri-Food sector.

When I first mooted the idea of a fair price commission, those who prefer inaction to action — among whom I am sorry to say is our own Department of Agriculture and Rural Development — deliberately misunderstood me. They tried to accuse me of price fixing. They said that “That cannot be done in a free market.”; “It is a reserved matter.”; and “It is not within my competence.”. These are smokescreens for inaction and are without substance.

My intention was to redress the unfairness of the distribution of profits in the end price of agricultural goods. Recently, Ben Gill, the president of the National Farmers’ Union told the ‘Daily Telegraph’ that of an average basket of farm produce, containing eggs, beef, milk, bread, tomatoes and apples, which typically cost £37 in the shops, the farmer received only £11, a figure significantly less than one third of the end price.

Clearly, that is an appalling and unsupportable situation. What additional value do food processors and the food retailers add to the goods produced by farmers? Fair-minded people would say that it certainly is not two thirds of the end price. Mr Gill eloquently highlighted the central problem, which I want a fair price commission to tackle.

The first task of that commission would be to establish the facts of the case and to weed out the apocryphal and completely unacceptable. Just how much goes to the end retailer, which, as often as not, is a supermarket chain?

Once again, the president of the Farmers’ Union, Ben Gill, put it well. He gave a simple illustration. Pig farmers receive 96p a kilo for their animals, yet pork retails at £6.97 a kilo. Somewhere between the farm and the retail outlet, someone makes £6.01 more than the farmer is paid for every kilo of pig meat. The farmer gets less than 14%; the processor and retailer, between them, receive some 86%.

In anybody’s language, that is unfair. From farm to fork, it is plain that something is wrong. For years, the farmers’ unions have talked to supermarkets, but, as one would suspect, no progress has been made, for sentiment and money are bad companions.

Where the fault lies — whether the processor takes too much by manipulating the number of cuts that he pays for, or whether the supermarket chains take too much by using their overwhelming buying power — is not

really the point. Wherever there is unfair practice, the facts of the case must be established. The only way to do that is by investigating the matter, using the medium of a specially established fair price commission. That investigation would be the primary task of such a commission. All we ask for is fair play — a level playing field. Farmers in Northern Ireland are efficient and have proven over the years that they are at the forefront of modern expertise in all sectors of farming.

The commission’s second task would be to establish what was broadly accepted as a fair distribution of profits between the different sectors: the farmers, or producers; the processors; and the retailers.

One thing must be established. As things stand, processors and the distributors take their profit first. Everybody takes their whack out of the profit. When it reaches the bottom of the chain, there is nothing left for the farmers. The whole process needs to be reversed. The farmers must get a fair price for what they produce, and others can follow. There must be an about-turn. We cannot go on in this way. This must be based on the real value added to the produce. This must be done using pre-established yardsticks. Only then will myth be separated from reality. We need a third-party assessment of the true extent of the problem, and the figures will cause public shock.

The third part of the remit of a fair price commission would be to award certificates. These would appear in the form of labels on products in shops stating that those items of food were produced under circumstances in which farmers received a fair price. Because of price controls, the scheme would have to be voluntary. It would operate in the same way as the PONI (produce of Northern Ireland) labels. The labels would be similar to the labels on organic food now appearing in supermarkets.

Consumers are the next part of the equation. Consumer education is required. They would have to be aware that the fair price labels on goods meant that they were buying produce for which the farmers had received a fair price. Consumers drive supermarkets, and supermarkets will only change their practices if customers dictate it. Consider the example of organic produce. It is only by establishing such a structure that we will create change.

Ben Gill also said that talks with the supermarkets have dragged on for years but that they never get anywhere, which is true. What I propose would break the impasse. It is market-orientated and market-driven. The Government should enable the introduction of fair practice by producing a structure or mechanism for it.

That is the Government’s duty. Hiding behind excuses is disreputable, and it leaves a bad taste, especially for the Department. I have every sympathy for the Department of Agriculture and Rural Development; it has

many problems. It now has an opportunity to give a lead rather than resist it, and to earn the reputation of being an aid worker rather than being the policeman. Let it do so with good grace for once, instead of trying to put obstacles in the way of the farmers, who ultimately keep in place that enormous, £200 million-a-year, edifice that is the Department of Agriculture and Rural Development, and its employees.

1.00 pm

I read about one of the issues that currently concern us in the paper this past week. Italy's Government are introducing a quality-control system to guarantee standards. They are fed up with impostors. Checks have been carried out in all sectors of the Department there. One of the most important points is that meetings continue to take place across the country. People are voicing their concerns at the bad prices being paid. Meetings are actually taking place today.

All this could be avoided if the primary producer got a fair price for his produce. Greed is a powerful weapon. Will it last? There are currently 80,000 jobs directly or indirectly involved in the agriculture industry here. Those jobs must be protected and not left to the wills of unscrupulous people. Look what has happened to our shipbuilding industry this past week. Do we want that to happen to the agriculture industry? Not only would we like to see the shipyard back, but we would like to get our agriculture industry back onto a level footing.

A farmer told me last week that working on his farm was like working in a concentration camp, as all he did was work and sleep. Things cannot continue as they are. As the Committee of the Regions noted:

"Since the European Union is a world power, it must yield its influence to ensure that the rules governing international trade and farm produce match its interests and values in keeping with this new common agricultural policy and must take realistic account of the international context arising from American unilateralism and seek to set up a balanced, fair system of trade with the developing nations."

Our problems are the same as those of many other countries. If our farming industry is not protected, in a few years' time we will have no industry. We do not want to finish up like the shipyard in Belfast, which used to be the backbone of Northern Ireland. Agriculture is currently the backbone of our country, and we must protect it. I tell our Government that we can work together to solve the problem. There is no point in pussyfooting about because we have major problems. That ties in with the weakness of the territorial impact analysis for the proposed measures. It is stated:

"As parallel debates are conducted on the two costliest community policies, this is the moment for tacking them together so that neither is seen as the balancing variable of the other."

**Mr Deputy Speaker:** I call the Minister of Agriculture and Rural Development, Ms Bríd Rodgers, to respond.

My apologies, Minister, I see Gerry McHugh's name on the list.

**Mr McHugh:** Go raibh maith agat, a LeasCheann Comhairle. I have no difficulty understanding that anyone can mix things up today. The focus is on everything except the Order Paper.

The Chairperson of the Committee for Agriculture and Rural Development is not in the Chamber yet. He purports to be very supportive of the farming community and its needs, but it is clear that he, and his party, are off fighting for their real interest, which is the demolition of anything that might be positive for farming here.

The motion is difficult inasmuch as one might ask what a fair price commission could achieve. However, I support the motion because anything that might help the primary producer or the whole industry must be supported. People might say that a fair price commission would support farmers. The debate could be widened to the point where people would have to realise that it involves the whole industry; not just one part of it. If we do not have a fair price at the producers' end, as the last Member said, then we will not have an industry. It is as simple as that.

My biggest worry is that there could be a situation here in the not-so-distant future in which we would have to import all of our raw agricultural material for processing and everything that consumers need. Such imports would raise issues about quality.

Mr Savage said that farmers are now in slavery and that the next generation will not take part in an industry that will not be giving them any return. There are precious few farmers now who can say that they are getting any return for their effort. No one in any other walk of life would put in the same effort for such a small return. The result will be the total meltdown of the industry. Any vision statement or document with a 10-year delivery span will not have a hope of delivering improvements. Those are the difficulties.

I have a few questions concerning a fair price commission. Would it embarrass only the processing industry? Would it put enough pressure on supermarkets to increase prices to the farmers and not just the processors? How would it stop the importation of inferior food from all corners of the world? There would be a demand for quality produce from imports. For example, there is the poor quality of grain coming through Warrenpoint. Ten per cent of that grain can contain anything, and it would certainly not be good enough to go into animal feed. We should be able to stand over the production of the end product.

Given the forecast that 50% of dairy farmers may go out of the business following Agenda 2000 proposals, and given the 15% cut in intervention prices for butter and 5% for milk powder, would a fair price commission have any effect on staving off those cuts? What effect



would it have in keeping prices up when we are heading towards world market prices?

The World Trade Organisation and the Secretary of State for Environment, Food and Rural Affairs, Margaret Beckett, want to increase the cuts. They also want to speed up the common agricultural policy reform. They want the opposite to what would support the industry and its mainstay here.

In the light of those questions, where will we end up? Moving to world prices would mean high costs for the farmer, high wages, high inputs and low end prices. Could farmers survive? We do not have an option because of the scale of countries such as Brazil and New Zealand that are in straight competition with us. The UK policy for more drastic cuts and reforms works against us.

We had a long debate at Loughry College last week about the common agricultural policy reform. That puts the industry's future into perspective. The principal components have been addressed. The Committee's report dealt with the business of fair prices for farmers. I am sure that most of the recommendations contained in that report have yet to be implemented.

The consumer and the primary producer are closely linked. What does society want? That question was asked during a speech last week. However, what question was society asked? Was it asked whether it wanted food from outside Europe? Does society want low-quality food that has no traceability? Does society want food from producers who are not required to adhere to the same regulations that we must follow? Is that what the consumer wants? Will the consumer even be able to choose local produce in the future?

Perhaps we should move towards localised markets that are free of food that has been transported many miles. Localised marketing offers the farmers more control. There is also the issue of global sustainability. Do we want large areas of rainforest to be wiped out in order to create grass that is eroded after three years? The rainforest countries may be poor, but they have been exploited and destroyed by multinationals. That is why they must do what they do. However, as a result, we are importing food from countries that are unable to produce it in the long term. We can produce food, but we are not allowed to produce it, and it seems that it will not be economically feasible to continue to do so in the near future. Those are the questions that we must ask.

Just as the Assembly seems to be almost in meltdown, so is the agriculture industry. I am sure that it can only look on at the disgraceful attempts to bring down the only institutions that might have a hope of making a future for local farmers. British Ministers and British Government policies will not do that. I support the idea of a fair price commission that can do something to stem the low prices that primary producers endure. Go raibh maith agat.

**Mr Dallat:** George Savage put his finger on it when he said that something is wrong somewhere. Of course there is something wrong somewhere. Therein lies the question. Where is the problem that causes such a variation between the farmgate price and the price that is charged in the supermarkets? I am sure that Mr Savage would agree that to establish a fair price commission would not guarantee that all would be put right and that the beleaguered farming community would obtain a fair price for its produce. Indeed, there is concern that it could turn into another layer of bureaucracy. At a time when the Ulster Farmers' Union, through its care campaign, has been highly critical of the Department of Agriculture and Rural Development for being over-bureaucratic, it might well add to concern that we plan to create another layer of bureaucracy.

Do we have the power to set up a fair price commission? We shall have to wait for the Minister's response for the answer. It would be unfair to mislead the farming community that such a measure could be implemented if we have no power to do so. The issues are more complex and much more difficult to confront than simply setting up a fair price commission.

That is not to say that we should do nothing. The Committee for Agriculture and Rural Development addressed the issue on at least two occasions but failed to produce concrete evidence that price-fixing exists. That is not to say that price-fixing does not exist. Indeed, most farmers believe that it does. It would be wrong to believe or claim that the setting up of a fair price commission would provide a solution to what is a serious issue. I commend Mr Savage for tabling the motion and enabling the debate, but I do not believe that it is achievable or that it would be successful. However, I do not mean to question Mr Savage's sincerity; he is an influential and important member of the Committee for Agriculture and Rural Development.

*1.15 pm*

There is no denying that the farming industry is in crisis, but tinkering with the problem will not bring about the fundamental changes that the farming industry needs. Today is an opportunity to reflect on the work that has been done — for example, by the vision group and as a result of the encouragement given by the Minister to farmers to establish co-ops to improve their marketing methods and skills, to add value to their products and, in a range of other ways, to try to achieve better prices for their produce. However, that is not to say we should not focus on the supermarkets, which have a major role to play in ensuring that their source of supply is protected. While I agree with the sentiments expressed by Mr Savage, I believe that his proposal is fraught with difficulties.

**Mr Armstrong:** I support the motion and add my voice to my Colleague's calls for a fair price commission, which will have the ultimate aim of securing a

fair price for farmers' produce. The situation in the agriculture sector is desperate. Two years ago there was a mass demonstration by farmers to Parliament Buildings to protest at the low prices in farming. Today the prices are still unsustainable — and that is five years after the real crisis began.

Why is the farming industry still on its knees? Farmers know why. Fat-cat processors and supermarkets are the culprits. They take more than their fair share of the profits. The need for a fair price commission is clear, and it was particularly highlighted in recent weeks by the Ulster Farmers' Union's campaign against rural exodus (CARE).

On 26 September the Ulster Farmers' Union put fresh food on sale at the farmgate price that the farmer receives, rather than at the supermarket retail price. One litre of milk cost 15p and 2.5kg of potatoes cost 22p — a 900% drop from the average supermarket value. That is a disgrace.

Farmers have to bear the high costs of feeding and housing livestock. This year's wet weather will add to those costs. However, farmers receive only a small return on their produce. Large supermarket chains have massive bargaining power. When a bargain is to be given to the consumer the farmer receives less for his product, yet the supermarkets' profit remains the same. Supermarkets are able to dictate the prices they pay to farmers for produce, and that undermines the notion of a fair market system.

In recent years large processing companies have gained what amounts to almost a monopoly situation by buying over small abattoirs. Once again, this results in low and unfair prices for farmers. Farmers are working an average of 70 hours a week, and some work over 110 hours a week. Farm incomes are unsustainable, while supermarkets and other parties in the food chain continue to announce massive yearly profits. Where is the level playing field?

The system is not working. I support the call to urgently establish a fair price commission to expose how profits are being unfairly distributed on a massive scale. I also call for that commission to scrutinise profits and to ensure that they are shared equally.

**Mr Bradley:** I apologise for not being present earlier, but I was attending a Business Committee meeting. Therefore, I have not heard the theme of the debate.

When the motion was first tabled, I obtained copies of the Committee's reports on its inquiries, and also the document 'Retailing in Northern Ireland — A Fair Deal for the Farmer?' in which the Committee made 16 recommendations. I imagine that Mr Savage revisited much of that during his remarks.

At that time we were awaiting the outcome of the Competition Commission's inquiry. It found no evidence of price-rigging or collusion between retailers. Perhaps

Members are suspicious by nature; we still thought that there might be something there, but the wheels that were put in motion could find no evidence of it, so we had to accept that.

Farmers are blaming part of their downward spiral on retailers' charges, as their profits are not in line with the farmers' profits. Farmers are working for nil profit, and shareholders in large multinationals would not live with that. We are victims of that.

Many concerns have been expressed about farmers, and I ask the Committee for Agriculture and Rural Development to take a step back and look at where the House could be heading and what that would mean for the farming community.

Over the past three or four years we have heard many cries from the heart about the farmers' plight. We met lobby groups; we met many farmers on the steps of Stormont; we visited farms to hear their plight at first hand; we listened to farmers' unions; and we pledged 100% support. However, any thought of collapse of the institutions will not back up our support. I ask Committee members to search their souls, in the interests of the industry, to see if that is what they really want. I will fight tooth and nail to save the institutions, in the interests of the farming and rural communities. Perhaps I am drifting slightly from the motion, but this is all interlinked. We want farming for the future, and a future for farming. I did not hear the wording of the motion, but I support it.

**The Minister of Agriculture and Rural Development (Ms Rodgers):** I pay tribute to the Members from the SDLP, the Ulster Unionist Party and Sinn Féin who have found it worthwhile to come to the House to debate the state of the agriculture industry. I regret that the Chairperson of the Committee for Agriculture and Rural Development and his two party Colleagues on the Committee have not thought it worthwhile to come to the debate. They purport to be concerned about the future of agriculture in Northern Ireland, but their actions have spoken louder than their words.

The motion calls on me to establish a fair price commission to examine the distribution of profits in the agrifood sector. I am fully aware of the many challenges that the agrifood sector has faced in recent years, and the impact that these have had on producers and the rural community. I spend a great deal of time in that community, and I know everything about it. I am not a farmer, but in the past three years I have learnt a great deal about the difficult situation in which the farmers find themselves.

Moreover, the problems that we have discussed today are not unique to Northern Ireland. Producers throughout the British Isles are voicing similar concerns. I agree that, for some time, farmers have not been achieving a reasonable return on their investment and labour. However, it is vital that goods be produced in response to consumer demand and at a price that others are willing to pay in order to

succeed in today's market environment. In so doing, buyers and sellers have a right to operate in a market that is free from anti-competitive behaviour and abuse of power.

Mr Savage and other Members will be aware that 'Retailing in Northern Ireland — A Fair Deal for the Farmer' pointed out that excess profits do not seem to be generated by processors or retailers. That report was published as a result of research that was carried out at the behest of the Committee for Agriculture and Rural Development. In addition, a report published by the UK Competition Commission — formerly the Office of Fair Trading — also concluded that retailers were not making excessive profits. Therefore, a simple redistribution of profit will not solve the problem, even if I had the power to bring that about.

Under the Northern Ireland Act 1998, the regulation of anti-competitive practices and abuse of dominant positions in the market are reserved matters. The motion does not fall within the gift of this devolved Administration. It is asking me to do something that I do not have the power to do.

In the light of that, we must examine other ways of addressing the issue. First, an integrated food chain must be developed so that there is clear communication of market demand and greater understanding of, and trust between, the links in the chain. Secondly, we must try to move away from producing under-differentiated products, which are subject to severe price competition. We must position ourselves elsewhere in the market where issues such as quality, safety, production methods and reliability as business partners assume greater prominence.

In view of investigations into the distribution of profits in the food chain, I am not sure what more a fair price commission would achieve. I thank Mr Dallat for his comments because, as he and Mr McHugh pointed out, there are concerns about whether such a commission would be toothless and powerless to deal with the issues. Given that competition is a reserved matter, it would be toothless and powerless.

I am also concerned that, as Mr Dallat pointed out, such a commission would create a further layer of bureaucracy for little gain. I would be the first person to be criticised heavily for wasting resources on useless administration for a toothless commission. Therefore, I remain unconvinced of the merits of the proposal.

When I took up the post of Minister of Agriculture and Rural Development, I recognised the need to develop a strategic approach. I am putting the finishing touches to the vision action plan. I was surprised by the accusation made by the Deputy Chairperson of the Committee for Agriculture and Rural Development, Mr Savage, that the Department has been putting obstacles in the way of farmers. Since I became Minister, all my endeavours have been aimed at ensuring that farming becomes a

viable economic livelihood. However, I cannot achieve that overnight; it must be done strategically.

The initiative, which started over three years ago, will achieve real outcomes and will allow the industry, in partnership with Government, to address the real problems that it faces. I emphasise that it must be done in partnership with Government, because the Department alone will not deliver the strategy. I hope soon to announce the action plan for the modernisation of my Department. One purpose of the plan is to ensure that the interface between customers and the farming community is as effective as possible.

We should proceed by working together and focusing on the issues that are within my power as Minister. Nevertheless, all the links in the food chain must realise that they depend on one another for survival, and that they all must share in the profits. I am aware of, and share, the concerns of the farming community. Farmers are at the bottom of the food chain, and they cannot pass on the costs that are passed down to them. There must be co-operation down the chain.

1.30 pm

As Mr Dallat pointed out, I am anxious to enable that. I cannot force it, but as Minister I am most anxious to enable that partnership to happen, for that trust to be built, and to ensure that everyone in the food chain secures the profit that he or she deserves, and a fair share of the profits of the industry.

**Mr Savage:** The Minister summed up the issue in her last few sentences when she said that she realised that there was a problem — that problem must be resolved. She said that she may not have the power, but at least she has the power of persuasion in her Department. That can be a mighty tool if used properly.

We all know that I would not move such a motion unnecessarily. I thank all the Members for taking the time to show an interest in what is happening in the agrisector, for the problem is real. It is hard for milk producers, for example, to see their product in a supermarket selling at double or treble the price that they got for it. That is not on. I do not know what we can do to resolve the problem, but I know one thing for sure — farmers cannot continue to produce for nothing. They are quite happy to produce if they receive a reasonable return, but there is a certain pride in the farming community. They have worked and cut back. Northern Ireland farmers are as efficient as any in Europe, and yet we are being ripped off right, left and centre. As soon as beef or milk leaves farmers' yards, the gulls are ready to dive for the profits. They all live off the farmer, and he receives nothing in return.

The situation is beyond belief. As we discuss the issue, another meeting is taking place on the other side of Belfast. A few things could solve the whole problem — an extra 3p or 4p a litre on milk; 3p or 4p a dozen on eggs; and the same sum on pigs. It all boils down to



greed. We should not pussyfoot around; we should call it for what it is.

We must sort out the matter. I do not know how that is to be done, but one thing is certain: if those people cannot get their act together, there will be no farmers left. I do not want to see the agriculture industry going the way of the shipyard in Belfast.

**Mr Deputy Speaker:** Under Standing Order 25(4), a vote cannot be taken if a quorum is not present, which is the case at the moment. I shall, therefore, ask the Clerk to ring the Division Bell and wait three minutes to see whether I can put the question.

**Mr Dallat:** On a point of order, Mr Deputy Speaker. Is it reasonable for people to turn up for a vote when they did not take the trouble to listen to the debate to make sound judgement on the issue before the House?

**Mr Deputy Speaker:** It is indeed reasonable, Mr Dallat. I thank you for your question, but you are as aware as I am of Standing Orders, and a vote cannot take place without a quorum in the Chamber.

**Mr Dallat:** Further to that point of order, Mr Deputy Speaker. That was not the point that I was making. Will those who may come clamouring to the sound of the Division Bell be able to make sound judgement on what was discussed here? They did not take the trouble to turn up for the debate.

**Mr Deputy Speaker:** I am acting under Standing Orders; it is not for the Deputy Speaker to decide what is reasonable or not.

**Mr Bradley:** What is the view of the mover of the motion? Does he wish to put the matter to a vote or is he satisfied that he has delivered his message?

**Mr Deputy Speaker:** As Mr Savage has not indicated that, it would be impossible for me to say. However, perhaps he wishes to say whether he wishes a vote at this late stage.

**Mr Savage:** Mr Deputy Speaker, what Mr Dallat and Mr Bradley have said is true. When Members are not present in the Chamber, do we expect them to vote on something that they know nothing about and have not taken part in? I am satisfied that the Members who were present put their points across.

**Mr Deputy Speaker:** I understand, Mr Savage, that you are not begging leave to withdraw the motion. Unless there is a quorum, I will ask the Clerk to ring the Division Bell.

I understand that there is now a quorum. Therefore, I will put the Question.

*Question put and agreed to.*

*Resolved:*

That this Assembly notes the disastrous situation of agriculture in Northern Ireland and urges the Minister of Agriculture and Rural Development to establish a Fair Price Commission with one of its principal functions being to investigate the distribution of profits within the Agri-Food sector.

*Adjourned at 1.36 pm.*



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## NORTHERN IRELAND ASSEMBLY

Tuesday 8 October 2002

*The Assembly met at 2.00 pm (Mr Speaker in the Chair).*

*Members observed two minutes' silence.*

### ASSEMBLY BUSINESS

#### Dismissal of Ministers

**Mr Speaker:** I have received from Rev Dr Ian Paisley, in his role as nominating officer for the Democratic Unionist Party, a letter that I wish to draw to the attention of the House. The letter reads as follows:

“Dear Mr Speaker,

Pursuant to section 18(9)(c) of the Northern Ireland Act 1998, I write to inform you of the dismissal of Mr Peter Robinson M.P., M.L.A. as Minister for the Department for Regional Development and Mr Nigel Dodds M.P., M.L.A. as Minister for the Department for Social Development, from Ministerial Office, effective from 12 noon on Friday 11<sup>th</sup> October 2002.

Faithfully

Ian R. K. Paisley M.P., M.E.P., M.L.A.”

## EVENTS ON 4 OCTOBER 2002

**Mr Speaker:** I wish to advise the House how I propose to conduct the debate, to which two and a half hours have been allocated by the Business Committee. The mover of the motion will have 15 minutes to open and 10 minutes for the winding-up speech. All other Members will have seven minutes to speak.

I caution Members and remind them that, in criminal matters, the sub judice rule applies strictly from the moment a person is charged until the verdict and sentence have been announced. I mention that because it has clear relevance to the events described in the motion.

Members should also be aware that parliamentary privilege, covering what they say in the Chamber, applies to the law of defamation and not to other matters. It would not, for example, give Members protection in matters of contempt of court. I draw that to Members' attention.

**Rev Dr Ian Paisley:** I beg to move

That this Assembly expresses deep concern at the implications of events on Friday 4 October 2002.

I am glad that the debate is being broadcast on BBC2. Viewers will see the bareness of the seats and also hear at first hand what the argument should be. I want to put it on record that we are here to discuss a Democratic Unionist Party motion. When I came to the House on Monday, I thought that all parties would want to discuss the matter. However, Mr Speaker, it was only after meeting with you that we were able to get the Business Committee to agree to put the motion on the Order Paper. The people of Northern Ireland should know that this debate is on a motion that originated with the DUP. It is an urgent matter, and the Assembly would have no credibility whatever if, when everybody else was talking about it, we were not permitted to do so. I am glad that the debate is taking place.

Mr Speaker, I refer to the letter that I delivered to you, which you have just read to the House. We had contacted the leader of the Ulster Unionist Party and had already delivered a letter to you that would take effect when he and his Ministers resigned. We thought that all Unionists would have united in this matter no matter what their opinions are on other things, but Mr Trimble treated my letter with contempt. We then informed the public that we would act unilaterally, and that is what we have done.

I was amazed to hear the BBC correspondent, Mr Denis Murray, saying that the letter could be withdrawn before Friday. The only reason that the letter is dated for Friday is that the Ministers have to clear their offices and do some business that has to be done so as to leave the offices free for whoever else might occupy them. That scurrilous remark was made to try to blight the credibility of the party that I serve. Of course, we live in



a day of religious discrimination, and the BBC is a mastermind of that — I have said that to the head of the BBC in Belfast.

On 26 July, I met the Prime Minister of our country. I had some figures with me. I said “Prime Minister, you go around the country telling people that Ulster is a great place — far better since the agreement was signed, wonderful because of the so-called Good Friday Agreement. However, I will read some statistics to you. From 1995 to 1998, there were 430 shootings. From 1999 to 2002, under that peace process, there were 820 shootings. Again, from 1995 to 1998 there were 123 bombings, while from 1999 to 2002 there were 361. Please note those figures. From 1995 to 1998 there were 156 bombing devices, from 1999 to 2002 there were 699.” The Secretary of State had the cheek and the audacity to say that he did not accept those figures, but then I produced the police’s annual report.

Those were figures that he knew, and he made no protest. The Prime Minister, in fairness, told the Secretary of State that if those figures were right, then what he was saying around the country about things being better in Northern Ireland could not be true. I said that those figures were his, not ours.

Let us clear away the mists spread by those who want to tell us that everything is well in Northern Ireland — everything is not well in Northern Ireland. To all intents and purposes, there is no peace process; there is, rather, a war process.

I turn to IRA/Sinn Féin attendance as Ministers of the Executive of the Assembly — right in the heart of the Government. It is well known that the DUP has opposed that from the beginning and that our Members, who were entitled to do so, took their offices but did not attend one meeting of the Executive. Everyone knows that. What we said would happen has happened. We said that the IRA would continue to plan and carry out its acts of terror at will. Since the Belfast Agreement was signed, the IRA has updated its weapons and bombing techniques in Colombia. It has rearmed from Russia and Florida. It has targeted leading political, judicial, security, forensic and Loyalist figures, using updated intelligence files. The police have identified the IRA as the only major line of enquiry into the break-in at Special Branch Headquarters at Castlereagh. The IRA has murdered more than a dozen people since 1998 and has orchestrated violence in north and east Belfast.

Those are the facts. Then there is the uncovering of the fact that the IRA had access to documents, information and intelligence through people who were employed by Government. That access was used to give very sensitive intelligence material, which would put lives in danger, to IRA/Sinn Féin. That is a very serious matter — it could not be more serious. I have heard the police attacked, but

I have heard no attacks on the people who passed that information.

Recent arrests have proved that the authorities have information that they will bring before the courts. I am well aware of the sub judice laws; however, I am within my rights to say that because it was announced in the press. The security vetting of people in offices in this Building is absolutely ridiculous. A person came into this Building who had been employed by one of the Departments. This person had access to the documents of the Secretary of State and of the lady in charge of security in Northern Ireland. That person was caught red-handed, only to be shifted out of the office to another job in another Department. Think about it: a person was caught and, instead of being sacked, he was shifted to another Department. After that, he was shifted again to work in the office of a Sinn Féin Member.

2.15 pm

If that is not a blatant breach of the vetting system, I do not know what is. The Secretary of State should forthwith resign because, although he was told that a person had been caught red-handed printing documents, he allowed those documents to be passed on. That is a serious matter, which must be attended to. If it had happened across the water, there would have been a hue and cry for the Secretary of State’s political scalp. Here, however, it seems to be that, if one is connected to Sinn Féin, one is outside the rule of law.

In the past 12 months, the peace process has resulted in an 80% increase in violence. Shootings have trebled since the agreement was signed. Unsolved crimes have reached a new high. Only last week, the IRA shot a bus driver in Londonderry while he was conveying a group of pensioners. The IRA also beat up a young man in south Armagh, leaving him with injuries that doctors tell us are the worst that they have seen since the troubles began.

Those are the matters that concern the DUP. IRA/Sinn Féin has no right to be in the Government of Northern Ireland — it had no right from the beginning. However, Republicans have now proved that they are in this business for the day on which they think that they will make the last move and take over the Province. I have news for them. There may be a weak-kneed Government in Westminster, and the leader of the Ulster Unionist Party may be weak-kneed, but Ulster has people who are determined that the IRA will not win the war. They are determined that the IRA will not impose itself on our generation or on generations to come. Come what may, we are determined that we shall not tolerate in the Government of this country those who are allied to, and those who direct, Sinn Féin/IRA. And, to crown it all, Gerry Adams tells us that he was never a member of the IRA.

I think of the Prime Minister and the Leader of the Opposition, who both said publicly in the House of

Commons, and were joined in this by Mr Trimble, that those organisations are inextricably joined. If they are inextricably joined, they cannot be parted, yet the leader of the Ulster Unionist Party has told Members that he advised IRA members to join Sinn Féin. If those organisations are inextricably united, members of the IRA are already in Sinn Féin.

No half measures are needed now. We must realise that all the people who have been mentioned are at risk. After the break-in at Castlereagh, millions of pounds had to be spent on the special purchase of evacuated dwellings scheme to re-house the hundreds of people who had been put at risk. What about the 1,000 people who are now at risk?

Surely the time has come for Members to acknowledge that they recognise the gravity of the situation and declare on which side they are. My party is against the IRA's being in Government. It should be removed forthwith.

**Mr Nesbitt:** The Prime Minister said on the lunch-time news that the agreement is the only way forward. I represent my party as one who wished to work the agreement — it was the best way forward for Northern Ireland. The Prime Minister said that the agreement will work only if all of its parts are made to work. He then mentioned two aspects of the agreement that are often discussed: he said that on the one hand, there is equality and justice, but on the other, there is paramilitarism.

I am often told about equality. I am glad that Sinn Féin is present, because I looked its Members straight in the eye. Over the weekend I listened carefully to Sinn Féin accuse my party of being against the agreement, against equality, against change. Indeed, Martin McGuinness said on Friday evening that we were against having Catholics in Government. I totally reject all of that: none of that is true of my party.

As I said, the Prime Minister referred to equality earlier today. Sinn Féin often trumpets equality, but is it conscious of what the Irish Government and the United Kingdom Government have signed up to? Is it conscious — I see that no one from Sinn Féin is looking at me — of what the premier body, the Council of Europe, has clearly stated about groupings that do not feel at home in a particular country? That means Sinn Féin. Is Sinn Féin conscious of the cultural, linguistic, educational and religious rights advocated by the Council of Europe? Lest someone say that I must speak through the Chair, I am doing so, but that does not preclude me from looking at anyone. In speaking through the Chair while looking at a certain quarter, I say that none of those rights is debarred to anyone in Northern Ireland, be they Unionist, Nationalist, Republican or whatever. Their rights are protected and preserved; the United Kingdom Government have signed up to that. I advise people to study those rights carefully and then tell me that they are denied them.

When Sinn Féin repeats the word “against”, it is simply a smokescreen. I represent a party that wanted, and still wants, to work the agreement. We have been let down, and we have been let down big time.

**Mr Paisley Jnr:** You have been taken in big time.

**Mr Nesbitt:** I shall not countenance those comments at the moment.

**Mr Paisley Jnr:** That is because they are true.

**Mr Nesbitt:** The problem is simple. I live in a liberal democracy; I am a citizen of the European Union; and I expect the same principles and practices of democracy to abide in Northern Ireland as abide elsewhere in the democratic world. Let us not duck, weave, or prevaricate: let us stick to the simple point. The basic principle of democracy is that one cannot participate in Government while being linked with paramilitarism. Mr Ahern made that clear when he said that he would have nothing to do with Sinn Féin for as long as it was linked with paramilitarism.

Indeed, Mr Gerry Adams, President of Sinn Féin, was clear in Dublin some weeks ago when he said that

“The IRA is not merely an army of soldiers, it is also an army of political activists.”

There it is in one statement — in one breath: political activism and an army of soldiers. That is the clear, inextricable link between Sinn Féin and the IRA.

Many in the Chamber will remember a certain Jörg Haider from Austria. He merely said that Adolf Hitler had good employment practices. What happened to him? He was ostracised by the whole EU. To use the vernacular, he was “sent to Coventry”. Some people say to us that principles are different in Northern Ireland, that we have to allow for paramilitarism. I do not accept that.

I am told that our request for the Republican movement to put war behind it cannot be met. Not too long ago it was thought impossible to have Sinn Féin in Government. That “impossibility” was made a reality. Sinn Féin has been at the heart of Government.

**Several Members:** Shame, shame.

**Mr Nesbitt:** It is regrettable that supposedly fellow Unionists — and I emphasise the word “supposedly” — attack me when I am attacking in the right direction.

I understand I have seven minutes. Dr Paisley talks about the weak-kneed Ulster Unionist party leadership. I remind the House — *[Interruption]*.

Silence. I need the space, Mr Speaker. I remind the House — *[Interruption]*.

I shall sit down until I get silence.

**A Member:** Your time is up.

**Mr Speaker:** Order. I am afraid that the Member's time is up.

**Mr Nesbitt:** I have one word to say.

**Mr Speaker:** Order.

**Mr Nesbitt:** Smash Sinn Féin.

**Mr Speaker:** Order.

**Mr Nesbitt:** The Carson Trail.

**Mr Speaker:** The Member will resume his seat.

**Ms Rodgers:** The House should be rightly concerned about the implications of last Friday's events — just as it should be concerned about the implications of the recent Ulster Unionist Council motion, which severely dented Nationalist confidence in the Ulster Unionist leadership and its real commitment to the Good Friday Agreement. That motion was an attack on all of the institutions of the Good Friday Agreement and on the new beginning in policing. It was an attempt to reverse the important progress being made in that area.

I said at that time, and I repeat it now; the Nationalist community, having taken a leap of faith —

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

**Ms Rodgers:** No, I will not give way: I only have seven minutes. Having taken a leap of faith in David Trimble, despite its grave reservations about certain scenes on Garvaghy Road in 1995, the Nationalist community felt betrayed by that Ulster Unionist Council motion, which moved it into the anti-Good Friday Agreement camp.

Since last Friday's events, the anti-agreement Unionists have been rubbing their hands in glee. Nothing could have played more into their hands than to see the total collapse of confidence within the pro-agreement section of the Unionist community, coupled with the confusion and mistrust that now permeates the whole body politic — *[Interruption]*.

**Mr Speaker:** Order.

**Ms Rodgers:** This is a vastly different place to what it was 10 years ago. Yes, there are still problems. Yes, the Loyalist paramilitaries have continued to carry out murderous attacks on innocent Catholics in Larne, Carrickfergus, north Belfast, Coleraine, and everywhere else. That does not seem to have come under the notice of Dr Paisley — *[Interruption]*.

**Mr Speaker:** Order.

**Ms Rodgers:** Yes, sectarianism is still rife. Yes, people are being brutally beaten in south Armagh and in Derry, as happened recently. Despite that, progress has been made and is still being made, and we can build on that progress. The SDLP is genuinely concerned about the future. Its members are determined to live up to their responsibilities to the vast majority of people, North and South — *[Interruption]*.

**Mr Speaker:** Order. Members accept, and are accorded by others, the dignity and courtesy of being heard.

It is proper that they should expect that — is it also proper that they should reciprocate.

2.30 pm

**Ms Rodgers:** We are genuinely committed, and we are concerned about the future. We are determined to live up to our responsibilities to the vast majority of the people of this island who voted for the Good Friday Agreement. Others are jumping to conclusions that they wish, and need to arrive at, for their own destructive purposes. For them, the welfare of the ordinary citizen seems to be a matter of little concern. By the way, the retention of these institutions is a matter of no concern to them.

It was clear last year that these very institutions, which are now being brought down, were crucial for this country during the foot-and-mouth-disease crisis, when, together, we were able to ensure that we did not suffer the devastating consequences that Great Britain suffered. That was because these institutions were in place. I wish to make it very clear that, given the serious implications of the present situation, this is not the time for rushing to judgements or for kangaroo courts.

It is clear that some people in the House are more comfortable with the old certainties and bogeymen. That is not to say that it is not a time for asking serious questions. It is a time for honest answers. I have questions to ask Sinn Féin. Why were allegedly serious and sensitive documents found in the possession of a senior member of Sinn Féin? Can it come clean and respond to the rumours and speculation that are causing such confusion and consternation, especially in the Nationalist community? Was it spying on the British Government or the Irish Government, or on other parties in the House?

**Mr J Kelly:** On a point of order, Mr Speaker —

**Mr Speaker:** Do Members wish to continue and to hear the debate?

**Mr J Kelly:** Is it in order for the Minister to discuss matters that are sub judice?

**Mr Speaker:** I warned Members at the beginning of the debate. I warned them previously, and I warn them again. Members must understand. I hear the Minister suggesting that she asked a question. It was not merely a question. Neither the Minister nor anyone else can expect the protection of the Speaker in this regard because these are sub judice matters, which will be matters for the courts. I can do nothing but warn Members to be careful; they cannot expect my protection in matters that go outside the House. I do my best to give them good advice.

**Ms Rodgers:** Thank you, Mr Speaker. I am referring to matters that have been referred to in the press already, which are matters of speculation —



**Mr Speaker:** Order. The Member did not use the word “alleged”.

**Ms Rodgers:** I did use the word “alleged”. I specifically —

**Mr Speaker:** Order.

**Ms Rodgers:** Mr Speaker —

**Mr Speaker:** Order. I listened carefully to the Member, and on one significant occasion I believe that she did not use the word. Please continue. It will not be a matter for me.

**Ms Rodgers:** Mr Speaker, I said:

“Why were allegedly serious and sensitive documents found in the possession of a senior member of Sinn Féin?”

Why —

**Mr G Kelly:** On a point of order, Mr Speaker. The point remains the same, whether this has been alleged or otherwise. The Minister is asking questions, and making assumptions that documents were found in Denis Donaldson’s possession. She is making an assumption.

**Mr Speaker:** I sustain the Member’s point of order. It is not a question of whether they were allegedly serious and sensitive documents, it is that they were alleged to be found in someone’s possession. That is where the Member was wrong, and is wrong again, as Mr Kelly has pointed out. Please continue, Ms Rodgers.

**Ms Rodgers:** Can I say that the documents are alleged to have been found? I correct myself, and say that everything that I say is with regard to allegations. Allegations have been made, and they have created suspicion. I ask the British Government how much they knew — *[Interruption]*.

**Dr O’Hagan:** On a point of order, Mr Speaker. When the Member continually talks about alleged events, refers to the fact that those are in the public realm, and says that these events happened and that items were allegedly found, is she not making an assumption of guilt?

**Mr Speaker:** If the Member repeats allegations as allegations and is clear about that, it seems that she is unlikely to fall foul of sub judice rules, but is being extremely unwise. Previously when this matter arose, I said that wisdom was in driving as far away from the edge of a cliff, not driving as close as possible to it. In other Parliaments — for example, in the practice of the Canadian Parliament — the advice is to steer as far away from the question of sub judice, not to come as close to it as possible. I have given the best advice I can, and I have also indicated that in the end I can do little other. It seems exceptionally foolish for people to go where they have no need to go.

**Ms Rodgers:** I have been asking questions; I can make no assumptions because I do not know any of the facts.

I want to ask the British Government how much they knew. For how long have they known that information?

Why were the rest of us kept in the dark if they did know about it? We will put those questions to the Prime Minister tomorrow when we meet with him.

I want to say to the PSNI that the manner in which the search in Parliament Buildings was carried out was incomprehensible and inexcusable. It was at least refreshing to hear the Chief Constable apologise for that. However, there are still serious questions to be addressed. Who made the decision? Was the Chief Constable informed? Was the timing at such a sensitive point in the peace process a mere coincidence, or was there another agenda at work? Those questions all now need answers.

The implications of all these issues are serious. The question is what we do about it. I ask all parties to recognise, and to stop underplaying, the implications of their own actions. I ask Sinn Féin to address the many questions that may now arise and that must be answered to restore confidence across the board. I refer to the editorial yesterday in ‘The Irish News’, a paper that has been supportive of the peace process and encouraging to the steps that Sinn Féin had taken to move forward. I refer Sinn Féin to that editorial and ask it to pay attention to what it was being asked to do as the Republican movement to restore confidence.

I ask the Ulster Unionists to return to the Good Friday Agreement and to be receptive to any serious move that might be made to restore confidence. This agreement —

**Mr Speaker:** Order. The Member’s time is up.

Before calling the next Member, I wish to refresh Members’ memories of Standing Orders. The Standing Order on sub judice — Standing Order 68(1) — states that

“matters awaiting or under adjudication in all courts exercising a criminal jurisdiction and in courts martial should not be referred to:

(b) in debate”.

They should not be referred to in debate. That seems pretty clear. It is neither necessary nor appropriate, and it seems to me that it is in conflict with Standing Orders. I appeal to the House and all responsible Members to observe Standing Orders. They are rather clear. I do not see why people must test the limits of these things.

**Mr McCartney:** On a point of order, Mr Speaker. What you have read out is quite correct in so far as allegations, inferences or statements are made about named individuals who may be the subject of proceedings. *[Interruption]*. It does not include organisations or parties believed to be involved in that activity.

**Mr Speaker:** The Member is absolutely correct. Whoever’s mobile went off is also out of order. The Member is correct. The reason that I drew it to Members’ attention was because it is quite clear that there were references to a specific case and a specific person. However, the Member is correct about the generality. There is no reason for the debate not to take place on the generality.

If that had not been the case, I would have declared the motion not competent. I have permitted its competence because it is perfectly possible to conduct a debate on the generalities. That is the context in which it is couched.

**Mrs Nelis:** Go raibh maith agat, a Cheann Comhairle. I express my concerns at the events of the weekend, particularly the activities of the RUC/PSNI. As the Nationalist community has always believed, and as the weekend events have shown, there appears to be an acceptable level of Unionist terrorist violence — acceptable by the British Government and by those who scream the loudest in this Chamber about the IRA. In terms of the RUC — whatever its name — there is sufficient and overwhelming evidence of the cosy relationship between that organisation and Unionist terrorism, even to the point of dual membership.

We have been through this door before. Sinn Féin was excluded from this Chamber during the talks process, on the basis of security briefings and the advice of the Chief Constable and the arrest of three men. Those three men were stitched up to facilitate the UUP and DUP agenda. The media focused their attention on the arrest and the exclusion of Sinn Féin. Those men were accorded a trial by media, and the same thing is likely to happen to those arrested at the weekend.

When those three men were released nine months later without charge, the media in general were notable by their absence. There was no attempt to ask why those men were arrested. Was there a political agenda being worked out? In whose interest was it that those men were arrested? Indeed, in whose interests were the arrests at the weekend? With few exceptions, investigative journalism has died here. We now know that the arrests then were an attempt at the “save Dave” campaign.

We have seen the delight with which the RUC/PSNI raid Nationalist and Republican homes. Sledgehammers, guns and batons, instruments of brutality — *[Interruption]*.

**Mr Speaker:** Order.

**Mrs Nelis:** Those are the trademarks of the RUC, found guilty by every human rights association, by Amnesty International and Helsinki Watch, of torture and intimidation — *[Interruption]*.

**Mr Speaker:** Order.

**Mrs Nelis:** The RUC has not gone away. They may masquerade as the PSNI — the darling of the SDLP — but in reality they “are you see” the organisation that is the tool of Unionism.

Yesterday, members of this so-called new police service forced their way into the home of a prominent Fermanagh Republican, Kevin Lynch, at 6.30 am on the pretext of collecting an outstanding fine. They then brutally attacked this man and his pregnant wife in front of four very frightened children, and beat him into a

jeep. They refused to accept a settlement of the fine. It seems that they are taking their lead from the heavy-handed actions — *[Interruption]*.

**Mr Kennedy:** On a point of order, Mr Speaker. Was it clear in your mind, when the Member made that allegation, whether it was an allegation or, in fact, a statement about what happened to the Fermanagh Republican?

**Mr Speaker:** That is not, as far as I am aware, a matter against which charges have been preferred. Therefore, the previous point does not apply.

**Mrs Nelis:** Go raibh maith agat, a Cheann Comhairle. We all saw the heavy-handed actions of the RUC/PSNI raid of our party offices in this Building on television, and Denis Bradley, vice chairman of the Policing Board, went on television and on radio saying that that was not right. But was it right to sledgehammer in the door of a house of young mothers with two children at 4.30 in the morning? Was it right that she woke to see men in ski masks with guns standing over her bed? *[Interruption]*.

**Mr Speaker:**

Order.

**Mrs Nelis:** Is that right? Is Denis Bradley saying that that was right? Those who have given this unreconstructed police force political cover have to make important choices. Will they continue to back a clearly politically motivated police force that can brutally assault a father and terrorise a mother and children, raid homes, collude with Unionist terrorists, and cover the backs of the “no” camp in this Assembly?

One could clearly see — as Bríd Rodgers said — the glee on the faces of Unionist politicians as they lined up on public television to accuse Sinn Féin, and individuals who have not been convicted of anything, of violating democracy. What democracy are they talking about? *[Interruption]*.

2.45 pm

**Mr Speaker:** Order.

**Mrs Nelis:** What democracy are the RUC storm troopers who raided this Building talking about? Do Members have any understanding of the political ramifications of the RUC’s conduct? Its actions, in raiding our office, are more in keeping with Chile and the coup d’état that toppled Allende. The motion before the House expresses deep concerns. Have those Unionists, who will use the activities of the RUC/PSNI who raided our offices and arrested people in order to destroy the Assembly, any concept of what they are doing? *[Interruption]*.

**Mr Speaker:** Order.

**Mrs Nelis:** World opinion, notably of the raids, but also of the PSNI/RUC’s double standards and its

unwillingness to investigate the leaking of politically sensitive information — *[Interruption]*.

**Mr Speaker:** Order. If for no other reason than the welfare of the poor Lady's throat, will Members please listen, even to what they may not wish to hear.

**Mrs Nelis:** Go raibh maith agat. Let me look at other examples of politically sensitive information being leaked. Chris McGimpsey of the UUP revealed that an impeccable NIO source leaked to him a stolen document that detailed the sensitive talks between the British and Irish Governments. Security sources passed details of the policing report to the BBC —

**Mr Speaker:** Order.

**Mrs Nelis:** There was no investigation there. Details of the Police Ombudsman's inquiry into the Omagh bombing were leaked, but there was no investigation by the PSNI/RUC. The raids on our offices were a clear indication that political policing, whatever the police's name, has not gone away. That policing is directed at the destruction of the best attempt at peace on this island for more than 100 years. As a leading American has stated, there is no place in a democratic society for staged raids on the offices of a democratically elected party. Go raibh míle maith agat. *[Interruption]*.

**Mr Speaker:** Order. These matters have come before the House in a special sitting because they are matters of gravity. Clowning around is not the best way to deal with them. Some of the Members who jump quickly are perhaps finding that that applies to Colleagues. I ask the House to treat the matter seriously.

**Rev Dr Ian Paisley:** On a point of order, Mr Speaker. It should be pointed out that 50% of the new force belongs to the Roman Catholic faith. That needs to be put on the record as this debate is going out over the media. As for keeping one's temper when such slanders are being made against the police force —

**Mr Speaker:** Order. Dr Paisley will take his seat. He is aware that the point that he makes is not a point of order; therefore, I shall not rule on it. I am aware that some have grave feelings about what is happening. However, others are dealing with it with a degree of mirth and jollity that is inappropriate to the debate. I think the Member would not disagree with that.

**Mr Ford:** I was surprised by the wording of the motion, which, given the level of rhetoric in which the DUP has indulged over the past couple of days, seems to be remarkably bland. Alliance Members are concerned about actions, not only last Friday, but in the weeks and months preceding that day. I say that as a strong supporter of the agreement, which presented, and still presents, the best opportunity we have to promote peace and stability to build a liberal, pluralist non-sectarian society. Our concern is to protect and defend that agreement, and to ensure that it does not collapse.

The agreement's principal aim was to remove both the use and the threat of violence from our politics. Four years ago, people could accept that there was an imperfect peace. They could accept that in the context that we were moving in the right direction, towards normality, over time. However, it seems that what we have today is an imperfect peace which is getting worse; it is becoming more imperfect. That is not what people voted for four years ago.

I listened with interest to what Dr Paisley said in his opening remarks about his lecture to the Prime Minister at the end of July. It is a great pity that the Democratic Unionist Party has absented itself from discussions with other parties, because had Dr Paisley been at Hillsborough with the Taoiseach and the Prime Minister on 4 July, he would have heard me make exactly the same point — that the Prime Minister's bland assurances of matters being better than they were ten years ago are irrelevant. The question is: are things as people expected four years ago? No, matters are worse.

We cannot have a process where these uncomfortable truths are conveniently swept under the carpet for the sake of expediency and maintaining the process. People know what is going on, and they are not being fooled. Confidence is being drained away from the agreement. The lack of trust in the actions of Sinn Féin is not just a reaction to the arrests of last Friday. It is the culmination of a litany of activities over months and years. We have seen acts of violence — including murder by paramilitaries from both sides of the divide — sectarian attacks and the so-called punishment attacks on people from the perceived background of the perpetrators. We have seen an increase in organised crime, frequent riots in many sectarian interfaces and the ever-spreading flags and graffiti promoting illegal organisations.

Those matters should be of grave concern to the House, because so many of them have come from those who are ostensibly pro-agreement parties. But those who ought to know better than to allow other people not to live up their obligations have fudged and winked at them.

The Alliance Party, more than most, has tried to work to make the agreement come into place and to consolidate an inclusive process. It has been prepared to work to bring people into that inclusive process. The Alliance Party has attempted to encourage Republicans to engage in normal democratic politics, but it is not possible to overlook actions which are detrimental and destabilising to the process, wherever those actions come from. On the one hand Republicans seem to be trying to look forward, but on the other hand there is evidence on the streets that they are seeking to move backwards. They are clinging to the violent past, and they cannot have it both ways.

The Alliance Party has never been frightened to stand up and make difficult decisions for the sake of the process. It tabled indictments against the Ulster Unionist Party



and the Democratic Unionist Party in the post-Drumcree 1996 situation. It tabled indictments against the Ulster Democratic Party and Sinn Féin in early 1998 — when others conveniently ignored the opportunity — in order to improve the integrity of the talks and to give integrity to the process that made the agreement possible. That agreement would not have been possible without introducing a measure of integrity.

Aside from any judicial process, there is an ongoing political process that requires political judgements on our behalf. The agreement and the Northern Ireland Act 1998 provide a basis for exclusion from office of Ministers and parties that are not abiding by exclusively peaceful and democratic means. The Northern Ireland Act 1998 states that it is the duty and the responsibility of the Secretary of State to make determinations on the status of ceasefires and to table exclusion motions in the Assembly when the grounds are there to justify such a move.

In July 2002, Dr Reid publicly warned Sinn Féin about Republican involvement in violence and preparation for violence. That was the so-called yellow card. It was justified on the basis of information which was then in the public domain. Since Friday, more developments have come to light in the statements of the Secretary of State. If the Secretary of State now fails to act, confidence in the integrity of the process will drain away even further. If the Government do not table an exclusion motion, or if they do and it is unsuccessful, the only viable option that remains is to temporarily suspend the institutions, and that suspension must be treated as an opportunity for a review of the agreement to refine its structures and to restore trust and integrity to the process.

The review is envisaged in the agreement and in the Northern Ireland Act 1998. It is not the renegotiation demanded by those who have nothing to negotiate and nobody to negotiate with. It is a necessary correction to the workings in the context of the agreement.

The issue before the Assembly is whether anything can be done to save the institutions as they stand. It is time that Sinn Féin stopped listening to its own propaganda and started listening to the honest views of agreement supporters from across the community.

Republicans complain about the behaviour of Unionists, most notably since the Ulster Unionist Council meeting, and I share their concerns. Pro-agreement Ulster Unionist Party Members have failed to defend the agreement as they should have. They have run frightened of the Democratic Unionist Party, and they have run frightened of members of their own party. However, Republicans must also recognise that those who genuinely support the agreement, in spite of everything, have grave concerns about their actions over recent months.

It is not simply a matter of what may or may not have happened last week; it is about the ongoing violence. This is not about sectarianism, and it is not about not wanting Catholics in the Government. It is a real and genuine concern at a catalogue of continuing violence.

The collapse of the Assembly would dash our hopes for a generation; it would gravely threaten jobs, investment and the chance of better governance for Northern Ireland. If that is the threat that faces us, the least worst option is suspension and a review.

**Mr C Wilson:** At the outset, I should like to place on record the Northern Ireland Unionist Party's disgust at the betrayal by the Chief Constable yesterday in his comments about the gallant members of the Police Service who attempted to carry out instructions with regard to gathering intelligence.

The Chief Constable's behaviour and comments were in stark contrast to the behaviour of Mr Adams and leading members of Sinn Féin who stood behind their men and went to court to defend their actions; actions about which, no doubt, we will hear more. The Chief Constable is further undermining a Police Service that has already been demoralised because of attempts to appease and bring into the democratic process, and the Police Service, those who are still wed to the Armalite and the ballot box. Mr Orde should resign, as he has been weighed in the balances and found wanting.

**Mr J Kelly:** On a point of order, Mr Speaker. Is this debate about Hugh Orde or is it about the motion?

**Mr Speaker:** I have been pretty generous in the range that I have permitted in the debate, and I do not think that I should discriminate against Mr Wilson in that regard.

**Mr C Wilson:** We have heard plenty of bile directed against the Police Service by that representative of Sinn Féin. I congratulate the police for their behaviour and activity. Despite the comments of the Sinn Féin Member, the Catholic community has nothing to fear from the forces of law and order; the people who are murdering and carrying out punishment beatings against their co-religionists are in the Sinn Féin/IRA movement. No amount of mirrors and smoke will disguise that, even from those in the United States of America.

Mr Trimble is meeting the Prime Minister and the Secretary of State today about the events of 4 October. He has gone to seek assurances that sanctions and action will be taken against Sinn Féin/IRA. We know the answer that Mr Trimble will get, because the Secretary of State, with full knowledge of the activities of Sinn Féin and its intelligence gathering information service, made a statement in Blackpool. He directly addressed Sinn Féin/IRA saying:

"We believe that your leadership is committed to pursuing its aims for a united Ireland through democratic means."

That was an indication that despite the targeting, murdering and beatings carried out by its sister party, the IRA, the Secretary of State was prepared to turn a blind eye or to clean the slate for Sinn Féin — that, starting from now, it would have to behave itself.

That was the approach adopted by the British Prime Minister and this Administration. Even when he and the Secretary of State, through the intelligence services, must have been aware of gunrunning and the events in Columbia and that senior police officers were attributing murder on the streets to Sinn Féin/IRA, the Prime Minister was talking about the rugged integrity of Sinn Féin/IRA.

3.00 pm

He was prepared to turn a blind eye to, or even to acquiesce in, the worst behaviour of that terrorist organisation. I do not expect that such a slight misdemeanour, as far as he is concerned, will result in his bringing them to book.

I welcome the announcement that you made, Mr Speaker, about the post-dated resignation of Mr Peter Robinson and Mr Nigel Dodds. Dr Paisley said that this is not the time for half measures. It would be logical for the DUP and the UUP to withdraw their Members from the Executive Committees. After all, it would be an anomaly if Mr Robinson and Mr Dodds were to resign their ministerial posts yet remain subservient to the Sinn Féin Ministers of Education or Health or sit on Committees subservient to Sinn Féin Chairpersons.

**Mr Paisley Jnr:** On a point of order, Mr Speaker. Will you confirm that there are no Executive Committees? There is an Executive, which our Ministers have never been in, but there are no Executive Committees.

**Mr Speaker:** I am not aware of any Executive Committees. I had the sense that the Member might have been referring to Assembly Committees.

**Mr C Wilson:** I will make it clear that I mean Committees that make a contribution towards the work of the Ministers and the Departments.

I will move on quickly to the position — *[Interruption]*.

**Mr Speaker:** Order.

**Mr C Wilson:** We will see what the word is on the street.

In what may be the last debate in the Assembly, I want to make it clear that our principled opposition to the Belfast Agreement has been based on the fact that we are opposed to the wholesale release of terrorists onto the streets, putting terrorists into the Government and the latest spectacle of terrorists, and those related to them, being placed on the Policing Board and the district policing partnerships around the Province.

It will be a blessing for the Province and its people if the Assembly is brought speedily to an end, so that we

can set about the real task of putting in place a proper, accountable Government that is free from the scourge of terrorism. The British Government have sent a clear message, and no doubt the Prime Minister will send no further word of encouragement. It seems that in other parts of the UK there are normal means of putting democratic institutions in place, but there cannot be Government in Northern Ireland unless those who front and represent the armed forces of Republicanism are included.

The view of the majority of decent people, on all sides of the community — Catholic, Protestant, Unionist and Nationalist — is that they are not prepared to accept a Government that has in it those who are out to destroy the state and the stability of law and order on our streets.

I ask that the Assembly endorse the position that we reject Sinn Féin/IRA in the Government of Northern Ireland.

**Mr Agnew:** Like many of my Colleagues, I was concerned and surprised about the events of last week. One had to make up one's own mind about what was going on. I thought at first that it was some sort of political act to protect David Trimble from the men in grey suits, but it was not. Although there may have been some political considerations in the actions of the Chief Constable, one must accept that he acted on information.

Let us suppose that the Chief Constable had evidence that there had been a theft and that someone was in possession of confidential Government documents, that there were allegations and evidence to suggest that there were transcripts of telephone calls and minutes of sensitive meetings and that there was intelligence gathering. If there was evidence of moles and telephone tapping, the Chief Constable had a right to carry out an investigation. Of course, we have even heard allegations about MI5 briefing files on IRA and Loyalist terrorists. If the Chief Constable had circumstantial evidence, he was entitled to take the action that he did. Sinn Féin should know that being involved in the political process does not mean that it is not amenable to the law. The actions of some Members opposite seem to suggest that they feel that they are above the law because they are involved in a shoddy, political process.

One does not know how to put it, but we heard something of a rant about human rights and all the rest. What greater human right can anyone have than that to life? What about La Mon, Teebane, Darkley, Bloody Friday, Claudy and Omagh? One could go on; innocent people have lost their lives because of a murderous campaign launched by those associated with the Members opposite. No one should criticise the actions of the Police Service of Northern Ireland last week. The police had an obligation, a moral responsibility, to take the action that they did.

Last week's incident and the comments since it highlight the fact that Republicans generally have little or no commitment to the democratic process or to democratic principles. At the back of their minds is still the idea of the Armalite and the ballot box.

We hear talk of the problems at the community interfaces. Today we heard once again — and Mrs Rodgers touched on it — a very much one-sided criticism of what has been happening there. It is as if all the violence had come from Loyalist sources. Of course, those of us who have seen what has happened at many such interfaces at first hand know that the sinister hand of the Republican physical force tradition is very much evident. One need only look at events in the Short Strand. Five Protestants were shot, evidence that the physical force tradition is alive and well in the thinking of Provisional Sinn Féin. We cannot escape the fact that it operates from a dual platform, with the military on one hand and the political on the other.

I speak unashamedly as one who was opposed to the Belfast Agreement. However, if I had some sympathy or support for it, I would be saying to myself "Hold on. There seems to be a flaw in this agreement, for if someone misbehaves in the Executive, the whole thing collapses." Even those who are pro-agreement must recognise that that is a weakness in its structure. If one party defaults, everyone is tarred with the same brush, and the whole edifice collapses as a result. I do not say that as one who was in favour of the Belfast Agreement. I am merely making an observation.

In recent days, we have seen Sinn Féin protests at police stations and courts. Its members believe that when they are involved in politics, they should be above the law. They must learn the lesson that they are amenable to the law like anyone else. They have no right to intimidate the courts, this House or anyone else. If they do wrong, they should feel the full rigour of the law and accept their sentences, and that includes being thrown out of the Executive. This is not the first time that they have defaulted; many of these things have been going on for some time. They have been in default many times by their activities, particularly at community interfaces and particularly in the past year or so.

Finally, I have no difficulty in supporting the motion. The House should have faced up to Sinn Féin many months or years ago, because the threat of people who have been involved in violence is clear. It is a threat that they were born and brought up with. They have been indoctrinated. They will not change. A leopard does not change its spots. Neither does Sinn Féin.

**Ms McWilliams:** I share Mr Ford's concerns about the events of Friday, 4 October 2002. Although the Assembly has met to discuss what happened on that date, Members are clearly more concerned about the events that occurred beforehand.

The Women's Coalition has had serious reservations about the games that people have played with the agreement. Mr Speaker, you said that the debate is so serious that no Member should behave badly in the Chamber, or, indeed, outside it. It is possible that there was wrongdoing by both sides on Friday 4 October 2002, and in the events that took place before that date. That is a good question. The questions that people could ask go far beyond who sanctioned the raid and what was found.

Why do Republicans not move forward on the issue of policing, given that it is such a phenomenally important part of the agreement? Indeed, in the light of the events of last Friday, we might well ask how the support of the whole community can be won for policing. Why have leaks been coming in all directions except to us, the political parties, who generally find so much secrecy and lack of transparency? In fact, to find out whether we will be negotiating important issues of the agreement in the morning, it is better to pick up the newspapers than do what we all should have been doing from the start — talking to each other.

Why are punishment beatings still going on? Why is the antisocial behaviour that triggers them not being tackled in a legal and constructive way? Perhaps the most serious question of all is this: if parties are committed to peace and to the agreement, why have they not been in dialogue day and night, both in and out of crises? Why have they not brought their problems to the table rather than pretend that they are someone else's responsibility? Every day we hear that it is all John Reid's fault. Unionists say that he has not done enough. Republicans say that he has not done enough. John Reid says that if he hears that from both Unionists and Republicans he must be doing something right. He is entirely wrong. That is not my analysis of how to sort out a problem.

The Women's Coalition has continually called for the establishment of an implementation committee during the past three years. The easy part of the agreement was signing it; the hard part is implementing it. Therefore, like any other business project, those who are involved should ask each other what they must do to ensure that it works. That is the part that has failed. Some failed to take the implementation of the process seriously. They failed to come to the table. Now people are saying that it never would have worked. I believe that it never had a chance. If everyone knows what caused the breakdown of trust and the breakdown of the institutions, if they can say that they know what the problem is — *[Interruption]*.

**Mr Speaker:** If Members wish to have conversations, will they please have them outside? I am hearing conversations from all sides of the House. It is difficult at the Chair to hear the Member.

**Ms McWilliams:** If everyone knows what has caused the problem, surely everyone has a responsibility to put forward what is believed to be the solution. The



Assembly has the capacity to sort it out. So far, it has chosen not to. Hence, it has arrived at this state of affairs. The Women's Coalition believes that it is time that the Assembly had some political maturity, accepted responsibility for its own failures and stopped blaming people outside the Chamber for those failures. If it cannot sort the problem out, can it stop the press asking whether a rabbit is to be pulled out of a large hat?

When people are held accountable by society, it is through the legal process, at the ballot box, or by the institutions of Government. The legal process will work; the ballot box will work — and the sooner the better. Some people are saying that they will hold people accountable by pulling down the institutions — shame on those who decide that that has to be the way forward.

3.15 pm

Let us be honest: the Assembly and the agreement have not failed. It is the political parties in the Assembly who have failed to trust each other and be worthy of trust. They have been secretive and aloof and have only looked after their own interests. If a peace agreement is about anything, it is about looking after the interests of others as well as your own.

If the Assembly is plunged into limbo, either by resignations or suspension, we must be clear about what that means. The institutions will be disrupted, leaving a very dangerous political void. The only people who will clap their hands at that prospect are those who never wanted it to work and used very violent means to ensure that it did not.

This is not the end: this is the beginning of a new and difficult phase of the peace process. There is no question that, if we are political representatives and if politics is about the art of the possible, we must find a way out of this serious crisis.

Returning to direct rule or to the violent stalemate that existed before 1994 are not options, and no one here should consider them as such. If the future looks bleak, how much more bleak will it look if the ceasefires break down, if there is nothing to encourage paramilitaries to hold back, and if there is no framework for moving forward on policing and on how Northern Ireland is governed?

All of the Ministers, even those who will resign on Friday, did a good job. I am not in the Executive, and I have criticised them. However, they were proud of the job that they did. Why, to their shame, are they walking away from the Executive? The losers will not be the IRA or the security services or, indeed, the parties in the Chamber. We heard on the radio today who the losers are — we hear it every day. The losers are the ordinary citizens.

People from Arthritis Care came to lobby the Assembly today. Their physical pain was very obvious to us. They said "How can you possibly let this go? Whom will we

talk to in your absence?" If the British and Irish Governments take the decision to govern together, then we, as British and Irish citizens, will have handed over governance to them. If that happens, shame on us all.

**Mr McCartney:** A House divided cannot stand, nor can institutions that claim to be democratic coexist with the representatives of political terrorism. Democracy and terror cannot coexist, not even if the joint between them is greased with power, money and patronage.

It is claimed that Sinn Féin/IRA has an electoral mandate that must be recognised. I say "electoral mandate" rather than democratic mandate because no party — nay, not even a Government — can have a democratic mandate to do wrong, be violent, terrorise, murder and intimidate or ignore and violate the conventions of the democratic process.

Hitler's Nationalist Socialist Party had an electoral majority, but it had no democratic mandate to commit genocide. Henry Kissinger stated that the cost of appeasing Hitler was millions of graves across Europe. Mr Milosevic had an electoral mandate from a Serb majority, but he currently stands trial for crimes that no mandate could excuse. Pinochet had an electoral mandate, and Mugabe still has such a mandate. Sinn Féin/IRA has no mandate for terror, violence and murder.

The British Government, under the leadership of the one whom Sinn Féin describes as the "naïve idiot", stand indicted of moral and political cowardice. Like that other naïve idiot, his predecessor in office, Neville Chamberlain, who thought that he could do business with Herr Hitler, the present Prime Minister believed that Sinn Féin/IRA would behave in accordance with the principles of democratic government.

As Chamberlain sacrificed the Czechs to keep German bombs out of London and failed, so the current naïve idiot was prepared to sacrifice the democratic people of Northern Ireland — not just Unionists, but Nationalists as well — to keep IRA bombs off the mainland. To achieve that end, democratic principle and the rule of law have been sacrificed. Not only do these devolved institutions make a mockery of the true democratic process by withholding free elections, but they are a constitutional Taliban that provide not for change but for stagnation.

If Tony Blair is a naïve idiot, then David Trimble, Empey, Nesbitt et al, coupled with the media, the Archbishop, the church and government committee of the Presbyterian Church and some captains of industry, represent Lenin's "useful fools". Murder, mutilation, intimidation and destruction have all been dismissed as risks to peace. The most patent violations of ceasefires by all the paramilitaries have been held, in the round, not to be so.

As the last in a catalogue of terrorist activity, the events of last Friday have demonstrated that Sinn Féin/

IRA has no place in even this form of alleged democracy. The institutions, like the mule, have neither pride of ancestry nor any hope of posterity. The current violations are so invasive of the democratic process as to stick in the craw of even a British Government who have demonstrated their ability to swallow almost anything and a total inability to speak the truth or behave with a scintilla of moral integrity.

Let me make it clear that my views on terrorist representation are unqualified. They include the IRA, the UDA, the UVF, the UFF, the Real IRA and any other form of the IRA. If those views appear to concentrate on Sinn Féin/IRA, it is only because Sinn Féin is in office. I assure every Assembly Member that if the boot were on the other foot, and the PUP had sufficient electoral support to gain places in Government, I would make exactly the same speech. Terrorists of any hue or colour, be it orange, green or polka-dotted, have no place in a democratic Assembly. Perhaps the biggest indictment of the total falsity of Gerry and Martin's brave new world in which Unionists will be cherished equally is the vicious, vitriolic, prejudiced rant of Mary Nelis.

It is not open for Mr Dermot Nesbitt to speak with all the rage of a toothless sheep and threaten Sinn Féin with some sort of desperate gum bite. The truth is that his party stood with the representatives of Loyalism behind them — they were the power behind the throne. They are on record: their votes were used to put the First Minister in position. Nor is the SDLP free from shame. On 10 December 1998, the SDLP was invited to join in a motion to exclude Sinn Féin from Government, not permanently, but until such time as it showed a willingness to abide by the undertakings, not the sanctions, which it had given in spirit in the Belfast Agreement.

Just as honey came forth from the lion's mouth, it may be that something worthwhile will come out of the collapse of the Assembly and that we will be able to review the mistakes that have been made and set forth on a new path towards reconciliation, but a path too on which repentance and admittance to the democratic process depend on showing what Sinn Féin/IRA has not shown — a true spirit of conciliation.

**Mr Dodds:** I welcome this debate. Our party was absolutely right to stress the need to have such matters debated on the Floor of the Assembly, given that so many people in the community are rightly concerned at the meaning of last weekend's events and the implications for the political process in Northern Ireland. The events, particularly those of last Friday, were the latest manifestation of the reality of IRA/Sinn Féin's participation in the so-called "peace process". *[Interruption]*.

**Mr Speaker:** Order.

**Mr Dodds:** We have had a litany of events and allegations. There has been one illustration after another that IRA/Sinn Féin is not committed in any way to

exclusively peaceful and democratic means. The Florida gunrunning trial proved that the IRA was up to its neck in the importation of illegal weaponry.

Then there were the events in Colombia and the association of Sinn Féin/IRA with narco-terrorists. There was the break-in at Castlereagh, as well as the ongoing violence, referred to by other Members, on the streets of Belfast and elsewhere, in which the police have made it clear — and others know this for a fact — that Sinn Féin/IRA figures are heavily involved. Targets and hit lists of politicians and others on the mainland and here, drawn up by IRA/Sinn Féin, have been discovered. All of those demonstrate that IRA/Sinn Féin is not committed to exclusively democratic and peaceful means.

Sinn Féin is in denial. Gerry Adams even claims that he was never in the IRA. I listened to Martin McGuinness on the radio the other day, claiming that he did not even know if the IRA apparatus was still in existence. Sinn Féin will deny, lie, camouflage and prevaricate to cover up the truth that it is not committed to exclusively peaceful and democratic means — that it is, in effect, a criminal conspiracy.

That party is different from every other political party here and on this island because it is in Government at the same time as it retains an illegal terrorist organisation at its beck and call. That fact is recognised by the political parties in the Irish Republic, who said that they would not accept Sinn Féin under any circumstances in their Government, while demanding that we follow David Trimble's lead and put Sinn Féin into the Government of Northern Ireland.

We listened to the ranting and raving of Mary Nelis. We see Sinn Féin, from the unreconstructed to those who are up on charges, setting people up for murder and claiming that there is an overlap between membership of the police force and Loyalist terrorist organisations. That comment, from a party in Government, is scandalous and outrageous. *[Interruption]*.

The reaction of its Members shows that that hit home.

**Mr Speaker:** Order.

**Mr Dodds:** Remember that that party is in Government in part of the United Kingdom — a western democracy. In the Assembly, through its official spokespersons, it accuses the police force of having in its membership members of an illegal terrorist organisation. I hurl those scandalous and outrageous comments back in its teeth. Not a single shred of evidence has been produced. What about the clear evidence that exists among its rank and file of convicted IRA terrorists? Leading Members of the Assembly in the Sinn Féin ranks are leading members of the IRA army council.

There is no mention of the hypocrisy of that position from the likes of Mary Nelis. She knows all about what

is meant by people calling at the dead of night, rapping on doors and brutality. Mr Gerry Kelly, Mr Molloy, Mr Martin McGuinness and all the rest of them know what that means, since they know full well what it meant for many innocent people and families in this community. All their words about commitment to peace have been shown up for a sham and a hypocrisy. Mrs Nelis and others get themselves so worked up into a rant and a rage because they realise that the veneer has been stripped away and that people see them for what they really are.

3.30 pm

Mr Nesbitt referred to Jörg Haider, the need for the same principles to apply here as apply in the rest of the European Union, and the way in which Sinn Féin/IRA and paramilitarism cannot coexist with democratic Government. His tough talking does not disguise that those were the points that the DUP made when the UUP put Sinn Féin in the Government. To say now — *[Interruption]*.

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

**Mr Dodds:** No, I shall not. We have had more than enough information from Mr Nesbitt. Unfortunately, the actions of Mr Nesbitt, Mr Leslie and their Colleagues, including Mr Trimble, have done more damage to Unionism, the Province and democracy than anything else in our history. There they sit — the retired, the redundant, the deselected and the rejected. More people on those Benches are either retiring or have been deselected than are running again, which shows their commitment.

Having been warned that IRA/Sinn Féin was not committed to exclusively democratic and peaceful means, UUP members cannot deny that they put their names, signatures and support behind an agreement and strategy that placed IRA/Sinn Féin in the Government of Northern Ireland. To lecture Sinn Féin/IRA now, when previously they supported, aided and abetted them, will neither wash in the House nor with the people of Northern Ireland.

**Mr Leslie:** I join with other Members —

**Mr Speaker:** Order.

**Mr Leslie:** I join with other Members who welcomed the debate. I point out that my party supported its inclusion in the Order Paper because these matters are of enormous importance and must be debated in the House.

Anyone who has read the newspapers recently, watched the media coverage or listened to Mrs Nelis earlier can be in absolutely no doubt as to who is responsible for the predicament that we are in today. Apparently, responsibility lies with the Secretary of State, the Police Service, the Unionists — just about everyone, apart from the Republicans.

I am absolutely clear about one benefit that may come from the situation. If the confidential documents are

in such wide circulation, perhaps a few of them could be published. What their publication would make abundantly clear is the absolute, total commitment of the Ulster Unionist Party leadership to making the agreement work. In the light of the information that it had in its possession, Sinn Féin's degree of dissembling on the matter, and about our intentions, is quite extraordinary.

However, inevitably in such circumstances, Unionist support for the agreement has been tested almost to destruction. That is because the Republican movement has failed to fulfil its commitment to switch completely to the use of democratic and peaceful means. There was no doubt that that would be a momentous event, should it occur; and it was a major step to take, which is why we understood that it would take much time, determination and nurturing. We appear to have evidence now that we have not yet reached that point.

However, taking into account the future needs of the people of Northern Ireland, and the need to live in a society that is not dominated by Loyalist gangsters or Republican paramilitaries, we must continue to nurture the hope that we can eventually, if we all hold faith, get the Republican movement to understand that, if it wishes, it has a place in democracy. There is no need for it to continue with its terrorist ways, which, furthermore, are totally abhorred by the population. We must know soon whether the Republican movement is committed to its halfway house of tactical armed struggle or whether it really has a desire to change.

Mrs Nelis, in her bravura performance of implausible denial, and in common with others in recent weeks, said that Sinn Féin has denied that the Republican movement was involved in the Castlereagh break-in; it has denied that Republican activists in Colombia were anything other than innocent tourists; and now it denies that Republicans were involved in anything unusual in Castle Buildings. I am beginning to wonder whether Sinn Féin is still a Republican group if Republicans were not responsible for any of those things.

Sinn Féin gives us a smokescreen. It describes the supposedly nefarious activities of “securocrats”, but it would be more helpful for us to scrutinise the actions of the Sinn Féin “deniocrats”. When questioned on Radio Ulster this morning, Mr Martin McGuinness could think of nothing more that Republicans could have done to stabilise the peace process. Having watched Mr McGuinness over the years, I had no idea that he had so little imagination.

These people cannot accept responsibility for anything. It is interesting that this time the allegations are that Sinn Féin has been caught with its fingers in the cookie jar. Therefore, we do not have to go through the pantomime of hearing that this somehow is not Sinn Féin's fault, but the IRA's, or is somehow connected to other Republican organisations —

**Mr Speaker:** I caution the Member for what he said.



**Mr Leslie:** I note your caution, Mr Speaker. I point out that those were allegations, and I was referring to a cookie jar.

It is unfortunate that recent events have obscured other violent events in the Province in the past few weeks — for example, the appalling beating of Mr Raymond Kelly on 6 September in south Armagh, which he seems to believe has something to do with members of the IRA, and the beating and shooting of Mr McBrearty last weekend in the Creggan. That has caused outrage among those who live in the Creggan. If observers' accounts are to be believed, people with characteristics remarkably similar to those of some members of the IRA seem to have been involved. A reader of 'The Irish News' was moved to write to that paper on 4 October, saying:

"Years ago a generation marched for civil rights but today we have none because this gang can do what it likes without opposition. Anyone who ever marched for civil rights should now condemn what was done to this man, and they should rally to his family. Any politician who truly believes in democracy and opposes gang rule must condemn this atrocity and publicly offer their support to Danny McBrearty."

I should like to acknowledge Mr McBrearty's and Mrs McCloskey's courage in what they have said about recent events. We should salute their courage in doing that, because we all know how dangerous their words could be for them.

I do not excuse the constant squalid behaviour of Loyalist paramilitaries. There is little as obnoxious as an organisation that publicly proclaims that "their only crime was loyalty", while simultaneously indulging in drug dealing, extortion, and squalid, lethal turf wars. Ulster can do without such defenders.

People in this country want permanent peace — something that Republicans are never done telling us.

**Mr A Maginness:** It is obvious that there is a crisis of political confidence on both sides of the community. That is reflected not merely in Friday's events but in the events of the preceding weekend, particularly the Ulster Unionist Council meeting. That did not inspire confidence in the Nationalist community. Friday's events did not inspire confidence in the Unionist community or, I stress, in the Nationalist community.

Three questions arise from Friday's events — the first must be addressed to the Police Service of Northern Ireland; the second to the Northern Ireland Office, and the Secretary of State in particular; and the third to Sinn Féin.

The Chief Constable of the PSNI issued a statement in which he said:

"I regret the way it was done. You can take that as a general apology."

At least he has expressed regret about how the raid was carried out. Further explanations must be forthcoming to the Policing Board.

Questions must also be asked of the Northern Ireland Office. If the NIO was in possession of such information for so long, why did it not act on it? Leaving aside security information for the moment, what political information was involved? Were there reports about the position of the Irish Government, the DUP or the SDLP, leading up to the policing issue? We demand answers from the NIO, and we are entitled to them. Why did the NIO act when it did? The timing is of great concern, particularly to the Nationalist community.

The most important questions are for Sinn Féin, and it has not given any explanations or answers. Was Sinn Féin involved in any way in the events that led up to Friday's occurrences? The questions that we must ask are without prejudice to any of the individuals involved. Political rather than legal questions arise, and we are entitled to hear the answers from Sinn Féin today. Was Sinn Féin or the Republican movement involved? It must be remembered that it is one movement made up of two parts, and each part knows what is going on in that movement.

That brings me to an important issue — continuing paramilitarism in our society. I listened carefully to Mary Nelis as she ignored the elephant standing in her kitchen — the IRA. All Sinn Féin spokespersons ignore that elephant, yet it is there, and it does not seem to want to go away. Sinn Féin is in denial about it; it will not face up to the fact that paramilitarism corrodes the political process. Although Loyalists represent the gravest security threat to peace in Northern Ireland, the IRA represents the gravest threat to political stability in Northern Ireland. That is the reality, whether the IRA is involved in an active campaign or is quiescent but involved in something else on the fringes. Sinn Féin must come to terms with paramilitarism and the continued existence of the IRA.

As the editorial in 'The Irish News' of Monday 7 October 2002 stated

"Stand down the IRA once and for all."

That is the nub of the problem. If we are to restore credibility in Sinn Féin — and that is a matter for itself — and if we are to restore credibility and confidence in the political process, Sinn Féin must face that problem. It can no longer ignore it. Friday's crisis has brought the matter to a head.

We must all face up to that issue, and Sinn Féin, in particular, must face up to it. If it does not, the process of recreating confidence and of restoring the strength and vitality of the institutions will be lost. We have made enormous progress here, politically and economically, since devolution.

3.45 pm

**Mr J Kelly:** Will the Member give way?

**Mr A Maginness:** No, I shall not. I have only seven minutes.

Are we going to throw away the enormous progress that we have made? Sinn Féin has made an enormous contribution to that political progress through its membership, its chairmanship, and through its Ministers. Today, I welcomed Martin McGuinness's decision to abolish the 11-plus. Let that social and economic progress continue, but let us restore confidence and credibility to the institutions.

A major step forward would be for Sinn Féin and the Republican movement to come to terms with what 'The Irish News' rightly identified as a central problem — the continued existence of the IRA.

**Mr G Kelly:** Go raibh maith agat, a Cheann Comhairle. Here are a few facts. First, the death knell for the institutions was not sounded on Friday. It was sounded at the most recent Ulster Unionist Council conference. The raids, arrests and charges are a convenient, but transparent, cover for political leaders who are anti-agreement. They are a bogus excuse to take action that is aimed at wrecking the agreement and the peace process, which has been nurtured over 10 years.

Ian Paisley's DUP has always been against the agreement. Jeffrey Donaldson walked out of the negotiations on Good Friday, four years ago. He has been an implacable opponent of the agreement ever since, and has been promoting and gathering anti-agreement support in the UUP since that day. A few weeks ago, the UUP formally moved to become an anti-agreement party. In September, it issued a wreckers' charter, penned largely by Jeffrey Donaldson, which set out the stages of the timetable that it would adopt to wreck the institutions that the agreement established. David Trimble had already set out that scenario at the UUP's annual general meeting in March. Therefore, although Dermot Nesbitt read out a list of pro-agreement actions, all those are in the past. Now, he is anti-agreement, as is his party.

The wrecking of the institutions, regardless of the convoluted tactical moves and counter-moves involved, is a common objective of the DUP and the UUP. The relevance of the electoral battle between those two parties is not lost on anyone. Ian Paisley now calls the tune. The political battle is being fought entirely on anti-agreement territory. Anti-agreement forces will win out; David Trimble cannot out-Paisley Ian Paisley.

I am saddened by the Alliance Party's taking the same route, also for electoral reasons. That indicates the exclusively Unionist base from which it draws its vote. Nevertheless, it is sad to see the Alliance Party join the clamour of the UUP and the DUP in demanding that the agreement be set aside and that the wishes of the electorate be ignored.

I turn to the invasion of the Assembly and the bogus raid on the Sinn Féin offices. That was a direct political intervention by the PSNI into the political situation. It was political theatre. Two discs were stolen at random from dozens of desks to give pretence to a raid in order to spuriously justify the action, and that has rebounded on police. I have with me what was taken — a disc and a CD-ROM.

**Mr P Robinson:** On a point of order, Mr Speaker. Is it in order, given that the PSNI entered the Building with a warrant and took away items for its investigations, for any Member of the Assembly to charge those police officers with theft? The search was perfectly in order, and it could not be considered to be theft.

**Mr Speaker:** What the Member says is self-evidently the case.

**Mr J Kelly:** On a point of order, Mr Speaker. Is it not a fact that the police were not in possession of a warrant when they entered the Building?

**Mr Speaker:** It would be ill-advised for anyone to go into precise times, arrangements and matters that are sub judice.

**Mr G Kelly:** Let me be clear that the discs were taken — stolen or otherwise, depending on which word people wish to use. One of the discs is a canvassing plan for an election strategy, so we shall probably see it in the papers very soon. After taking those, Hugh Orde's words about the manner in which that was done cut no ice. Like the RUC, the PSNI is operating to a Unionist agenda. It proves that there was no reason for the invasion of our offices except to make a political point. The two discs were taken so that the police could publicly later show them and say that that was the reason for the invasion.

**Mr Molloy:** Does the Member agree that it is the Ulster Unionist Party that has a case to answer in relation to leaked documents? It is now the employer of Alastair Patterson, the former deputy returning officer for Fermanagh and South Tyrone, who was suspended from his job for leaking documents to the Ulster Unionist Party. He is now working with the Ulster Unionist Party as its electoral officer.

**Mr G Kelly:** I thank the Member for that point. Like his predecessors, Hugh Orde will defend the PSNI, whether it is right or wrong. That is the inevitable first step of the corruption of the head of a police force that continues to have a political agenda. That is one reason among others why the PSNI remains unacceptable. Some people have correctly spoken out about this. Others have been more concerned about imagery and the further damage that that would do to the PSNI and to those who have wrongly stuck their necks out to support it. Few voices have been raised to declare how unacceptable the invasion of an elected Assembly by a

partisan police force is. That in itself was politically partisan. Those who remain willing to allow a police force to commit these unacceptable abuses without criticism may in future find themselves the victims of the same abusers. They are short-sighted indeed.

A great deal of hypocrisy and cant surround the issue of leaks. There is a great deal of bogus outrage, all to serve the wreckers' agenda of the DUP and the UUP. British Government agencies, the RUC, RUC Special Branch, the UDR and members of the British Army regularly handed over montages of photographs by the wheelbarrowful to Unionist paramilitaries. That process and policy of collusion resulted in the deaths of hundreds of members of the Nationalist community.

Douglas Hogg, that central figure in the events leading up to the killing of human rights lawyer, Pat Finucane, was briefed by the most senior levels of the RUC and the RUC Special Branch before uttering his comments that some lawyers were too close to the IRA. That became the prelude to Pat Finucane's killing.

I also remind the Assembly that on 27 January 1999, Ian Paisley claimed, under parliamentary privilege, that a list of 22 people whom he named as IRA members had been supplied to him by the RUC. There was no investigation into that. Personnel in the NIO leaked the Garvaghy Road game plan in 1997 to embarrass Mo Mowlam. There was no investigation into that.

As Mary Nelis has already stated, on 4 May 2000, Chris McGimpsey produced another document from what he described as an "impeccable" NIO source. There was no investigation into that. On 26 July 2001, security sources passed details of a policing report to the BBC. There was no investigation into that. On 8 December 2001, details were leaked of the Ombudsman's inquiry into the Omagh bombing. There was no investigation into that.

Those leaks continued time and again. My time to speak is running out. I note that the SDLP is taking up the Unionist position in asking a series of questions of Sinn Féin. Alban Maginness, a Member for North Belfast, at no time mentioned the attacks by Loyalism on his constituency.

**Mr A Maginness:** On a point of order, Mr Speaker. I said that Loyalists are the gravest threat to peace and security in Northern Ireland. I further mentioned that at the same time the IRA is the gravest threat to political stability in Northern Ireland.

**Mr G Kelly:** Perhaps the Member has seen too many elephants in the kitchen.

**Mr Morrow:** I welcome the debate. I just wonder why it has taken so long to bring it about. When one looks at the circumstances that have prevailed over the past couple of years, I suspect that we would have been at this position long ago had it not been for some parties

in the House deciding to turn a Nelson's eye to events that have been happening all around us.

When the Belfast Agreement was signed, we were told in clear and unambiguous terms that it would be the beginning of a new era. Transparency would be the order of the day, and everyone would understand exactly what was going on. Certainly, some things were transparent. The destruction of the RUC had to be transparent; bringing Sinn Féin/IRA into the Government had to be transparent; and the setting up of the all-powerful, all-Ireland bodies had to be transparent. Those matters had to be seen and understood by everybody.

However, one thing did not have to be transparent, and that was decommissioning. When it came to decommissioning, not only could the Prime Minister not tell us what happened, but the closest that General de Chastelain could come to an answer was to say that "an event took place". That was the only answer he could give. We have to assume that the event was a non-event and that, in fact, the Provos are better armed and equipped today, than when they first started off.

It is amazing what has been said not only here today, but in the weeks and months that have gone before. One wonders why we have had to wait until today to bring the charges that have been brought, when we hear some of the things that have been said. Let us see what has been said over those months.

In April, Mr David Trimble told the 'News Letter' that the Provo killers were still at work. Yet he stayed in Government with the Provos. In the House, on 29 April 2002, he said:

"We must acknowledge that there have been serious breaches of the IRA ceasefire". — [*Official Report, Bound Volume 16, p34*].

However, it was not enough for him to sign an exclusion motion to put the Provos out of Government.

Speaking on the BBC on 30 April, Mark Durkan said that the IRA remained active, yet that was not enough for the SDLP to put the Provos out of Government. It would not have been politically expedient for him to do that. However, he will find that if the election is called, the Provos will put him out very soon.

Speaking on the BBC on 17 June, the Assistant Chief Constable said:

"Certainly in terms of the street disorder on the Republican side, we have seen large numbers of members of the IRA, many of them from inside the area, in the area. We believe that they are involved in organising the violence".

We then had another quote:

"What is true is that intelligence, evidence and information exists to show that all paramilitaries had been involved in orchestrating or organising such violence at various stages."



The Secretary of State said that in the House of Commons during Northern Ireland Question Time on 12 June 2002.

I listened intently to Monica McWilliams. She posed a very important question. She asked what happens if the ceasefires break down. At that point I asked myself where Ms McWilliams had been living for the past couple of years. I would have thought that clear evidence was all around us that the ceasefire had broken down.

Let us look at what has been happening. There is the trial in Colombia of three IRA suspects accused of training and passing on bomb-making techniques to the FARC guerrillas. If found guilty, Connolly, Monaghan and McCauley could face a minimum of 15 years in jail. At first they were just innocent sightseers.

**A Member:** They did not even know them at first.

**Mr Morrow:** Exactly. They did not even know where they came from. However, they had to admit that they did know them.

**Mr G Kelly:** On a point of order, Mr Speaker. You made a ruling earlier about issues that were sub judice. While this is outside — *[Interruption]*.

**Mr Speaker:** Order.

**Mr G Kelly:** Thank you, Dr Ian.

While this is outside the jurisdiction, I do think that it is in order to do the same here. It is an abuse.

**Mr Speaker:** I have previously pointed out that sub judice applies within a jurisdiction, and I gave definitions of what the jurisdiction was. While in some cases people might be doubtful, there is fair agreement that Colombia is sufficiently outside this jurisdiction.

4.00 pm

**Mr Morrow:** Mary Nelis, in her typical rant, had a lot to say. However, I notice that she forgot to mention something that happened in her home city. In Londonderry, a bus driver is recovering in hospital after being shot and beaten while driving a group of pensioners through the Nationalist Creggan area last Sunday. The Assistant Chief Constable has confirmed that the Provisional IRA was responsible for the shooting. I suspect that Mrs Nelis did not hear about that. Well, she is hearing about it now, and I hope that she takes cognisance of it.

The IRA has been accused of carrying out a brutal attack on a south Armagh student who has sustained injuries that have been described by doctors as the worst they ever saw throughout the troubles. Again, the Provos are not guilty. The police in Belfast have confirmed that the IRA is behind the violence in east Belfast that has been festering for months. The Provos and Sinn Féin know absolutely nothing about that either. You would think that an angelic host was guiding Sinn Féin. Its members sit in here with pious looks on their faces as if

they were the epitome of innocence, but all the time, its sinister, dirty, grubby little hand has been in every act of destruction that has gone on in this country.

New evidence emerged on Thursday 3 October to strengthen police claims that the IRA was responsible for the March break-in at Special Branch headquarters in Castlereagh. In September, members of Sinn Féin youth attacked a police station in Lurgan, County Armagh. No doubt Sinn Féin did not hear about that either. The IRA murdered William Morgan by deliberately running him down with a car —

**Mr Speaker:** Order.

**Dr O'Hagan:** On a point of order, Mr Speaker. Erroneous comments have been made about an attack on a police station in Lurgan, County Armagh. That issue has come up before. There was no such attack on the police station in Lurgan.

**Mr Speaker:** The burden on the Chair is already substantial, Dr O'Hagan, without its having to determine the factual accuracy of what some Members say. I do my best, but you are asking me to go further than I possibly can. The point of order is on the record.

**Mr Morrow:** I shall bring you my own town of Dungannon, where the biggest embarrassment yet for the Provos is that Barney McDonald, a taxi driver, was lured to pick up a fare in Donaghmore. What happened to him? He was done to death. The Provos have been conspicuous by their silence in their condemnation of that murder. The McDonald family still ask today why the Provos will not admit their involvement and why Sinn Féin has been silent about it.

In April, an IRA hit list was found in Belfast, and proof that the IRA had been —

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

**Dr Birnie:** This is truly a defining moment in our political process. Over the past four years the democrats in our society have been waiting for evidence that those who have in the past been inextricably linked to violence have clearly broken that link. Today members of my party have been criticised from two sides: those who think we have waited too long to collect such evidence, and those who think we should wait a little longer. I believe that we have got the balance right.

Sadly, the evidence is mounting that the change so far has been insufficient. The list of events is as familiar as it is dismal: Florida, Castlereagh, Colombia, street agitation in the city, continued targeting and horrific shootings and beatings. In many of those indicators, things are worse now than they were some years ago.

In saying all that, my party is not being soft on the Loyalist variant of terrorism. It utterly condemns all attacks on the innocent and what may be the development of a sordid feud within Loyalism, which has

continued to take lives in recent days. Although the difference between the IRA and the LVF is not a moral one, it is of a political nature. Unlike the latter, the IRA is inextricably linked to a party in Government here. That is why the Ulster Unionist Party now focuses on the IRA, but that is not to ignore the wrong that is ongoing with regard to Loyalist violence.

Sadly, there is much denial about the true source of instability in the political process, and Members have seen much of that denial today. The true source is paramilitary activity. We saw one example of denial from a Fianna Fáil senator, Dr Martin Mansergh, in Dublin yesterday. He likened the events of 4 October, which the House is supposed to be discussing today, to some of the activities of the thugs in Mugabe's Zimbabwe. That is a ridiculous and hypocritical comparison, because democrats in Northern Ireland have been forced to endure from Sinn Féin and the Republican movement a type of behaviour that Governments in Dublin have said they would not put up with.

**Mr Hussey:** My Friend will realise that there have been motions from my right and from the Ulster Unionist Party to try to exclude unreconstructed terrorists. Alban Maginness referred to the elephant in the kitchen. Does Dr Birnie agree that Nationalists, represented by the SDLP, must consider their lack of contribution to any effort by other constitutional parties to remove these unreconstructed terrorists from the Government? That is the SDLP's problem, and one that it must address.

**Dr Birnie:** All democrats have a joint responsibility to construct a form of Government here that is solidly based and can endure. The Blair Government, the London Government, must act, because Number 10 retains powers over law and order. The British Government are responsible for law and order in Northern Ireland — even if they do not want to be. The Prime Minister's anxiety to contest terrorism internationally, be it in Afghanistan or, perhaps, Iraq in the future, will be the rule of consistency against which we measure his actions here on terrorism and law-breaking in this part of the United Kingdom.

Now is the moment of truth. It is up to the paramilitaries to disband; it will take no less than that. Republican rhetoric often focuses on their mandate from the people of Ireland, and that is usually historically based, going back, for instance, to the 1918 election in Ireland. However, there have been more up-to-date tests of opinion, most notably the vote in 1998 for the agreement in both Northern Ireland and the Republic of Ireland, which clearly endorsed an end to paramilitarism. As suggested by 'The Irish News' in its editorial yesterday, there should be disbandment of all paramilitaries, and, as the Irish Prime Minister, Bertie Ahern, said in February, there can be only one army and one system of justice in any one state.

**Mr Durkan:** The Assembly meets today, not for the first time, in a state of concern, confusion, and pending disarray as it faces possible resignations, talk of suspension and dissolution, et cetera. We represent the entire community. Whatever doubts and difficulties surround us and the process in which we are involved, by working here together we have been able to do good work on behalf of the public. Good work has been done in the Executive, the Assembly, Committees, the North/South Ministerial Council and the British-Irish Council.

All that good work is jeopardised by the various suggestions about collapsing the institutions and arrangements. Members have been able to do their good work on the basis of certain working levels of trust, expectations and understandings that have not only been sourced from the agreement but also from the discussions and negotiations that led to the agreement and that took place when there were difficulties in its implementation.

I was listening to the debate on the radio as I travelled from Dublin. There was much talk about distrust and very little talk about trust. Many Members have doubts and questions based on the events of last Friday and based on stories that have been pouring through the media since then. Some people have doubts and questions about the police operation on these premises, never mind doubts about wider activities. The SDLP expressed its concerns and criticisms directly to the Chief Constable, and he was clear, direct and professional enough to state publicly that he regarded the performance here on Friday as being somewhat inappropriate.

There are also doubts about the British Government's handling of the situation, if we are to believe the stories in the papers that seem to be coming from sources close to the NIO. How much did they know? When did they know it? Did they have reason to believe that something serious was afoot, but, for reasons of expediency, did nothing, and now, for different reasons of expediency, have decided to do something about it? Those are some of our suspicions and concerns. People who previously did not want to rock the boat may have decided that it is now time to scare the horses with something. We simply do not know.

There are fundamental concerns about whether Sinn Féin or the wider Republican movement or a paramilitary element were involved in an extensive, systematic exercise to purloin information and to intercept political or other intelligence information. Republicans, Nationalists and Unionists have concerns and suspicions, though they may express them in different ways. It may be a case of everyone advertising his prejudices in this situation, but, in all the finger-pointing, speculation and counter-accusation of the past few days, let none of us get away from the fact that the concerns and suspicions are not entirely unexpected or invalid, given our experiences throughout the process and also given our experiences with each other.

We must therefore brace ourselves for a crash and prepare for the latest stage of the blame game. We must not gloat at the crash, as some anti-agreement people are clearly preparing to do. We must prepare ourselves for the task of ensuring that we preserve the democratic hopes and expectations that attach to the Assembly.

The agreement set up new arrangements and created new guarantees and protections for both Unionists and Nationalists. The agreement is a covenant of honour between Unionism and Nationalism, and the protections and equality that it affords stand now and for the future, regardless of what the constitutional status of Northern Ireland might be.

Whatever happens in the next few days — and I do not want anyone to do anything that cannot be undone — the agreement remains the only agenda for many of us. Its principles, models, protections and commitments remain the agenda. If we are going to restore democratic potential and hope and get back to the prospect of dealing with the cultural, environmental, social and economic issues that we, as an Assembly, have been grappling with, it will be through the model of this agreement.

4.15 pm

That is not to say that, in restoring the agreement, we do not all have to look for deep answers to the questions of the last few days. We do not know enough to do what some people want — to exclude Members. I know what the accusations are; we have heard many stories and much speculation. However, we do not have facts or material evidence. We do not know what other people claim to know, and this is not the time to plunge democracy into the unknown.

**Mr M McGuinness:** I have just returned from visiting a primary school in one of the most socially deprived areas of Belfast. The teachers, parents and children who greeted me there were absolutely delighted that I announced this morning that the 11-plus is to be abolished. I was conscious that this morning's debate took place against the backdrop of a seriously crisis-ridden political situation with the Democratic Unionist and Ulster Unionist Parties vying with one another in their threats to withdraw from the institutions.

I was struck by the reality that many children in the state depend on all the Members. I do not exclude the DUP or the other rejectionist Unionists. The children depend on all of us to make the proper decisions to enable us to provide a first-class, modern education system — *[Interruption]*.

**Mr Speaker:** Order.

**Mr M McGuinness:** — and we should not lose sight of that. Not only are we responsible for their education; we are responsible for their entire future. We have a responsibility to ensure that the political process works, that it deals with the causes of conflict, removes them and ensures that political leaders move forward together.

I am one of those people from the Republican tradition who want to work with the Rev Dr Ian Paisley, Robert McCartney, the Ulster Unionists, the SDLP and the other parties in the Assembly to make the place where we live a better place. That journey has undoubtedly been difficult for everyone. The process is imperfect, and the peace on our streets is imperfect, but the place we are in today is far better than it was 10 years ago. If we only work at the process, in 10 years from now it will be an even better place.

The debate has been dominated by the events of last Friday when the PSNI raided the Sinn Féin offices in this Building. Did it do that for two disks? I am holding the two disks, which were returned to Sinn Féin by lawyers 30 minutes ago. Obviously, there is nothing on them.

Serious questions have been asked about why that raid was authorised. Behind the almost ludicrous situation — and Mr Hugh Orde apologised yesterday for the way in which the raid was conducted — lies an implicit question about whether he was aware that the raid was going to take place. It also begs questions about what was going on last Friday and what agenda was at play.

If Members examine the way in which the process has moved forward, and the way in which policing has not moved forward in line with the full terms of the Good Friday Agreement, they will not be able to escape the reality that the old RUC vanguard is still in the PSNI with its own agenda. It has been working flat out to undermine the Republican contribution to the peace process — *[Interruption]*.

**Mr Speaker:** Order.

**Mr M McGuinness:** Why does it do that? It does it because it cannot accept the type of change that has come about thus far. It does it because it cannot face up to the reality that more change is required. Legislative amendments are required to bring policing legislation into line with the Patten Report to deliver the fully accountable and representative policing service that this community needs.

If anything proves our case, quite apart from all our submissions, it is the events of last Friday. They show that we still do not have the accountable and representative policing service that we deserve. We should also face up to a further analysis: those represented by such people as Alan McQuillan cannot abide the type of political change that has taken place through the Good Friday Agreement. They sympathise with and are loyal to rejectionist Unionists, and they are beavering away continuously to undermine the Good Friday Agreement.

**Mr Paisley Jnr:** Is it in order for a commander in the IRA to target Alan McQuillan, the Assistant Chief Constable of the PSNI, as he has done in this debate?

**Mr Speaker:** The Member is not raising a point of procedural order in what he is saying.



**Mr M McGuinness:** Of course, that brings us to the heart of the present difficulties. The reason that we are in difficulty today is the Ulster Unionist Council meeting of two weeks ago. At that meeting, the Ulster Unionist Council effectively slipped into anti-agreement mode at the behest of Jeffrey Donaldson, David Burnside and those rejectionist forces that cannot abide equality. Mr Donaldson's mentor is Lord Molyneux. I often recall his very significant words, hours after the first IRA cessation in 1994, when he described it as the most destabilising event since partition. I also remember how Willie Ross, probably one of the most honest rejectionists on the Ulster Unionist side, was asked why he did not like the Good Friday Agreement. He said very clearly on television that it was because Unionists were in the majority and he believed that the majority should rule. He said that he was opposed to power sharing and all-Ireland institutions. Now we have seen — and I take no satisfaction whatsoever from it —

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

**Mr M McGuinness:** I cannot give way; I do not have the time. It saddens me to see the leadership of the Ulster Unionist Party effectively throwing in its lot with the rejectionists, vying with one another to see who can get out of these institutions the quickest. That is a betrayal of our children. It is political cowardice of the worst kind.

**Mr Hussey:** On a point of order, Mr Speaker.

**Mr Speaker:** Order. I shall take points of order in a moment.

**Mr M McGuinness:** Of course, those people —

**Mr Speaker:** I am afraid the Member's time is up. I shall take the point of order.

**Mr Hussey:** Can you confirm that this Assembly is constituted under the Belfast Agreement, which is dependent on the Mitchell principles, and that if a party fails to adhere to those principles, the agreement and the party's presence in this Assembly are in question?

**Mr Speaker:** I am afraid that I cannot oblige the Member in what he says precisely. The Assembly is constituted on Acts of the Westminster Parliament which clearly identify how the matter to which he refers — that of the exclusion of a party which does not enjoy confidence — can be dealt with. I believe it is in section 30 of the Northern Ireland Act 1998.

**Mr P Robinson:** The events of Friday last were, objectively speaking, not the most significant of the past four years. Even if the charges made in this case were proven and sustained, it would be clear that much more significant events have taken place in this process over that time.

No one could say that Friday's events were more significant than the IRA's murder of 13 people during its so-called ceasefire. No one could say that they were

more significant than the shooting of 160 people during its ceasefire. Nor could anyone say that they were more significant than the paramilitary beatings of 250 people during its ceasefire. Nor could anyone say that they were more significant than the IRA's gunrunning from Florida, for which its members were found guilty in the courts. Nor could anyone say that they were more significant than training narco-terrorists in Colombia. Nor could anyone say that they were more significant than breaking into the Special Branch headquarters in Castlereagh. Nor, indeed, were they more significant than their attempts to cause difficulty along the interfaces in Belfast and the shooting of five of my constituents in the Cluan Place area. They were all major events. Therefore, while it is significant, it is in line with many previous events.

Friday was the straw that broke the camel's back, and it was a reality check for many people. Perhaps it is the imminence of an election that brought fear into the UUP and a recognition that it must do something different.

I want to respond to some of the points raised in the debate. The SDLP's position is one of pious hypocrisy. Its members stand up with lily-white hands and attempt to blame everyone inside and outside the Chamber for the difficulties that now attend the peace process. Throughout the process they had the power to deal with those who were inextricably linked to violence, but they did not. They had the opportunity to sign and support an exclusion motion, but they did not take it. How many people had to be killed by the IRA before members of the SDLP would act? They never had the guts to take on the Provisional IRA's representatives in the House. They need not come before the House now and cry crocodile tears over the breakdown of the institutions. They had the power to do something about it but were silent. It ill-becomes the leader of the SDLP to lecture the House and tell it that there will be no agenda other than the failed agenda that is going down the tubes. The people will decide what the agenda is. The days of dealing with pushover Unionists are past. In future, Unionists will be of firmer stock.

The venom that dripped from the lips of the now absent Mary Nelis during her rant only demonstrated that she is politically incontinent. She said that documents are leaked everywhere — a point taken up by the MLA for North Belfast, Gerry Kelly. They suggested that because documents are leaked here, there, and everywhere, that is just as bad as running a spy network at the heart of the Government and stealing Government documents. There is no equating the two. Parliamentarians throughout the world receive leaked documents. They do not, however, set up a spy network to get them. Indeed, none of the documents involved was being put into the public arena. They were listening to what was being said in Government circles and using that information to plan strategies that gave them a distinct advantage in negotiations.

The best that the Alliance Party could do was blame the DUP for moving a motion that was “too bland” — the harshest insult my party received during the debate.

Mr McCartney pointed out that the IRA had used the code name “naïve idiot” during its spying on the Northern Ireland Office to describe the Prime Minister of the United Kingdom, Tony Blair.

The Assembly has its own naïve idiots. One of them stood up and admitted to that during the debate. Mr Nesbitt said that his party considered the Belfast Agreement to be

“the best way forward for Northern Ireland”.

He went on to say:

“We have been let down”.

With tears welling up his eyes he continued:

“we have been let down big time”.

The members of the UUP trusted the IRA and the Prime Minister and his pledges — that is why they were let down. Every politician has the responsibility to make a political judgement before he or she enters into any agreement. The political judgement that UUP members made will be the one that stands over them, and it is the one that they will have to answer for at the polls.

The political judgement that the UUP made was that the IRA could be trusted. The political judgment that the UUP made was that Tony Blair could be trusted. Mr Nesbitt said:

“We have been let down, and we have been let down big time.”

The reality is that UUP members were warned, yet they walked into the agreement with their eyes wide open.

4.30 pm

Mr Nesbitt says that those who are linked to terrorism cannot have a place in the Government. What a truism. It seems strange that it took four years for that to dawn on him. We told him that in the run-up to the referendum. We told him that during the Assembly elections. We have been telling him that for four years, as we have tabled exclusion and no-confidence motions in this House, but he and his party were not prepared to listen then. Of course, those who are inextricably linked to violence cannot be in the Cabinet of Northern Ireland, but the UUP voted for that.

**Mr Foster:** On a point of order, Mr Speaker. In talking about polls, will Mr Robinson not accept that it was DUP interference — *[Interruption]*.

**Mr Speaker:** Order, order. Please continue, Mr Robinson.

**Mr P Robinson:** The Minister of Education managed to choke back the tears when he told us how he had met

some young schoolchildren and how we had a responsibility for their future. Of course, he also has a responsibility for the past and the present. As a commander on the army council of the IRA, he took all the decisions to kill people over a number of years in Northern Ireland. He decided to send people to Colombia, the Northern Ireland Office, Castlereagh and Florida. He has a very real responsibility for the circumstances that we now face, and he cannot wash his hands of that.

The one constant feature of the Sinn Féin/IRA rhetoric is that it can point the finger at the Northern Ireland Office, at Unionists, at the RUC and at the PSNI, but it never looks at its own sins and the evil within its organisation. Its members are the guilty men; they are responsible for perpetuating violence in Northern Ireland, and there is no need for — *[Interruption]*.

**Mr Speaker:** Order. One would almost think that people do not want to hear what others are saying.

**Mr P Robinson:** There is no need for Francie “We’ll go back to what we do best” Molloy to try to lecture anybody in this House, because the IRA has gone back to what he thinks that it does best.

The Ulster Unionist Party must now face up to the reality that no spin, briefings, revisionism, smoke or mirrors will change the fact that its members were taken for fools. They trusted the IRA, and the IRA let them down. John Taylor had the gut feeling that the IRA was genuine, but it turned out to be nothing more than indigestion.

The DUP was right. Its position has been vindicated, yet it took four years and an impending election for the Ulster Unionist Party to face that reality. The Belfast Agreement has been a fools’ charter for Unionism. Never again should Unionists trust the Provisional IRA. Never again should Unionists support those who have destroyed the Royal Ulster Constabulary. Never again should the Unionist community place its future in the hands of the Ulster Unionist Party. That party bears the responsibility for the elevation of the Provisional IRA and the damage that has been done to the Union.

I will end where I began: Friday 4 October was not a more serious incident than those that we have witnessed over the last four years. It only lifted the veil and shook reality into this failed and discredited process.

*Question put and agreed to.*

*Resolved:*

That this Assembly expresses deep concern at the implications of events on Friday 4 October 2002.

**Mr Speaker:** There seems to be unanimity in the Assembly. *[Laughter]*.

*Adjourned at 4.34 pm.*





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# NORTHERN IRELAND ASSEMBLY

Monday 14 October 2002

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

*Members observed two minutes' silence.*

## ASSEMBLY BUSINESS

### Suspension of Assembly

**Mr Speaker:** I have received a letter this morning from the Secretary of State, which I wish to draw to the attention of the House. The letter reads as follows:

"It was with very great regret that I made the Order this morning to suspend the devolved institutions, in order to stabilise the current political situation in Northern Ireland. It was clear that it was not for the time being possible to hold together an inclusive power-sharing Executive, since the confidence within the community necessary to underpin it had broken down.

I nevertheless believe the Agreement has delivered enormous benefits, and points the way forward. I and my ministerial team will seek to carry forward good government within Northern Ireland, to work with the Irish Government and the parties to restore the devolved institutions as soon as we can, and to remove once and for all concerns about the commitment to exclusively democratic and peaceful means.

I want to work energetically in the economic and social fields. Though I hope suspension will be brief, there are serious problems to be dealt with and it would be wrong to approach matters simply as caretakers. We shall be assisted in taking forward our work by the great achievements that have been brought about by all parties within the Assembly and the Executive. Despite the tensions, I believe the period of devolution was a great success, and a great advance for Northern Ireland. We must get back as soon as possible to the position where people in Northern Ireland are in charge of their own affairs.

With suspension, the Assembly and its committees can no longer meet. We hope suspension will be short-lived, and we recognise that Assembly Members should, for the time being, continue to represent their constituencies.

But I believe there will be an expectation that the removal of the Assembly's core functions must be reflected in arrangements for it and its members. We envisage therefore, with effect from next month, bringing Assembly members' salaries back to the levels that applied in the shadow period (adjusted for subsequent increases to date). We shall immediately review closely the allowances that are paid in the Assembly, from the same perspective. Assembly members will for the present continue to have access to Parliament Buildings in order to carry out their constituency work.

But if the Assembly remains without its essential responsibilities, I believe these arrangements will need to be looked at again. We shall therefore review the situation by the end of the year.

The Assembly has an impressive record to its credit. It has been a forum for dialogue between different strains of political thought unprecedented in Northern Ireland, but essential to our future. Its committees have been diligent in holding the Executive to account, to the great benefit of public administration. If I may say so, I admire the way you yourself have guided it in the most tense situations.

We must do all we can to restore it, and the other institutions, as soon as possible. I shall do all I can to bring that about."

Signed by the Secretary of State.

**Rev Dr Ian Paisley:** Mr Speaker, will you inform the House if the Secretary of State talked to you about the letter before you received it? If that was not so, is it not a matter of grave discourtesy on his part that he did not consult with you at the same time as he consulted with party leaders?

With regard to payments, can you confirm that the salaries of those who are now employed in party offices and registered as workers in those offices for Members of the Assembly will remain as they are, just as your salary will remain as it is?

**Mr Speaker:** First, the Secretary of State has written to me, and I fully expect that there will be further communication. However, in direct response to the Member's question, it was obviously much more important that he communicate with party leaders, such as the Member, rather than with me.

As for concerns about the other arrangements to which the Member refers, I cannot immediately be more clear than by recounting the content of the letter from the Secretary of State. However, it may be of assistance if I remind Members of some of the administrative arrangements that there were during the previous suspension, particularly in view of some of the Member's comments. Clearly there were some misunderstandings, and I shall seek to correct at least one of them.

In the previous situation, direct rule was reinstated and the Assembly remained in place, but the Assembly and its Committees could not meet or discuss business, and that included the Assembly Commission. Those in elected office — Ministers, junior Ministers, Chairpersons and Deputy Chairpersons of Statutory Committees — could no longer hold office. Participation in the North/South Ministerial Council and the British-Irish Council was suspended. No functions could be conferred on implementation bodies. Members had the usual access to Parliament Buildings. Members' salaries were abated to the pre-devolution level, and the office cost allowances were also abated to the pre-devolution level, but not until the end of that financial year. Party allowance was reduced, and that obviously might have a bearing, if it were mirrored on this occasion, on the Member's question about party staff, but I cannot give him any more enlightenment on that, for I have none myself. The childcare allowance was not affected.

The Speaker continued to hold office, but his salary was abated to pre-devolution level, and I have no expectation that it will be otherwise on this occasion, Dr Paisley — unless, in your conversation with the Secretary of State, you put a good word in for me. I am sure that it would carry heavily, were you to do so.

Committee Chairpersons and Deputy Chairpersons did not receive salaries for their work in chairing Committees. Some other measures, which were not referred to in the correspondence from the previous Secretary of State, came into place during the last suspension. The Secretary of State discharged the functions of the First Minister and the Deputy First Minister. During the first six months of suspension, legislation on devolved matters was made by Order in Council at Westminster, and the Secretary of State could extend that for periods of up to six months if required. Northern Ireland Departments discharged their functions subject to the direction and control of the Secretary of State, who appointed NIO Ministers to look after those functions.

As far as the Assembly Commission was concerned, its functions were taken over directly by the Secretary of State, and the accounting officer gave account of his functions in that way.

I trust that that gives some clarity on some of the important matters that the Member raised.

**Rev Dr Ian Paisley:** Will you clarify the standing of the intergovernmental bodies? There has been a lot of discussion in the press about their going from strength to strength, but from what you read out, I think that such progress will be limited by the agreement, which I have been reading this morning.

**Mr Speaker:** As far as I am concerned, my responsibility is to try to interpret the procedures of this House. Interpretation of the agreement goes well beyond that. Foreseeing what politicians at any level may choose to do subsequent to today would require a prophet not a Speaker, and, as the Member knows, I am not even the son of a prophet; I am just the son of a poor Presbyterian minister.

**Mr C Wilson:** It is unfortunate that the Secretary of State did not take the opportunity to declare the suspension of the Executive and the Assembly Committees in the House. That might have given Members an opportunity to explore with him his comment on the Assembly's great achievements. It would be interesting to hear how he would manage to put a spin on that. In the wider community, there is cause to acknowledge the great achievement that will occur when the House rises and we see an end to the terms of the two Sinn Féin Ministers. It is cause for rejoicing in Northern Ireland —

**Mr Speaker:** Can I ask the Member for his point of order?

**Mr C Wilson:** Thank you very much.

**Mr Speaker:** I am not sure that there is a ruling for me to give in regard to that.

**Mr McCarthy:** Is it not ironic that on the day on which the House loses any power that it has, the leader of the Democratic Unionist Party is more concerned about wages and salaries than he is about contributing to the welfare of our senior citizens who need personal care?

**Mr Speaker:** Order. The Member must know that what he is raising is not a point of order and that this is not an opportunity for debate.

**Mr Kennedy:** My point of order concerns a matter that is recorded in Hansard. During the debate on the review of post-primary education on Tuesday 8 October, the Minister of Education, in reference to the transfer test, said:

“Change will be implemented in a considered, planned manner, which will lead to real improvement in our education system.

The current arrangements, including the transfer test, must remain in place until decisions are taken on the post-primary review.” — [*Official Report, Bound Volume 18, p386*].

Within days of that statement, the Minister acted arbitrarily to abolish the 11-plus. Given his conduct, his approach to the House and his subsequent actions, is that a matter to which the Speaker should give some consideration?

**Mr Speaker:** There will be an opportunity during Question Time to ask questions of the Minister. It remains to be seen whether what he said to the House, as recorded in Hansard, or what he said outside the House, as recorded and advised by the Member, turns out to be the more accurate.

12.15 pm

**Mr S Wilson:** Further to that point of order, Mr Speaker. Perhaps you can inform the House whether the Executive ratified the highly cynical and highly political decision that the Minister of Education made to declare a date for the ending of the 11-plus tests. Indeed, was that decision even raised with the Executive? If not, does the Minister have the power to make such a decision without reference to the Executive, the Committee for Education or the Assembly, as was promised by the First Minister? Is this yet another example of the First Minister breaking a promise, particularly as he told us that IRA/Sinn Féin Ministers would be held to account and would not be able to act as despots?

**Mr Speaker:** Order. Again, if the Member chooses, he may ask appropriate supplementary questions of the Minister this afternoon if the opportunity arises for him.

I cannot say whether this was a matter agreed by the Executive or not; that is clearly a matter for the Executive. As far as procedure is concerned, it is my understanding — but no more than that — that developments of policy in this way are matters to be agreed by the

Executive. The Member may care to raise directly with the Minister or other Members of the Executive whether the Executive agreed that matter.

**Mr Dodds:** On a point of order, Mr Speaker. On 24 July the Secretary of State told the House of Commons that he would not hesitate to send to you — and, through you, to the Floor of the House — a motion to exclude Sinn Féin/IRA if it was found to be in further breach of its obligations. Has the Secretary of State raised that possibility with you, and have you discussed it?

Furthermore, can you say whether any other parties have signed the exclusion motion, currently in the Business Office, designed to exclude IRA/Sinn Féin? Outside the House, I hear parties, particularly the Ulster Unionist Party, calling for the exclusion of Sinn Féin/IRA, but they are failing to take the steps necessary to have the matter debated in the Assembly.

Can you tell the House whether the matters listed in today's Order Paper that relate to legislation will be taken today despite the Assembly's imminent suspension? When suspension kicks in, what will happen to the legislation that is currently in Committee or on the Floor of the House?

**Mr Speaker:** The Member will understand that it is not normally my practice to describe discussions that have, or have not, taken place with the Secretary of State, Ministers or parties. It is wise for me to maintain that practice. However, I can confirm to the Member and to the House that I have not received any such exclusion motion from the Secretary of State under the relevant section.

I am not aware precisely which Members have or have not signed a motion on the No Day Named List, but that is a matter of public record; there is no obstruction to any Member looking at the names that are on that list. If they wish to make account of that, that is entirely a matter for themselves, not for me. It would, of course, be a matter for the Business Committee, and the Member is familiar with the procedure to be followed if there are sufficient signatures.

With regard to today's Order Paper, we shall simply proceed in the normal fashion, as is proper, and, I trust, in the normal congenial, courteous and parliamentary fashion in which Members have been in the habit of conducting themselves here, doing our duty and fulfilling our responsibilities to those who have elected us.

I am considering the matter of the status of legislation, but I have one or two comments to make. First, it seems to me that during the period of suspension, it will be as though that legislation were frozen, and it may well be that at the end of suspension, it can be taken up as though the clock had stopped and were restarted — in the same way as is the case with ministerial office and chairmanship of Committees, and so forth. However, I say that not as a ruling, because I want to look more fully at the

legalities of that. If we find ourselves in that circumstance, I will then give an appropriate ruling.

However, it is entirely possible that the Secretary of State and his Ministers may regard some of the legislation that has been partly carried through the Assembly as being of such importance, timeliness or urgency that they may choose to convert it into a form in which it might suitably be passed at Westminster, should they acquire the necessary parliamentary time. If that were to be the case, naturally such legislation carried through would fall when the Assembly returned. That is the best guidance I can give the Member and the House in the present circumstances.

**Rev Dr William McCrea:** Mr Speaker, while you cannot confirm which parties or groupings have signed the motion sent in by my hon Friends and other Colleagues, can you confirm that no other political party has forwarded an exclusion motion to you, for example, the Ulster Unionist party?

**Mr Speaker:** As far as I am aware we would not be very accepting of further motions coming forward on something that was already there, unless there was very good reason for doing so. I am not aware of anything else having come forward. However, it is not a matter that I checked before coming into the Chamber. The Member is entitled to check the matter in the Business Office.

Having received no further requests for points of order, we will move to the next item.



## PUBLIC PETITION

### Neglect of the Gray's Hill area in North Down

**Mr Speaker:** Ms Morrice has begged leave to present a public petition in accordance with Standing Order 22.

**Ms Morrice:** I beg leave to present a petition on behalf of the residents and the business community from the Gray's Hill area of Bangor in north Down.

More than 100 people have signed the petition, which highlights the neglect of the area and calls for its improvement in accordance with the town centre management strategy prepared by Ferguson & McIlveen. This major gateway into Bangor is a mixed residential and commercial street which suffers from speeding traffic, a lack of parking management and general neglect. The petition emphasises the broad concern about the matter in the north Down area. As you can see, Mr Speaker, I continue to work for my constituents, and I will keep on doing so.

*Ms Morrice moved forward and laid the petition on the Table.*

**Mr Speaker:** I will send a copy of the petition to the Minister for Social Development, when such a Minister has been appointed. In the meantime, I will send a copy to the Chairperson of the Committee for Social Development.

## STRATEGIC INVESTMENT AND REGENERATION OF SITES BILL

### Second Stage

**Mr Speaker:** I advise the House that I have received a valid petition of concern in respect of this Bill, in accordance with Standing Order 27. No vote can therefore be held on its Second Stage until at least one day has passed.

*The following motion stood in the Order Paper:*

That the Second Stage of the Strategic Investment and Regeneration of Sites Bill (NIA 8/02) be agreed. – [*The First Minister (Mr Trimble) and the Deputy First Minister (Mr Durkan).*]

*Motion not moved.*

**Mr B Hutchinson:** On a point of order, Mr Speaker, can you say whether, when this information is sent to the Northern Ireland Office, it will also carry the warning that a reasoned amendment was tabled, which was supported by the majority of parties in the House?

**Mr Speaker:** I can confirm that the fact that the Member has raised the point of order and has tabled a reasoned amendment will clearly be in Hansard for forwarding to whichever Minister addresses the matter. Whether that amendment would have had the support of the majority of Members is, of course, one of the great unknowns of life.

**Mr B Hutchinson:** Further to that point of order, Mr Speaker.

**Mr Speaker:** I will call Mr Dodds, and then we will have a further point of order.

**Mr Dodds:** For the second week in a row, this business has not proceeded. Last week we were told that the two junior Ministers were not in a position to move the business because the First Minister and the Deputy First Minister were not in the Chamber. The junior Ministers have obviously been trusted with the onerous job of not moving the motion, so they have been trusted with something.

It is outrageous that, for two weeks in a row, this item has been listed on the Order Paper and, for two weeks in a row, it has gone absolutely nowhere. We have the two junior Ministers from OFMDFM telling us that the motion is not moved. The important point I want to make is that, as Mr Billy Hutchinson has said, and as many Members will agree, the motion is not being moved today because the Ministers know that it would not be approved. It would not pass through the House. The clear message that should be given to any Minister who may take over this responsibility is that there is a groundswell of opinion in the House against the contents of the Bill.

**Mr Speaker:** Order. Let me remain with the point of order. Of course it is regrettable if matters are tabled on an Order Paper two weeks in a row and it is not possible to proceed with them. I suspect that, in the greater scheme of things, it is one of the less regrettable things about today, but that is another matter. With regard to the question of support, I cannot rule on that matter as a point of order.

**Mr Morrow:** Mr Speaker, the Order Paper states that the First Minister and the Deputy First Minister would move the Second Stage of the Bill, although I understand that the Bill is in the name of Mr Haughey, but he did not withdraw it. Is it one of the more cowardly acts of the Office of the First Minister and the Deputy First Minister to send its deputies here to do this work?

**Mr Speaker:** It is quite clearly in order for any Minister representing the Office of the First Minister and the Deputy First Minister to proceed with such a Bill and to handle it as has been agreed in that Office.

**Mr Poots:** On a point of order, Mr Speaker. Is there any means by which the Assembly can express its concerns about the Bill to the Northern Ireland Office? Given that no public consultation has taken place on the Bill, it would be a matter of concern if the Northern Ireland Office rushed it through.

**Mr Speaker:** Order. I understand entirely why the Member has a specific concern about the Bill, as he is the Chairperson of the Committee of the Centre. However, I think that he is aware that there is no facility for the Assembly to do that in the short time that appears to be available to us for the rest of today other than through the points of order that the Member and others have already raised.

**Mr P Robinson:** On a point of order, Mr Speaker. I am sure that you will confirm that the record of today's proceedings and the views expressed by Members through points of order will be one method by which the Northern Ireland Office will be made aware of the Assembly's view on this matter. However, is it not the case that this business was on the Order Paper last week and that it was announced that it could not be dealt with, although the two junior Ministers were present in the House on that occasion and could have moved it? We were told that the First Minister and the Deputy First Minister wished to be present to hear the Assembly's views. Is it not the case that the two junior Ministers came today intent on moving the Bill and decided not to move it only when they saw that there was a petition of concern signed by over 30 Members?

**Mr Speaker:** The Member is tempting me to look into what is going on in the minds of the junior Ministers, but I am on duty today as the Speaker, and not in any other capacity.

**Mr McCartney:** Mr Speaker do you attribute any significance to the suspension by the Secretary of State, whose words you read out, taking place at midnight

tonight, given that the Bill was on the Order Paper to be dealt with today?

**Mr Speaker:** I am not quite sure that I see the connection that appears to be in the Member's mind. As I understand it, such suspensions can take place only at midnight; there might be a question of whether it was midnight tonight, midnight last night, or midnight on another night, but they must take place at midnight. As I understand it, that is the proper procedure for them.

There are several points of order, and I will come to Minister Haughey's if possible.

**Rev Dr William McCrea:** On a point of order, Mr Speaker. When did you receive notice of the withdrawal of the Bill? Did it take two lecterns in front of two Ministers to announce "Not moved"?

**Mr Speaker:** The Member must know that if matters are withdrawn in advance of the sitting, as was the case last week, I make that clear. However, the Ministers have taken the decision not to move the Second Stage of the Bill. That is clear parliamentary procedure.

**The Junior Minister (Office of the First Minister and the Deputy First Minister (Mr Haughey):** On a point of order, Mr Speaker. The decision not to move the Second Stage of the Bill was taken long before Mr Leslie or I knew that there was a petition of concern. That is a matter of fact.

On a second point of order, Mr Speaker. Is it in order for Members to request you to convey the feelings of the House to the Northern Ireland Office when the opinion of the House has not been recorded by means of a vote?

Will you confirm that it has been indicated to you that it is the DUP, in alliance with Sinn Féin, that opposes the Bill, and that those two parties do not constitute a majority of the Members of the House? *[Interruption]*.

12.30 pm

**Mr Speaker:** Order. I am sure that the House is grateful to the Member for confirming when the decision was taken. As for the question of how much support or otherwise there is for the Bill, the reasoned amendment or whatever, I can say only what I have said already — there cannot be an assumption of any particular support or lack of support, save for one particular fact, which is that the petition of concern contained 32 signatures. Other than that, no assumption can be made about support for any matter that has not come before the House and been voted on in the usual way.

**Mr Beggs:** There has been much discussion about the petition of concern. Will you confirm, Mr Speaker, that the motion must receive cross-community support in order for approval to be granted? Will you confirm that such cross-community support is also required for the House to exclude Sinn Féin?

**Mr Speaker:** I can confirm both those matters. Once a petition of concern has been certified as valid and has been received in due time, it postpones the vote and requires it to have cross-community support. The Member is correct that the same applies to an exclusion motion.

**Mr P Robinson:** Are you concerned, Mr Speaker, to learn from the junior Minister that the decision not to move the motion was taken a long time ago, yet you were not informed of it? Is that not a grave discourtesy to the Assembly, and should the Minister not be asked to get to his feet and apologise? *[Interruption]*.

**Mr Speaker:** Order.

**Some Members:** Resign.

**Mr Speaker:** Order. When Members call for such action, I trust that they are not, as it would appear to be in parliamentary terms, referring to the Speaker. The Speaker does his best with all the ignorance at his disposal in all these various ways.

**Ms McWilliams:** Lest the collaboration between the DUP and Sinn Féin alarm junior Minister Haughey, I advise him that the Women's Coalition was only too glad to sign the petition of concern on this occasion.

**Rev Dr Ian Paisley:** Further to the point of order that junior Minister Haughey raised, is it not the case that had he moved the Second Stage today the House could have made a decision? He could have found out exactly how the House feels. An amendment was tabled, and it would have had to be called today.

**Mr Speaker:** I can confirm that if the matter had proceeded, the amendment standing in the name of Mr Billy Hutchinson would have been taken. However, given the petition of concern, which was headed up by Dr Paisley, had the reasoned amendment not been made, the view of the House would not have been able to be ascertained until at least one day hence.

**Mr McCartney:** Further to the point of order that Mr Peter Robinson raised, when the motion that the Second Stage be agreed was not moved last week, Mr Speaker, you said that you were notified in time and were therefore able to make an announcement at the beginning of proceedings. That being the case, why was the same procedure not followed on this occasion? If it was not followed, does that not amount to a grave discourtesy to the Speaker?

**Mr Speaker:** Not necessarily. A different procedure has been followed: in one case the motion has been withdrawn, and in another it has not been moved. Other procedures might also have been used. Members have a range of possibilities from which to choose. However, the Member has given his view and interpretation of proceedings.

**Mr B Hutchinson:** On a point of order, Mr Speaker. Has either of the junior Ministers, the First Minister or

the Deputy First Minister informed you which parts of the Bill they want the Secretary of State to deal with?

**Mr Speaker:** It would not be appropriate for Ministers to take action of that kind in respect of the Speaker. It is not a procedural matter and, insofar as there might be any procedures involved, they would not be procedures in this place, but in another place. That is not a matter which has been referred to, nor would I expect it to be.

I know that Members have a sense that there is a time within which they must raise all their points of order for the rest of the session, but we must try to move on.

**Mr Dodds:** We can take this up this afternoon, if you want to draw it to a close now.

Can you confirm that no Sinn Féin Members signed the petition of concern that was tabled? The comments from across the House show widespread party opposition to the Bill. Never have so many dispatch boxes been employed to achieve, and to say, so little. Can you also confirm that enough Members signed the petition of concern — including enough Unionists for the purposes of the cross-community vote — to ensure that the Bill would not have got anywhere?

**Mr Speaker:** I can confirm what the Member said about there being a valid number of signatures. However, as I have previously indicated, it is not appropriate for me to go through whose name is or is not on the petition of concern, save that it is a matter of record which is in the Business Office and which Members can follow up as they wish.



## **DRAFT CODE OF PRACTICE ON INDUSTRIAL ACTION BALLOTS AND NOTICE TO EMPLOYERS**

**The Minister for Employment and Learning (Ms Hanna):** I beg to move

That the Department for Employment and Learning's draft Code of Practice on Industrial Action Ballots and Notice to Employers be approved.*[Interruption]*.

**Mr Speaker:** Order.

**Ms Hanna:** The draft code was laid before the Assembly on 24 September 2002 and is subject to affirmative resolution. On approval by the Assembly the draft code becomes the code, and the Department will make an Order bringing it into effect on the appointed day.

The draft code is issued under article 95 of the Industrial Relations (Northern Ireland) Order 1992, which gives the Department power, subject to Assembly approval, to issue codes for the purpose of improving industrial relations. The draft code takes account of the current legislative provisions on industrial action ballots and notice to employers, including those contained in the Employment Relations (Northern Ireland) Order 1999. It is intended as a practical instrument to assist a range of individuals and organisations, including employers, trade unions and employees, to regulate and improve industrial relations. It also provides guidance on statutory rights.

The draft code is relevant to any union involved in industrial action ballots, to employers who are affected by them and to union members who may be asked to vote. The draft code seeks to ensure that appropriate action is taken to resolve disputes before industrial action. It sets out details of best practice on whether a ballot is appropriate, how to prepare for a ballot, the specific process and steps to be followed when holding a ballot, and what action should be taken following a ballot. It provides helpful summaries of what the current legislation requires by way of consultation by the employer and the unions.

The draft code does not impose legal obligations, and failure to observe it does not render anyone liable to proceedings. However, it may be admissible in evidence before an industrial tribunal or the industrial court, if it is deemed to be relevant. Full consultation has taken place in Northern Ireland on the content of the draft code. I commend the draft code to the Assembly.

*(Madam Deputy Speaker [Ms Morrice] in the Chair).*

**The Chairperson of the Committee for Employment and Learning (Dr Birnie):** I support the motion. The Committee considered the code of practice at its meeting on 3 October 2002 and supports it. It has been well described by the Minister. It seems to be based on a similar code in Great Britain, produced by the Department

of Trade and Industry. Therefore the production of the code maintains parity with Great Britain. I urge the House to support the motion.

**Ms Hanna:** I thank the Chairperson for his remarks. The draft code sets out fair and reasonable procedures for parties to adopt when a ballot is to be held. It balances the duties of employers and trade unions, with the emphasis on responsible behaviour.

*Question put and agreed to.*

*Resolved:*

That the Department for Employment and Learning's draft Code of Practice on Industrial Action Ballots and Notice to Employers be approved.

## **DRAFT CODE OF PRACTICE ON DISCIPLINARY AND GRIEVANCE PROCEDURES**

**The Minister for Employment and Learning (Ms Hanna):** I beg to move

That the Labour Relations Agency's draft Code of Practice on Disciplinary and Grievance Procedures be approved.

The draft code was laid before the Assembly on 24 September 2002 and is subject to affirmation by the Assembly. On approval by the Assembly, the draft code becomes the code, and the Department will make an Order bringing it into effect on an appointed day.

The draft code is issued under article 90 of the Industrial Relations (Northern Ireland) Order 1992, which gives the Labour Relations Agency power, subject to departmental and Assembly approval, to issue codes for the purpose of improving industrial relations. The draft code is a revision of an existing code of practice on disciplinary procedures and practices in employment that was issued by the Labour Relations Agency in November 1990.

The draft code will replace the old one. The main reason for the revision is the need for the draft code to take account of a legislative change. Article 12 of the Employment Relations (Northern Ireland) Order 1999 provided for a new statutory right for individuals to be accompanied at certain disciplinary and grievance hearings. That right came into effect on 2 June 2002. The draft code gives practical guidance to employers, workers and workers' representatives who are involved in grievance and disciplinary matters.

In every organisation there should be clearly understood arrangements and principles, however simple, which are consistent with the underlying intentions set out in the draft code. The draft code addresses disciplinary issues relating to problems of conduct or performance and how employers seek to address them. It provides guidance on the practices and procedures that could, and indeed, in some instances should, be followed. It considers how employers can best handle the grievances that individuals bring to them and provides guidance on the statutory right of workers to be accompanied at a disciplinary or grievance hearing.

The code highlights the best practice principles in terms of rules and procedures. It outlines appropriate structures and the balance between formal and informal processes, provides guidance on how decisions should be made and recorded, and suggests timescales by which formal warnings may be regarded as spent. The impact assessment undertaken on the draft code concludes that it will not disadvantage any of the groups specified in section 75 of the Northern Ireland Act 1998; nor will it place any additional costs on employers. It will have a positive impact in the workplace.

12.45 pm

While failure to observe any provision of the draft code does not of itself render anyone liable to proceedings, it may be admissible in evidence in any proceedings before an industrial tribunal or the industrial court, if deemed to be relevant. I commend the motion to the Assembly.

**The Chairperson of the Committee for Employment and Learning (Dr Birnie):** I support the motion. The Committee considered the draft code at its meeting on Thursday 3 October 2002. As the Minister said, the code is being introduced as a replacement for an existing code of practice, and it attempts to give helpful guidance to employers and employees. It is based on a similar code in Great Britain produced by the Advisory, Conciliation and Arbitration Service, which is the GB equivalent of the Labour Relations Agency. Therefore the production of the code maintains parity with Great Britain. As the Minister said, the regulatory and equality impact assessments have judged the code favourably. I urge the House to support the motion.

**Ms Hanna:** I welcome the Chairperson's remarks. The draft code sets out practical guidance which aims to promote the improvement of industrial relations and, therefore, ultimately enhance the economic performance of industry.

*Question put and agreed to.*

*Resolved:*

That the Labour Relations Agency's draft Code of Practice on Disciplinary and Grievance Procedures be approved.

## **DRAFT CODE OF PRACTICE ON REDUNDANCY CONSULTATION AND PROCEDURES**

**The Minister for Employment and Learning (Ms Hanna):** I beg to move

That the Labour Relations Agency's draft Code of Practice on Redundancy Consultation and Procedures be approved.

The draft code was laid before the Assembly on 24 September 2002, and it is subject to the Assembly's approval. The draft code is issued under article 90 of the Industrial Relations (Northern Ireland) Order 1992, which, subject to departmental and Assembly approval, gives the Labour Relations Agency power to issue codes for the purpose of improving industrial relations.

The draft code is a revision of an existing code of practice on redundancy consultation and procedures that was issued in September 1998. The revisions take account of changes to the legislative provisions on consultation and collective redundancies as a consequence of the enactment of the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations (Northern Ireland) 1999. The draft code will replace the old one. On approval by the Assembly, this draft code becomes the code, and the Department will make an Order bringing it into effect on an appointed day.

Members will agree that all organisations must adapt to economic and technological change in order to remain viable. Sometimes this may necessitate a change in their employment requirements with regard to the numbers and skills of the employees involved. In circumstances where redundancy becomes necessary, employers should recognise the damaging effects this may have on employees and should, therefore, handle redundancies with due care and consideration.

The aim of the code is to provide best practice guidance on redundancies — from early consultation about the likelihood of redundancies to the management of the process. It seeks to encourage all organisations to agree a framework within which a change in employment may be handled fairly, effectively and comprehensibly. The code seeks to ensure that employers are aware of their statutory obligations and employees of their entitlements under the relevant legislation. The code also gives guidance on the main features of a redundancy procedure.

In every organisation there should be clearly understood arrangements and principles, however simple, which are consistent with the underlying intentions set out in the draft code. The draft code provides summaries of what the current legislation requires by way of consultation by the employer with employees or their representatives when a redundancy situation is proposed, including such matters as the election of representatives,

if necessary. It suggests ways of reducing or avoiding compulsory redundancies, sets out the principles of fair selection of those to be made redundant and outlines the rights of an employee when under notice of redundancy.

The impact assessments undertaken on the draft code conclude that it will not disadvantage any of the section 75 groups; it will place no additional costs on employers; and it will have a positive impact in the workplace. Although failure to observe any provision of the draft code does not of itself render anyone liable to proceedings, it may be admissible in evidence in any proceedings before an industrial tribunal or the industrial court if it is deemed to be relevant. I commend the draft code to the Assembly.

**The Chairperson of the Committee for Employment and Learning (Dr Birnie):** I support the motion, as do the majority of Committee members. It was considered at our meeting on 3 October. I sincerely hope that the issue of redundancy consultation does not become one of personal interest to myself and other MLAs. Seriously, it is an important issue. As the Minister rightly said, it is important that codes of practice be in place to attempt to achieve best practice in the field of industrial relations. The draft code is unique to Northern Ireland, but it revises an existing Northern Ireland code. The regulatory and equality impact assessments have been favourable in this case. I urge the House to support the motion.

**Ms Hanna:** I welcome the Committee Chairperson's remarks. The draft code balances the duties of both employers and employees, with the emphasis on responsible behaviour. Prior to any proposed redundancies, proper adherence to the draft code will reduce the likelihood of conflict and the possibility of misunderstanding when redundancies are declared.

*Question put and agreed to.*

*Resolved:*

That the Labour Relations Agency's draft Code of Practice on Redundancy Consultation and Procedures be approved.



## ASSEMBLY OMBUDSMAN FOR NORTHERN IRELAND (ASSEMBLY STANDARDS) BILL

### Period Extension

*The following motion stood in the Order Paper:*

That, in accordance with Standing Order 31(5), the period referred to in Standing Order 31(3) be extended to 6 December 2002, in relation to the Committee Stage of the Assembly Ombudsman for Northern Ireland (Assembly Standards) Bill. — [*The Chairperson of the Committee of the Centre (Mr Poots).*]

**The Deputy Chairperson of the Committee of the Centre (Mr Gibson):** In view of circumstances outside the control of the Committee of the Centre, I beg to not move the motion.

*Motion not moved.*

## HARBOURS BILL

### Period Extension

*The following motion stood in the Order Paper:*

That, in accordance with Standing Order 31(5), the period referred to in Standing Order 31(3) be extended to 16 December 2002, in relation to the Committee Stage of the Harbours Bill. — [*Chairperson of the Committee for Regional Development (Mr A Maginness).*]

**The Chairperson of the Committee for Regional Development (Mr A Maginness):** Acting on advice on this very sad day, I beg to not move the motion.

*Motion not moved.*

*The sitting was suspended at 12.55 pm.*

*On resuming (Mr Speaker in the Chair) —*

2.30 pm

## Oral Answers to Questions

### EDUCATION

#### Integrated Teacher-Training College

1. **Ms Morrice** asked the Minister of Education if he will make it his policy to support, and provide the lead in, the creation of an integrated teacher-training college. (AQO 343/02)

**The Minister of Education (Mr M McGuinness):** The creation of an integrated teacher-training college would lie within the responsibilities of my Colleague, the Minister for Employment and Learning. I am not aware that any such proposal is being considered.

**Ms Morrice:** I regret that that is the only response to my question. The Minister has called for the implementation of the Good Friday Agreement, page 18 of which calls for the promotion of initiatives to facilitate and encourage integrated education. My party was responsible for inserting that proposal.

Does the Minister agree that in order for integrated education to work, teachers must be trained specifically in that area? As he takes the lead in policy, will he not agree to push for an integrated teacher-training college as one of his last deeds in the Assembly? Is it not a fact that teacher training is the only segregated third-level education system, and is that not an utter disgrace?

**Mr M McGuinness:** The Good Friday Agreement states that an essential aspect of the reconciliation process is the promotion of a culture of tolerance at every level of society, including initiatives to facilitate and encourage integrated education. Since taking up office, I have clearly demonstrated my commitment to the duty that the agreement places on my Department.

The question of teacher-training institutions can be answered only after full discussion and debate, not only with the teacher-training institutions but also with the schools and colleges that they serve. The practical implications of the Member's question are primarily a matter for my Colleague, the Minister for Employment and Learning.

#### Burns Report

2. **Mr Hamilton** asked the Minister of Education to outline (a) if he has taken any further action on the Burns proposals and (b) what that action was. (AQO 334/02)

**Mr M McGuinness:** On 8 October 2002 I published a report summarising the responses to the consultation on the Burns Report. I made a statement in the Assembly outlining the next steps and announced my commitment to abolish the transfer test as soon as is practical. I am absolutely determined that my decision to abolish the test will not be thwarted by political developments.

On 11 October I announced that the last tests will be held in 2004. That decision allows my Department to proceed with work with our key education partners to build on the emerging consensus and to develop new arrangements finally to consign the transfer test to history. To allow the suspension of the Assembly to delay the abolition of the test and the development of new post-primary arrangements would only prolong the unfairness and inequalities of the current system, and I am not prepared to countenance that.

**Mr Hamilton:** Given that the Minister's announcement was made, to some extent, under cover of darkness, how does he square the fact that 64% of parents, 62% of teachers and 50% of pupils support the retention of academic selection, according to his own recent survey? Is it not the case that his decision was driven by petty political malice and his own personal prejudices?

**Mr M McGuinness:** Petty political malice has no place in the education of our children.

Two thirds of those who returned the household response form supported the retention of academic selection. Those views are important and will be taken into account. However, they cannot be considered to be fully representative of the wider public, because only 16% of the population responded to the household survey. The response rate from well-off areas was almost three times greater than that from the poorest areas. Responses from the parents of grammar-school pupils were over-represented by more than 50%, given the proportion of children who attend grammar schools.

In developing new arrangements, my Department and its key education partners must examine the views of the public as expressed through all strands of the consultation in responses from the education partners, schools, churches, community organisations and political parties. Some — *[Interruption]*.

**Mr Speaker:** Order.

**Mr M McGuinness:** Let me go further, some members of the Committee for Education are focusing exclusively on the responses to the household response form on academic selection. The position they have now adopted is an about-turn from their previous position when consulted on the household response form, when they said:

"The Committee would also wish to express reservations about the limited nature of this tick-box questionnaire and the fact that a yes or no answer is being sought on complex issues which many of the respondents will have a limited knowledge or understanding of. While it may be a useful exercise to encourage some sort of feedback it

may not be appropriate to rely on or cite the results as clear and unequivocal support for certain proposals or a particular way forward."

However, that is precisely what the Member and his Colleagues are doing. The Member's party is also trumpeting the views of teachers who responded to the household response form — the same teachers about whom they said:

"We have reservations about the emphasis being placed on teachers' views, particularly given that they only make up a small proportion of the population to which this household form will be sent."

Having previously rubbished the views of the public and of the teachers, the Ulster Unionist Party and the Democratic Unionist Party members of the Education Committee are now citing them in support of their case. That is the lowest form of political point-scoring on an issue of the highest importance. From the outset, I have made it clear that the consultation would be multi-stranded and account would be taken of responses to all of the strands, and I am sticking to that commitment.

In contrast to the political point-scoring by the UUP and the DUP, I have given clear leadership to the education sector by announcing a date for the end of these iniquitous tests. That will provide the impetus to develop new arrangements, and my Department will be working with its key education partners to take that work forward by building on the consensus that has emerged from the consultation. *[Interruption]*.

**Mr Speaker:** Order. The Member had an opportunity to ask his questions.

**Mr Gallagher:** The SDLP's position on the 11-plus is well known to the Minister and to the Assembly. Does the Minister agree that his announcement on Friday, if it is to take effect, must include a decision about what will replace the 11-plus in 2004? Will he tell the House whether any decisions have been taken about what will come into being in 2005 and thereafter?

**Mr M McGuinness:** I have made it clear that the transfer tests will not be part of education here in the future. My Department will be working with its education partners to determine how we move forward in relation to new transfer arrangements. A range of suggestions for alternative post-primary arrangements was included in the responses to the consultation, and my Department, in consultation with its education partners, will consider those further.

Those who support academic selection agreed that substantial modifications to the current system are required. There was some support for all-ability schools, or a fully comprehensive school system, operating on the basis of catchment areas. There was broad support from our education partners — all the education and library boards, the Council for Catholic Maintained Schools, the teachers' unions and others — for a system of informed election, whereby parents and pupils consider

information and advice about the pupil and the range of educational opportunities and courses available and choose or elect which courses or institutions to apply for admission to. Whatever structure is put in place must enable all pupils to have educational provision that meets their individual learning needs and enables them to fulfil their potential. That is what it is about.

Children are central to how we move forward. The matter is more about children than institutions.

**Mr S Wilson:** For someone who has based his life on not answering questions by remaining silent during lengthy interrogations by the security forces, the Minister appears to have adopted a new tack today: he spends around six minutes speaking on a question without answering it.

Perhaps I may remind him of the original question. The Minister has said that the responses that he received in the household survey were not representative. He described the monitoring survey as a representative sample of 2,000 homes, and it produced the same result as the household survey. Why does he still insist on ignoring the results of a survey in which the people said that they wished to retain academic selection and which he has himself described as representative? Why did the Minister say on Tuesday 8 October 2002 in his statement that he would

“carefully consider the views expressed by our education partners... along with the views of the Assembly and the Committee for Education and the responses to the consultation.” ? —[*Official Report, Bound Volume 18, p387*].

He went on to say that he would announce proposals for the review's next stage in December. Why has he broken that promise? He said that he would listen to the people, yet he has ignored them. He said that he would listen to the Assembly, yet he has ignored it. Perhaps he will explain why his final act as Minister of Education has simply reinforced the view that he is duplicitous, deceitful —

**Mr Speaker:** Order. The Member has made his question clear.

**Mr M McGuinness:** Last Tuesday, no decision on suspension had been taken. I am determined — [*Interruption*].

**Mr S Wilson:** It is an act of desperation.

**Mr Speaker:** Order.

**Mr M McGuinness:** There is no desperation about me. I am determined that political developments will not prevent progress on that vital issue.

Consultation on the Burns Report showed overwhelming support for the abolition of the transfer test, and last Tuesday I made clear my commitment to ending it as soon as practicable. By making clear that the transfer test will end in 2004, I have exhibited clear leadership to the education sector and provided the impetus for this important work to be continued. Many respondents acknowledged the achievements of the system of academic selection but argued that it is not adequate or acceptable for the future.

The predominant view from the consultation is that academic selection at the age of 11 should end. Some support depended on certain conditions being met. However, those in favour included — and this is extremely important — all five education and library boards; the Council for Catholic Maintained Schools; the Northern Ireland Council for Integrated Education; Comhairle na Gaelscolaíochta; the Council for the Curriculum, Examinations and Assessment; the five main teachers' unions; the Catholic Heads Association and the Association of Head Teachers in Secondary Schools; two thirds of schools; the Northern Catholic bishops and the Transferor Representatives' Council, which represents Protestant churches; those institutes of higher and further education that responded; the Confederation of British Industry; the SDLP; Sinn Féin; the Alliance Party; the Progressive Unionist Party; the Women's Coalition; the Workers' Party; 30 % of those who returned the household response forms and the majority of the voluntary and community interests that responded; the Northern Ireland Human Rights Commission; the Children's Law Centre; the Comptroller and Auditor General; the Northern Ireland Committee of the Irish Congress of Trades Unions; and the Northern Ireland Public Service Alliance. Some complain about the decision that was taken last Friday to abolish the transfer tests. I heard some people claim — [*Interruption*].

**Mr Speaker:** Order.

**Mr M McGuinness:** I heard some people claim at the opening of the sitting that no consultation took place with the Executive. Ulster Unionist members of the Executive are on the record as stating that it was very unlikely that the Executive would meet again in its present form.

2.45 pm

That decision was well within my competence as Minister of Education. I am within my rights to take that decision — [*Interruption*].

**Mr Speaker:** Order.

**Mr M McGuinness:** It is about the future education of our children — [*Interruption*].

**Mr Speaker:** Order. The Member will find it difficult to ask his supplementary question from outside the Chamber.

**Mr M McGuinness:** I wish that the Unionist Members of the House would take their responsibilities seriously and focus on the needs of children. This issue concerns children. It concerns the way in which the Assembly should progress. I do not know how long suspension will last. However, I believe that whoever manages the Department of Education in the foreseeable future will be guided by the important decisions that have been taken.



**Mr Speaker:** I do not see Mr Conor Murphy in his place. Therefore Mr Hay may ask his question to the Minister.

### Foyle and Londonderry College

4. **Mr Hay** asked the Minister of Education whether discussions have commenced with Foyle and Londonderry College regarding a new site; and to make a statement.  
(AQO 280/02)

**Mr M McGuinness:** My Department has carried out an economic appraisal in order to identify suitable educational facilities that will meet the curricular needs of pupils who attend Foyle and Londonderry College. The issue is under consideration.

**Mr Hay:** Everybody knows the history of the school, which is situated on the west bank of the River Foyle. The school has enjoyed working with, and educating, the young people of the west bank for many years. During the past 30 years the school has had no choice but to try to find a site on the east bank of the river. During the 1970s and 1980s many Protestants were forced to leave the west bank because of Republican violence, and they continue to do so. Will the Minister confirm that there was no opposition to the school's moving to the east bank? Has a new site been identified on the east bank?

**Mr M McGuinness:** The relocation of Foyle and Londonderry College is the subject of a development proposal that was published by the Western Education and Library Board on 10 May 2002. In addition to that development proposal, further work must be undertaken by my officials in conjunction with the school in order to give me a full assessment of the situation. The board of governors has also indicated that it would like to meet me. That meeting is now unlikely to take place in the foreseeable future. The board's views should be heard before any decision is taken. However, I cannot put a timescale on that.

**Mrs Courtney:** How does the Minister intend to use the obsolete site? Will he ensure that it is not used solely for housing development?

**Mr M McGuinness:** I do not want to speculate on how the site will be used. My stewardship of the matter is to recognise that the relocation of the college is the subject of a development proposal from the Western Education and Library Board. When that has been dealt with and a decision has been taken, there will be keen interest in the city of Derry to ensure that the site is used for proper and useful purposes. I have tremendous sympathy with the Member's last point. However, as Minister of Education, I have no control over housing in the Derry area.

**Mrs Nelis:** Go raibh maith agat, a Cheann Comhairle. Does the Minister agree that the threatened closure of Templemore Secondary School, and the planned retreat of Foyle College to the Waterside, may contribute to the

reduction of cultural diversity on the city side of Derry and adversely affect the freedom of parents to choose non-denominational schools for their children?

**Mr M McGuinness:** I am aware that that issue is hotly debated in Derry. I understand the concerns that have been expressed.

That said, decisions on the future of Templemore Secondary School and the issue of Foyle and Londonderry College will, unfortunately, have to be taken by someone else in the coming weeks and months. If that person is not prepared to take those decisions, or chooses not to, whoever returns as Minister of Education after suspension will have to deal with the matter then.

The questions today were specifically about Foyle and Londonderry College. I have laid out exactly how we intend to proceed on the issue. More work must be done. We should wait until officials and others meet the board of governors and take their own decision.

**Mr Speaker:** Mr John Kelly is not in the Chamber. We shall proceed with the next question.

### Dromore High School

6. **Mr Poots** asked the Minister of Education what plans he has to address the under-provision of places, and other problems, at Dromore High School.  
(AQO 289/02)

**Mr M McGuinness:** My Department, in consultation with the Southern Education and Library Board, which is responsible for the planning of school provision in the area, previously agreed a long-term enrolment figure of 740 pupils as appropriate for Dromore High School, based on an annual year 8 intake of 148. However, following a request from the school to introduce post-16 provision, that figure is currently under review.

The long-term enrolment takes account of any development in the area, as well as the number of pupils coming through the primary sector. It is not, however, my Department's policy to increase the number of places at schools, with the consequential implications for capital expenditure, simply to cater for demand, while places are available in other suitable schools within reasonable distance.

The outcome of the review, and a decision regarding post-16 provision at Dromore High School, will be made known to the board of governors of the school as soon as possible.

**Mr Poots:** There has been much prevarication over the provision of sixth-form places at Dromore High School. The time has come for answers, not further consultation. Every year, 30 children are turned away from the school. The area is scheduled to almost double in population.

The Minister will no longer be a Minister after tonight. I do not know what he turns into after midnight, given his past history. However, it is time that the Department grasped the nettle and provided the places necessary for children in Dromore. The school cannot go on operating with the current intake levels.

**Mr M McGuinness:** My Department's current policy on new and existing sixth-form provision in secondary schools is to leave such provision to each school's discretion, providing the school can accommodate it within its existing approved accommodation. My officials are considering the issue and, depending on other priorities, hope to complete the review in the near future.

### Schools: Breakfast Meetings

7. **Mr Dallat** asked the Minister of Education what incentives are available to schools to organise breakfast meetings aimed at encouraging greater participation among parents, teachers, pupils, classroom assistants and community groups providing classroom support.

(AQO 324/02)

**Mr M McGuinness:** The Department does not fund out-of-school activities, as it would divert scarce resources from the classroom. Therefore, there are no incentives universally available to schools to organise breakfast meetings. Some schools have been able to establish breakfast clubs for pupils with funding made available to them through the new opportunities fund from the Belfast Regeneration Office.

**Mr Dallat:** Is the Minister aware that there have been welcome and remarkable improvements in standards of literacy and numeracy in some of the most socially deprived areas? In Belfast especially, schools have sought support from this type of back-up. Will the Minister leave a note on his ministerial desk instructing the Department to give that top priority, so that the awful scourge of illiteracy and innumeracy can be alleviated?

**Mr M McGuinness:** As well as helping to promote the regular, prompt attendance of some children, breakfast clubs can provide a healthy breakfast for some pupils who might not otherwise have the chance. Indeed, if I had the resources, I would expand breakfast clubs, especially in schools serving areas of severe social disadvantage.

I know that John Dallat has a keen interest in literacy and numeracy, and I have tremendous sympathy with the arguments that he has made. There is no doubt that we must consistently challenge ourselves to see what more can be done to ensure that literacy standards are raised.

**Mr Shannon:** The Minister has stated that no moneys will be made available for participation by parents, teachers, pupils and classroom assistants in out-of-school activities. Can the Minister or his Department confirm that any assistance — it may not take the form of money — will

be equitable and given in parity to all state schools as opposed to only Irish-language schools and those schools represented by the Council for Catholic Maintained Schools? In the past, those schools have been given priority over state schools.

**Mr M McGuinness:** The concept of equality is important to the Department in its deliberations on the education of all children.

**Mr McElduff:** Go raibh maith agat, a Cheann Comhairle. Cuirim fáilte roimh cheist an Uasail Dallat. I welcome my Colleague's question, and particularly his emphasis on harnessing all the energies around schools to create a school and community partnership. However, I am not sure that breakfast meetings are the best mechanism for doing that. What does the Minister consider to be the best mechanism for achieving real participation among parents, teachers and pupils in a school and community partnership?

**Mr M McGuinness:** My Department accepts that parents have an important role to play in their children's education and has made limited funding available to each education and library board for a range of targeted parenting initiatives. In addition, under existing and proposed legislation, a school must consult parents about its discipline and anti-bullying policies. The Education and Training Inspectorate also seeks parents' views when undertaking a general inspection of a school.

### Review of Post-Primary Education

8. **Mr McHugh** asked the Minister of Education to outline the next steps he intends to take in his review of post-primary education.

(AQO 318/02)

**Mr M McGuinness:** In last week's statement, I said that building consensus remains the best way by which to make progress and that the considerable consensus demonstrated by the responses to the consultation provides a sound platform from which to move the review forward. I also outlined my plans to meet key stakeholders in education to listen to their views on responses to the consultation and on how best to make progress on the post-primary review before announcing proposals for the next steps in December. I am determined that the overwhelming demand for abolition of the transfer test shall not be thwarted by the suspension of the Assembly, and I announced on Friday that the last transfer test will be held in November 2004. The Department of Education will meet the key stakeholders as part of the process of developing new arrangements that are fair and that will enable all children to reach their full potential regardless of their background or circumstances.

**Mr McHugh:** Go raibh maith agat, a Cheann Comhairle. I welcome the Minister's answer and, in particular, the move on the 11-plus. Many teachers and parents have already been in touch to express their delight

that this flawed and divisive test is truly on its way out. Does the Minister believe that to suspend the institutions at a time when the education system is planning such fundamental change is nothing short of political vandalism?

**Mr M McGuinness:** As a Minister in an Executive that has only a few hours to run, I am saddened and disappointed that the institutions established under the terms of the Good Friday Agreement are to be suspended from midnight tonight — *[Interruption]*.

**Mr Speaker:** Order.

**Mr M McGuinness:** On and off over the course of the past three years, I have worked happily with my Unionist and SDLP Colleagues in the Executive. All of us, including the DUP Ministers, have done good work on behalf of the people. I was struck by John Reid's press conference this morning and the Ministers who were lined up beside him in front of the television cameras. They are probably all good and decent people, but none of them is from here. They do not know the communities, the geography and our problems as we know them. Of course, they will be overloaded by several portfolios.

3.00 pm

The suspension of the institutions will be detrimental to our economy and to our health and education systems. I am saddened by that. Whatever happens, there will be a huge responsibility on all of us — not least on the two Prime Ministers, Mr Ahern and Mr Blair — to ensure that we get the institutions back up again in the interests of the future of our people.

**Mr S Wilson:** Including your spy ring. *[Interruption]*.

You nearly lost your seat there.

**Mr M McGuinness:** Copy that.

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

## HEALTH, SOCIAL SERVICES AND PUBLIC SAFETY

### Fertility Treatment

1. **Ms Lewsley** asked the Minister of Health, Social Services and Public Safety to outline, for each health service board (a) the waiting time for an initial fertility clinic consultation and (b) the waiting time for each type of fertility treatment. (AQO 339/02)

**The Minister of Health, Social Services and Public Safety (Ms de Brún):** Go raibh maith agat, a Cheann Comhairle. Áirítear seirbhísí neamhthorthúlachta sna ceithre bhord sláinte agus seirbhísí sóisialta mar chlinicí ginearálta gíniceolaíochta; mar sin de níl saineolas ar bith ar fáil maidir le hamanna feithimh do chlinicí neamhthorthúlachta.

Cuimsíonn cóireáil neamhthorthúlachta drugaí, máinliacht, inseamhnú saorga agus teicníochtaí cúnta giniúna mar IVF (toirchiú in vitro). Fanann cuid othar le cóireáil agus iad ar liostaí feithimh ginearálta, mar shampla, i ngníceolaíocht, agus ní féidir iad a mhiondealú de réir diagnóise nó de réir reachta.

Fertility services in the four health and social services boards are counted under general gynaecology clinics, and no specific information in regard to waiting times for infertility clinics is available. Infertility treatment includes drugs, surgery, artificial insemination and assisted conception techniques, such as in vitro fertilisation (IVF). Some patients await treatment on general waiting lists — for example, in gynaecology — and it is not possible to disaggregate those by diagnosis or condition.

**Ms Lewsley:** Does the Minister envisage that in future those details might be separated so that we can see the number of people on a waiting list, particularly for infertility treatment? Given the expense of private treatment for infertility, has the Minister any plans to improve availability of the service and to reduce the waiting times for consultations?

**Ms de Brún:** There are two difficulties with regard to the future. One is obvious in today's context; the other is that, on an increasing number of issues, Members have asked about disaggregating the information to a level which simply is not possible. It is difficult to acquire the information, and it would place the system under added pressure.

With regard to improving the service, it was precisely because this was such a difficult matter and because there was no publicly funded sub-fertility service, that I decided to proceed with an interim service while working on what should be provided in future. The interim service provides only limited service, based on existing resources. However, I emphasise that it enables some couples to have access to publicly funded sub-fertility treatment, which, formerly, was provided only privately.

### Brain Surgery

2. **Ms Morrice** asked the Minister of Health, Social Services and Public Safety to outline, for the last 10 month period, (a) the number of brain surgery operations that have taken place and (b) the number of people waiting for surgery. (AQO 309/02)

**Ms de Brún:** Go raibh maith agat, a Cheann Comhairle. Níl fáil ar an eolas ar líon na n-obráidí máinliacht inchinne a rinneadh agus ar líon na daoine atá ag fanacht le máinliacht, mar ní mhiondealaítear liostaí feithimh ar an speisialacht néarmháiinliachta ina gcatagóirí ar leith.

The information requested is not available, as waiting lists in the neurosurgery speciality are not broken down into separate categories.



**Ms Morrice:** I am disappointed with the Minister's response. She is aware that the 82-year-old mother of one of my constituents was told in December 2001 that she needed surgery for a brain tumour.

Almost 12 months later, Hanna Glascott is still waiting. Two weeks ago, the Minister's office told me that she was in line for surgery. Her family has heard absolutely nothing. Will the Minister explain what is happening? Will she assure me that Mrs Glascott has not been put to the bottom of the list because of her age?

**Ms de Brún:** I assure Ms Morrice that no one is put to the bottom of a waiting list because of age and that Mrs Glascott has most definitely not been put to the bottom of the list because of her age. As Ms Morrice knows, right up until I came here today, my office has been dealing with her to determine what to provide for Mrs Glascott and the steps that must be taken to do that.

Ms Morrice referred to the breakdown of information. It is not possible to break down the numbers waiting for speciality services, and, if it were, it would not necessarily improve the provision of those services. Measures to improve the provision of speciality services include, for example, the considerable efforts being made by the Royal Group of Hospitals to address current problems, which include the introduction of three additional theatre lists; provision of funding for two additional beds for elective surgery; improvements in discharge times; a substantial increase in the number of nurse training places; and — *[Interruption]*.

**Ms Morrice:** Not by September this year.

**Mr Speaker:** Order.

**Ms de Brún:** It ill behoves a Deputy Speaker to interrupt the Minister who is trying to answer her question.

**Ms Morrice:** I need answers.

**Ms de Brún:** Provision has been made to fund four nurses, on a supernumerary basis, to attract them to the neurosurgery speciality. Therefore, work has been done to improve discharge times; provide additional nurses and theatre lists; and find funding for two additional beds for elective surgery.

**Mr B Hutchinson:** Is practice in the United Kingdom the same as in Europe, where surgery is performed at the weekend?

**Ms de Brún:** Practices vary between different countries in Europe. Some practices are similar here, and some are not. Specific work has been done on elective surgery here, and questions have been asked about the payments that have been made for it. Negotiations must take place for people to work outside their normal hours, and that issue is also being addressed through the negotiations on consultant contracts.

**Mr Byrne:** Does the Minister accept that many people who suffer from brain illnesses experience great concern

and anxiety, especially given the NHS categorisation that ranges between "very serious illness" and "life-threatening illness"? Does the Minister accept that no patient should have to make a choice between going private, because of the urgency of the situation, and waiting for an NHS operation?

**Ms de Brún:** As I have said many times in the Assembly, I agree that staff in the health and personal social services deal with the legacy of years of considerable underfunding. Daily, they are faced with questions that must be answered and decisions that must be taken in a far from ideal context. In neurosurgery, the more urgent cases are assessed daily and treated in accordance with clinical priority. It would, therefore, not be possible for us to move away from a service that is based, not on age or any other criterion, but on clinical priority.

### Bone Marrow Database

3. **Rev Robert Coulter** asked the Minister of Health, Social Services and Public Safety what steps she is taking to establish a Northern Ireland bone marrow tissue-typing database. (AQO 333/02)

**Ms de Brún:** Go raibh maith agat, a Cheann Comhairle. Cuireann an tSeirbhís Fuilaistrithe anseo, i gcomhar leis an tSaortharlann Tiopála Fíocháin, go suntasach cheana le Clár Deontóirí Smeara na Breataine. Tá timpeall is 7,000 deontóirí áitiúil ann, ar dheonaigh thart ar 50 acu smior. Tá clár smeara fosta ag Iontaobhas Anthony Nolan agus ag an Chlár Smeara Idirnáisiúnta; tá comhoibriú ann idir na cláir uilig.

The Blood Transfusion Service, in conjunction with the local tissue-typing laboratory, already contributes significantly to the British Bone Marrow Donor Registry. Approximately 50 of the 7,000 local donors have donated bone marrow. The Anthony Nolan Trust and International Bone Marrow Transplant Registry also hold bone marrow registers, and all registries co-operate.

**Rev Robert Coulter:** Will the Minister recommend to her successor that he or she, at an early date, extend to Northern Ireland the existing model for a bone marrow database similar to that already established in England?

**Ms de Brún:** A successful outcome in unrelated bone marrow transplantation is critically dependent on an exact match between the donor and patient. The nature of the blood typing that is required to find an exact match means that hundreds of thousands of donors are necessary in order to have a reasonable chance of finding a match, and there are approximately 160,000 donors on the British Bone Marrow Donor Registry. We must take those issues into account when we consider separating from that system.

Since the service began, the public here has shown a lot of interest by volunteering for the programme. The existing bone marrow programme has operated success-

fully for many years and has resulted in over 50 volunteers donating bone marrow. Our current connection means that anything extra that is done through the NHS will also have a positive, knock-on effect on access to the service here.

**Mr Kennedy:** Is the answer “yes” or “no”?

**Mr Speaker:** Order.

### Northern Ireland Fire Service

4. **Ms Armitage** asked the Minister of Health, Social Services and Public Safety if she has considered, or will consider, the reorganisation of the Northern Ireland Fire Service. (AQO 284/02)

**Ms de Brún:** Go raibh maith agat, a Cheann Comhairle. Le deireannas, cuir an Bhriogáid Dóiteáin críoch le hathbhreithniú cuimsitheach ar chlúdach dóiteáin anseo, agus tá mo Roinn ag déanamh machnaimh ar an dréacht-thuarascáil tosaigh den mheasúnú sin.

Ina theannta sin, tá bailchríoch á cur ar an chéad chéim d’athbhreithniú cúigbhliantúil an Údaráis Dóiteáin. Déanfaidh an dara céim den athbhreithniú meastóireacht ar an dóigh a bhfeidhmíonn an t-údarás maidir le luach ar airgead go háirithe, agus déanfaidh sé moltaí ar conas a fheidhmíocht a fheabhsú.

The Fire Brigade recently completed a comprehensive review of fire cover here, and my Department is considering the initial draft report of that assessment. Additionally, the first stage of a quinquennial review of the Fire Authority is being finalised, and the second stage of that review will evaluate how the authority performs, particularly with regard to value for money. Recommendations as to how the service’s performance could be improved will be contained in the second stage review. Those reviews will provide information to help determine the future shape and deployment of the Fire Service.

**Ms Armitage:** The Minister has almost answered most of my questions. Is she aware of the problems that exist in the Northern Ireland Fire Brigade, especially because it does not have a Chief Fire Officer? Does she think that the Fire Authority still has a role to play in the organisation of the Northern Ireland Fire Brigade? Is there equality in the membership of the Fire Authority? Finally, does the Minister agree that the Fire Authority is a quango and should be suspended prior to complete removal, like the Assembly?

**Ms de Brún:** I thank the Member for her somewhat colourful supplementary question.

I have full confidence in the acting chairperson of the Fire Authority, and I also believe that assistant chief fire officer Lammey and assistant chief fire officer Craig will provide the necessary leadership to manage the brigade effectively until the new Chief Fire Officer is appointed.

3.15 pm

With regard to the quinquennial review, the idea of having two stages is that the first stage should consider whether the present organisational structure remains the most appropriate vehicle to deliver the required service and whether the functions which the Fire Authority, in this case, carries out are still required. The stage-two review evaluates performance, and whether that review is carried out depends on the outcome of the first stage, which is being finalised at the moment.

**Mr S Wilson:** Is the Minister aware that, apart from the dissatisfaction felt in some circles with the organisation of the Fire Service, there is also continued dissatisfaction with the way that firefighters’ pay has been handled — or not, as may be the case? Will the Minister confirm that, if that issue is not resolved, the Army will have to provide cover in the event of a strike by firefighters? In such an event the Army will, in turn, require police cover, with the Minister’s Department responsible for the payment of that cover. Do we, therefore, face the prospect of an IRA/Sinn Féin Minister actually paying for the Police Service of Northern Ireland?

**Ms de Brún:** Unless that happens before midnight tonight, Mr Wilson knows well that it is most unlikely that we will face any such prospect. However, I can say that although my Department is not directly involved in the negotiations that take place between the Fire Authorities and the staff side, the Department, along with the Fire Authority, has responsibility to consider how emergency cover can be provided in the event of a strike.

**Mr Foster:** With the emphasis on the word “reorganisation”, in relation to hospital services, will the Minister agree that the site of the new acute hospital for the Enniskillen area should be announced —

**Mr Speaker:** Order. The Member knows perfectly well that this is remote in the extreme from the question to which it is meant to be a supplemental.

**Mr Hussey:** The Member meant to say Omagh.

**Mr Speaker:** Even if Mr Foster had said Omagh, it would still not have qualified.

### Antrim Hospital

5. **Mr Beggs** asked the Minister of Health, Social Services and Public Safety to make a statement on the waiting lists at Antrim Hospital and to give her assessment of the effects of the scarcity of community care packages on bed blocking there. (AQO 313/02)

**Ms de Brún:** Go raibh maith agat, a Cheann Comhairle. Bhí 1,935 duine ar liosta feithimh d’othair chónaitheacha ag Otharlann Cheantar Aontroma ar 30 Deireadh Fómhair 2002. Is ionann sin agus laghdú de 100 sna sé mhí ó 31 Mhárta. Thar an tréimhse chéanna, tháinig ardú de 140 ar chásanna lae ó 2,269; bhí moill ar

73 duine a scaoileadh amach ar 30 Meán Fómhair 2002 mar gheall ar dheacrachtaí ag freastal ar an éileamh ar chúram sa phobal.

Mar gheall ar na brúnna seo, chuir mé maoiniú ar fáil do bharda breise 24 leaba san otharlann; tá sé le bheith ann faoi Mhárta 2004. Tá an t-iontaobhas ag obair chomh maith le Bord an Tuaiscirt agus le mo Roinn le teacht ar bhealaí breise le liostaí feithimh a laghdú, go háirithe i ngnáthaimh lae agus i gcúram lae agus trí phacáistí breise cúraim phobail a chur ar fáil.

The inpatient waiting list total at Antrim Area Hospital, on 30 September 2002, was 1,935. That represents a reduction of 100 in the six months from 31 March 2002. Over the same period, day cases rose by 140 from 2,269 to 2,409. There were 73 delayed discharges at 30 September 2002, due to difficulties in meeting the demand for care in the community. In recognition of these pressures, I have made funding available for an additional 24-bed ward at the hospital, scheduled to be in place by March 2004. The trust is also working with the Northern Health and Social Services Board and my Department to find further ways to reduce waiting lists, particularly for day procedures, day care and through the creation of additional community care.

**Mr Beggs:** Does the Minister agree that there is an acute shortage of community care provision in the Home-first Community Trust area and that a contributory factor to the lack of community care is that patients in Northern Ireland receive some of the lowest levels of funding per patient in the Health Service? Will she confirm that beds are being blocked and that patients are being admitted on an emergency basis because they are not being adequately treated in the community? For example, east Antrim has some of the longest occupational therapy waiting lists. Will she explain why the consultant rheumatologist for the Northern Health and Social Services Board area had to close her list in March 2000? Furthermore, would she care to comment on the rumour that the Massereene ambulance depot is being considered for relocation and on the effects that that would have on jobs and the delivery of care in the community?

**Ms de Brún:** I am slightly at a loss to understand the connection between an ambulance and the provision of money for care in the community. However, if the Member wishes to write to me on the subject, I would be happy to take up that point with him.

On several occasions I have stated that years of underfunding have affected not only hospital capacity but, vitally, care in the community to the extent that it impacts on people who are admitted inappropriately to hospital and on people who are ready to go home but whose discharges are delayed because they are not able to go home. It also has an impact on those waiting for services in the community. That is why I secured an

additional £19.1 million for the current financial year, which will increase the capacity of health and social services boards to make payments to care homes, to implement the changes that I have already outlined in nursing care, and to support an additional 1,000 people in community settings. I continue to seek extra funding to increase that number even further. I continue to prioritise delayed discharge. I assure the Member of that and of the restoration of domiciliary care as a cost-effective alternative to institutional care.

**Mrs I Robinson:** The Minister's answer to the Member for East Antrim and to supplementary questions from other Members illustrates the overall, unsatisfactory state of the health sector in the Province. As her period in charge comes to an end today, what does the Minister think she has achieved in office? Bearing in mind that hospital waiting lists have deteriorated to the extent that they are now the worst in Europe; that expensive consultations have provided few tangible results; that our acute hospitals have insufficient resources; that staff are overworked and feel undervalued; and that GPs do not involve themselves in local health and social care groups, what were the Minister's aims, and what does she think that she has delivered?

**Mr Speaker:** Order. It would be in order for the Minister to answer the points of the supplementary question that relate to the primary question.

**Ms de Brún:** When I came into office one of my priorities was to address the situation that I found and that the Member's party would also have found, had it not passed over this portfolio. The situation was that, for many years, there had not been sufficient investment in hospital or community services, capacity, equipment, staff or staff training. Therefore, one of my major achievements has been to highlight and document that in workforce planning and to seek, and to some extent gain, the funding to put that in place. With regard to the scarcity of community care packages, people will see that, since I took on this portfolio, there has been a shift towards community care and more money invested in community care than there had been for some time.

Members have recognised that.

There is also integrated working as shown by the work that was done originally on winter pressures, and that has been extended to greater integrated working in the whole service. As Members know through a variety of announcements, work has also been done on replacing equipment; on new additional staff, particularly for nurse training; on the provision of an overall strategic view of the way forward; and, specifically, to address delayed discharges and inappropriate admissions to hospital.

### Five-Year Tobacco Action Plan

6. **Dr Birnie** asked the Minister of Health, Social Services and Public Safety how many responses have so



far been made to the public consultation on the five-year tobacco action plan. (AQO 338/02)

**Ms de Brún:** Go raibh maith agat, a Cheann Comhairle. Fuarthas freagra is tríocha go nuige. Críochnaíonn an tréimhse chomhairliúcháin ar 15 Samhain 2002.

Thirty-one responses have been received so far. The consultation period ends on 15 November 2002.

**Dr Birnie:** Since the plan's aim is to reduce the amount of smoking in the Northern Ireland population, can the Minister assure us that her Department leads by example? What measures are in place among her staff to discourage smoking in the Department? For example, are there smoking rooms in the departmental headquarters and such buildings?

**Ms de Brún:** We have taken considerable steps to discourage smoking. The Member knows that all steps have been taken to ensure that our staff, as others, lead by example in the work that must be done on this. We have undertaken public information campaigns. We have television advertisements, a web site and a magazine, all aimed at discouraging smoking among young people. Earlier this year we released the hard-hitting television advertisement entitled 'Artery', which we saw earlier this year. That was aimed mainly at adult smokers, particularly disadvantaged adults. There is a campaign to promote a telephone helpline service. The Member will be pleased to note that work on a new campaign is well under way, as is action to award a contract for a permanent telephone helpline to complement cessation services.

**Mr Shannon:** How can the Minister take any action on the responses to the five-year tobacco action plan when she has singularly failed to address the waiting lists for operations; the deficit of staff in almost every sector; and the total lack of confidence of the general public in her ability to do the job?

**Ms de Brún:** I am somewhat reluctant to respond to a series of questions that, like the heckling today, has more to do with current selection conventions in the Unionist community to choose candidates for forthcoming elections than with services.

However, the work that I outlined in answer to the previous question is only a small part of all the work that has been done. We have been working towards a ban on tobacco advertising. There have been public information campaigns, and considerable work has been done on the key target groups. We have also been working to get the public health messages out, and we have been working particularly hard to ensure that the public are personally engaged in this, so that all aspects of one of the greatest causes of disease in our population are tackled and fought. That is alongside the wider social and economic determinants of health, which I am delighted that we have been able to address in our 'Investing for Health' strategy.

## Fire Service

7. **Mr C Murphy** asked the Minister of Health, Social Services and Public Safety what steps she is taking to create a neutral working environment in Fire Service properties. (AQO 336/02)

**Ms de Brún:** Go raibh maith agat, a Cheann Comhairle. Agus í ag coimhlíonadh a gealltanais timpeallacht neodrach oibre a chruthú i ngach áitreabh de chuid na Seirbhíse Dóiteáin, tá polasaí comhionannais deise agus scéim chomhionannais alt 75 i bhfeidhm ag an Údarás Dóiteáin. D'aontaigh an t-údarás chomh maith le hionadaithe foirne ar chomhfhógairt chosanta a bhfuil sé de aidhm aici timpeallacht chomhchuibhiúil oibre a chur chun cinn d'fhoireann na Seirbhíse Dóiteáin go léir. Tá cóip di ar taispeáint i ngach áitreabh de chuid na Seirbhíse Dóiteáin.

3.30 pm

In fulfilling its commitment to the creation of a neutral working environment in all Fire Service premises, the Fire Authority has an equal opportunities policy and the corresponding section 75 equality scheme in place. The authority has also agreed with staff side representatives a joint declaration of protection aimed at promoting a harmonious working environment for all Fire Service staff, a copy of which is displayed in all Fire Service properties.

**Mr Speaker:** I regret that the Member will not be able to ask a supplementary question on this occasion.

## FINANCE AND PERSONNEL

### Peace II Programme

1. **Mr Byrne** asked the Minister of Finance and Personnel to provide an update on the implementation of the Peace II programme. (AQO 302/02)

**The Minister of Finance and Personnel (Dr Farren):** The implementation — [*Interruption*].

**Mr Speaker:** Order.

**Dr Farren:** Implementation of the Peace II programme is, I am pleased to say, progressing steadily. All implementation bodies have been appointed, and all measures have been opened. Nearly 2,700 applications have been received, and many grant offers have been made. Payments to projects began in May, and discussions are taking place with the European Commission to finalise the programme complement as soon as possible. The Special EU Programmes Body will be working with all implementation bodies to ensure that targets for expenditure under the programme are met.

**Mr Byrne:** The Peace II programme provides a great basis for building more voluntary and community capacity. There were reports about difficulties with certain

sectors, particularly the community and voluntary sectors. What is the Minister doing to address the situation that some of those sectors find themselves in when dealing with funding difficulties?

**Dr Farren:** I have been made aware of concerns in the community and voluntary sectors about funding allocations and applications being assessed in time. I have directed that work being introduced on several fronts should address those concerns. Discussions have taken place in the Administration and with the implementing bodies for the programme. I regret to say that following today's Question Time one of my last official duties will be to meet with representatives of intermediary funding bodies to hear their concerns and to tell them how these are being addressed, so that we can identify and remove obstacles to the more rapid allocation of money to projects and groups that have applied for funding.

There will be a review of the application form that has caused some concern and a review of processes to make submitting applications easier. There will be continuing discussions with the European Commission to identify ways of simplifying the application of its regulations, and there will be a review of the scope of activities that can be funded from measures in the programme in consultation with the monitoring committee. At a meeting of the North/South Ministerial Council in Ballycastle last Wednesday, my counterpart from the Dublin Government, Tom Parlon, Minister of State at the Department of Finance, and I had a report from the chief executive officer of the Special EU Programmes Body on some of those issues. As I have already said, I will be taking forward some of those discussions with representatives of intermediary funding bodies later this afternoon.

*(Mr Deputy Speaker [Mr J Wilson] in the Chair).*

**Mr Shannon:** Can the Minister confirm the uptake for the Peace II programme in constituencies across the Province, particularly in Strangford? What steps is his Department taking to ensure that equitable funding is available for all sustainable projects in the Province, especially in Strangford?

**Dr Farren:** The Member has asked a question that has been submitted for answer later. He would not expect me to have, either at my fingertips or in my head, the kind of details that he seeks on constituency allocations. Allocations are not made on a constituency basis; preference is given according to measures within the different priorities. In my response to Mr Byrne's question, I said that more than 2,700 applications have been received from organisations and from community and voluntary groups throughout Northern Ireland. Although not all have been successful, many have been, and the assessment process is ongoing. Details are available regularly.

The Special EU Programmes Body has been submitting monitoring reports to the Department of Finance and Personnel and will continue to do so. I am in a position to

make those reports available to my Executive Colleagues, so that we can see where money is being allocated. As the Member will appreciate, meeting social need is an important requirement. Identifying areas of social need is one of the horizontal principles that must be borne in mind when determining allocations. In particular, allocations made under the local strategy partnerships, which are responsible for two of the measures in priority 3, have directly taken account of relative need in all 26 district councils.

**Mr Hussey:** I listened carefully to the Minister's answer and welcome the fact that Peace II funding has begun. I also welcome the possibility of simplifying the complex application forms for Peace II funding. Can the Minister explain, in the light of the community's great concern, the delay in delivering that funding? Why have we had to wait until now? I and many other Members understood that the funding would be on stream long before now.

I share the Minister's concern that he is carrying out his final duties today. However, he must remember that if his party had joined with the rest of us, 82% of this place would not be disenfranchised by the 18% sitting on the Benches opposite.

**Dr Farren:** I shall respond to the first part of the Member's question, for which, as Minister of Finance and Personnel, I am directly responsible. Although there have been some delays, allocations have been made since May 2002. There have been some considerable delays in the establishment of some of our local strategy partnerships and the development of their local strategy plans. Further delays were the result of the long and detailed consideration that must be given to applications. There is an understandable concern that applications are assessed fully, according to the criteria.

The criteria for Peace II funding are different in several respects from those applicable to Peace I funding. The particular emphasis on the "distinctiveness" criterion has caused some problems. The Special EU Programmes Body and the intermediary funding bodies are anxious to address the problems and to help groups articulate their aims and objectives as effectively as possible with respect to all the criteria. It is hoped that those groups do not find themselves in a situation in which their applications are returned for further clarification and elaboration. That has already happened and has therefore contributed to some of the delay. However, there is a significant momentum behind the Peace II programme, and I am confident that we can deliver on the spending objectives — not only in the immediate future but throughout the period for which the programme will operate.

### Additional Moneys

2. **Mr Dallat** asked the Minister of Finance and Personnel to outline his plans for raising additional moneys to meet increased commitments; and to make a statement.  
(AQO 341/02)

**Dr Farren:** The draft Budget presented to the Assembly on 24 September is predicated on the use of the reinvestment and reform initiative and on the use of public-private partnerships to address infrastructure deficits. Beyond the immediate borrowing facility of £125 million for 2003-04, details of which have already been announced, the extent to which we can borrow is limited by our ability to raise additional revenue to service the debt. Any decisions will be taken with due regard to the recent consultation exercise on the review of rating policy.

As I have previously made clear, there will be no increase in regional rate beyond the pattern of recent years unless and until a fairer system is in place. In the meantime, I have proposed to the Executive a package of allocations from the September monitoring round for 2002-03 amounting to £144 million and, in conjunction with the First Minister and the Deputy First Minister, a further package of £19 million this year and £47 million in 2003-04 from two of the Executive programme funds. As it will not be possible to announce these in the usual way — by a statement to the Assembly after Executive agreement — I have made details of the proposals available to Members through a press release.

**Mr Dallat:** I thank the Minister for his answer and for his good news on a day when there is not a lot to be happy about. Will the Minister assure the House that, before he goes home tonight, he will have written all the cheques he is entitled to in favour of the socially disadvantaged groups? In doing so, will he remember to take account of potential efficiency savings as well as the sale of Government-held assets in constructing his Budget proposals? We do not want to leave anything untouched.

**Dr Farren:** I must be careful when responding to the Chairperson of the Audit Committee and member of the Public Accounts Committee in this regard. Both of us will cease to hold our respective offices from midnight this evening, but when Members read the press releases on September monitoring and further allocations from two of the Executive programme funds, they will see that the Executive have done all in their power to redirect and add to the scope for investment in such vital services as health, education, roads infrastructure, transport facilities and the Water Service. It is a legacy of which we can be proud.

The responsibility for the actual spend will not be with the Minister of Finance and Personnel but with the Ministers who have responsibility for the various Departments. My Budget proposals contained a clear invitation and a requirement on all Departments to submit a report by the end of October on how they will address efficiency and asset management issues — and I trust that the present hiatus will not be a cause for any delay in that regard. When the Assembly returns — as I hope it will in the not too distant future — it is hoped that Members will find that considerable progress has been made with respect to what was proposed in the reforming and, as I said at the time, radical Budget.

3.45 pm

## Census

3. **Dr McDonnell** asked the Minister of Finance and Personnel to outline the timescale for the release of future census data. (AQO 342/02)

12. **Mr McClarty** asked the Minister of Finance and Personnel when further key information from the Northern Ireland Census 2002 will be made available. (AQO 310/02)

**Dr Farren:** With the Deputy Speaker's permission, I will take questions 3 and 12 together. A census key statistics release will be published as a printed report at the end of December 2002. That will provide basic counts on each census question at Northern Ireland and district council levels. It will include, among other things, information on religion, employment and general health. Similar statistics for ward and sub-ward output areas, of which there are approximately 5,000, will be made available on compact disc and on the census web site. Standard area statistics that provide detailed cross-tabulations required by census users are planned for the first half of next year. They will comprise a printed report at Northern Ireland level with 900,000 further cross-tabulations at local authority ward and sub-ward output area level. The report will be available on compact disc, on high-capacity digital versatile disc and on the census web site.

A census output prospectus, which details the form and content of census outputs, is available on the Northern Ireland Statistics and Research Agency web site, and that will be updated as necessary. The Department of Finance and Personnel plans to release census outputs in accordance with a timescale set out at the beginning of the process.

I thank all those who participated in, and worked on, the 2001 census: the public who took the time to complete and return the forms; the 3,000-strong field force of enumerators and supervisory staff who worked to deliver and, where necessary, collect the forms; and the census office staff who undertook the processing and reporting of the forms. It was a major exercise, and considerable value will be drawn from it for the future planning of services for which the Department is responsible.

**Dr McDonnell:** Why will the census results not be published before the end of December?

**Dr Farren:** The first set of census results was published a few weeks ago. The details related to the gender breakdown across Northern Ireland at district council and ward levels. They were released in accordance with the timetable set out at the beginning of the census process, and in parallel with the release of similar information in England, Scotland and Wales. There has been no undue delay in the release of data, but an exercise



of the scale of a census requires a considerable period of processing and a timetable for the release of the various parts of the data that have been collected. The next tranche of data will be released towards the end of the year, and it will contain the information that I have highlighted.

### European Funding

4. **Mr Poots** asked the Minister of Finance and Personnel how he intends to ensure that European funding is properly spent without having to return substantial sums to Europe. (AQO 291/02)

**Dr Farren:** The current projections indicate that the building sustainable prosperity programme will exceed its expenditure targets, but that the Peace II programme needs to increase its rate of spending to meet the level required by its first target date of 31 December 2003.

All implementation bodies are aware of that position, and the Special EU Programmes Body will monitor the expenditure closely. I have discussed this with the Executive, the North/South Ministerial Council and the Special EU Programmes Body, and I will discuss similar issues with representatives of the intermediary funding bodies later this afternoon.

If necessary, proposals will be put to the monitoring committee about moving money from slower-spending to faster-spending measures. However, we must have some sense of the pattern of spend in the different priority areas. The Special EU Programmes Body, as the managing authority, is examining that.

**Mr Poots:** Does the Minister recognise that some problems result from some of the Departments dragging their feet in spending the money? There is concern that money was misallocated the last time, so it is imperative that proper control measures are put in place to ensure that money is not squandered. Nevertheless, the Departments must create the impetus to ensure that the money is properly spent and does not go back to Europe, because Northern Ireland badly needs it.

**Dr Farren:** I thank the Member for his comment, but I have dealt with many of his points. I have been monitoring the situation since early summer. I have been in touch with ministerial Colleagues. I have reported to the Special EU Programmes Body and the North/South Ministerial Council, and I will be in touch with the intermediary funding bodies this afternoon. We are attempting to ensure that spending profiles will be met on target. The first target is 31 December 2003, and everything possible is being done to ensure that it is met. I am confident that we will achieve it.

**Mr Beggs:** Will the Minister acknowledge that the application process could contribute to underspending of European funding, because it is bureaucratic and off-putting to small and medium-sized projects? Will he urge his Department to review the appropriateness, or

otherwise, of the application process, so that projects can be accurately assessed according to their value?

**Dr Farren:** As I said, I am reviewing all those matters. The fact that the Department has received 2,700 applications, many of which came from smaller organisations, suggests that the difficulties can be overcome with the assistance of the intermediary funding bodies and the Special EU Programmes Body. Notwithstanding that, I am aware that there are concerns, and they are being addressed immediately and expeditiously.

### Springvale Educational Village

5. **Mr Kennedy** asked the Minister of Finance and Personnel whether the recent uncertainty expressed on the long-term sustainability of the Springvale Educational Village was conveyed to his Department prior to the publication of the draft Budget. (AQO 316/02)

**Dr Farren:** I understand that the question relates to the main Springvale campus, which has been the subject of recent media attention. Officials in the Department for Employment and Learning alerted the Department of Finance and Personnel informally at the end of June this year that a potential problem had emerged with the Springvale outline business case that concerned initial affordability by the institutions rather than the long-term sustainability of the project. The Minister for Employment and Learning wrote to me formally on this on 25 September.

**Mr Kennedy:** Given the important scrutiny role of the Committees, will the Minister say whether the matter was drawn to the attention of the relevant Committee, and, if not, why not?

**Dr Farren:** I cannot answer that because I am not responsible for the Department for Employment and Learning, nor do I know of the engagement between that Department and its statutory Committee.

### Draft Budget

6. **Ms Lewsley** asked the Minister of Finance and Personnel to outline (a) any consultation which has taken place on the draft Budget and (b) the timetable for the presentation of a revised Budget to the Assembly. (AQO 303/02)

**Dr Farren:** As I said earlier, the draft Budget was introduced on 24 September, which marks the start of the formal consultation period. The Executive's intention has been to engage fully with the Assembly and other groups on the content of the draft Budget and the draft Programme for Government, which it supports. We will do that in an integrated way, consulting on those documents together. Both documents have been made widely available to social partners, business, trade unions and the voluntary and community sector. In addition, a series

of workshops and seminars has been arranged to enable as many people as possible to put forward their views, and I am assured that those workshops and seminars will be held notwithstanding the suspension.

During October and early November we would have taken evidence from other Committees on the draft Budget, which would have been followed by a “take note” debate on the subject. Any proposed changes would then have been incorporated into a revised Budget to be presented, if we were here, in early December, and, miracle of miracles, we might be. A detailed timetable for the presentation of our revised Budget is contained in the draft Budget document. I trust that the Ministers who will take over responsibility for our respective Departments will take note of the level of agreement reached on the proposals in the draft Budget, and I have a high degree of expectation that we can await the implementation of the Budget in accordance with the desires of the representatives of the people of Northern Ireland.

**Ms Lewsley:** What specific steps does the Minister hope will take place to ensure that outside interests have a chance to participate fully in the consultation?

**Dr Farren:** I trust that the range of interests which I mentioned in my previous response will be consulted. The Member, and all Members of the House, will be satisfied that an adequate opportunity has been provided across all sectors for a response to and an input into the draft Budget. I cannot, with any certainty, predict what the Ministers taking over will decide. Nonetheless, they will come back to the broad proposals in the Budget and make their final determination, taking those views into account.

### Review of Rating Policy

7. **Mrs Courtney** asked the Minister of Finance and Personnel how many responses were received to the review of rating policy. (AQO 300/02)

**Dr Farren:** At the close of the consultation phase of the review of rating policy, 95 responses had been received. The respondees include political parties, Assembly Committees, district councils, numerous interested organisations and groups and many individual ratepayers.

**Mrs Courtney:** Now that the Assembly is being suspended, does the Minister believe that the review of rating policy will suffer the same fate?

**Dr Farren:** As I have said, I cannot say with any certainty what will happen to that or any other policies of the Executive, the Assembly or its Committees.

4.00 pm

It was widely acknowledged and accepted around the House that the current rating system contains not only many anomalies but many inequities. The incoming Ministers will be mindful of the urgency with which the

issue must be addressed so that we can have a fair and equitable system for all.

**Mrs Carson:** What response did the Minister receive from domestic ratepayers and the small-business sector?

**Dr Farren:** The Member asks me to detail what two interest groups have said. Responses have been received from many people in the small-business sector and from individual ratepayers. The one plea that tends to come out in all the submissions is that every group wishes to be exempt from rates. We should be in some difficulty if we heeded that plea for no one to have rates levied on him or her.

*Motion made:*

That the Assembly do now adjourn. — [*Mr Deputy Speaker.*]

## THE FUTURE OF THE MATER HOSPITAL

**Mr A Maginness:** On 2 July 2002, the McAuley Building was opened at the Mater Hospital. It is a new, state-of-the-art building that will service the hospital. It was called after Mother Catherine McAuley, a Catholic religious sister in the nineteenth century who founded the Sisters of Mercy, an order particularly dedicated to teaching and nursing. She was a sort of nineteenth-century Mother Teresa in Ireland. She and her sisters founded many schools, hospitals and other institutions the length and breadth of Ireland for the Irish people — Catholic and Protestant, from north and south. In many ways, together with other religious orders and people, both Catholic and Protestant, she established the foundations and infrastructure for schools, the education system and the health service in Ireland.

Part of those foundations was the Mater Hospital, which was founded in Belfast in 1883. By 1909, the hospital's status in Ireland was such that it was recognised as a university teaching hospital. The Mater maternity unit was eventually opened in 1945, adding a further service to the hospital. In 1972, the hospital, which had previously been under Catholic control and which had been independent throughout its history, became part of the National Health Service. A deed of arrangement underpinned the transfer of the hospital to the NHS. That was a guarantee from the Government of the time that the hospital's character and ethos would continue. I shall say more about that later.

Until 1972, the hospital was funded by the Young Philanthropists, of which my late father was a member. It was an imaginative and far-sighted group, for it saw that it was important to put moneys necessary for the hospital's future into trust funds. Indeed, the group raised a great deal of money. Over the years, thanks to the financial wizardry of a very distinguished cleric called Monsignor Mullally, the money was transformed into a multimillion-pound fund. The upshot was that the McAuley Building was opened in July 2002. Built at the cost of £17 million, it was virtually a new hospital. None of that money came from the state. It was raised by generations of Belfast people. It was used to build and equip the building. It was, in effect, a gift of £17 million to the public Health Service by a private charitable trust.

The Mater Hospital has, however, been informed, following the Department's document 'Developing Better Services: Modernising Hospitals and Reforming Structures', which was published in June 2002, that it is to be

downgraded to a local hospital. It will no longer be an acute hospital. In substance, that means that its acute services will be systematically removed over several years. It will end up as little more than a glorified nursing home.

Despite what the Department says, the hospital will lose many of its services. It will lose its accident and emergency service, which — as those who live in north Belfast know — is crucial to the people of the area. That area has the lowest car ownership in Belfast — indeed, in Northern Ireland — yet the Department is persisting in its views. The Department also insists that intensive care and high dependency units will be removed. Inpatient general medicine, inpatient cardiology and the coronary care unit, inpatient diabetic services, inpatient respiratory medicine, inpatient general surgery, inpatient urology services, inpatient cardiac investigation, inpatient gynaecology, inpatient laboratory services and inpatient anaesthetic services will also go. I contend that there will be nothing left if the Department's proposals are implemented.

The developing better services document takes the form of a White Paper. It not called a White Paper, but that is what it is. It represents the Department's and the Minister's thinking. In fact, the Minister had to be pushed into extending the period of consultation. She said that consultation should end in September 2002. That has now been extended to the end of October 2002. That demonstrates the Department's commitment to the proposals contained in the document. There is no doubt that if the proposals are implemented, it will be the end of the Mater Hospital as an acute service hospital in Belfast.

Furthermore, the continuance of maternity services is also under threat. That threat is not as explicit as the threat to other services. The survival of the service is conditional upon the Mater Hospital's working with the new centralised Belfast Maternity Service. That is code for "If you do not do what you are told, you will lose your maternity services". That is what the Minister and the Department are saying to the Mater Hospital.

The Department says that the Mater Hospital's teaching status will remain. I mentioned that such was the status of the Mater Hospital at the beginning of the century that it was granted university teaching status. The Department says that that status will remain. How credible is that proposal, when the Minister is taking away the acute services that would encourage doctors and nurses to come to the Mater Hospital to train? Its teaching status might remain in name, but in reality it will not remain at all. It does not take a genius or a medical expert to reach that conclusion.

The Department says that the developing better services document is in line with the Hayes Report — the acute hospitals review group report. That is untrue. I ask Members to check the document and the Hayes Report. It is not in line with the proposal for partnership with the Whiteabbey Hospital to deliver acute services to north



Belfast, Carrickfergus and Newtownabbey. It is not true for the Department to assert that.

There is no proposal to retain acute services at the Mater for the foreseeable future. Some of the acute services that I mentioned will be retained for a few years, but they will be phased out. However, the Hayes Report stated that acute services at the Mater would be retained for the foreseeable future — in other words, for an indefinite period. The Minister's document does not say that; it says that it is merely a transitional arrangement. Further to that, the Hayes Report states that a regional service should be located in the Mater, but that is not mentioned in the Minister's document at all.

The effect in north Belfast will be considerable and significant. The effect on employment alone will be substantial. Around 1,000 people are employed by the Mater Hospital. It is possibly one of the biggest employers in north Belfast. Ancillary, clerical, medical, clinical and nursing staff will be systematically removed. In a few years' time, the number of employees might be down to 500 or 600 staff — and still falling. Think of the effect that that will have on north Belfast.

The latest analysis of north Belfast contained in the North Belfast Community Action Project Report states:

"The population served by the North and West Belfast Health & Social Services Trust has some of the poorest health and social care indices with high incidences of cancer, asthma, bronchitis and other diseases. Seventeen out of the 20 wards in North Belfast are in the 25% most health deprived wards in Northern Ireland. Ten out of 20 wards in the area are in the 25% of wards in Northern Ireland with the highest ratios for cancer. These are all causally linked to the levels of deprivation experienced by this population."

Acute hospital services will be removed from the people who most need them. What sort of madness is this coming from the Department of Health? North Belfast has some of the highest rates of suicide, substance abuse and mental ill health. How can any of these proposals ameliorate that situation?

The Mater Hospital serves the community, and has served it very well. Over 45,000 people have used the accident and emergency service in the Mater Hospital over the past year. There were 6,000 medical or surgical emergencies and 1,000 births. That is a more than creditable performance for any Northern Ireland hospital.

The Minister's proposals are unacceptable and wrong. They are dangerous and will hurt the long-suffering people of north Belfast. They are an offence to good public policy. Is it not ironic that a Minister who is ostensibly committed to the equality agenda is, through her proposals, undermining that agenda and disadvantaging the people of north Belfast, Catholic and Protestant?

The proposals also run contrary to the deed of arrangement, because they undermine the historic character and ethos of the hospital. Not only are the proposals legally questionable, they are undoubtedly politically unacceptable

and objectionable to the people of north Belfast. During this little political interlude, let us hope that the Minister will have a change of mind, or that her mind will be changed, by the time we return.

4.15 pm

**The Chairperson of the Committee for Health, Social Services and Public Safety (Dr Hendron):** Wearing my hat as Chairperson of the Committee for Health, Social Services and Public Safety, I wish to express my disappointment that no decisions have been made on the future of not only the Mater Hospital, but of all acute hospitals in Northern Ireland. I want to make it clear that I in no way point the finger at the Minister. Other reports were published long before the Hayes Report, but it is the most recent. It was followed by the Minister's consultation document 'Developing Better Services: Modernising Hospitals and Reforming Structures'. I hope that when the Assembly is reinstated the Minister, or any future Minister, will make decisions on that.

I will now speak not as Chairperson of the Committee but as MLA for West Belfast and as one who has spent many years in west and north Belfast — I sometimes say how many years, but I will decline to do so now. I have long experience of the Mater Hospital, the Royal Victoria Hospital and the City Hospital.

Alban Maginness has already mentioned the new £17 million development at the Mater Hospital. Every hospital has its origins, and people become attached to them. The Mater is in many ways unique, but I will not dwell on that point because it has already been well covered. It seems odd that it has been proposed that the Mater Hospital, with its new £17 million development, is to be stripped of its acute status.

Alban Maginness rightly says that 'Developing Better Services: Modernising Hospitals and Reforming Structures' is in effect a White Paper. When asked, the permanent secretary made it clear that it was a White Paper. The odds of the proposals contained in a White Paper being put into effect are at least 50 to one on. Consultation will still take place, and perhaps in special circumstances changes will be made, but as Members will know, generally speaking, the recommendations contained in a White Paper will be carried out. The part of the document that deals with organisation does not have "White Paper status", because it is part of the review of local services.

It is proposed in the document that the Mater Hospital become a local hospital and a key institution in the fields of medical and nurse training and that its links with Queen's University be put on a statutory basis to formalise its role as a teaching hospital. I was taught in the Mater Hospital and also in the Royal. The teaching role of the Mater Hospital is well known in this country and far beyond. No formality or legal standing is needed

in that regard. It is an outstanding teaching hospital. I find the suggestion that somebody from Queen's University should be on the hospital's board of management condescending. It is as if the hospital is being given some sort of important status when, in fact, it is being slowly destroyed by the removal of its acute services.

The Mater Hospital has been outstanding in its diagnosis and treatment of chronic obstructive pulmonary disease (COPD), which is associated with emphysema, smoking and dust in the air. North Belfast has twice as many cases of that terrible condition as other parts of Northern Ireland. It seems odd that, although the Mater Hospital is so well established and recognised for its treatment of chest disease, it may lose its acute services over the next 10 years. The hospital has piloted a multidisciplinary approach to treating patients with COPD, and it is the only hospital in the North with a specialist COPD clinic. Only two years ago, a young nurse there was named UK Respiratory Nurse of the Year.

The McAuley Building houses facilities to provide the most advanced acute services for the benefit not only of its catchment area, but of a much wider community through regional and outreach services and clinics.

I speak not only from my own years of experience, but as someone who has visited the accident and emergency (A&E) departments in all the major hospitals, including the Mater Hospital. Let me take those of the Royal Victoria Hospital and Belfast City Hospital as examples. I have nothing but respect for the nurses, doctors and other staff who work there, but they cannot cope, and not only in winter. I shall not go into the whole matter of trolleys and people waiting, but acute services, especially A&E, are not coping.

I emphasise that the picture is the same in Belfast City Hospital and in Antrim Area Hospital. I have visited all those hospitals. I suppose that no matter what Maurice Hayes and his people said about hospitals, they could not possibly satisfy everyone. However, with regard to overall principles, I have no difficulty in accepting the Hayes Report, and I am aware of what it said about the Mater Hospital.

I understand that every politician will make a case for the hospital in his or her area. However, in respect of the Minister's points, there is something about the Mater Hospital that is not fully realised. The Antrim Area Hospital and the Royal Victoria Hospital could not cope with north Belfast. It has nothing to do with sentiment, although that is involved in all hospitals. It comes down to the direct clinical issues that affect north Belfast, which Members will accept is the most impoverished area in these islands. To remove acute services — even in a few years' time — is the beginning of the end of that hospital. It must be borne in mind that the other hospitals cannot cope.

I appreciate and understand that it was not easy for the Minister to make the decisions in her White Paper. Were someone to ask me what I recommended, I should not find it easy, taking account of the picture across Northern Ireland. However, the sums have either been done incorrectly or wrongly interpreted. I should like the Minister and her Department to examine those figures again. They must realise that the people of north Belfast — Catholic and Protestant alike — could not cope without the Mater Hospital. Its proud tradition extends to the Shankill Road, the Antrim Road, Glengormley and the ever-increasing population of Newtownabbey and beyond. As I said earlier, Antrim Area Hospital could not cope either.

**Mr Deputy Speaker:** The Business Committee set a maximum of 60 minutes aside for this debate. Ten of those minutes will be allocated to the Minister. I simply ask Members who speak from this point on to bear that in mind. I have five or perhaps six Members on the list.

**Mr Dodds:** I shall endeavour to bear that in mind to allow others to make a contribution.

I thank Alban Maginness for raising this matter. He has very ably set out the case that must be made for the retention of services at the Mater Hospital. Most Members should be able to agree with that, and I concur with many of the remarks made by the Chairperson of the Health Committee, Dr Joe Hendron. He knows from his personal, professional experience how the Mater Hospital has met the needs of the people of north and west Belfast.

I remember that, a few years ago, a public meeting was called in Newtownabbey in relation to the proposals that had been announced for the Whiteabbey Hospital. Hundreds of people attended, including trade unionists, staff, doctors, people in the medical profession, people whose relatives had been treated at Whiteabbey Hospital and members of the public. The common cry at that meeting was that if, at some stage, as part of a devolved Government, there was a Minister from Northern Ireland, no locally based Minister could possibly take such a decision. Unfortunately, as a result of the Department of Health, Social Services and Public Safety's 'Developing Better Services: Modernising Hospitals and Reforming Structures' document, we are now faced with proposals that not only confirm the bad news about Whiteabbey Hospital, but deliver a bolt out of the blue for the Mater Hospital.

As was rightly stated by Mr Maginness and Dr Hendron, Dr Hayes did not suggest the sweeping, radical downgrading of the Mater Hospital that the Minister of Health, Social Services and Public Safety has proposed. That must be emphasised, and, as demonstrated at a recent meeting of Belfast City Council, any attempt to pin the blame on the Hayes Report must be stopped.

The proposals are resisted and opposed across the community in north and west Belfast. I met recently

with Lady McCollum and Patricia Gordon, community workers and medical staff. I visited the Mater Hospital and toured the McAuley Building. There is unanimous dismay and bewilderment at the decision to implement the proposals now, especially, as other Members stated, given that £17 million of investment was privately raised — with not a penny of that coming from the public purse. The suggestion is that the Mater Hospital should be downgraded to the same status as a local hospital.

Aside from the impact that that will have on the delivery of medical services in the most deprived and needy area of our Province, we must remember that the Mater Hospital, which serves both communities, is perhaps the biggest employer in the area. It is situated in Crumlin, which is the most deprived ward in Northern Ireland. When I toured the hospital, I was struck by the number of people from both sides of the community divide who work in it and who receive treatment in it. Both sets of people, regardless of their background, are devastated that the Mater Hospital is to be downgraded from its current status to nothing more than a local hospital.

It has been argued that some provision, such as maternity services, will be retained. However, if specialists such as anaesthetists are not retained, the long-term outlook for maternity services is poor, because it would not provide value for money to pay for those services simply to cover maternity provision. That the Mater Hospital could be retained as a major teaching hospital without the throughput of specialised services is not tenable and will not happen in practice.

The Minister is delivering a death knell to the Mater Hospital, unless she changes her mind; is forced to change her mind; or her successor reverses the disastrous course along which she seeks to set the hospital.

At a recent meeting of Belfast City Council, the political parties unanimously supported the retention of the Mater Hospital's status. There is unanimous support in the communities, and it is to be hoped that there is unanimous support among political representatives. I appeal to the Department and to those civil servants who will guide and advise the person who succeeds the current Minister.

Perhaps the Minister and her party have decided that this attack on a vital service in the most needy community — north Belfast — will go ahead. However, I hope that the new Minister will be advised that the House has united in opposition to the proposal and that the clear message will go out that there should be no interference with, and no downgrading of, the services that the Mater Hospital provides. If anything, we should recognise the valuable contribution that the hospital has made over many years, and we should work to retain and strengthen it.

**Mr G Kelly:** Although I accept the general thrust of 'Developing Better Services: Modernising Hospitals and

Reforming Structures', issues such as the Mater Hospital must be sorted out. Given the needs of the local community and the standards that the hospital sets, its proposed services are insufficient.

4.30 pm

I am very concerned about the proposal to remove accident and emergency (A&E) services from the hospital, bearing in mind what that would mean for the provision of acute services, particularly A&E services themselves. My worries about the removal of full casualty services from the Mater Hospital are not merely a matter of defending a facility in my constituency — although you may note, Mr Deputy Speaker, that all the Members from North Belfast agree on a lot of what is being said today, simply because of the hospital's location.

However, as one of the most deprived areas of Ireland, North Belfast relies greatly on the Mater Hospital, which contributes to the health of the population. Mr Alban Maginness mentioned the number of patients who are treated, but he did so in a different context than I. There is no justification for the closure of the Mater Hospital's A&E department. According to the figures that the Department of Health, Social Services and Public Safety published last month, the Mater Hospital's A&E department treats over 10,000 more patients each year than Daisy Hill Hospital and over 20,000 more than either the Causeway Hospital or the Downe Hospital, yet all those hospitals are earmarked for A&E services while the Mater Hospital is not.

I fully accept that A&E units require a certain throughput to maintain effectiveness and efficiency, but I cannot see any justification for failing the Mater on those grounds. Indeed, although we are all aware of the debates about the site of the acute hospital west of the Bann, the Mater's A&E department treats more people than the Enniskillen and Omagh hospitals together. Even in Belfast, the Mater's A&E department treats over 90% of the volume of patients who are treated at the City Hospital's A&E department, and apparently treats them more efficiently.

We have two hospitals in the same city that treat roughly the same volume of people every year. One of those hospitals is located within a few hundred metres of the main trauma unit in the Six Counties, while the other is in another part of the city. What justification is there for favouring the hospital that is so close to the Royal Victoria Hospital? Considering the differences in the performances of those two units, the argument in favour of maintaining the Mater's A&E department as part of the provision of casualty services in Belfast becomes stronger.

In developing better services, it is conceded that the proposed change in the role of the Mater Hospital will take some considerable time: it will be at least 10 years



before anything is done with casualty provision there. A week in politics is a long time, and a decade is simply beyond reasonable foresight. How can anyone tell with any accuracy what the healthcare needs of the people of Belfast and, in particular those of north Belfast, will be in 2013?

That being so, is there any rationale for making decisions now about what should happen so far in the future? I urge the Department of Health, Social Services and Public Safety to take that on board and guarantee to maintain the Mater Hospital indefinitely. That is not to say that with the properly funded development of reasonable trauma services in Belfast, there may not be a need in future to review the Mater's A&E department, but we can have that debate when it comes.

Other Members have given reasons for maintaining and assisting the Mater. There have been 30 years of conflict, and north Belfast has seen a disproportionate amount of death, injury, imprisonment and militarisation. Its condition today is a consequence of decades of statutory neglect, and Mr Alban Maginness said that the amount of money that the North and West Belfast Health and Social Services Trust, as opposed to the Executive, gives to the area speaks volumes. The Mater Hospital is an important local employer, and removing the A&E department will have a detrimental effect on the cohesion and morale of the hospital staff as a whole.

The staff of the Mater Hospital, whom I have also met, and the unions both fear that the removal of the A&E department will in turn undermine the hospital as a whole, compromising job security and the ability to attract doctors, nurses, and so forth. Some of the reductions in health services make no sense when political representatives from all parties are arguing for more resources in north Belfast for education, youth provision, job creation, leisure provision, and so forth. Go raibh maith agat.

**Mr B Hutchinson:** Other Members have covered many of the issues. However, the only way the problems of health and acute hospitals will be solved is through the restructuring of the Health Service. When that time arrives we will have to consider the Mater Hospital's position.

There are two issues involved. First, someone gave the Mater Hospital permission to build the fabulous McAuley Building, because it was felt that more beds were needed. Why did that happen? The money did not come from the Government; the community raised it, and it could have been better spent elsewhere. Everyone knows that in north Belfast health issues such as mental health and the levels of suicide have been neglected. Unfortunately, the Government gave the Mater Hospital that permission and, in many ways, gave it a vision for the future.

The second issue relates to the contradictions in the acute hospitals review group report with regard to what is being said now. Those contradictions have been well rehearsed. There was a proposal for the partnership of

the Mater Hospital with the Whiteabbey Hospital for the provision of services for north Belfast, Newtownabbey and Carrickfergus. Where has that proposal gone? It was included in the recommendations of the review group. We were also told that a regional service would be provided at the Mater Hospital. That has now gone.

I would like to hear from the Minister why permission was given to build the McAuley Building when the situation was to change. Also, why are there contradictions between the two reports?

**Dr Adamson:** As a former medical registrar at the Mater Infirmorum Hospital, I add my support to the retention of this great and unique hospital. Following a visit to Lourdes, I wrote my second book, 'Bangor: Light of the World', which told how Bangor became the focus of a religious life of great depth and power in the early medieval period of Europe. With the fall of the Roman Empire, Irish and British monks were left to salvage what was left of Christian civilisation and share in its traditions the secrets of wisdom, justice and mercy for all mankind. That is what the Mater Hospital means to me.

There are many who believe that we have reached a stage of nothingness and have invented the philosophy of the void. The wisdom that makes the Mater Hospital what it is is not irrelevant today, especially in our present circumstances. It is not just an embodiment of what is or even what will be; it is a temple built with living stones, with doctors, nurses and auxiliaries from both the active and contemplative life from both religious traditions, dedicated to the rights and duties of the person, imbued with a sense of honour, justice, mercy and self-sacrifice and of holy hope and high humility. Their patients are from the Shankill and the New Lodge roads. They are all asking, as one, for entry to their own sanctuary. They are the secret suffering poor of north Belfast, but they are all pilgrims on the road to paradise.

**Rev Dr Ian Paisley:** I support the comments of Mr Maginness. Perhaps no one in the House knows, but in the dying days of the old Stormont Parliament, I was Leader of the Opposition, which consisted of the Member of Parliament for the Shankill Road, Mr Desmond Boal; the Member of Parliament for Woodvale, Mr Johnny McQuade; and my Colleague from South Antrim, Rev William Beattie. If Members care to read that Hansard, they will find that the four of us supported, and gave unanimous approval for, the Mater Hospital to be given grants by the Government and to be rightly treated. Some people like to paint us as anti-Catholic, anti-Roman Catholic, and so on, but if Members read that debate, they will realise just where we stand.

The Mater Hospital has a right to exist, and it needs to exist. As I have seen in my area, once acute services are taken away from a hospital, its position is destroyed, and it ceases to be a real hospital. I am glad to see that Dr Hendron agrees with that. It is a fact.

If ever the Mater Hospital was needed as an acute services hospital, it is today; there is a crying need for its services. It is located in an area of dense housing and intense poverty. If there was ever a time when we should maintain the hospital, it is now. What grieves me is that, while many hospitals such as the Mater Hospital have been supported and maintained by the voluntary contributions of charitable groups, the Department has stolen the money that those charities gave.

In my area, we helped to lead actions to raise large sums of money for a special heart treatment service in Ballymena Hospital. The Department stole that money and took it away to Antrim. No harm to the people of Antrim — including the Deputy Speaker — but they did not raise that money. It was raised for my area, and those benefits should have remained in that area. As was rightly said by one Member, planners tell people to give their money to ensure that hospital extensions are possible, but at the end of the day, the benefit may be taken away from them.

I want to end on a good note. Although I would not cross every “t” and dot every “i” of what Dr Adamson said, he is my friend. He used to give me jags, and every time I left for a Third-World country, he came to my home and jagged me with great relish, as an Official Unionist would want to jag Democratic Unionist flesh, but I never held that against him.

The hospital that has done this work; the people who backed the hospital with their gifts and all its workers from both sides of the community deserve to be supported. I trust that, if it is the last thing that this Assembly does, it will save the Mater Hospital from being demoralised and reduced to being a glorified nursing home. The Mater Hospital should be maintained as a thorough-going acute hospital, giving the people of that area all the services that they deserve and need.

**Mr Deputy Speaker:** Dr Paisley, you have tremendous trust in your doctor. *[Laughter]*.

**Sir John Gorman:** I will not take a moment. I just want to say that I have some experience of the Mater Hospital. My mother, who suffered acutely from a serious problem before the war, went there in an emergency and recovered. I had many friends in the RUC — now the PSNI — who were very happy to be taken there as a result of bombings and shootings, and so on, because they believed that they would receive the best of attention, irrespective of what the political slant might be.

It strikes me as particularly wrong that £17 million collected by people years ago — which is probably worth about £80 million in today's terms — should be now seen as simply a resource to be absorbed. The attitude seems to be: “Never mind where it came from or what the motives were for collecting it”. That is quite wrong. I beg the Minister in her last few hours to reconsider the matter to see whether some of the phrases used in Dr

Hayes's report in relation to the Mater Hospital might be given rather more favourable connotations. I do not doubt that, being the man he is, he was probably keen not to show favouritism to a hospital of which he was chairman for so many years.

4.45 pm

Possibly, he was almost too fair. I ask the Minister to re-examine the issue to see if, at least, the Mater's teaching and accident and emergency roles can be retained. It would be to the benefit of the entire country to see in the Chamber, where so many antipathetic remarks have been made among parties, unanimity from every party in order to save the Mater Hospital.

**The Minister of Health, Social Services and Public Safety (Ms de Brún):** Go raibh maith agat, a LeasCheann Comhairle. Tá mo chuid moltaí do thodhchaí Ospidéal an Mater leagtha amach i mo cháipéis chomhairliúcháin ‘Seirbhísí Níos Fearr a Fhorbairt: Ospidéal a Nuachóiriú agus Struchtúir a Leasú’. An chéad rud is mian liom a rá is é nach raibh sé riamh i gceist go dtarlódh na hathruithe atá molta agam thar oíche. Leanfaidh an Mater de bheith ina ospidéal géarchúraim go ceann i bhfad ina mbeidh raon iomlán de ghéarsheirbhísí ar fáil. Tiocfaidh an comhairliúchán chun críche ar 31 Deireadh Fómhair agus is mian liom béim a leagan air nach ndéanfar aon chinneadh ar aon cheann de mo chuid moltaí go dtí go mbeidh faill agam mo mhachnamh a dhéanamh ar iomlán na fianaise agus an eolais dá bhfuil ar fáil.

Aithníim, áfach, gur ábhar inní do fhoireann an Mater agus do mhuintir thuaisceart Bhéal Feirste mo mholadh gur chóir go ndéanfaí ospidéal áitiúil nua-aimseartha den Mater, agus is maith liom an deis seo a bheith agam tabhairt faoin inní sin.

Proposals for the future of the Mater Hospital are set out in the consultation document ‘Developing Better Services: Modernising Hospitals and Reforming Structures’. The changes proposed were never planned to happen overnight. The Mater Hospital will continue as an acute hospital for the foreseeable future, providing a full range of acute services. The consultation will end on 31 October, and I stress that no decisions will be made on any of the proposals until there has been an opportunity to consider fully all the evidence and information available.

However, I recognise that the proposal that the Mater Hospital should become a modern local hospital has caused concern, both to its staff and to the people of north Belfast. I welcome this opportunity to address their concerns.

My objective is to provide high-quality modern hospital services to the population here. It is clear that hospitals in future will need to collaborate as part of clinical networks. Proposals for the Mater Hospital are that it should become a modern local hospital with strong clinical links to the acute hospitals network, both at the Royal Group of Hospitals and Belfast City Hospital. I

would expect the Mater, as a local hospital, to make full use of its modern facilities to provide increasingly sophisticated methods of investigation, diagnosis and day procedures.

In relation to the recent £17 million investment and the tremendous work done by people in the community to bring that about, we must in future ensure that the investment in the Mater is used to its fullest in serving the population of the area. That must be given careful consideration before coming to any final decisions.

Under these proposals, the Mater Hospital will also provide a base for a range of expert clinicians, specialist nurses and other health professionals, who will relate to the hospital needs of the population it serves, making a distinctive contribution to the overall provision of modern, high-quality services in the heart of the local community. Developing local hospitals in this way will require considerable and continuing investment in modern equipment and staff training.

I have proposed that maternity services at the Mater Hospital should be retained, but the hospital has been experiencing increasing difficulties in maintaining those services. Therefore, I have proposed that it should exploit its close proximity to the new centralised maternity hospital on either the Royal Group of Hospitals or Belfast City Hospital site to open up new opportunities for supporting maternity services at the Mater Hospital on a close partnership basis. I expect that the new centralised maternity hospital and the Mater Hospital will develop those opportunities to the full.

I also realise the concerns of the staff who live in north Belfast, where the Mater Hospital is a significant employer. They fear that their jobs might be lost in the hospital's transformation to a modern local hospital. The Mater Hospital will continue to be a large and busy hospital, and it will continue to provide much-needed employment for the area.

It is not possible to be specific about how staff might be affected at this stage, and detailed work will need to be undertaken with the health and personal social services organisations and other key interested parties to identify long-term staffing needs. During the consultation process, I was aware of the growing cross-party and cross-community support for retaining acute services at the Mater Hospital, as well as the strong lobby from the Mater Hospital Trust and staff at the hospital. I am sure that that will continue to be reflected in the responses to my consultation up until its close on 31 October, as it has been in Members' contributions today.

I assure Members that, as stated in the report 'Developing Better Services: Modernising Hospitals and Reforming Structures', the importance of making full use of the modern facilities at the Mater Hospital is fully accepted. The hospital has an excellent range of facilities,

and in any future configuration of hospital services we must ensure that those facilities are used to their best advantage through clinical networking and building on new achievements in medical treatment and technology.

Members raised points about the phasing out of services. Acute services will continue for the foreseeable future and will be reviewed according to levels of capacity and deprivation as those are assessed. There is no question of phasing out acute services over the years in the way that has been suggested. Any decisions will look at the needs assessed at a particular time and the overall capacity of the service to deliver those services to people in the area.

Teaching status will remain as part of a clinical network of acute and local hospitals, and opportunities for more rounded training for medical staff will be available.

Before coming to any decision on the chronic obstructive pulmonary disease (COPD) clinic, we must look very carefully at the services provided in any area where such a disease is a feature of deprivation and associated ill health. A final decision has not been made, and the information referred to in this debate will be reflected in the responses to the consultation.

**Mr A Maginness:** Will the Minister accept an intervention?

**Mr Deputy Speaker:** It is up to the Minister if she feels like giving way.

**Ms de Brún:** I have been told that I have very limited time, and, therefore, I do not think it is possible.

**Mr A Maginness:** A very quick —

**Mr Deputy Speaker:** Order. Does the Minister want to give way?

**Ms de Brún:** I have had signals that my time is almost up, so, unfortunately, that will not be possible.

The points raised during the period of consultation, and those raised today, will be taken on board when considering the outcome of the consultation process. This is a real consultation process, as I have said in debates about other aspects of the consultation proposals. I have stressed that people's views will be listened to and taken on board. The terminology used today should not suggest that the consultation process is just about going through the motions.

I thank Members for their contributions today and for the contact they had with me during the consultation period. I shall ask the Department to consider carefully the Mater Hospital's future profile in the light of the deeply held cross-community and cross-party concerns expressed in the debate and elsewhere.

I stress that, in common with all my proposals to develop better services, no decisions have yet been taken. All the responses to the consultation, including



any new evidence or information that arises from it, will be carefully considered before any final decisions are made on the Mater Hospital's future.

I take this opportunity to add my voice to those that have paid tribute to the sterling work that has been carried out over the years by the staff, and those who support them, at the Mater Hospital. I pay tribute to those who have ensured that its services have been delivered. I thank Members for their kind words, and I shall ensure that they are passed on to the staff.

**Mr Wells:** On a point of order, Mr Deputy Speaker.

**Mr Deputy Speaker:** Order. Ample opportunity was given this morning, and ample opportunity was taken this morning, to raise points of order.

**Mr Wells:** It is on a totally different matter.

**Mr Deputy Speaker:** I am taking no further points of order.

*Adjourned at 4.57 pm.*



# **Committee Stage Records**





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**NORTHERN IRELAND  
ASSEMBLY**

*This report was not approved formally by the  
Committee prior to the suspension of the Assembly on  
14 October 2002, but is published by order of the Speaker.*

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**COMMITTEE OF THE CENTRE**

Monday 9 September 2002

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**COMMISSIONER FOR CHILDREN  
AND YOUNG PEOPLE BILL  
(NIA 20/01)**

**Members present:**

Mr Poots (Chairperson)  
Mr Gibson (Deputy Chairperson)  
Mr Beggs  
Dr Birnie  
Mr Ervine  
Mr Kennedy  
Ms Lewsley  
Dr McDonnell  
Mr McElduff  
Dr O'Hagan  
Mr Shannon

**Witnesses:**

Ms M Battle       ) Deputy Children's  
                              ) Commissioner for Wales  
Mr P Clarke       ) Children's Commissioner for Wales

**The Chairperson:** I welcome Mr Peter Clarke, the Children's Commissioner for Wales, and Ms Maria Battle, the Deputy Commissioner. Mr Clarke will give a short presentation, and the Committee will then ask some questions.

**Mr Clarke:** Thank you and good afternoon. I am pleased to be here. I am very keen that Northern Ireland should appoint a children's commissioner, if only for the selfish reason that I want to have a peer group in the United Kingdom as soon as possible.

With the Committee's agreement, I will spend 10 or 15 minutes looking at some major points that Ms Battle and I noted as we read through the draft Bill. Then we will willingly answer questions, and, at that point, I will be much happier to explain details and share my experiences of my first 18 months in office.

I congratulate the Committee on the consultation process that it undertook with regard to this Bill. When I was at the special session on children in New York, it was mentioned several times in the first ever world meeting of ombudsmen for children, and that is to your credit.

Something similar was attempted in Wales, but your consultation process has been exemplary, and I want to pass on those congratulations.

The Bill, which I read from cover to cover, is very clear. My post, and its powers and remit, was established by two Acts of Parliament — the Care Standards Act 2000 and subsequently the Children's Commissioner for Wales Act 2001. The post suffers from some lack of coherence, which is not evident in your Bill. It seems to be extremely well written and coherent.

I have identified seven points in the Bill that I would like to comment on, and then I will talk generally about my recruitment and share with you some of that process.

When compared to the Children's Commissioner for Wales Act 2001, the principal aim of your Bill is very helpful as it is not confined so much by geography. I have powers that relate to children normally resident in Wales, and that has caused some difficulty for children who are placed, for example, in children's homes in England. The Act did not allow me to continue to deal with a child involved with my office who then moved to England. I welcome the provision made in your Bill for that relatively small, yet for the child, very important point.

My second point relates to the role of parents, which is a more substantial issue. I have read the Hansard of the debates on my Bills going through the House of Commons and the House of Lords, and the issue was of concern then. I have also read the Hansard of the debate in the Assembly, and I see it played a prominent part here also. My stance on the matter is partly informed by the fact that I am a parent. When running Childline, and also in my present post, I regard it, as a parent, as an asset to have someone whose job it is to safeguard the rights of my children. My role is in partnership with parents.

Many things, many of an abstract and technical nature, impinge on the lives of our children. Therefore it is important, as a parent, that there are others out there looking at those issues to ensure that my children's rights are safeguarded. My experience in my first year in the post has borne that out. The broad partnership between my office and parents has been the key feature. In that first year, 50% of cases were brought by parents, with only 25% brought by children. The remaining 25% of cases were brought by a variety of agencies, professionals and advocates. Parents see me as an ally and use my office in that way. I have had no single case that has meant getting involved in any way in the parental home. In one or two cases it has struck me that the parents might not be acting in the best interests of the child, and the child is my primary focus of attention. In some cases we know all too well about domestic abuse, where parents are clearly not acting in the best interests of the child. In those circumstances, my office has a clear role and remit to ensure that the child's interests are paramount.

I am happy to answer any questions on that because the relationship with parents is an important area of concern. Your Bill requires the commissioner to have due regard to the interests of parents. That aspect is not included in the Children's Commissioner for Wales Act 2001, although the question was debated in Parliament. However, we have not found it to be an issue that we have had to grapple with yet. I know of one or two cases in which parents have advocated on behalf of their child's rights vehemently and strongly and in which they have been at loggerheads with a particular agency. As a result, the child has been left behind and has lost out in the process. Individual conversations with the child have made it clear that he or she did not want to go as far as the parents wanted to go.

When parents contact my office, we try to talk directly to the child at some point during that process. It may not be possible because of the age or ability of the child, but we try to ensure that the child understands what is happening and that we are trying to act in his or her best interests.

The third point is to do with the commissioner's duties in your Bill. Most I would advocate myself, but the one that gives me slight concern is the duty to advise the Assembly itself. I do not know what is happening here, but in Wales the National Assembly has been coming out with policy documents at a very fast rate. I am just worried about the workload consequences if the commissioner is required to give advice across the whole remit. I note that the budget you are proposing for an annual running cost for your commissioner is more generous than that which I am allowed, so it may be that your commissioner would be able to find a sufficient workforce to do that task. It is just a cautionary note really. So many bits of paper are coming out of the National Assembly for Wales that were I required to make comment on all of them, particularly when one considers that my remit covers everything from town planning through to libraries, museums, as well as the more obvious areas of education and social services, it could be something that will become predominant in the office. I just think that that is worthy of consideration at least.

Clause 4 of the Bill, which sets out the commissioner's general powers, seems positive. There is a clear power to undertake research, and that is missing from the 2001 Act. There is a clear right to give guidance, which again is there by implication, but not so explicitly, in the 2001 Act. I also like the general power to give recommendations and representations to any body. The number of bodies to which I can do that are in fact restricted roughly along the lines of primary and secondary legislation, and devolution to the Assembly. Therefore that right is welcome.

Clauses 5, 6 and 7 are all to do with investigation of complaints and suchlike. I particularly welcome within the commissioner's remit the inclusion of inspection arrangements. Again, that is not directly or explicitly stated in

the 2001 Act. It is there really by inference because I have powers over any Assembly-sponsored public body — for instance, the Social Services Inspectorate. That is much more clearly and explicitly laid out in your Bill. I welcome that clarity. I also welcome the right of the commissioner to take legal proceedings. I do not have that right. I can assist a child to take proceedings, but I cannot instigate those proceedings myself. That is a useful additional power. I cannot think of a particular situation yet in which I would have wanted that, but it would be nice to know that it was in the armoury.

The power to conduct formal investigations, set out in clause 12, interests me. That clause recommends that the commissioner's investigations be conducted in private. I have mixed feelings about that, partly deriving from the fact that I am in the middle of a public examination under my own Act into allegations surrounding a particular schoolteacher. There were long delays to any consideration of some of the matters, and there was a general and widespread belief among some people that there had been a cover-up of some sort. The ability of my office to undertake a public examination is one good way of confronting that head-on because it is difficult for anyone to sustain the view of a cover-up if evidence is being given in the public arena.

Having said that, there are, however, all sorts of legal consequences from holding a public hearing, not least of which has been the vigorous involvement of lawyers. At times, that makes me feel that we are distorting some of the primary terms of reference for the inquiry that I have set up. Therefore I do not give a firm view on it; I just say that there are matters to be considered, particularly if the commissioner holds such hearings in private. If there were a circumstance in which there were concerns about a cover-up, a private hearing might not be the best way to deal with those concerns directly. I only offer that opinion; as I say, it is not a clear recommendation as such.

While we are on that subject, I should like to say that I welcome the fact that children being held in juvenile justice institutions are included in the commissioner's remit. That is specifically excluded from the 2001 Act. Consider a child who is in a children's home when I first hear of the case; if I am examining some issue pertaining to care and the child is moved to a juvenile justice institution, that child falls outside my terms of reference. That has been a concern for me from the moment I took up my appointment, and I shall be going back to the National Assembly to highlight that issue. I welcome the fact that it is not so in your Bill. I understand that the Committee has found a compromise on the way in which that can be dealt with.

To be fair to the people who run such juvenile justice institutions, I should mention that I have been invited by the governors to Parc Prison in Bridgend, to Cardiff Prison and to Swansea Prison to talk to young people held



in those institutions, and a similar invitation has been extended to me to visit another juvenile justice institution in Wales. Many Welsh children end up in England and thus beyond my present remit. The juvenile justice element of your Bill and the lack of geographical restriction are to be welcomed.

I look at such issues from the point of view of a child or young person. A major task for the commissioner is establishing credibility in the eyes of children and young people. It is very bad for those efforts if a child has to be told, "I'm sorry. I cannot deal with you any more because you have now gone into a juvenile justice institution." That might come at the very point when children most need to know that the commissioner can examine the systems designed to protect them. That umbrella of security, for what it is worth, is not available to them, and it is commendable that it is dealt with in the Assembly's Bill.

Similarly — unless I have lost myself along the way, this is my seventh point — the powers of entry and inspection in your Bill are extremely welcome. I have already felt the absence of those powers in my first 18 months in office. I have got around the problem in one or two places by the simple expedient of children asking me to have tea with them in their children's home, but it is curious that I have no explicit right of access to children under the Welsh legislation. I have all sorts of powers to act on their behalf, but not the simple power of being able to go to them, wherever they are, and talk to them, and to demand to see them if necessary. I consider that a serious shortcoming, and your Bill has remedied that.

Those are the main points concerning the legislation. I have not, by any means, covered everything. However, for Ms Battle and myself, those seem to be the main elements worthy of comment given the experience of my first year.

I now wish to discuss the development phase of the position of commissioner. I assume that your Bill will be enacted, and I see that the attached notes mention a separate budget for the development phase of the commissioner's office. That is a vital element. I was literally handed £800,000 by an Act of Parliament — not even a set of Regulations, for they were not passed until August 2001. That figure represents a year's running costs, and I was told to go away and get on with the job.

The problem was not that my assignment was anything less than immensely enjoyable and achievable, but that it was always going to be very difficult to live up to people's hopes and expectations for the post if the primary task for the first year was to develop an office and organisation from scratch. I therefore wish to reassert the importance of having a clear public understanding that the office, when it is established, will need time to develop and should not be expected to be a Rolls-Royce ready to glide out of the garage. I believe that we are not going to

be making those any more, so I shall have to change my figure of speech.

Similarly, I note that, as in my own case, the books will be audited by the Northern Ireland Audit Office to make the office accountable. The full implications came as something of a shock to me, since it was not made clear to me as accounting officer for the Children's Commission until approximately June 2002. It is vital that your first commissioner be given a great deal of support to ensure that financial systems are in place that allow him or her to go through the first year's audit with less anxiety than I have experienced over mine. Many of those systems are quite arcane, even if one is used to dealing with, and accounting for, fairly large budgets. What is required of, for example, the Audit Office is unique. It may be that the person you recruit is not highly skilled in that area, and therefore support during the development phase would be useful.

Finally, I want to share my experience of being interviewed by children and young people. I was interviewed, as were the other five shortlisted candidates, for an hour and a quarter by a panel of 12 young people aged from 12 to 19. They spent two weekends being prepared for this, which included ensuring that they understood equal opportunities employment practices. They designed and asked the questions, scored our answers and asked supplementary questions. They conducted the entire proceedings. There were two advisers in the room, but at no point did they feel the need to intervene. The questions were extremely perceptive. I recommend the direct involvement of children in the process.

One puts on a bit of a show when trying to get a job. Two or three questions into the interview I realised that that would not cut it with those young people. Either I was going to authentically show them who I am, and hope that that was who they wanted, or I might as well have left the room. It is difficult to sustain any image in such a setting that the children and young people will not see through.

The young people were drawn from a variety of backgrounds, including a significant number who were in care or who might be deemed "trouble children". It was superb that the National Assembly for Wales did that, and that is to its credit, not mine.

After an hour and a quarter of that, we had a short period to recover, and then we were ushered into another room where we were required to undertake a role play designed by the children and young people that involved a telephone call from a young person. We witnessed various plays and scenarios, which they enacted before us, and then we had to answer questions. There were around another eight young people involved in that part of the interview, which lasted for a further hour.

The 20 young people then got together, compared notes and elected two of their number who sat alongside Jane Hutt

and the other Ministers on the formal panel the following day. They had full voting rights. That is the first time in the world that children have been directly involved in a public appointment at that level, and I commend it as a way forward.

It is team building; my staff will suffer if I have had to. Every one of my staff has been interviewed by panels that have contained at least two young people. That will be the practice of my office for evermore, or at least for the seven years that I am in the post. Many people were concerned about working with the young people and being interviewed by them, particularly some of the senior civil servants in Wales, and understandably so. However, everyone involved has said that it was well worth doing. The young people behaved in an exemplary fashion. I have been interviewed many times, sometimes by adults who were less well behaved than those young people. They were focused, they stuck to the task, and they were clearly concentrating on what they had to do. They saw it as a chance to have a direct say in the appointment of their champion, and they took it.

I do not have anything to add to that. As I said, I welcome any questions and am happy to share honestly and openly the experience of my first 18 months in office.

**The Chairperson:** Thank you very much.

Our time is limited, so members' questions should be as succinct as possible.

We have discussed whether we should have the wording "best interests" or "welfare" included in the Bill's terminology. There have been some problems with the Northern Ireland Office and Ministers on that issue. Is that incorporated into your Bill, and has it had any effect on it?

**Mr Clarke:** My primary remit includes the word "welfare":

"to safeguard and promote the rights and welfare of children".

I have taken that as a general definition and have not felt constrained by the word "welfare". I would not have allowed myself to be too constrained if it had been the other phrasing that was offered. "Welfare" is a soft and loose word that can be used to extend over a range of matters.

**Mr Gibson:** To whom are you accountable? Is there some system of supervision or accountability where you are seen to be publicly accountable?

**Mr Clarke:** There are several different levels. I can be removed from office by the First Minister in three ways: first, if I choose to resign, which is generous; secondly, if my health is too bad for me to continue; and thirdly — in a phrase that is apposite for a Children's Commissioner — if I am guilty of misbehaviour. I do not intend to explore too much what that means, but there is a primary accountability in that sense.

When asked about accountability in the interview, I said that I was accountable to the children of Wales. That is not public accountability in a way in which we are used to, but I take it very seriously. Over time, we will be establishing ways of making that more real. I am accountable through the National Audit Office for the way in which I expend public money. Its audit function is not purely financial; it looks at all the systems, checks and balances that are in place.

I am also accountable through an annual report. I am suffering from having to write that at the moment. I must present it to the First Minister and to the House of Commons by 1 October. Apart from that, I am not directly accountable. I do not go to the Health and Social Services Committee or any other Committee in the National Assembly to ask permission to do things. As long as I comply with the Act and the Regulations, it is deemed that I am doing all right. I could be judicially reviewed if I were I to step beyond any of those reasonable boundaries. That is the network by which I am accountable. However, I am deliberately not accountable to the Assembly itself since part of my role and function is to look at the Assembly to ensure that what it does at a policy and practice level is in the interests of children and young people.

**Mr Beggs:** Thank you for coming along today and sharing your experiences to date. You have been complimentary about the Bill in comparison to your own legislation. You said that you had mixed feelings about the issue of private and public hearings, although you were not giving any clear direction. Are there any proposals in the Bill that you feel require a second look, or are there any glaring omissions that should be added to what we have proposed?

**Mr Clarke:** I see no glaring omissions. I have some concerns, and I am not sure whether that is to do with my partial understanding or whether it is intrinsic to the Bill. I have a right to pursue individual cases. The balance between the ombudsman function of the Commissioner's office with regard to individual children and the more general look at systems and policies is a difficult one. You have taken evidence from Trond Waage in Norway, and I have spoken to him, and others, at length. It is unlikely that the commissioner would be involved in individual cases, or at least there would be strong restrictions placed on that. Some restriction must be in place; otherwise the commissioner would become overwhelmed. Clear guidance must be given that, where there are other systems to gain redress, children should use them.

We have been concerned that, if children come to us who have not even started on point A, we should at least hold them, listen to them, and be alongside them as they use the local complaints procedure. It would be very useful if the primary accountability of this post were established with the children and young people. The Bill might be clarified — if I have got it right — in that regard. If children come to us about local authority or social

services issues, we would ask whether they had used the complaints procedure in their local authority. If they say that they have not, we would not just tell them to go away and use it; we would tell them how they could get advice about it. We might put them in touch with a local advocate and ask them to keep in touch with us. We might also suggest that, when they are using the complaints procedure, they should let the authority know that the Children's Commissioner's office is aware of the problem. We have found that things tend to happen properly as a result. Therefore, if the Bill needs it — and it would take a better legal mind than mine to determine whether it does — it might be possible to change some of the wording to encourage and enable that to happen without the danger of overwhelming the office with too many individual cases.

**Ms Battle:** The Welsh Assembly has two Acts of Parliament and a set of Regulations, which, of course, makes it more complex. It is wonderful to see everything incorporated into one Bill. As we were the first, only the areas that were devolved to Wales came within our powers. The majority of powers remained with the Home Office. There have been cases in which a child who has been placed in secure accommodation by the youth justice system and a child who has been placed in local authority secure accommodation through the care system are the same age and live in the same place, yet one has the protection of the Children's Commissioner and the other does not. We cannot do anything about that.

I notice that some of the reserved matters come within the powers of the Northern Ireland commissioner, but not full examination powers. I hope to see the day when the UK commissioners — when all four are in office — will be able to deal with children no matter what other Department or service is dealing with them. Because of the length of time that powers have been devolved to Wales, that outcome was not possible because we had to compromise over the Welsh Acts as they went through the UK Parliament. I understand that there may have been a compromise here, but I hope that, once the Scottish and English commissioners are in office, a children's commissioner will be able to deal with children across all Departments.

**Dr Birnie:** Can you elaborate on your budget? You said that, compared to the proposed budget for the Northern Ireland commissioner, the budget for the Welsh Commissioner is smaller.

**Mr Clarke:** I was part of the campaign group for the Children's Commissioner, as was Ms Battle and anyone involved in children's interests and welfare in Wales. Our budget was not derived from a long-term scientific and rational assessment of what might be needed, but as a best-guess estimate of what might be available. I have already asked for next year's budget to be increased to £1 million, and it is likely that I will ask for more. The office is already under a great deal of pressure because its role and remit is so great. I do not think that our

budget is sufficient, and I have made that known to the National Assembly.

**Dr Birnie:** What is your current budget?

**Mr Clarke:** This year it was £813,000. Next year, I will ask for £1 million. The budget supports three project teams. Ms Battle, my deputy, heads up the legal administration team, which is self-explanatory. The primary task of the communications team is to communicate with children in Wales. For example, the team launched a logo competition because we had no logo. The team sent out 100,000 packs and received 4,000 entries from children. A 12-year-old designed the winning logo, which is with the printers. The communications team ensures that we are in touch with a whole range of things.

There is also a policy and service evaluation team. It conducts reviews and is currently embarking on a review of complaints, advocacy and whistle-blowing procedures for children in local authority social services departments, and that will be completed by March next year. There is also administrative support for the three teams and office costs to take into account. That is where the money goes, but it is not enough.

**Ms Battle:** Resourcing the office is absolutely crucial to retain the independence of a commissioner. Alongside our budget, we were given an extra pot for investigations. However, if the pot is not sufficient, it inhibits what can be done. An Act can give all the powers in the world, but if the money is not there, the work cannot be undertaken. There is also a potential difficulty with the funding body. For example, if we wished to conduct a formal investigation into something that the Assembly had done or was alleged to have done, it would fund us to do that. If we did not have enough funds to do it, we should have to go back and ask for them, so there is a conflict of interest. If you are to have formal investigation powers or the three types of investigation, you may wish to put the relevant funding in a separate pot so that your commissioner could prioritise what he or she wishes to investigate without going back to you.

**Mr Clarke:** We suggested that device, and there is currently a budget of £150,000 — a pure stab in the dark — for me to use for examination should I so choose; at the end of the year it would be topped up. That has already proved insufficient, and we have had to return to the Assembly to ask for the budget to be increased slightly, which is just the situation that we were trying to avoid. Obviously, finding the right level for that funding is crucially important.

**Dr O'Hagan:** The sense I get from listening to you is that the Bill as it stands is much stronger than the legislation in Wales. Many on the Committee and in the Assembly would probably find that the Bill's powers do not go far enough. I am interested in how, for example, the powers of investigation and enforcement in the Bill can be strengthened.



**Mr Clarke:** We thought hard about powers of enforcement, and I understand that there are several difficulties — lawyers have certainly told me so. I am aware that many ombudsman functions of different sorts do not include powers of full enforcement, but some have limited powers. It is still fairly new for us, and we shall test it out when we have done our review of whistle-blowing, complaints and advocacy. We wish to give force to the recommendations that we make.

There have been one or two individual cases in which we should like to force a local authority to comply with its own procedures. Ultimately we have only the power of “naming and shaming” at this stage. My understanding is that, were we to have such powers of enforcement, we should also need a different set of accountabilities and should have close regard to such legislation as the Human Rights Act 1998. By inclination I should love to be able to say to an authority or agency, “You will do that because that is what you should do, given the rights and interests of the child.” However, I have not yet been in many situations in which I have had to face a local authority and really felt the absence of that power, although there have been one or two instances.

Many such issues will need to be resolved at the point where, one hopes, they have or intend to have a commissioner for children in England, since the authorities will have to deal with devolved and non-devolved matters differently. For example, they will have to decide whether the English children’s commissioner will have full powers over Home Office functions. In a way, it has been possible to get around that issue in the context of our having devolution without an English commissioner being in the frame. There will be much harder decisions to make concerning such matters when we reach that point. I am sorry that I cannot be more helpful.

**Ms Battle:** We have the same powers of enforcement — or lack of enforcement — as you propose to have; it is the “naming and shaming” aspect that differs. The office is generally held in high esteem, and people tend to comply without the need for any further powers. However, as Mr Clarke said, we are coming to the end of the first large-scale formal investigation and the review of complaints, whistle-blowing and advocacy. We shall know then whether we shall be listened to.

**Dr O’Hagan:** What about powers of investigation?

**Ms Battle:** I feel that powers of investigation should be open to all services, and they should be the same in all services. More powers are contained in your Bill than in our Act. You can talk to any service provider about any child; we are restricted to those areas that have been devolved. With any other matter, we must go to the Assembly to make representations, so the best scenario would be equality throughout.

**Mr Clarke:** We have not allowed that to inhibit us in our public statements.

**Ms Battle:** Or in going to Whitehall.

**Mr Shannon:** One of my concerns is the role and rights of parents, ensuring at all times that children’s rights are safeguarded as well. Have you experienced any such problems in your position, and how have you been able to ensure that adversarial viewpoints are not adopted?

**Mr Clarke:** I have not experienced any such problems; in fact, it has been almost the opposite. Parents have been knocking on my door and phoning me to say, “Can you do something about this situation that my child is involved in?”. That could be any one of a whole range of issues: special educational needs; exclusion from school; children in care. To date, and I am really being genuine, parents have come to me as an ally, and I have responded as an ally for the child.

There have been one or two cases in which it seemed to me that the parents were not acting in the best interests of the child, but they have been relatively minor matters. I recall one argument over school uniform, where it seemed to that the parent was perhaps going a little further than the young person wanted to, but that has been resolved by discussion. We have not yet had, or I cannot think of, a single case in which the parent has objected to our involvement. I cannot really anticipate what it might be like were that to happen.

Although I may go to the media, which I have done, and say that I am against smacking children — that is a belief that I hold as Children’s Commissioner. We have managed to conduct that debate even though some other parents have had different views. My view has not offended or upset them, and no one has questioned my right to hold that view. That is one area in which one might expect there to be a conflicting view. I am genuinely saying that we have not yet experienced that conflict.

**Mr Shannon:** That is positive.

**Ms Battle:** As Mr Clarke said, 50% of our cases last year were brought to us by parents, and we were their last hope. They were really exasperated and desperate for their children. Therefore, we have worked with parents.

**Mr McElduff:** How accessible are you to the children and parents of Wales?

**Mr Clarke:** We are not yet accessible enough, and my communications team, in particular, is focusing on ways to improve that. We have a temporary web site, which is pretty bad. However, we are working with groups of young people and a team of experts — who themselves look no more than children to me, but then I am very old — who are working on making the web site exciting and accessible.

The communications team will be piloting an ambassador scheme in the autumn. We want ambassadors in every school, but the pilot will be conducted in some schools. A group of young people will take responsibility for sharing information among their peers about who I am,



what my role and function is, and how they can get in touch with me. We shall support them, and give them the information and back-up that they need to do that. The purpose of that pilot is to extend it across Wales in a rolling programme.

We attend events such as the Eisteddfod, which is the biggest youth festival in Europe. We have a stand there. We also attended the adult Eisteddfod, where our tent was full of young people. If invited by a group of young people, the team and I shall go to any function. We shall drop other business if we have to. I have attended more than 100 functions in the first year to which it has been the children who have invited me. I have attended schools, youth clubs, meetings, conferences, et cetera. We also have a visitor room in each of our two offices. Once that is properly equipped — when we have enough money to set it up — we shall invite children from schools, youth clubs and children's homes to visit their commissioner. We hope to make their stay enjoyable and accessible.

It is difficult for children from large swathes of rural Wales to get down to Swansea or up to Colwyn Bay, so we are thinking of acquiring an information bus to enable staff to travel around the central parts of Wales. They could set up in two or three schools in a day, or in a public marketplace or somewhere similar. One of our obsessions at the moment is how to make us more accessible.

Parents ring us up. They tend to access us in that way.

**Mr McElduff:** Are teachers receptive to the idea of a Children's Commissioner for Wales?

**Mr Clarke:** The teaching unions were very supportive of the establishment of my post. I have made it my business to visit and talk to groups of teachers, and I meet one or two groups regularly. Trond Waage, my counterpart in Norway, invites primary school teachers and secondary school teachers to his office at the beginning of each school year to have a chat about the state of the nation's children. I might do that in the future.

Education is one area in which there is potential for conflict with the commissioner's office, but so far we have not had any. Most of the situations in which a conflict of interests might be perceived — for example, classroom control — we are looking to talk about the provision of additional support to teachers, not criticism of them. They are already often overloaded with tasks.

There is a common cause between my office and teachers. Teachers welcome some of the bolder experiments that have gone on in Wales, such as attempts to avoid exclusions. They have brought in youth workers, counsellors and special teachers to deal with children who are in danger of being excluded. They are not in the classroom, but they are still in the school.

We have genuinely tried to go forward as allies wherever possible. If there is a clear conflict of interest between a child and an agency worker of any sort, we support the

child, but we are not looking for fights. We do not go in with a gung-ho attitude, trying to find conflict. We try to work in ways that change children's lives. In those circumstances, it is best to get people to collaborate with you. I have given talks to several teaching bodies, and I think that they have heard that message.

**Ms Battle:** We have also found that teachers look at us as a body that they can approach with their own concerns about the way matters might be being handled, be it the budgets or the local education authority. They look at us as a possible safe place to go to with their concerns. We are probably going to be listed under the Public Interest Disclosure Act 1998 as a place where whistle-blowers can go. We all know that when we work in a particular place we see what is actually happening. We are a body that people can come to so that we can all work together for children's interests.

I have one other point about contact with children. We are working to set up a contact line in a year or so, but that depends on budget. We require adequate financing to allow us to do that. We are doing the groundwork so that we shall be able to set it up when we have the budget.

**Ms Lewsley:** You said that you do not get involved in every single case. That was a key issue for many of us, because we felt that the children's commissioner would get bogged down in a lot of detail. In your 18 months in office, have any specific themes occurred?

Our children would be under the guidance of the commissioner up until the age of 18, or 21 if they were in care. Is it possible to extend that to a greater age than 18 for, in particular, disabled young people?

**Mr Clarke:** A clear picture emerged during the first year. I do not have the percentages with me, but the biggest single issue was special educational needs provision, particularly the provision of speech therapy. Very often it was the parents who came to us with those concerns.

Other issues I would have to examine more closely.

Themes that emerge from discussions with children and young people are one of the main ways in which I set my agenda. In that area, the biggest single issue has been respect. Children and young people have said that they do not feel respected by adults in general. They cite the way in which they are treated in bus queues, leisure centres, shops, cafes and cinemas. I am of a generation where I am used to my friends saying that young people do not respect us enough; clearly that sentiment is reciprocated by the young people. That is important.

Another main issue that children and young people have brought to me in Wales is the state of school toilets. Obviously, if they happen to be in a school that has very good toilets, they do not come to me, but 50% or 60% of children are seriously upset about that. It relates to the first point about respect. Some of the older ones know that teachers' toilets are covered by the

Health and Safety at Work etc. Act 1974, while theirs are not. Pupils have all the horror stories to relate that we can all probably remember about school toilets.

I shall launch a campaign on that early this term. That is an agenda item that children have brought to me. I would not have dreamt of it myself, but it has been strongly raised.

There is a whole host of other issues, particularly concerning transport. There are young people — and not only in rural locations — who cannot afford transport. Some of them have said to me, “We have free transport for a number of old people in Wales now, why not for children as well?”. Access to leisure centres and poverty issues have also been raised. Those are just some of the main issues that children have brought to us.

**Mr Ervine:** I wonder how many people who could be described as unsuccessful candidates agree with your formulae for interview.

**Ms Battle:** Probably none.

**Mr Ervine:** In your opinion, after 18 months, and compared with what it was at the outset, what is the public attitude to the Children’s Commissioner for Wales? Did the National Assembly for Wales use public service advertising to inform people of your existence? You have dealt partially with signposting. How do people know that you exist? How do they find ways to get to you? If one is middle class, is one more inclined to be aware and understanding of the conditions or the avenues that one can traverse, rather than those who may never seek your help? Many of us will have met adults who do not know where to go to get help, never mind the children.

**Mr Clarke:** I have been in the media an awful lot in the first year. I do not wish to be seen as a rent-a-quote figure, but I do want to be there when serious issues need to be talked about. It is fair to say that the public disposition towards the office is generally very positive at the moment. That is a fact.

The National Assembly for Wales has certainly performed signposting. It has been very proud of the establishment of my office, so it has also been advertising it in that sense. The class system in Wales is quite unique.

**Mr Ervine:** Yes; it is Welsh.

**Mr Clarke:** That is correct. I have tried very hard to ensure that my staff and I do not go only to functions, meetings and conferences at which we shall exclusively meet that band of people. We have tried to visit youth clubs on some of the most difficult and deprived estates in Wales.

It is not disproportionately the middle classes who have come to us, but my impressions are not sufficient. We are in talks with the University of Wales about a possible major piece of research to be conducted into my office. That would look at matters such as how many children know about my post, how accurate their understanding

of my role is, and from what social class they come. The University of Wales will be the independent body to undertake that research. Although I can only give you an impressionistic answer at this stage, I hope to be able to give you a more academically credible one in due course.

**Mr Ervine:** Is there any evidence that the elected representatives of Wales, who often can be conduits to one source of help or another, have been proactive?

**Mr Clarke:** Very much so. Assembly Members, MPs and MEPs have referred several individual cases and policy issues to us. They have a reasonable awareness of what my job is about. I travelled around an awful lot to talk to people in the first year. I covered more than 30,000 miles, so there is a widespread understanding of what I am trying to do, at least.

**Ms Battle:** I agree with that. For example, last week we received a letter from an 11-year-old boy. It read: “Dear Peter, I saw you on the telly. Can you help me?”. The child wants to get into a school. Letters come from all social classes.

**The Chairperson:** You say that you receive many complaints from parents, particularly about special needs provision. Our Bill will not allow for adults to make complaints on behalf of children. Do you see that as negative?

**Mr Clarke:** I do. That is probably the most straightforward criticism. The commissioner should be able to receive complaints or concerns from any individual who has the welfare of a child at heart. That would normally be a parent, but it might be someone who is not a parent. It might be a concerned aunt or uncle, or a professional advocate — we have had several cases come from there. It might be an Assembly Member, or someone else. The Bill should not restrict the source of the referral. It should be left to the discretion of the commissioner as to whether he acts, as it is with any other case. I do not see the point in having that restriction in the Bill. I am sorry if I have failed to mention that, because it was one of my points.

**The Chairperson:** Do you have memoranda of understanding with other groups that may have roles similar to your own?

**Mr Clarke:** Yes. I have said that I was concerned that it should be a duty to provide advice to the Assembly itself. We are working on that. We have memoranda of understanding with all sorts of groups, such as the Welsh Local Government Association, the police, the Health Service Ombudsman, the Local Government Ombudsman, and the Children and Family Court Advisory and Support Service (CAFCASS), which is outside my jurisdiction. With all those groups, we are trying to draft memoranda of understanding about how we proceed mutually.

**Ms Battle:** The problem of making it a duty for the commissioner to respond to a “relevant authority” or to the Assembly is that it can impinge on his independence.

The commissioner should be seen to be separate from everybody, but we do give advice on good working relationships. We enter into agreed memoranda of understanding or protocols with everybody, including the National Assembly for Wales. We are developing one at the moment. The other body has written a draft, and now we are working on it from our end.

**The Chairperson:** Under our Bill, the commissioner would have the power to enter residential homes, but not, it would appear, foster homes. We are getting that checked out. You do not have the power to do either. Should the commissioner be allowed to enter foster homes as well?

**Ms Battle:** In the context of a full investigation, I would say yes. You have produced terms of reference; you have given people notice. If a child is in care, I would give the child a choice of where they wish to be seen — somewhere where the child feels comfortable. Children can be inhibited in foster homes. They might wish to see you in your office or in a McDonald's.

**Mr Clarke:** That has happened a few times.

**The Chairperson:** Thank you very much for your time; it has been very useful.





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## NORTHERN IRELAND ASSEMBLY

*This report was not approved formally by the Committee prior to the suspension of the Assembly on 14 October 2002, but is published by order of the Speaker.*

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### COMMITTEE FOR SOCIAL DEVELOPMENT

Tuesday 10 September 2002

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### HOUSING SUPPORT SERVICES BILL (NIA 23/01)

#### Members present:

Mr Cobain (Chairperson)  
Sir John Gorman  
Mrs Nelis  
Mr O'Neill  
Mr M Robinson

#### Witnesses:

Mr J Burns ) Department for Social Development  
Ms D Ferran ) Northern Ireland Housing Executive

**The Chairperson:** I welcome Mr Burns and Ms Ferran. Officials made a presentation to the Committee on the principles of the Bill earlier this year, and the Committee subsequently led a very constructive debate on the matter in the Assembly on 19 March 2002. Perhaps you would outline to us the reasons for the Bill and its main thrust. Members would also find it helpful if you were to say something about the legislative provisions in force elsewhere in the United Kingdom.

**Mr Burns:** I am from the Department for Social Development's Housing Policy Branch. My colleague is from the Northern Ireland Housing Executive, the body responsible for carrying through the Towards Supporting People project for us.

The Housing Support Services Bill aims to introduce a new method of funding supportive housing services to enable vulnerable people to live as independently as possible in supported housing accommodation. In the past, these services were, in the main, paid for through housing benefit, but in 1997 a court ruled that such payments were ultra vires and that housing benefit should no longer cover the costs. Providers were left with no way of funding these vital support services, so the Government introduced a transitional housing benefit scheme to give legislative backing for the arrangements until a new means of funding the services could be found.

In Great Britain, it was decided that all funding streams for supported housing, namely the part of housing benefit that was meeting support costs and other funding streams — such as special needs management allowance, which was paid by the Department to housing associations — should be put into one funding stream that would be operated by a single body. In England, it is operated by the local authorities and in Northern Ireland by the Housing Executive. The new arrangements will ensure that those in receipt of funding for housing support services will continue to receive it and that existing funding streams, which are often complicated, are streamlined. Similar legislation in Scotland is the Housing (Scotland) Act 2001, mainly section 91, and in England and Wales it is the Local Government Act 2000, sections 93 to 96.

**The Chairperson:** The purpose of the meeting is to carry out a clause-by-clause scrutiny of the Housing Support Services Bill. The Committee agreed not to call witnesses, but interested parties were invited to suggest amendments to the Bill, copies of which members have before them. Members will also have the opportunity to raise concerns about the provisions and to suggest amendments. Members should read the clauses in the Bill in association with the commentary in the explanatory and financial memorandum. They may also find it helpful to refer to the useful paper prepared by the Assembly's Research and Library Services, a copy of which was distributed on 9 September.

The Bill has eight clauses, and each clause and subsection must be considered in turn. The Committee has two options: to agree that it is content with a clause as drafted, or to agree that we recommend to the Assembly that the clause be amended. Before coming to a decision, members may also seek clarification on any clause. We agreed the detailed handling arrangements for the consideration of the Bill at our meeting on 5 September. If we cannot reach agreement on a particular clause or amendment, I will put it to members that consideration of that clause or amendment be deferred for further consideration at a later date, and we will proceed to the next clause.

*Long title agreed to.*

#### **Clause 1 (Provision of housing support services)**

**Mr O'Neill:** It may be worthwhile for the Committee to look at the suggested amendments about consultation being inbuilt into the legislation or the advice notes that accompany it. That would ensure that the points raised by various groups are connected to what the Committee is doing. One proposal states:

"Before any regulations, guidance or other change to the provision of housing support services, the Department must consult:

(a) the Northern Ireland Housing Executive;

(b) such recipients or representatives of recipients of housing support services as appear to be appropriate; and

(c) such providers or representatives of providers as appear to be appropriate.”

With regard to consultation, there may be some need to apply the Act. What is your response to that?

**Mr Burns:** The Department already has a responsibility to consult the Northern Ireland Federation of Housing Associations on anything that it intends to do regarding housing associations and their areas of business. The Bill will introduce new funding arrangements in which the Housing Executive will also fund other voluntary bodies not currently funded by the Department.

We have set up an external reference group to which any papers or regulations that the Department intends to bring forward will be brought to for its comments. We did not think it necessary to enshrine that type of onus to consult in the legislation.

**The Chairperson:** OK?

**Mr O'Neill:** I am not sure that it is OK. There may be a need for it to be enshrined. I accept what Mr Burns is saying, but as the Bill is a separate piece of legislation, there may be a need for it to be specifically allied to the consultative process rather than dependent on other existing legislation to ensure that that takes place. It might be altered in the future and affect the consultative requirement that is required for the Housing Support Services Bill, so perhaps an onus to consult with the Department should be included in the Bill. It would be an assurance, and it should not cause the Department any difficulty since it has recognised the need for consultation in other areas.

**Mr Burns:** Usually “consultation” applies to a period of at least eight weeks and involves other representative bodies that are not necessarily part of the area of business that you are dealing with. We will be happy to consider Mr O'Neill's point and introduce some mechanism for consulting and involving the bodies that would be affected by any change rather than have a standard eight-week consultation period involving the public. I am willing to recommend to the Minister that a subsection be included in the Bill to deal with consultation if that is what the Committee and the providers' representatives feel should be included.

**Mr O'Neill:** That would be progress, but the Committee would like to preview its content.

**Mr Burns:** An amendment has been drafted along the lines of the provisions in the GB legislation. Officials will ask the Minister to consider including it in the Housing Support Services Bill.

**The Chairperson:** Mr Burns, do you agree to consult with the Department on the proposed amendment?

**Mr Burns:** I am happy to go back to the Minister and take his view on it.

**Mrs Nelis:** The Committee must have an absolute assurance that there will be a consultation process, particularly on charging or means-testing. The consultation should be wide and involve users. My understanding is that there would be a cash limit in that respect.

**Mr Burns:** Issues such as charging and means-testing will be brought forward under our Regulations and conditions of grant, although no decision has yet been taken. As I said, if you feel that the amendment should be included, I will have no difficulty in recommending that to the Minister.

**The Chairperson:** If the Department is not prepared to support the amendment, the Committee can move an amendment itself. We are keen for the amendment to be included in the Bill.

**Mr O'Neill:** Will the amendment be accepted in its current wording, or will it be changed? That is why I want to see the final version.

**Mr Burns:** If need be, we can come back to the Committee and show you how it has been worded.

**The Chairperson:** That would be helpful. There are several clauses, not only in this Bill but also in the Housing Bill, on which the Department and the Committee will have to work together. We are keen to see your response to the amendment. It is important that that amendment be included in the Bill, without losing its overall thrust. Will you come back to us as quickly as possible on this?

**Mr Burns:** Will we answer in writing, or will we have to appear before the Committee again?

**The Chairperson:** You will need to come back in person. It will take about 30 seconds for the Committee to approve it. I know that you are a busy man, but you should be able to spare the Committee 30 seconds.

**Mr Burns:** You will be seeing quite a bit of me over the next few months.

*Clause 1 referred for further consideration.*

#### **Clause 2 (Grants for housing support services)**

**Sir John Gorman:** Have any submissions been made regarding this clause?

**The Chairperson:** No. Are we happy with the clause?

**Mr O'Neill:** Research and Library Services raised an interesting question about the Northern Ireland Housing Executive and the amount of discretion under clause 3. Will the Northern Ireland Housing Executive's exercise of that discretion be subject to the Assembly's approval? That is, will the provisions that it formulates under clause 2 be subject to the Assembly's approval? It would be interesting to see how that would operate.

**Mr Burns:** Page 4 of the Bill states that

“a prescribed means prescribed by regulations made subject to negative resolution by the Department”.

Therefore, the Department will make any Regulations.

**Mr O'Neill:** That clarifies it.

**The Chairperson:** Regulations will then be approved by the Assembly.

**Mr Burns:** Yes, by negative resolution.

*Question,* That the Committee is content with the clause, *put and agreed to.*

### **Clause 3 (Disclosure of information)**

**Mrs Nelis:** Research and Library Services asked the pertinent question of whether those sections are fully compatible with the data protection legislation.

**Mr Burns:** Those sections were included for reasons of data protection on the advice of our Social Security Policy and Legislation Branch. They are lifted directly from the Great Britain legislation.

**Mrs Nelis:** Have there been changes to the data protection legislation?

**Mr Burns:** Not that I am aware of. I have enough difficulty keeping up with housing legislation.

**The Chairperson:** All the legislation passed will have to conform to the Data Protection Act.

*Question,* That the Committee is content with the clause, *put and agreed to.*

### **Clause 4 (Unauthorised disclosure of information)**

**Mrs Nelis:** Does this clause tell us what the penalty is for disclosing information? Oh, clause 4(5) explains it.

**Mr O'Neill:** For the record, we should ask what Research and Library Services has found.

Clause 4(5) states: “A person guilty of an offence under this section is to be liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine or both, or

(b) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both.”

**Mrs Nelis:** The legislation does not clarify the fine after conviction.

**Mr Burns:** The fine will be for the courts to determine, but my understanding is that the maximum fine is £2,000.

**Sir John Gorman:** I do not seem to have the research findings.

**The Chairperson:** They are among your documents, Sir John.

**Mr Burns:** For the record, I have been told that the fine is £5,000.

**Mr O'Neill:** The point that the researcher was trying to make concerned the level of fine or the period of imprisonment for the prescribed offence. How is a suitable penalty decided? Is there some sort of punitive benchmarking system?

**Mr Burns:** I assume that the penalties are already in place for unauthorised disclosure of any information relating to housing benefits, or other benefits of that nature.

**Mr O'Neill:** I see.

*Question,* That the Committee is content with the clause, *put and agreed to.*

### **Clause 5 (Housing benefits)**

**Sir John Gorman:** I have a letter from the Belgravia Residents' Association, which is concerned about those tenants who are not in receipt of housing benefit. It fears that the changes in payment of benefits may affect the financial income of housing associations. In other words, if the housing associations are no longer able to provide the services that the housing services or the Bill requires of them, the rent of those who pay it will be affected.

**Mr Burns:** The Belgravia Residents' Association raised the point with the Department that Oaklee Housing Association is in receipt of special needs management allowance for the scheme in question. The fear is that that special needs management allowance will end once the new arrangements for Towards Supporting People are introduced.

However, that is not the case. I understand that the scheme in question is what is called a registered care scheme. From 1 April 2003, as the new programmes come on stream, those schemes will no longer be eligible for funding from Towards Supporting People. However, we have given an undertaking that any schemes that are currently in receipt of the special needs management allowance will continue to receive an amount equal to that until the Department for Social Development, with the Department of Health, Social Services and Public Safety, has had an opportunity to look at the scheme and determine what the correct source of funding will be in future.

Therefore, any scheme that is currently funded, either through housing benefit or special needs management allowance, will not suffer as a result of the new measures coming in. I gave you that undertaking at our last meeting.

**Sir John Gorman:** That was very helpful, and doubtless the Minister will send me Mr Burns's reply. You may convey that to the Belgravia Residents' Association.

*Question,* That the Committee is content with the clause, *put and agreed to.*

*Clauses 6 to 8 agreed to.*

**The Chairperson:** There are no schedules or other associated attachments to consider, therefore the clause-by-clause consideration of the Bill, with the exception of clause 1 to which the Department will respond, is concluded.

**Mr B Hutchinson:** Is clause 1 the one that they will change?

**The Chairperson:** We hope that they will change it. We will continue with the Committee Stage of the Housing Support Services Bill on Thursday 12 September.

**Mr O'Neill:** Before our officials leave, will they advise us about the Regulation and advice notes that will accompany the Bill? Several issues were raised at Second Stage about that, by myself in particular. What is the timescale for dealing with those Regulations, and how will our consultative input and scrutiny be arranged?

**Mr Burns:** We cannot proceed with any Regulations until the Bill has received Royal Assent. As soon as that

occurs, the Committee will receive the Regulations. I have never been involved in legislation before, so I am learning about this process just as much as you are, and my understanding is that we will send a memorandum to the Committee on each set of Regulations. The Committee is free to invite us to discuss the Regulations at that time.

**Mr O'Neill:** When will we be made aware of the size of the funding pot, which is central to the legislation?

**Mr Burns:** It is very much a fluid situation. We are liaising with the Department of Finance and Personnel. We are also keeping in close contact with representatives from Great Britain to find out where they stand. The Housing Executive continues to work with the providers to ensure that they are content that the rent and support split is made correctly. We will continue to ensure that we have the pot sized correctly.

**The Chairperson:** Thank you very much.



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## NORTHERN IRELAND ASSEMBLY

*This report was not approved formally by the Committee prior to the suspension of the Assembly on 14 October 2002, but is published by order of the Speaker.*

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### COMMITTEE FOR FINANCE AND PERSONNEL

Tuesday 10 September 2002

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### MARRIAGE BILL (NIA 18/01)

#### Members present:

Mr Molloy (Chairperson)  
Mr Beggs (Deputy Chairperson)  
Mr B Bell  
Mr Close  
Mr Hussey  
Mr R Hutchinson  
Ms Lewsley  
Mr Weir

#### Witnesses:

Rev Canon Edgar Turner ) Church of Ireland  
Mr T N Wilson )

**The Chairperson:** Gentlemen, you are very welcome to our Committee evidence session. I invite you to make your presentation.

**Mr Wilson:** Thank you. I am Neill Wilson, and my colleague is Rev Canon Edgar Turner. I am the diocesan secretary and a marriage licenser for the two largest dioceses in the Church of Ireland, namely Down and Dromore, and Connor, which geographically cover the counties of Antrim and Down.

We regret, owing to a vital and long-standing conference on ministry taking place in Dublin today, that neither the chairman of our advisory committee, the Bishop of Connor, nor either of our two legal advisers are able to be present this afternoon. However, my colleague, Rev Canon Edgar Turner is the diocesan registrar for the diocese of Connor — the cleric who deals with the internal legal matters for most of the Belfast and County Antrim area. Also, as a member of the advisory committee on law reform, Rev Canon Edgar Turner will present our verbal submission to the Committee. We have copies with us for the convenience of members.

**Rev Canon Edgar Turner:** You will be aware that the proposed Bill, as the long list of repealed Acts at the back of it indicates, removes completely the system of

the publication of banns — the system which the Church has used for a thousand years, since the time of Charlemagne. It also removes the system of ecclesiastical licence for special permissions, which the Church has used continuously for 500 years, both before and after the Reformation and disestablishment in Ireland.

We are, however, content to abandon all this in accordance with the Bill's desire to apply equality treatment to the new process of schedules, which you suggest. We would point out, however, that there is a great difference in the nature and work of civil officiants and religious officiants or "celebrants", as we prefer to call them. A civil registrar is one of a limited number — I think there are probably about 26 in Northern Ireland — of paid officials who specialise in marriage matters. The clergy, on the other hand, regard marriage as part of their whole ministry of caring for their people and congregations.

There are about 450 clergy of the Church of Ireland in Northern Ireland, and they are committed, in a close relationship, to the pastoral care, marriage preparation and sacramental celebration of their people. We are not, therefore, merely registered officiants. As you are aware, the Church of Ireland has already made a third response. I hope that you have copies of it; it is a two-page document. The first response was made in May 2000, the second was made in November 2001, and the third one was made on 1 August 2002. We intend to concentrate our comments on that third response.

Of the specific comments that we make in that third response, our advisory committee on the draft Bill says that the most important are the ones that we have numbered I, IV, V and VII. The first of these relates to the need for satisfactory administration; the three later suggestions reflect the concern, expressed by our advisory committee from the very beginning of the consultation process, to protect the integrity of the Church; to avoid it being used as a convenience; and to protect its clergy from being subjected to undue pressure.

We will look first at the administration. It would be expected that all permitted religious officiants should be readily known to their parishioners and that there should be enough of them to deal with most marriages as they arise from a congregation. The arrangements provided for in clause 8 may not meet those objectives.

Under the new system, it seems that religious bodies will prepare a list of registered Northern Ireland officiants. Even if the list includes all the Church of Ireland's clergy in Northern Ireland — approximately 450 — it will exclude those who serve in its dioceses and parishes in the Republic of Ireland. The Church of Ireland's existing lists include all the clergy serving in the Republic of Ireland, clergy from the outlying islands and Scotland, Wales and England, and those in a variety of other Churches in communion with the Anglican communion

— all of whom, under present circumstances, officiate at weddings in the Church of Ireland.

Many weddings involve at least one party from another part of Ireland or the UK and people who are related to, or friendly with, clergy from the Republic of Ireland or other parts of the UK. Under the new system, special arrangements would have to be made for circumstances that are dealt with quite easily now. Examples include arrangements to allow an officiant from a parish in the South to conduct the marriage of one of his female parishioners in the North and arrangements to allow an English vicar to travel to Ireland to officiate at the marriage of a male parishioner. Failure to make those special arrangements could result in the postponement, or even cancellation, of a wedding. The extra administration involved would impact on the Church. It would impact greatly on the local administration, and on the public, who would be most affected if that regulation were tightly controlled. Several other denominations in Northern Ireland might require an even greater number of officiants than the Church of Ireland. That is the problem.

The Church of Ireland would like to assist the authorities in the provision of a list of registered officiants in Northern Ireland. However, under proposed clause 8, that could only be done by a few authorised agents — in our case, the five or six Northern bishops — to whom the Church would have delegated its responsibilities. If such an arrangement cannot be accommodated in the Bill, it is difficult to imagine how the Church of Ireland could meet the responsibilities imposed.

There is also concern over clause 8(5), which addresses the procedure for adding new officiants. If strictly applied, that clause will cause administrative chaos for the Church. The Church must allow, in circumstances such as the illness or other inability of the named officiant, another celebrant to officiate at short notice, and we are afraid that clause 8(5) does not lend itself to that interpretation. Allowing each Northern bishop to make the application, which would follow the practice in Scotland, could best effect the temporary authorisation afforded by clause 12.

Our advisory committee suggested amendments to clause 5, which seek to protect the officiant. Under the clause, as currently drafted, registrars can issue a marriage schedule to the parties, providing for unacceptably short notice of the date of the marriage to the intended officiant. We spend a great deal of time dealing with marriage preparation and advice, and it does not help to receive a late marriage application. Under the legislation, the schedule could be issued without the officiant being aware of his proposed involvement. That is wholly unacceptable and could place undue pressure on the clergy. We support a three-month period of notice, which we understand is the practice in Scotland and we know is the practice in the Republic of Ireland.

Finally, our committee's suggested amendment to clause 13 seeks to make an equivalent provision for Churches in religious marriages to that in clause 16 for local authorities in civil marriages in relation to the places where marriages can be solemnised. As the Bill stands, no such provision seems to be made. We are concerned that, through the legislation, we should be able to indicate places in which religious marriages would take place. Paragraph 8 of the explanatory and financial memorandum states that the Churches would have control of that aspect with regard to religious marriages. However, the legislation itself must give the power to do so. It is not only for the narrow interest of the clergy that we suggest those amendments, but to ease and simplify matters for applicants, who, after all, are your constituents.

**The Chairperson:** Thank you.

**Rev Canon Edgar Turner:** That is the end of my presentation. I can, if you wish, address the third response, which deals, in short terms, with the specific matters that we would like to amend. Alternatively, members can ask questions on what we have already said.

**The Chairperson:** We will look at the third response and ask questions afterwards.

**Rev Canon Edgar Turner:** We seek assurance that the phrase "religious body" in clause 9(4) can mean the Church of Ireland. We would be concerned that a maverick group could hide inside a pattern; therefore, we would like specific mention that one of the bodies concerned is the Church of Ireland.

We also seek assurance that, for the time being, the Church of Ireland may delegate the powers and responsibilities under clause 8 and elsewhere to each diocesan bishop in Northern Ireland. To clarify, Northern Ireland is divided into almost the same number of dioceses as you have districts, and if, for example, the Bishop of Connor, who has about 80 parishes in his diocese, were to be an agent of the body, he could then readily and easily provide the names of the 80 or 90 clergy whom we would suggest as being religious officiants in that area. It would be easy for him to add a new name if there were an ordination and to remove a name at departure or death. The same policy could be applied for the other four or five bishops, which would be a tidy administrative way to act under your general term of "the body".

**Mr Beggs:** What is the difference between that position and the Church administering that and having its officials provide the recognised list direct to the registration body? Given that it is based, largely, on the Scottish system, which is in practice, how does the system currently deal with a Church of Ireland minister who wants to officiate at a marriage in Scotland?

**Rev Canon Edgar Turner:** First, we would regard it easier, administratively, to have a deputy, if you like,

such as the Bishop of Connor, dealing with the 80 people in his area, and passing that to the Registrar General, with the other bishops doing the same thing. If you want them to pass all of that through a central office, Mr Wilson, in the office in Belfast that shares our two largest dioceses, could be the agent from whom that could come. From that point of view, he could be what the Bill calls “the body”. However, we would like the sorting of names to be done in the local area by the local bishop.

The point that I have just been making answers your question about what happens in Scotland. Yesterday I asked the Bishop of Glasgow about his proceedings. In the Anglican communion all clergy after their first year are ordained priests and, therefore, canonically have the power to celebrate a marriage. In Scotland, within the three-month period, a Scottish bishop decides whether the Irish cleric is canonically correctly ordained et cetera, approves of him and tells the registrar accordingly. The Bishop of Glasgow stated that this has always been accepted by the registrar, and he is quite happy to take the name that comes up for a one-off wedding or a short holiday period as proposed by the religious body.

**Mr Beggs:** Would such a practice not also work here?

**Rev Canon Edgar Turner:** It would work; that is what I am suggesting through allowing each of our bishops to be the body’s agent. If a Scottish Anglican priest wanted to come, he is first authenticated by the Bishop of Connor, for example. The bishop would then pass that name to the Registrar General. Using the three-month period, the Registrar General has plenty of time to accept that person as a temporary officiant.

**Mr Weir:** Are you not concerned with receiving assurances about how the law will be administered in practice rather than with the wording of the legislation? As I understand it, it would be up to every religious body to sort out its own arrangements as to who acts as the registering agent. Each body would decide whether to deal with the register through a single agent or whether to have a list of agents. For example, you want to have it devolved down to the diocesan bishops for them to deal with it. However, your concern seems to be with how the legislation will be administered rather than with its wording.

**Rev Canon Edgar Turner:** That is true. In this particular case, we are not suggesting any amendment to the legislation. However, we want to be quite clear that what you have just said would in fact be a practice that the Registrar General will work out in Regulations. We are not suggesting that there is a fault in the Bill; we are concerned that the Bill should be interpreted in precisely the way that you have outlined.

**Mr Close:** My question is the corollary to that. Suppose a couple desired a clergyman from Limerick to officiate at their wedding and neither the couple nor he went through the bishop for the cleric’s registration; instead, he

registered himself. Is the Church of Ireland saying that because he did not follow the protocol that it wanted followed, it would not consider that to be valid?

**Rev Canon Edgar Turner:** The Bill is stating that. It says that the application for registration must come from “the body”, and a stray cleric in Limerick would not be “the body”. Within the three-month period, the cleric can make it known that he is willing and anxious to take the wedding in Northern Ireland in whichever district or diocese it happens to be. Then, his name can be added by the bishop. The cleric from Limerick is not “a body” who could make the application, according to our reading of the Bill.

**The Chairperson:** At this stage, I want to point out that, although we are taking evidence, we cannot give definitive responses. At the end of the day, the Department will do that. The evidence that we are taking will go to the Department, and it will respond to your questions.

**Rev Canon Edgar Turner:** I am glad that some of your legal advisers are listening. It is to be hoped that they can make sure that the matters that I have just adverted to can be dealt with in Regulations. We have a few other, fairly minor, points to make.

At point II, in relation to clause 4(6)(d), we say that instead of stating that a person should consent to a marriage, we would prefer that the term “informed consent” be used. That, again, is a matter for your legal advisers. I understand that there is a technical difference between consenting and being sure that an individual is not persuaded by parents or anybody else and, therefore, is giving “informed consent” to a marriage. That would be a stronger statement.

In clause 4(6)(e), we have queried whether “gender” might be a better word to use than “sex”, which is used in the proposed text, but it is mentioned merely to alert your legal advisers to that point.

Point IV is important. In clause 5(2), after the word “registrar”, we suggest that the Bill should have the additional words “after specific confirmation by the officiant”. The registrar issues the schedule, but the Bill is rather vague about the process involving the couple before it is issued. The registrar may tell them that if they want to get married in Portrush, for example, they must go to the registrar of that district, who will allow them to go to a church in Portrush, Portstewart or wherever. If the couple say that they have told the rector there that they want to get married and the registrar proceeds with the schedule, the rector may not get the document until quite a late stage. We want to be quite sure that the registrar does not issue the schedule until he is clear that the officiant has confirmed the couple’s application. To do that, we suggest that those words be added into the Bill.

On clause 5(2)(b), we seek assurance that the prescribed period will be stipulated as not less than three months, except in exceptional circumstances. I have



already indicated the great advantage that it is to the clergy and to administration to have that period of time. One of the things that the clergy hate most is getting documents from a registrar or someone else telling them that they are under obligation to perform marriages at a week's notice, details of which they may not have had confirmed. We are very keen to follow Scotland and the Republic in ensuring that the normal period between the issue of the schedule and the marriage should be three months, aside from exceptional circumstances.

**Mr Weir:** I appreciate that the time period will be defined in Regulations, as is indicated later, and also that it creates a certain moral pressure on the cleric to perform the marriage. My understanding of the legislation is that the officiant can refuse to conduct any marriage ceremony. For example, if a cleric was concerned that he or she was being given a particular time period in which to conduct a ceremony, they could, at least in theory, refuse to conduct the marriage ceremony because they were unwilling to perform it in such a short period of time.

I appreciate that it may well create a certain level of moral pressure and that clergy might feel pressurised to agree to conduct a ceremony in that time frame and that that may be the reason for the particular prescribed period of time. However, do you accept that the legislation is not actually forcing the clergy to conduct a ceremony within that period of time and that they can still refuse to conduct it?

**Rev Canon Edgar Turner:** I am not sure. There are a great variety of reasons why a cleric would decline to take a particular marriage, but a cleric would certainly not do so merely because a couple came to him at short notice, even though the legislation had allowed them to do it. Pastorally, we would be inclined to be sympathetic. We would not like it and would complain, but we would be sympathetic. There would be other reasons to enable a cleric to say that he wished to decline. I would still argue that to put a reference to three months into the Bill would be a considerable advantage. It would remove the tensions that could arise with the clergy and the registrars.

**Mr Close:** Surely the Church as "the body" can establish its own rules and guidelines. Could that not be interpreted as saying that the Church got the three-month guidelines, but it does not want to be accused of being unpastoral, so it passes the buck to the legislators? It would be much better for Churches, under the Bill, to be able to establish their guidelines in this respect. That is firmer, and respective of the guidance that the particular Church might wish to give to its flock.

**Rev Canon Edgar Turner:** We do not see anything in the Bill that would encourage us to believe that the Church could set up its guidelines independent of what the Bill had said. If those operating the civil legislation in Scotland and the Republic of Ireland are delighted with the three-month system, then I would still plead for it.

I am not persuaded that the Registrar General and the law would be happy that the Church was putting in its own restrictions. We could envisage the situation where a couple would come and say that they have been to the registrar, have done everything that is necessary, that there is nothing wrong in their relationship and that we are compelling them to fit our ecclesiastical rules — for example, on church attendance. The legislation does not allow for anything like that, and so I repeat that the inclusion of the three-month period would solve all those kinds of problems, and prevent the knock-on effect that could occur if one Church wants to exercise some of its discipline and does not have the authority under the Bill to do it.

**The Chairperson:** Is there a danger, if there were no such provision in the legislation, that one church could have a one-month period, and another could have three months, leading people to jump from one place to another?

**Rev Canon Edgar Turner:** That is why I would contend that three months should be in the Bill.

**Mr Weir:** There is almost a matter of religious freedom in that regard. If a particular church said that it wanted to give six months or shorter as the appropriate period, then, provided it complied with whatever administrative purposes were required, why should legislation stop it from conducting a ceremony within that period? I appreciate that your Church, and others, may feel that three months is an appropriate period and that you are not prepared to marry anyone in less than that period. However, I do not see why that should be imposed on other Churches, which may feel that a longer or shorter period is appropriate for them.

**Rev Canon Edgar Turner:** As one who has conducted a large number of marriages in the earlier years of my ministry, I feel that three months is the right length of time in which to make the proper preparations. Three months also rides over holiday periods, when many people are not available for whatever their Church may want to do. I still think that to stipulate three months as the required period is preferable. If another Church wanted to say that inside its sacramental or canonical rules, it wanted six months, so be it. However, I would be concerned if anything less than three months were stipulated. It takes a surprisingly long time to properly and adequately prepare for marriage. I do not mean choosing the organist and the flowers. I mean seeing the couple, understanding what they are doing and dealing with the problems of relatives. Three months is a perfectly straightforward and reasonable pattern, which, pastorally, I have always found desirable.

**Mr Wilson:** Taking both sides of the argument and looking at the suggested addition, we are talking about not less than three months, which means that other Churches can take longer if they wish. However, there is



also the exceptional circumstance rule, so everyone wins if there is a problem.

**Mr R Hutchinson:** Why should that be inserted for the Church of Ireland? Quite rightly, there are some Churches that marry couples in less than three months. I can understand your pastoral concerns, and there can be difficulties where a longer time is required, but, with all due respect, not everyone is like that. In some Churches, those couples will be part of the weekly congregation; their background and circumstances will be known, and, therefore, all the checks and balances will have been made through the normal pastoral care of looking after the flock and Church over the years.

**Mr Wilson:** Today the practice is that most marriages are planned well beyond the three-month period, and we are talking about an administrative block of time, which gives the civil and Church authorities time to co-ordinate their responsibilities. It seemed that a minimum of three months was a reasonable time, bearing in mind that the people applying probably set the date for their marriages two years ago. We are only talking about the administrative period — it is not a restriction on rights.

**Mr Hussey:** I do not mean to be disrespectful, but the date is often led by the social aspect of marriage, in that the hotel has to be booked well in advance. Quite often, whether it is right or wrong, people book the hotel before they book the church. That is a fact.

**Rev Canon Edgar Turner:** That is true.

**Mr Weir:** The suggested amendment that you have produced states “not less than three months, except in exceptional circumstances”. Can you provide your definition of “exceptional circumstances”? If we are persuaded of your view and those words are used, they could become utterly meaningless unless there is a definition of “exceptional circumstances”. Any couple who wanted to get married in less than three months could say that they have exceptional circumstances because of X, Y and Z. I do not expect you to provide a definition off the top of your heads, but I would be grateful if you could submit it to the Committee in writing to help us with our deliberations.

**Rev Canon Edgar Turner:** I can comment on it. Our present system contains special licences, and they apply in exceptional circumstances. If a wedding was planned for three or four months’ time and the groom is called abroad on military service, that would be an exceptional circumstance. We operate that through special licences, which come through bishops, who state whether it is an exceptional circumstance or special condition. We intend that the bishops of the Church or of “the body” would express the exceptional circumstances to the Registrar General, stating that they recommend that the exceptional circumstance provisions be applied, and thus avoiding the normal three-month period. In other

words, the Church would make the opinion as to whether it was exceptional — not the couple — and the registrar would endorse the opinion.

**Mr Weir:** Ultimately, under that system, the registrar would make the final decision.

**Rev Canon Edgar Turner:** Yes, that is correct.

Continuing on, in clause 12(1), after the word “may” add “on the application of a religious body”. We are worried that, without that addition clause, 12(1) could enable a one-off individual or maverick — and unfortunately all denominations have one or two — to make the application. We want to be sure that it is made on the application of the religious body, and not by a maverick individual.

Our next important issue is in clause 13(2)(a). We would ask that the word “recognised” be changed to “authorised” in that paragraph, and that a paragraph (c) be added saying: “in a place authorised by the religious body concerned”. Our point is that if it is an application for a civil ceremony, the civil registrar will have the list of places that the local district council has allowed for civil ceremonies. We want the Church — that is the body — to be able to stipulate the places in which the religious ceremony takes place. In our case, we would put it almost exclusively in churches. We do not want to find that the clergy are compelled, because of the lack of a phrase like this, to have a religious service conducted at the Giant’s Causeway or in a deep sea pool or whatever, simply because in the legislation the Church does not appear to have the authority to indicate the place in which it would exercise this. We think that is equality, which is what the whole Bill is about. The Church should get equality in stipulating the place, just as the state can stipulate its places.

**Mr Close:** I take the point being made. Returning to the earlier point, is this not again an area where the rules of the body can, as far as the body is concerned, take that precedence? In other words, the Church, as a body, can have its rules and regulations.

**Rev Canon Edgar Turner:** I have said that unfortunately we all have mavericks. Also, a large group of people, such as a Church, may have some individuals who might be inclined to take their own decisions on that matter, rather than submit them to the authority of “the body”. It is possible that a particular cleric could say to a couple “I’ll take your marriage at the Giant’s Causeway, and I will use the Church of Ireland prayer book” or whatever. To prevent that kind of distortion — if not abuse — we think that “the body” should be allowed to stipulate the place.

**Mr R Hutchinson:** I am an ordained minister, and I was only ever allowed to do marriages in registered buildings. Surely the Bill is taking that whole aspect away. You are saying that this Bill is fine, but you still want a bit of the old legislation, where people have to

marry in places that you feel are a sanctuary — where you would think the presence of God would be. The whole point of this Bill is to remove that, so that people, if they want, can marry in the open air, under canvas, on the beach, or wherever.

**Rev Canon Edgar Turner:** We do not have the slightest objection to people getting married on the beach, under canvas or whatever. Our liturgy specifically talks of putting the whole thing in the context of ongoing, continuing Christian worship. That is quite different from saying that we do not want them to be married on the beach. What we do not want to find is that the clergy are being forced to take the liturgy of the Church to wherever the couple want the wedding, as it would be in some cases.

**Mr R Hutchinson:** Therefore, this is more like a definition of worship.

**Rev Canon Edgar Turner:** No. It is a definition of the difference between a civil ceremony and a religious ceremony, which your Bill clearly makes. Religion is your connection and association with God and with the people associated with Him. In that context, we are conducting, in most cases, a sacrament of a religious ordinance, and it is quite improper to put it into the setting of your favourite holiday beach. You put it in the setting of the place where your religion is expressed.

**Mr Weir:** Again, is it not then ultimately up to the individual Church to impose its views, if it feels that particular locations are unsuitable and that churches are more appropriate?

**Rev Canon Edgar Turner:** That is precisely what we ask.

**Mr Weir:** The complication with an amendment is that different religious bodies will take different attitudes. Possibly many will take the view that it should take place only in their churches. However, with that amendment, for the system's administration to work, not only is a list of all the recognised officiants necessary, but a list of recognised places for each religious body.

**Rev Canon Edgar Turner:** Yes.

**Mr Weir:** That creates a second set of lists. For example, it may well be that some of the Churches that — rightly or wrongly — take a different view on the location would say that they are perfectly happy, as long as an officiant conducts the ceremony, to marry a couple in a religious ceremony wherever the couple wants. That could create administrative problems. Moreover, you expressed concern that constantly adding additional names to the list for a temporary licence would create problems. Surely, if there were prescribed places for religious ceremonies, there would be constant pressure on Churches? Couples would put pressure on the local cleric to add someone's name temporarily to conduct the ceremony. There could be an

additional administrative burden, and it could be difficult to put it into practice.

**Mr Wilson:** In present-day practice, the Church of Ireland's attitude is that marriages are licensed only for a licensed building, the exceptions being a hospital ward, where perhaps there is a serious illness, or even someone's home, where serious illness is concerned. We consider those to be exceptional circumstances, and we wish to reach out to the needs of the couple concerned. The suggested amendment not only gives religious bodies the option of determining where they are, or are not, prepared to conduct a service, but it gives every religious body the option to do its own thing. The religious body concerned can interpret that amendment as it chooses and still acknowledge the civil law.

**The Principal Committee Clerk:** I can perhaps clarify that. Our adviser or the official present can nod in agreement if my interpretation of the Bill is correct. My understanding is that, subject to approval, it is possible to have an approved place for civil marriages, for example, on the beach. It is a matter for each religious body to decide where it conducts marriages. If the Church of Ireland determines to do it in churches and nowhere else, that is entirely a matter for that body. The Bill does not require the body to do it somewhere else.

In the case of a maverick who might break that rule, the position on the Bill is that it is up to the Church of Ireland to register its officiants. If one of its officiants conducts marriages in a swimming pool, it is a matter for the Church of Ireland to deregister that officiant. There is nothing here that is an issue for you.

**Rev Canon Edgar Turner:** I hope that it is as simple as that. Clergy are being pressured nowadays to come in clerical dress and take weddings in the most outlandish places. I am sorry to say that one or two are doing that because the legislation allows it. The legislation does not make provision for Church authorities to interfere in such matters, which is why we come back to this preferred pattern. As has already been indicated, if some Churches are happy to allow exotic sites, well and good; that is not prevented in the pattern here.

The religious body concerned should give approval. If it wants a church to be used, that is well and good. Where a religious body wants to use exotic sites, it is free to do so. We are suggesting that the legislation should take account of our fears about this matter and offer some protection, while at the same time allowing everybody else their liberty too.

**Mr Hussey:** I thought that the Church was a body of people gathered together in worship rather than bricks and mortar.

**Rev Canon Edgar Turner:** Yes, but the Church is held together by structures of some kind. Clergy agree to work within a particular pattern, which, in this part of

the world, is unfortunately known as a denomination. Therefore, a body is, to all intents and purposes, a denomination. Other groups, regardless of whether they call themselves Churches or not, will fit into that pattern. Thus the definition of “body” inherent in the document is that of a structured organisation of a particular denomination. We are happy with that definition.

**Mr Beggs:** Under clause 9(4), religious bodies advise the Registrar General of changes to the list of registered officiants. Would that provision not give you the power to deal with any mavericks within the Church of Ireland with whom the Church is not satisfied? Thus, those people would not be registered as officiants of the Church of Ireland.

**Rev Canon Edgar Turner:** A religious body could suggest removing a person’s name from the register, which sounds similar to striking a doctor off the register. If, under the provisions in the Bill, a maverick cleric were able to perform marriages, the body would almost certainly make critical noises about him and possibly remove his name from the list. However, we do not want that situation to arise.

I have an important point to make about clause 23. In the original memorandum you said that marriages should be “publicly declared”, and we were happy with that. However, in the Bill, clause 23 is entitled “Commencement of Marriage”. We are extremely unhappy with the use of the word “commence” on a theological and practical level. Does a marriage commence when the couple are at a particular stage in their relationship or when they have applied for the schedule? Does it commence when they enter the church? We would much prefer the phrase “is publicly declared”. In other words, a specific moment is pinpointed. Of course, lawyers know about the problems that arise if an accident occurs before a marriage has been completed. Therefore, we would prefer the original phrase to be used, rather than that slack word “commences”. That concludes our representations.

**Mr Close:** Do you see any merit in including the definition of marriage in the Bill as opposed to just the memorandum?

**Rev Canon Edgar Turner:** The Bill should reflect what is said in the memorandum. As the Bill is about marriage, it must make clear when a marriage is and when it is not. A marriage occurs when certain promises are made publicly and are recognised and sealed. The publicly witnessed and recorded agreed comments of two people create a marriage. We feel that the term “is publicly declared” should be in the Bill, because that is what marriage is.

**The Chairperson:** Thank you. We are simply taking evidence. The Bill is being processed by the Department of Finance and Personnel, and we understand that a statement will be made in the Assembly on 24 September in response to the consultation.

**The Principal Committee Clerk:** Representatives from the Department will be present at a public meeting of the Committee on 24 September to give the Department’s response to the various pieces of evidence. Of course, witnesses present today can attend and sit in the Public Gallery if they wish.

**Rev Canon Edgar Turner:** Will we be consulted when the legislators reach the stage of suggesting how the Regulations would be implemented?

**The Principal Committee Clerk:** All we can do is ask the Department. It would depend on whether the Statutory Rules are subject to affirmative or negative resolution. We will check with the Department whether they will require consultation.

**Mr Weir:** We are producing a general report, as well as looking at specific amendments. I suspect that not just the Church of Ireland but others would have concerns about the way in which the Regulations — perhaps more so than the Bill — are drafted. One potential route is to make a recommendation that full consultation should take place before the Regulations, pursuant to the Bill, are produced. That may be a way around the problem.

**Rev Canon Edgar Turner:** We would be happy if that could be done. We do not want to attack the Bill, but we do want to be party to decisions on the Regulations.

**The Chairperson:** I thank you all for attending today.





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## NORTHERN IRELAND ASSEMBLY

*This report was not approved formally by the Committee prior to the suspension of the Assembly on 14 October 2002, but is published by order of the Speaker.*

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### COMMITTEE FOR FINANCE AND PERSONNEL

Tuesday 10 September 2002

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### MARRIAGE BILL (NIA 18/01)

#### Members present:

Mr Molloy (Chairperson)  
Mr Beggs (Deputy Chairperson)  
Mr B Bell  
Mr Close  
Mr Hussey  
Mr R Hutchinson  
Mr Morrow  
Mr Weir

#### Witnesses:

Rt Rev Dr Russell Birney	)
Very Rev Dr Samuel Hutchinson	)
Mr J W Russell	) Presbyterian
Rev Dr Donald Watts	) Church in Ireland

**The Chairperson:** You are very welcome. The meeting may be interrupted due to a vote in the Chamber. If you hear bells ringing, do not panic.

**Rt Rev Dr Russell Birney:** Thank you for facilitating us today. The Very Rev Dr Sam Hutchinson is the clerk of the general assembly, Rev Dr Donald Watts is the deputy clerk, and our legal representative is Mr James Russell.

**Very Rev Dr Samuel Hutchinson:** We support the general aims of the Bill. Rather than repeat our written submission, I will concentrate on our greatest concern and the improvement that we suggest should be made. A sentence in paragraph (19) of appendix C, which was annex B to the Law Reform Advisory Committee (LRAC) report, states:

“We further recommend that, before any new legislation comes into force, there should be in place regulations listing the religious bodies having the status of religious bodies whose clergy are automatically entitled to conduct marriages.”

Although we did not write that sentence, it sums up our main concern.

The original recommendation of the LRAC is better than the proposal in clauses 8 and 9 of the Bill. Clause 8(1) states:

“A religious body may apply to the Registrar General for a member named in the application...to be registered under section 9 as empowered to solemnise marriages in Northern Ireland”,

and clause 9(1) states:

“The Registrar General shall keep a register of persons registered under this section as empowered to solemnise marriages in Northern Ireland”.

We ask the Committee to revert to the original proposal, which should be easy to draft.

Appendix A contains an extract from the Marriage (Scotland) Act 1977. Section 8(1) states:

“A marriage may be solemnised by and only by (a) a person who is...[sub-section (ii)]...a minister, clergyman, pastor or priest of a religious body prescribed by regulations made by the Secretary of State.”

The Bill contains no such provision for the prescribing of religious bodies by Regulations. Section 8(1)(a)(i) of the Scottish Act mentions

“a minister of the Church of Scotland”,

which would have no parallel here, as we do not have a national or established Church. Subsection (iv), which addresses temporary authorisation, is provided for in the Bill, and, therefore, only subsection (ii) and probably subsection (iii) would be paralleled here.

If the primary legislation provided for the prescribing of religious bodies, the ensuing Regulations could be short and simple. I refer to appendix B, the Scottish Regulations, where approximately a dozen bodies are listed in the schedule. Even if 20 religious bodies were listed, it would still be simpler than registering hundreds of individual clergymen, priests, pastors and ministers — 600 for the Presbyterian Church alone — and keeping that list punctually and accurately up to date. Has anyone considered the administrative burden, if not nightmare, that that would place on all concerned, in both Church and state? Where else in these islands does such a system operate?

We fully support the call for equality, but even the existing law, for all its faults, acknowledges the existence of some smaller bodies such as the Non-Subscribing Presbyterian Church, the Quakers and the Jews. The anomaly may be not so much with the “smaller” religious bodies as with “newer” denominations and fellowships that have sprung up in recent times and whose existence the law has not yet recognised. We have no objection to any properly organised denomination or religious body of any faith being added to the list, now or later, and being given full equality of treatment. The Law Reform Advisory Committee’s report No. 6 laid down some guiding principles for the reform of marriage law, including equality of treatment, minimal interference with existing

freedoms — which I stress — certainty, simplicity, transparency, ease of application and cost effectiveness. The original recommendation, which we now request, meets those criteria better than the Bill's wording at present.

We are the largest Protestant denomination in Northern Ireland, with a correspondingly large number of weddings. We speak not as politicians, lawyers or academics but as practitioners who will have to operate the new system. So we ask for your favourable consideration on at least this one point, which is of major concern to us. Please do not impose this on us against our will.

**Mr Weir:** Thank you for your submission. I want to clarify your concerns. Would essentially all ordained ministers of the Presbyterian Church come under your definition?

**Very Rev Dr Samuel Hutchinson:** Yes.

**Mr Weir:** How would the Presbyterian Church deal with potential maverick ministers, someone whom you wished to remove from the list? How would you deal with a dispute, for example, about whether someone was an ordained clergyman if the Church is not supplying a list of those?

**Very Rev Dr Samuel Hutchinson:** We have a published list, and within two minutes I could tell you whether an individual was on it. Most of our ministers are members of presbytery. A few are still in good standing but for the moment without charge.

There is a system of Church courts, and we can exercise quite strong discipline. On rare occasions, a minister could be formally struck off if he or she were to deviate too far. It is rare, but it does happen. It happened once in the last 10 years or so. In two or three other cases ministers have quietly resigned before the situation reached that stage. In less serious matters they are disciplined in some way. For example, my own home minister of many years ago was confined to his own pulpit. He had been agitating a little, so he was told that he would preach in his own church but nowhere else.

**Mr Weir:** From the point of view of certainty, particularly that of the registrar, if the Church supplies a list of its ministers, as is envisaged under this scheme, presumably it would not be difficult to amend it.

**Very Rev Dr Samuel Hutchinson:** It is published once a year.

**Mr Weir:** In practical terms, does it include the number of ministers ordained in a year?

**Very Rev Dr Samuel Hutchinson:** If one was to take into account ordinations, deaths and moves from North to South or elsewhere, I should be writing every week to say that someone had moved from Cork to Derry or whatever.

**Mr Weir:** On a practical level, if we remove from the equation any North/South moves or shifts between congregations in Northern Ireland, if all your ministers were registered and you dealt only with the number ordained in a year and the number of deaths or removals from the list, surely that would not involve too many people?

**Very Rev Dr Samuel Hutchinson:** That does not work in practice. For example, two or three weeks ago in a marriage by special licence there was a flaw in the paperwork — not a serious matter, but something had to be corrected — and the Registrar General became confused between the Rev Robert Brown and the Rev Robin Brown. He wrote to inform the Rev Robert Brown that he had erred. Rev Robert Brown knew nothing about the wedding and called me in to sort out who had, in fact, conducted it. Therefore, there would not just be a responsibility for providing names. I do not know how many Thompsons we have, or how many Joseph or J Thompsons. Moreover, any change of address could be relevant.

**Mr Weir:** I am loath to use the expression “devil’s advocate” in these circumstances. However, purely by definition, in one sense the registrar probably does not need to be informed immediately of the death of any member of the clergy, because someone who is dead clearly will not perform the wedding ceremony. Unless a definitive list including changes were supplied to the registrar, how could he determine whether someone conducting a marriage ceremony was ordained, in accordance with legislation, in the case of a dispute?

**Very Rev Dr Samuel Hutchinson:** It is not as simple as that. As things stand today, if someone is ordained in our Church, implicit in that is the right to officiate at a wedding without further formality. Now an extra tier has been put in, and the person must be registered with the registrar. If the registrar deems that he or she is not a fit and proper person, there could be a problem. I do not want to rake up Irish history, but we are the Church of R v Millis, if you are aware of the case of 1843. That someone should intervene between the ordination and the right to officiate at marriages would make us, as a Church, very uncomfortable.

**Mr Weir:** I appreciate the history, but under the legislation as it is drafted it is up to the religious body to determine the right to officiate — the registrar cannot interfere with that. However, there is a complication in that there could be a dispute if, for example, somebody was ordained but the Church questioned their rights. Surely if the Church supplied a list of registered ministers, that would create a level of certainty that a general provision could not give?

**Very Rev Dr Samuel Hutchinson:** I produce an annual directory, and that is difficult enough. However, if someone is ordained today and a couple want him to

officiate at a wedding on Saturday his name must be included in the list. One of our problems is keeping information up to date.

I can easily send our annual directory to anyone who wants it. However, it is already one or two months out of date before it is published. It is compiled around the end of June, and, allowing for holidays, it is already about two months out of date by the time it is printed in book form. Keeping records up to date from day to day is different.

**Mr Weir:** Would there be at least one change a week?

**Very Rev Dr Samuel Hutchinson:** Yes.

**Mr Weir:** From a practical point of view, would it be difficult for someone to be responsible for making, and notifying the registrar of, one change a week? What sort of administrative burden would that create in this age of e-mail and letters?

**Very Rev Dr Samuel Hutchinson:** I could get the assembly to issue a directive that clerks of presbytery must, within three days, notify the registrar of ordinations, removals, deaths, et cetera. However, human beings vary in their efficiency.

**Mr Weir:** There must be some form of definition of “religious body” in the legislation or in subsequent Regulations. You suggested that there could be a prescribed list of religious bodies that could be added to. Alternatively, the list does not have to consist only of religious bodies. Does the Presbyterian Church have any thoughts on how “religious body” should be defined in legislation or Regulations?

**Very Rev Dr Samuel Hutchinson:** Clause 39 of the Bill defines “religious body” as

“an organised group of people meeting regularly for common religious worship”.

I stress the word “organised”.

**Mr Weir:** Are you happy with that definition?

**Very Rev Dr Samuel Hutchinson:** I would seek legal advice on that.

**Mr Russell:** Yes. It is satisfactory. It is a very wide definition, which allows for small new groups of people, such as those that the clerk of assembly referred to. It gives them the opportunity to ask to be included.

**Mr Weir:** Whether we use this system or the one that you have suggested, are you happy that bodies, particularly new ones, will be registered? I presume that whoever is in charge of the whole registry would decide whether or not a group constituted a religious body under that definition.

**Very Rev Dr Samuel Hutchinson:** I am happy. I am not the person who has to make that decision. However, if I were that person, I would look at the degree of

organisation among other factors. For example, does it have a theological college to train its clergy? It might be in England, or elsewhere, but are the clergy trained? Is the group sufficiently structured to discipline someone who gets out of order, or is it just a loose fellowship of about 50 people, all of whom profess to be equal? That sort of body might not be sufficiently organised. However, I would be happy with any organised body.

**Mr R Hutchinson:** Theologically, that might be right, but someone else might say otherwise. Those people may believe in a priesthood of all believers having equal rights. That does not mean that they should not be allowed the same rights that the Presbyterian, Methodist, Anglican or other Churches enjoy.

**Very Rev Dr Samuel Hutchinson:** I would have no objection to the Registrar General — or the Secretary of State or whoever — deciding that all 50 members of a fellowship are entitled to celebrate. I am concerned about my own Church.

**Mr Weir:** I appreciate that. Should the definition of marriage be further explained in the Regulations, which will deal with the administration of the Bill, or should registrars be given discretion to define such terminology?

**Mr Russell:** My immediate reaction is that I would trust the Registrar General to interpret the terminology. It is very difficult to cover all the possibilities and still keep the matter general.

**Mr Weir:** I appreciate that.

**Mr Russell:** It would be more satisfactory to rely on the Registrar General or the Secretary of State.

**Mr Close:** As this is a Bill about marriage, would it be helpful if marriage were defined on the face of the Bill?

**Very Rev Dr Samuel Hutchinson:** My impression of the Law Reform Advisory Committee’s earlier documents was that it was not concerned with the theology of marriage.

**Mr Close:** That is certainly its view, but would it be helpful if marriage were defined on the face of the Bill?

**Very Rev Dr Samuel Hutchinson:** The definition that is given in LRAC No. 6, p iii, was the union of one man and one woman, or something similar. I would be happy to see that written in on the face of the Bill unless it delayed the process for two years.

**Mr Russell:** Clause 4(6) lists the conditions under which there is a legal impediment to a marriage, for example, if both parties are of the same sex. To a certain extent that provision negatively defines marriage.

**Mr Morrow:** I apologise for my absence earlier. Is it worth battling for the inclusion of a definition of marriage in the legislation?

**Very Rev Dr Samuel Hutchinson:** It is a question of proportionality. I would hesitate to propose the inclusion

of a definition if that would result in a two-year consultation period, but if it can be written in without too much trouble I would be happy to see it included.

**Mr Morrow:** Is the definition worth battling for? It is important to define marriage. I suspect that you do not entirely disagree with what I am saying, but the important question is at what stage it should be defined.

It is important to do so in the Bill. I accept the point that the Bill does not include the minutiae and theology of marriage. However, I am concerned that some people, whether in your profession or not, may feel that there has been a sleight of hand in the consultation process if the Bill does not clearly define marriage. I agree that marriage is between one man and one woman, but does the fact that marriage is not defined weaken the Marriage Bill?

**Very Rev Dr Samuel Hutchinson:** I understood that the Bill was merely designed to deal with procedures.

**Mr Morrow:** You are right; however, is it not essential to move from an agreed premise to deal with procedures?

**Very Rev Dr Samuel Hutchinson:** I would be very happy to see a proper definition written in.

**Mr Close:** I shall follow up on Mr Russell's example of the negative conditions in clause 6 that refer to same-sex marriages. There is now a move among European legislators to redefine sex and gender. Some members are concerned that, unless marriage is clearly defined, even a negative interpretation might be construed in a particular way — I am referring specifically to transsexuals. Would it not be better to deal with the issue now by including a clear definition on the face of the Bill?

**Very Rev Dr Samuel Hutchinson:** Yes, that is my opinion.

**Mr Beggs:** I understand that you have concerns about the proposals. For example, what would happen if a minister fell ill? How would the proposals work in practice? Have you any suggestions about how to get round that?

**Very Rev Dr Samuel Hutchinson:** At the moment, a wedding licence is made out to me or other officiating Presbyterian ministers. If I take ill the night before, or am stormbound in Stranraer, I simply ring one of my colleagues and ask them to take over. That is provided for in the terms of the licence. I understand that under the provisions in the Bill only the officiant named in the schedule may perform the marriage. Therefore, if I, or any minister, is unable to attend, I must contact the registrar — perhaps on a Saturday night or in the early hours of the morning — and ask him to approve my choice of substitute minister. I know that such provision is contained in Scottish legislation because of the Gretna Green problem. In what circumstances would the registrar refuse me the right to arrange a replacement minister when I am sick or otherwise unavoidably detained? Would it not be better to have the marriage schedule made out to a named officiant and another person who would be authorised by the Regulations to act as a replacement? I am not an expert in this field, but perhaps the Regulations could also provide for a replacement minister or priest of the same denomination as the officiant to be included in the marriage schedule.

**The Chairperson:** Thank you for the presentation. I apologise for the disruption. The evidence collected today will be forwarded to the Department, and we shall await its response.



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## NORTHERN IRELAND ASSEMBLY

*This report was not approved formally by the Committee prior to the suspension of the Assembly on 14 October 2002, but is published by order of the Speaker.*

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### COMMITTEE FOR FINANCE AND PERSONNEL

Tuesday 10 September 2002

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### MARRIAGE BILL (NIA 18/01)

#### Members present:

Mr Molloy (Chairperson)  
Mr Beggs (Deputy Chairperson)  
Mr B Bell  
Mr Close  
Mr Hussey  
Mr R Hutchinson  
Mr M Morrow  
Mr Weir

#### Witnesses:

Ms H Morrow ) Evangelical Alliance  
Rev Gary Haire ) Christian Guidelines  
Ms A Laird ) Christian Action, Research  
and Education (CARE)

**The Chairperson:** I welcome you here today.

**Ms Laird:** CARE is a diverse Christian charity that aims to deliver practical compassion along with Christian insight to society through several welfare projects and public policy works. We focus on five major areas: bioethics, citizenship, education, family and the media.

The Evangelical Alliance is represented by Heather Morrow. It is the umbrella body that brings together Britain's 1.2 million evangelicals, existing to promote unity and truth among its members and to represent their concerns and priorities to the Church, the state and society.

Rev Gary Haire represents Christian Guidelines, a charity that works throughout the island of Ireland with the aim of providing Christian guidelines through counselling and training to encourage and empower people in their daily lives.

All three organisations welcome the opportunity to present evidence on the Marriage Bill. For the most part, we endorse the proposed changes, but we have two concerns: first, the legislation does not define marriage and, secondly, it does not incorporate any practical initiatives

to support marriage. We believe that defining marriage and incorporating practical initiatives to support it is consistent with the objective outlined in paragraph 7 of the explanatory and financial memorandum and goes some way towards fulfilling them. Paragraph 7 states that the effect of changes in the Bill would be

“to make getting married a more attractive prospect for couples, and a further step in strengthening the commitment of stable families.”

However, the Minister said that the Bill does not deal with, nor is it intended to deal with, the concept of marriage. That causes us some concern, because the divorce consultation document stated that although the Department of Finance and Personnel would like to support marriage, it did not feel that the divorce legislation was the appropriate place in which to do so. Although we do not agree with that conclusion, it leaves us in the awkward position that if the Family Law (Divorce etc.) Bill will not deal with supporting and strengthening marriage, surely the Marriage Bill must do.

Heather Morrow will now outline our concerns on the definition of marriage.

**Ms H Morrow:** The Marriage Bill is a timely opportunity to incorporate fully into our legislation our common definition of marriage. Surely it is good practice to ensure that both parties to a contract are made fully aware of the details of the agreement. If a definition was considered important enough as to be included in the explanatory and financial memorandum, surely it deserves reiteration in the Bill itself, with the one small amendment that we propose.

Lord Penzance set down the legal definition of marriage in 1866:

“I conceive that marriage...may for this purpose be defined as the voluntary union for life of one man and one woman, to the exclusion of all others.”

Another version was introduced into the civil marriage ceremony in 1947, following the recommendation of the Committee on Procedure in Matrimonial Causes, chaired by Lord Denning. It said:

“Marriage according to the law of this country is the union of one man with one woman voluntarily entered into for life to the exclusion of all others.”

The purpose was to emphasise the solemnity of the occasion and to express clearly the principle that marriage is a personal union, for better or worse, of one man with one woman, exclusive of all others for life.

The Law Reform Advisory Committee report No. 11 states:

“Northern Ireland law only recognises as a valid marriage the voluntary union for life of one man and one woman to the exclusion of all others. In its inception it must be for life.”

Two of the four MLAs who spoke during the Bill's Second Stage — the Chairperson of this Committee, Mr

Molloy, and the Rev Dr Ian Paisley — expressed their conviction that marriage is intended to be permanent. However, only the principles that marriage is a voluntary union of one man and one woman and that it is to the exclusion of others are in the Matrimonial Causes (Northern Ireland) Order 1978. The third principle that

“in its inception it must be for life”

is not set down in legislation. That may explain why the marriage ceremony in a registrar’s office here does not state that the union should be for life.

The Bill is an opportunity to bring Northern Ireland into line with England and Wales and to create a useful precedent by enshrining a universal working definition of marriage that includes the lifelong dimension. The stated intention of the Marriage Bill is to rationalise and to simplify. The inclusion of such a definition would be an important foundation for achieving those goals.

Alison Laird will now speak about the practical initiatives to support marriage.

**Ms Laird:** First, I will summarise some of the evidence in CARE’s submission indicating the value of strengthening marriage. Stable marriages are good for the economy and employers: on average, married individuals work harder, earn more and save more. Marriages build stable and less violent communities: research has shown that married men are less likely to be victims or perpetrators of crimes. Marriage provides a reliable basis from which men and woman can develop occupationally and fulfil parental responsibilities. Other responsibilities might include looking after elderly relatives. Marriage is good for children, providing a stable environment for love and affection from both parents. Marriage is also good for your health: on average, married men and women are healthier, live longer and have fewer emotional problems. The value and cost-effectiveness of supporting marriage has already been recognised in England and Wales. A 1998 discussion paper stated that

“sustaining well-functioning families through supporting marriage is a legitimate public interest, because society benefits from the well-being of its members and has a responsibility to invest in its children, on whose welfare its future depends.”

Several American states insist that a couple wishing to marry — through a religious or civil ceremony — must complete a marriage preparation course before a licence will be issued. The divorce rate has dropped by up to 25% in the towns in which that scheme is carried out.

The Irish Government fund marriage preparation courses and subsidise couples attending marriage preparation courses facilitated by Christian Guidelines on behalf of the Church community. Marriage preparation and promotion in Northern Ireland are not funded.

We strongly recommend that the Marriage Bill incorporate a provision modelled on section 22 of the

Family Law Act 1996, which enables the Lord Chancellor to make grants in connection with

- “(a) the provision of marriage support services;
- (b) research into the causes of marital breakdown;
- (c) research into ways of preventing marital breakdown.”

That has enabled the Lord Chancellor to ask Sir Graham Hart to carry out a wide-ranging review of the state of marriage in England and Wales. The review concluded that marriage support services can save marriages and help couples to improve their relationships. Marriage support was shown to be valuable to couples and cost-effective for Government and other public agencies. Hart’s view was that the voluntary sector should take the lead in initiating the practical initiatives but that the Government should provide leadership in financial and policy objectives.

The Lord Chancellor has responded to the findings by increasing the Department’s annual allocation to marriage and relationship support, from £3.2 million to £5 million, and has established a new advisory group on marriage and relationship support to advise the Minister on a strategy for spending the increased allocation.

**Rev Gary Haire:** Hart’s report stated that there was no statutory definition of marriage support services, but, in practice, the defining feature was its focus on the relationship between the adult couple as distinct from the family unit as a whole, the specific needs of the children, or the relationship between parents and children.

Christian Guidelines provides counselling for couples or individuals whose marriages or relationships are in difficulty, and a face-to-face meeting with a counsellor is the normal means of delivery. Most agencies prefer to meet the husband and wife together, although occasionally we see them individually. Some agencies provide telephone counselling, but that is usually only the first means of contact.

The range of other marriage support services on offer includes education about marriage and relationships for children and young people through the personal, social and health education (PSHE) frameworks in schools or through the youth services. It also provides marriage preparation for couples intending to marry, looking at the key areas of communication skills, conflict management, financial responsibilities, children and parental responsibility and intimacy, and care and maintenance for healthy marriages, which is sometimes called “marriage enrichment”. That includes a crisis response service for people who have already attended a marriage preparation course and an information service.

Let me give you one example: a few years ago a couple who had attended one of our courses and found it very helpful had begun to struggle after just four years of marriage. Constant avoidance of conflict was taking

its toll on the relationship, and neither partner was willing to deal with the issues. Given that habitual avoidance of conflict is one of the prime predictors of divorce, things did not seem good. However, when the couple revisited some of the basic communications skills and conflict management techniques that they had been taught during the course and began to apply those principles to their relationship, they were able to resolve their difficulties. Today they have a stronger and more vibrant relationship than before. That leads me to ask why we often tend to worry about the end of a marriage, and not the beginning

At present the Northern Ireland registrar's role is restricted to ensuring that the legal requirements associated with marriages, births and deaths are complied with. However, with the advent of individual interviews of couples, naming ceremonies, rededication of vows, special licences, marriage vocation, et cetera, registrars now spend more time with couples. Some registrars in England have come to realise that this provides them with a marvellous opportunity to introduce couples to the concept of relationship education and the provision of appropriate resources and support.

This redefinition of their role enables registrars to empower couples to make a success of their relationship. The registrars are based in York, Bristol, Southampton, Taunton, Yeovil, Exeter, Plymouth and Truro. They have already started to work with specially trained couple workers from the local community family trust to see how best to use the opportunities presented to them when they come to the registry office.

Promotional material including a video is now available, and couples are starting to take up the option despite the lack of proper resources in terms of manpower, funds and space in the registry offices. Experience has shown that once couples overcome their initial reluctance they can enjoy the marriage preparation and the parenting preparation classes.

Let me quote from a recent e-mail that I received from a minister in July. He said:

"We had a wedding last Friday. The couple has been on your course. He, as is often with the guys, has been really apprehensive about going. Afterwards he was wonderfully enthusiastic about the evenings and even said it was the best money I ever spent."

Work done in the USA shows that if couples are properly prepared and supported through mentor couples, divorce rates dramatically drop in the community. There is a clear demonstration that some registrars see the type of proactive work as important, and they could, perhaps, take that as part of their roles in the registration service of the future. Couples who take up the options have been very positive about their experience. That is just one example of the opportunities available to us if funding is made available to strengthen and support marriage.

**Ms H Morrow:** All three of our organisations agree with the statement made in a discussion paper recently

from the Lord Chancellor's Department that said that sustaining well-functioning families through supporting marriage is a legitimate public interest.

In a similar way, the explanatory and financial memorandum intends that the Marriage Bill will be a further step in strengthening the commitment to stable families. That is clearly one way to fulfil the Executive's key theme in the Programme for Government of meeting children's needs, which is sub-priority 4, "Growing as a Community".

The Marriage Bill provides a timely opportunity to strengthen and support marriage through incorporating in legislation the definition of marriage as the union of one man and one woman voluntarily entered into for life to the exclusion of all others, and making legislative provision for practical initiatives to support marriage.

Without those additions, the Bill is in danger of being self-defeating. The procedures and legal preliminaries to marriage may quite rightly be simplified, but the commitment and its social implications cannot. An acknowledgement of that, based on evidence presented here and elsewhere, of the value of marriage to society, is the foundation the Bill cannot do without.

**Mr Weir:** Many of us find much to agree with in your presentation. You picked up on two principal issues: the definition of marriage and support before marriage, by way of preparation, or during it. First I will discuss the legislation to support marriage by providing additional resources. If we assume that we are competent to allocate money to marital support services as a devolved matter, would there not be merely a requirement to give a financial commitment rather than carrying out direct legislative change?

**Rev Gary Haire:** Probably. The Lord Chancellor's Department gave the money to England and Wales only. It applied neither to Scotland nor Northern Ireland because of devolved administration.

**Mr Weir:** If it were within our devolved power to fund additional resources for that, it would not require an amendment to the Bill, but merely a commitment from the Executive to provide that additional finance.

**Rev Gary Haire:** That is something that the Committee would have to clarify.

**The Principal Committee Clerk:** I can confirm the position. Providing additional resources for finance in support of marriage would be clearly within the devolved powers of the Assembly. It is not a matter on which it could not give consent.

**Mr Weir:** OK. I appreciate that.

**Ms Laird:** The benefit of expressing that priority in the legislation is that it will build a culture of support for



marriage. In view of the divorce legislation that is coming through, that might be helpful.

**Mr Weir:** I appreciate that, and I agree with many of the points that you have made. However, the Bill Office has advised us that the amendments that you have suggested, and which the Committee may wish to propose also, fall outside the scope of the Bill and may be refused.

How would you react to the argument that, legally, amendments that give a further definition of marriage, or that provide specifically for marriage support services, would fall outside the scope of the Bill and would not be legally competent?

**Ms Laird:** First, we are not changing the definition of marriage, we are merely clarifying it. Ms Morrow made the point that when people are signing a contract they should be fully aware of all the terms of it. That could come into the registrar's definition.

Secondly, as regards marriage support services, paragraph 7 of the explanatory and financial memorandum states that the Bill's aim is to strengthen the commitment of stable families. Marriage support is a priority, so why not include it in the Bill?

**Ms H Morrow:** I understand that the explanatory and financial memorandum is in no way intended to supplement the Bill. However, the fact that reference to strengthening families and a definition of marriage are included in the memorandum — and were felt to be necessary — must mean that they are within the remit of the Bill.

**Mr R Hutchinson:** The problem is that they are not in the Bill.

**Mr Beggs:** You emphasised the importance of preparation for marriage and how it can help to sustain successful marriages. Are you concerned about shortening the period of notice for marriages?

**Rev Gary Haire:** Not particularly. Some American states have introduced a 30-day rule, as opposed to a three-month rule. Couples who have not undergone some sort of pre-marriage education course — which must consist of a minimum of four to six hours, taught on a specified syllabus, and conducted by a relevant party — will not be allowed to marry within 30 days. Those who have undertaken marriage preparation courses will be allowed to marry within three days.

**Mr Beggs:** However, as I understand it, the Bill proposes shortening the period of notice without requiring couples to undergo any preparation.

**Rev Gary Haire:** That is correct. A requirement to undergo some sort of preparation would be useful, but I am not sure if it can be included in the primary legislation. Marriage preparation helps couples to stay together longer and is a valuable resource for society.

**The Chairperson:** Do your organisations believe that creating their own rules for the marriage ceremony is a sufficient means of regulating it? Does that regulation have to be in the Bill itself, and, if so, why? For example, if a particular denomination refused to marry a couple inside three months, would you consider that valid, or do you think that the Bill should regulate such decisions? Do you think that the Churches' regulations are not sufficient?

**Ms Laird:** That is a matter for the individual Churches. None of our organisations would express a view on that matter.

**Mr Close:** I concur with the need for the definition of marriage to be included in the Bill, and I welcome the organisations' stance on that.

I have difficulty with the concept of including support for marriage in the Marriage Bill. That aspect relates more to social security. Although I agree with the concept, I am not convinced that this is the right place to deal with it. I feel that it is something that should be dealt with by the Social Security Agency, which deals with financial support to families. Perhaps it is something that can be looked at for future inclusion. Am I wrong in that?

**Ms Laird:** It is important to set out the culture of marriage in the Marriage Bill. It is important for the Executive, or the Assembly, to show that they are committed to supporting marriage, and make provisions for that, by making it clear in the legislation. For example, the Lord Chancellor's Department was given that provision in the Family Law Act 1996. That is what we are asking you to model it on.

**Ms H Morrow:** You are discussing the three-month regulation, and you feel that that falls happily within the remit of the Bill. The point of the three-month regulation is to enable couples to be adequately prepared. Consideration of marriage preparation is, therefore, within your remit and within the remit of the Bill. We are supplementing that and want to see it enshrined.

**Mr M Morrow:** Ms Laird began by saying that she had two main concerns. Would you remind me again what those two main concerns were?

**Ms Laird:** They were that the definition of marriage would be included in the legislation as well as practical initiatives to support marriage.

**Mr M Morrow:** Does your organisation see the definition as an important issue, irrespective of whether this Bill deals with that or not?

**Ms Laird:** Yes.

**Mr M Morrow:** Why is it important, since the Bill is not designed to deal with that? I agree with you, but I



am trying to turn it round on you. Why is it important, when, in fact, the Bill is not designed to do that?

**Ms Laird:** It is important, because the explanatory and financial memorandum of the Bill says that its purpose is to support marriage and to help couples make it a more attractive prospect. The legal definition of marriage is there; it is just not incorporated in legislation — in particular, the concept that marriage is for life. If you are signing up to a contract you should be aware of the full terms of the contract before you do so.

**Mr M Morrow:** Having listened to what Peter Weir has said, you see the predicament that we are in. We have taken advice on this issue, and if we were to do certain things it might make the Bill not competent. How would you deal with that?

**Ms Laird:** I would strongly recommend to the Department that the provision should be included in the Bill or that it should take note of it for a future Bill.

**The Principal Committee Clerk:** Mr Weir referred correctly to the procedures earlier. Whether that provision is within the scope of the Bill or not, it is the Speaker who will select amendments. However, there is no bar on the Committee making recommendations or tabling an amendment that is outside the scope of the Bill. The question is, is it worth it? That is a matter for the Committee to decide.

**Mr R Hutchinson:** It would get it on the record.

**Mr M Morrow:** It is more than that. We could go through the motions to cover our own backs, so that when we meet these people in the street in six months' time we will be able to say that we did our best, and they will say that our best was not good enough as they walk away. That covers our backs; but I am interested in more than that. I am interested in more than just a sham fight.

**Ms H Morrow:** May I ask a question?

**The Chairperson:** You can, but you may not get answers. *[Laughter]*.

**Ms H Morrow:** The Minister said that the Bill is not intended to deal with the concept of marriage. However, the divorce consultation document issued by the Department of Finance and Personnel said that the divorce legislation is not the appropriate place to discuss marriage. Even in solely political terms, do you not see that as a perfect *entrée*? It is stated that the divorce legislation is not the

appropriate place. We feel that, in the interests of society, the divorce legislation must be balanced with legislation of equivalent weight. Perhaps that is a perfect opportunity to say that if that is not the place, then we feel that the Marriage Bill is the place.

**Mr M Morrow:** That is not a problem, Ms Morrow. You should be sitting here. I have no problem with that at all.

**The Chairperson:** The divorce legislation has been mentioned. Do you believe in divorce in any form at all?

**Mr R Hutchinson:** That is not a fair question.

**Rev Gary Haire:** Chairman, that is an unfair question.

**The Chairperson:** I mentioned it because we have two pieces of legislation coming forward. One is for marriage and the other is for divorce. One states that marriage is for life and the other provides for its termination. That is obviously a major contradiction.

**Ms Laird:** CARE accepts that there are cases where there is irretrievable breakdown and that there must be legal provision for those couples. I can give you my consultation response on the divorce law.

**The Chairperson:** That is the next piece of legislation.

**Ms Laird:** Yes. I hope to be back to comment on it.

**Mr M Morrow:** There is no question that there are biblical terms for divorce. It is not so much the divorce. Are there biblical terms for remarriage? That is where the problem is.

**Mr R Hutchinson:** Yes. *[Laughter]*.

**The Chairperson:** I did not intend to ask an unfair question.

**Rev Gary Haire:** As you rightly say, defining marriage is important in terms of one man and one woman, particularly with the emergence of the transgender issue, and how that might affect our legislation with regard to Europe. However, we are not here to discuss that.

**The Chairperson:** That is outside of the Bill, as they say. That is what they are telling us in relation to the other matters as well. OK. Thank you, and thanks for introducing a little bit of humour into the situation. That was beneficial.



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## NORTHERN IRELAND ASSEMBLY

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### COMMITTEE FOR HEALTH, SOCIAL SERVICES AND PUBLIC SAFETY

Wednesday 11 September 2002

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### PROTECTION OF CHILDREN AND VULNERABLE ADULTS BILL (NIA 22/01)

#### Members present:

Dr Hendron (Chairperson)  
Ms Armitage  
Mr Berry  
Mr J Kelly  
Ms McWilliams  
Ms Ramsey  
Mrs I Robinson

#### Witnesses:

Mr I Elliott           ) National Society for the  
Mr C Reid            ) Prevention of Cruelty to Children

**The Chairperson:** Thank you for coming. You are very welcome.

**Mr Elliott:** The NSPCC is very grateful to the Committee for this opportunity to give evidence on the Protection of Children and Vulnerable Adults Bill. We have been closely involved in campaigning for this legislation and for improvements in our system of suitability checking for those who work with children. We feel that the provisions of the Bill are the sound product of constructive consultation. We commend the Department for attempting to address our concerns.

In some respects, the proposals in the Bill take us beyond current practice in other jurisdictions. In particular, the concept of accreditation in clause 16 deals imaginatively with the absence of an obligation under the Protection of Children Act 1999 for non-childcare organisations to refer those dismissed for harming children or, indeed, to carry out checks against the 1999 Act list. Accreditation, if developed imaginatively, has the potential to improve child protection standards in non-regulated organisations.

This Bill establishes a floor, not a ceiling. The challenge will lie in its implementation and outworking. We still have questions about the policy intent of the Bill, and a few technical queries about the legislation. The Committee may find it helpful to tease these out with departmental officials during the Committee Stage of the Bill.

Accreditation of voluntary organisations should be supported and promoted by all Departments. Ideally, we would like to see this concept acquire the status of a Kitemark. Parents will want to know that organisations meet expected standards in child protection.

What is the Department's position regarding the imposition of fees, both for accreditation and for accessing the registers, for smaller organisations that depend on the use of volunteers? We hope to see those fees waived, as has already been announced by the Home Office and the Scottish Executive in equivalent legislation. It is an important issue. Small organisations could be overburdened by the costs involved in carrying out checks, which could be a considerable disincentive.

We seek adequate all-island systems of suitability checking, placing emphasis on how this issue is being progressed by the Department of Health and Children in the Republic of Ireland. Although the Minister has announced that access to the Department's list will be available to organisations in the South for checking on staff who have been domiciled or have worked in Northern Ireland, the lack of an equivalent consultancy index or, indeed, criminal records system, is worrying. It effectively creates a major loophole in our own system for staff coming from South of the border.

We recommend the establishment of an advisory panel with expertise drawn from inside and outside the Department to consider cases for potential listing under clause 2. We suggest the establishment of a small reference group to assist the Department in examining individuals for potential listing against the criteria to be used.

We welcome the development of the pre-employment consultancy service (PECS) awareness group to promote and raise awareness of vetting and to provide information for parents. This group has an important role to play in the outworking of the Bill.

It is important to recognise that a range of situations are not covered by the scope of the Bill, such as, for example, self-employed entertainers, unregistered child-minders employed in parents' own homes, and au pairs not employed through an employment agency. There is an urgent, ongoing need to educate the public about the limits of vetting people's suitability to work with children. The Department's list is but one component of good employment practice. That is an important message to convey to the public.

The NSPCC recommends that the PECS awareness group be established as a permanent forum within the Department to develop the public education component of suitability checking, and that the group develop strategic outputs that link into, and are overseen by, the proposed child protection review group that is being established by the Department.

I wish to draw to the attention of the Committee some potential amendments that we would like you to consider. The first relates to clause 13. There is a complex interface between List 99 and the Department's list. That is particularly so in regard to Regulations that have yet to be developed by the Department of Education under the Education (Northern Ireland) Order 1996. Ms Caul of the Children's Law Centre will deal with that in more detail.

We suggest that the Committee consider the necessity of the phrase "(other than provisionally)" in clauses 13(2) and 13(3). We have been advised by the Department of Education that, if someone is listed provisionally on the Department's list, then procedurally and under Regulations to be developed by the Department they could still be working with children. We are unclear as to why this distinction is in the Bill. Is it necessary?

The second proposed amendment relates to clause 17. The NSPCC has had lengthy discussions with the Department regarding this clause and the adequacy of the proposed whistle-blowing arrangements. This is another unique feature of the Bill. There is a complex balance of considerations in this clause, set within the context of human rights issues.

We understand that, in many ways, clause 17 will interface with accreditation and other regulatory requirements and, over time, be reflected in the development of whistle-blowing policies in organisations. However, we propose a slight amendment, which, we understand, may be supported by the Department. The Committee may wish to consider a provision to allow organisations to blow the whistle on other bodies where they are aware that the requirements of clause 2 are not being fulfilled — for example, when a person is dismissed for harming children, is listed by the Department, and moves to another childcare organisation, and requirements are not followed. It should be remembered that the Martin Huston case involved an individual who moved from one voluntary organisation to another to further his abuse of children. We suggest changes in the wording of clause 17 to strengthen it and address that issue.

Finally, we invite the Committee to address Part V of the Police Act 1997, which extends to Northern Ireland but has not yet been enacted. The 1997 Act is part of UK-wide measures that run in tandem with the provisions of the Protection of Children Act 1999 and this Bill. Part V of the 1997 Act effectively allows for the provision of soft police intelligence — allegations, unsuccessful prosecutions, et cetera — in the form of an enhanced criminal record check that is required for work with children. The failure to apply Part V of the 1997 Act to Northern Ireland is potentially very serious in terms of the interface with this Bill. The position in Northern Ireland will be left different from that in England and Wales.

It may be useful to give an example of how the failure to apply Part V of the 1997 Act to Northern Ireland might impact here. Consider an adult who has had six serious allegations of sexual abuse made against him over a period and one unsuccessful prosecution due to the fact that the child was too young to give evidence. The individual is regarded as a serious risk to children by the police and by social services. However, he has no convictions and has not been dismissed from any post where he has harmed children.

He applies to work in a youth club. He falsifies references, but a check is carried out by the organisation, which is accredited, as required by the Bill. He appears to have a clean suitability check. The Police Service of Northern Ireland has no legal basis on which to advise the Health Department of its soft intelligence, and there is no provision for the production of an enhanced criminal record certificate. He gets the job and has access to children. If he lived in England or Wales, information in regard to his past would become apparent under an application to the Criminal Records Bureau for an enhanced certificate, and he would not be employed.

We do not consider that to be a satisfactory state of affairs. It is damaging to the operation of the Bill. We suggest that the Committee ascertain from Minister of State Jane Kennedy, as a matter of urgency, when Part V of the 1997 Act will be applied to Northern Ireland. The Committee might wish to invite officials from the Northern Ireland Office to explain their intentions in relation to that.

**The Chairperson:** We have asked the NIO to come to us on that issue.

You referred to clause 17. How would your proposal to extend whistle-blowing to organisations work in practice? What are your views on extending the whistle-blowing provision to vulnerable adults, as well as children?

**Mr Reid:** Our proposed amendment is a simple one. It provides organisations with legal protection when they blow the whistle on other organisations; for example, if an employer dismisses someone for harming children, but later sees that person taking up, or trying to get, employment elsewhere. The amendment would facilitate an organisation to contact the Department to advise them of the unsuitability of the person and the fact that they are trying to take up employment elsewhere.

I am probably not the best person to answer questions about adults. However, the Bill interfaces with vulnerable adults and children, and we feel that there should be no distinction between the categories.

**Mr Berry:** Clause 13 of the Bill is about independent schools. Has the Children's Law Centre established why staff of independent schools and non-teaching staff in institutions of further education are not covered by the education Regulations or the Bill, and what are your views on the extension of the legislation to cover these groups?



**Mr Reid:** Ms Caul, who is giving evidence next, will deal with some of those matters. This is not how to design a scheme if starting afresh; in a sense, existing systems are being built upon. We have concerns about the lack of clarity as regards List 99, the Department of Education's requirements for teaching, non-ancillary or ancillary staff. The issue is not clear, which is one reason why you should get departmental officials to clarify the intention. Much is left to faith in the Department of Education to develop Regulations that will bring their scheme into line with the Department of Health, Social Services and Public Safety's register. There are some peculiarities between the two.

**Ms McWilliams:** This is a comprehensive background paper. Last week I asked departmental officials about the point you made in your submission that the Department was minded to adopt the amendment to clause 17 relating to whistle-blowing. I quoted the case of Martin Huston to the Department. The Department took a different view; it said that it might not intend to adopt that clause. I am concerned as to how that misunderstanding might have arisen. Clearly you have had contact with the Department — you would have discussed the amendment with them and, therefore, must have put the relevant point into your submission as a consequence.

**Mr Reid:** I understood that to be the position. There has been substantial contact between the Department and the NSPCC about this clause. Indeed, in many ways we might have proposed other amendments to this clause. I have concerns about what happens when a whistle-blower does not want his or her name used. We had a long and fairly detailed discussion with the Department about clause 17. I also gave the Department a copy of the letter that I sent Mr Hughes on this issue.

**Mr Elliott:** We discovered the Department's position on the matter only today, and it fair to say that we are genuinely surprised. However, we would not want that to divert attention from the importance of the amendment. We continue to propose it, and to advocate it.

**Ms McWilliams:** Such a case could be repeated if this clause is not amended.

**Mr Elliott:** That is our view, which is why we brought the matter to the Committee's attention. We are sincerely committed to ensuring that everything possible is done to prevent another tragedy such as the Martin Huston case.

**Mr Reid:** You need to ensure that loopholes, through which people would fall, do not appear in this complicated legislation. We are seeking to ensure that the legislation is as robust as possible. There are many good aspects to the legislation, and we welcome the fact that it goes further than the Protection of Children Act 1999, which came about as the result of a private Member's Bill introduced by Debra Shipley MP. She has warmly welcomed the provisions in this Bill and feels that if she

could incorporate some of its provisions into her legislation, it would strengthen the Act.

**Ms McWilliams:** Even with the introduction of this legislation, we will not be able to tackle cases involving self-employed entertainers. In one case, it came to my attention, and the NSPCC's, that a known paedophile was working as a self-employed entertainer at children's parties. Obviously this legislation will not cover such cases. The public needs to be made aware of the limitations of the legislation otherwise they could be lured into a false hope that it will cover every aspect of the problem. One thing we know about child abuse is that when the legislation restricts paedophiles, they move into other things. This is a clear incidence that has been left unregulated.

**Mr Elliott:** It is critical that we raise public awareness of the limitations of vetting — you cited some examples of those limits. That is why the NSPCC has made reference to, and emphasised the importance of, the role of the PECS awareness group.

**Mr Reid:** Vetting is very important, but the most significant element is Part V of the Police Act 1997. That is why we find it bizarre that the NIO has not been clear about what is actually happening in that regard. PECS and List 99 will capture only those who have been convicted or dismissed. Many people never end up being convicted of offences, which is why Part V of the Police Act 1997 is so significant. If it is implemented it will, through soft police intelligence, capture people who are unsuitable to work with children.

**Ms McWilliams:** I have accompanied people through the very difficult process of trying to get sex abuse convictions. Sometimes it takes up to three years, which is how long my most recent case took. In that case the police ended up with only a very minor prosecution for indecent assault despite the fact that the victim had suffered a much more serious assault. The problem is that if the person admits their guilt, et cetera, the nature of the conviction will be affected. Does soft intelligence take into account bind overs, cautions, et cetera?

**Mr Reid:** It involves non-conviction information; for example, if somebody has been investigated several times by police and social services for alleged sex abuse. One would have a fair idea of people who pose a risk in the community, and that information would be part of an enhanced criminal record certificate, if such a person subsequently applied to be a children's coach. That information would come out as part of the vetting process. Soft intelligence is information about people who have not been convicted or dismissed for harming children, and which the police could make available in an enhanced criminal record certificate, as happens in England.

**Ms McWilliams:** Is one of the reasons for the delay in recruiting teachers in England the fact that the enhanced certificate is in place?

**Mr Reid:** The Criminal Records Bureau was launched in March and has had many teething problems. We have had difficulties with the body because, bizarrely, it will not check the Department of Health's list in Belfast. As a result, people deemed unsuitable to work with children on our current list could go to England and gain employment without that information coming up during a check. We have had lengthy discussions on that, and various MPs have asked why the Criminal Records Bureau has not implemented the legislation on a three-nation agenda. As a result of intervention from Debra Shipley the bureau has set up a three-bureau implementation group to try to deal with some of these cross-jurisdictional issues.

**Ms McWilliams:** I propose that the Committee ask for the matter to be taken up at the British-Irish Council. OFMDFM is constantly saying that it does not have many agenda items for British-Irish Council meetings. This would be a clear point for discussion. If Scotland, Wales and England were all operating together, that would at least constitute some attempt to tighten the net. However, if the net is left as wide as it is, then "move to Northern Ireland" will be the prescription that we are writing.

**Mr Reid:** The NSPCC and the Department carried out an audit and looked at where the gaps are. In many ways we are probably better off than anywhere else at present. The major loophole is the Irish Republic, which is a major flaw in the system. The Republic does not have a consultancy index; therefore, someone could move from the Irish Republic up to Northern Ireland without our being able to vet him or her.

**The Chairperson:** Ms McWilliams's proposal is good because it takes in both legislatures.

**Ms Ramsey:** Ms McWilliams raised an important point, but the North/South dimension is also an issue. Could we have a brief update on the situation?

**Mr Reid:** At present, Northern Ireland is going one way — our standards are improving — and the Irish Government are going the other way — their standards are decreasing. The situation is very serious. In the Irish Republic, statutory agencies, such as health boards, can have a police check carried out on their staff. There is no equivalent of a consultancy index in the Irish Republic. The voluntary sector has been getting employers to use the Data Protection Act 1998 to check people — you go to the garda station, present your data protection form and get your police reference, which is a back-door means of checking. The Irish Government have announced that they are going to outlaw that system. This may sound perverse, but, to be frank, if I were an employer in an organisation in the South I would recruit Northern-based staff, because at least they can be vetted.

**The Chairperson:** We should ask the Minister to write to Micheál Martin, her counterpart in the South, on the issue.

**Mrs I Robinson:** You gave a fairly good example of the adverse implications on the Bill if Part V of the Police Act 1997 were not enacted. Are there counter-arguments against enacting the Bill?

**Mr Reid:** The Committee needs to take that matter up with the NIO. The Police Act 1997 applies to the UK, so I do not understand why it is not being applied in one part of the UK. This Bill has been allowed to develop without clear directional guidance from the NIO. References are made in various documents to the fact that the NIO is debating what is going to happen, but the Bill is seriously weakened by the absence of clear direction as regards Part V of the Police Act 1997.

**Mrs I Robinson:** Are they playing on the human rights issue to halt the process?

**Mr Reid:** Given that it is established practice in England and Wales, I would find that hard to believe.

**Mrs I Robinson:** I cannot understand it either.

**The Chairperson:** The NIO will be giving evidence to the Committee soon.

**Mrs I Robinson:** I will raise this issue with them then.

**Mr J Kelly:** You stated in your comprehensive submission that the Bill seems to establish a floor and not a ceiling. What changes would you suggest that would bring the Bill closer to the ceiling?

**Mr Reid:** It depends how the Department will implement the accreditation aspect. Accreditation could be viewed as a very minimal scheme, with the result that to gain accreditation an organisation has to have a child protection policy and carry out vetting — that is one level. On the other hand, the Bill could say that to be accredited an organisation has to have a comprehensive child protection policy, a child policy on child friendliness, a whistle-blowing policy, and must allow auditing and inspection. The proof is in the pudding. Accreditation could be comprehensive and significant.

The NSPCC has a child protection sport unit, which advises sporting organisations. Few sporting organisations are registered with the Department for vetting. Of the 82 sporting organisations, few are registered. If a broad system of accreditation were established, parents will ask organisations why they are not accredited, which would be very significant.

**The Chairperson:** We will stop the discussion there. I thank Mr Reid and Mr Elliott for their helpful presentation and documentation.

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**NORTHERN IRELAND  
ASSEMBLY**

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**COMMITTEE FOR HEALTH, SOCIAL  
SERVICES AND PUBLIC SAFETY**

Wednesday 11 September 2002

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**PROTECTION OF CHILDREN AND  
VULNERABLE ADULTS BILL  
(NIA 22/01)**

**Members present:**

Dr Hendron (Chairperson)  
Mr Berry  
Mr J Kelly  
Ms McWilliams  
Ms Ramsey  
Mrs I Robinson

**Witness:**

Ms T Caul ) Children's Law Centre

**The Chairperson:** Thank you very much for your documentation, Ms Caul.

**Ms Caul:** Thank you for affording the Children's Law Centre the opportunity to give oral evidence to the Committee. The NSPCC representatives comprehensively covered issues similar to those addressed in our submission, and I will not dwell on them. The Children's Law Centre is a small, independent non-governmental organisation that helps children and young people and parents, carers and professionals to work with and understand the law relating to children. Our submission deals with the clauses of the Bill.

The Children's Law Centre's work involves day-to-day contact with children and young people, and we agree that children have the right to be protected from harm by a comprehensive and seamless system. However, we would welcome the creation of a one-stop shop to complete the vetting procedure.

The ultimate goal, as required by the UN Convention on the Rights of the Child, is to protect as many children as possible from harm. That is reinforced by the European Convention on Human Rights, which also requires states to implement effective legal mechanisms to protect children from inhuman and degrading treatment.

It is clear from case law that child abuse can amount to inhuman and degrading treatment. If a state does not implement a coherent and comprehensive system of

protection, it could therefore be potentially liable for harm suffered by children.

We welcome the Bill. We endorse the NSPCC's comments about the importance of the proactive implementation of an accreditation scheme, raising public awareness and the need to ensure adequate all-island systems of checking. As stated on page 2 of our submission, the Children's Law Centre welcomes the proposal in clause 1 to establish a statutory list.

Clause 18(1) defines "childcare organisations" as organisations that are concerned with either the provision of accommodation and social and healthcare services to children or, in the case of prescribed organisations, with the supervision of children. It is a narrow definition, and the Children's Law Centre recommends that all organisations that employ staff, and/or volunteers who have regular contact with children and young people, be obliged to carry out checks and make referrals through the new system — as a duty, not a discretion. The definition should include organisations such as the Brownies, Scouts, Guides, youth clubs and sports clubs and people such as entertainers and home tutors. Institutions in the criminal justice system that have regular contact with children and young people should also be included.

It is for that reason that the Children's Law Centre suggested a wider definition of "childcare organisation". It accepts that the accreditation scheme is innovative. If the amendments to that definition are not accepted, the centre would support accreditation. However, it would prefer the Committee to consider broadening the definition. The centre's suggestion is outlined on page 2 of its submission.

The definition of "childcare position" is outlined in the Bill. The centre recommends that that definition be broadened to include reference to children in juvenile justice centres and those who work with them. The centre is unclear about an exclusion contained in clause 29(4), which addresses children who are in employment, and would like the Committee to consider it. We also recommend that clause 29(1)(c) be amended to include the words "advising" and "counselling". Those involved in advising and counselling should fall within the definition of a childcare position.

In the event that amendments are not made to the statutory definition of a childcare organisation, we would support the introduction of the accreditation system under clause 16. However, we would like to see that as a mandatory requirement for organisations that include post holders who have regular contact with children. We have suggested an amendment in that regard.

One of the issues dealt with in the evidence given by the NSPCC, which I was to pick up on, relates to the education sector. The education sector is to hold a separate list, List 99. There will be two lists — the



Protection of Children Act list and List 99. The articles and Regulations that govern List 99 relate to the prohibitions and restrictions on the employment or further employment of teaching and non-teaching staff in grant-aided schools. The present Bill recommends the amendment of those Regulations to cover cases of unsuitability to work with children. That is a significant improvement on the enabling education legislation.

However, there are a couple of points that we hope that the Committee could raise with the Department of Education. We have talked to Department of Education personnel about these issues, but I am not suggesting that they are aware of our amendments. It is important that there be more consultation about any further Department of Education Regulations. It is of particular concern that independent schools do not currently seem to be covered by either this Bill or the education Regulations.

Also, non-teaching staff in further education institutions may not be covered by either the education Regulations or the present Bill. I say “may” because it has been indicated that the way the Regulations are currently drafted may be wide enough to cover ancillary staff in further education. However, I suggest that the Committee might clarify that with the Department.

I have three final brief points, the first of which concerns the standard of proof. Under current education provisions, the requirement is that

“the individual is unsuitable to work with children.”

So the wording is slightly different to that of the Protection of Children and Vulnerable Adults Bill, which clearly says it is whether the individual has been

“guilty of misconduct...which harmed a child or placed a child at risk of harm.”

We are unclear at this stage as to the implications of two standards of proof. Again, we would like officials to deal with that.

Perhaps the most important point that we could raise today would relate to the implementation of the Police Act 1997. As has already been stated, Part V of the Police Act 1997 and the establishment of a criminal records bureau must be expedited urgently. We would support the establishment of a one-stop-shop system.

We also want to endorse the NSPCC’s position on arrangements for the cross-border issue and on waiver of fees for voluntary and charitable sector organisations.

**The Chairperson:** Thank you very much. That has been helpful.

**Ms Ramsey:** Thank you, Ms Caul. I am interested in the independent or voluntary schools, which you write about in your submission. What is an independent school? How many of them are there?

As you know, further education does not fall under the remit of the Department of Education or the Department of Health, Social Services and Public Safety. I assume that we are talking about vulnerable adults?

**Ms Caul:** I have raised the issue of independent schools with the Department of Education. I suggest that the Committee again queries whether the legislation can cover independent schools. Independent schools are not grant-aided schools. The Department of Education will have to give the Committee some indication of its intentions.

**Ms Ramsey:** In my constituency of West Belfast there are groups of young people who, for various reasons, are not involved in mainstream education. Are those types of groups included? Do they go through the same process?

**Mrs I Robinson:** The reference is to private, independent Christian schools.

**Ms Caul:** That is correct.

**Ms Ramsey:** Will the voluntary sector also be dealing with it?

**Ms Caul:** Do you mean things such as out-of-school provision?

**Ms Ramsey:** No, I refer to school provision. They are providing classes; however, the kids are not in mainstream education.

**Ms Caul:** I presume that they operate in accordance with Our Duty to Care as regards good practice guidelines in that sector.

Currently, teachers in further education colleges are covered by Department of Education Regulations. The non-teaching staff are not specifically referred to in those. It may be that the definition is wide enough to cover them, but they are not clearly included, and that is an important point.

**Ms McWilliams:** To clarify the position of independent schools, are they exempt from other types of legislation, which cover punishment et cetera?

**Ms Caul:** I am aware that the Education and Libraries Bill incorporates an amendment to deal with corporal punishment in independent schools.

**Mrs I Robinson:** My children went to an independent Christian school where there was the option of corporal punishment.

**Ms McWilliams:** That was part of a recent debate on the Floor of the House. It is exempt in some of the legislation in Britain. When that was going through, were amendments made?

**Ms Caul:** I do not have that information, but I can check.

**Ms McWilliams:** There are other faith schools in Britain that would be independent. It would be useful if



you checked if there were amendments, and if they were successful.

The submission from Women's Aid among others stressed a difficulty with fees for accreditation. What is your response?

**Ms Caul:** I agree, as a lot of those organisations rely on volunteers, and most have strict policies as it is. The introduction of accreditation will be expensive for organisations that depend on volunteers. We use volunteers and students in our centre, and currently, we vet everyone. It has significant implications for smaller organisations.

**Ms McWilliams:** Do you have any proposals for that?

**Ms Caul:** We hope that the fees would be waived for small, voluntary and charitable organisations to enable those to comply with accreditation, as many schemes want to become accredited. Alternatively, additional funding might be provided to cover the fees.

**Ms McWilliams:** Is there equivalency in, for example, registered homes? Is there a sliding scale depending on

their size? A large charity might be able to afford this; the difficulty lies with little groups.

Is there an equivalent? Perhaps you do not know the answer to that. It may be worth checking that out because if we make a proposal, it will be either a lump sum or nothing. We might get nothing, but we may at least get a sliding scale recognised. The last thing we want is no vetting. Some organisations may feel that it is more than they can afford because they would have to do it regularly.

**The Chairperson:** We will explore that.

**Mrs I Robinson:** With regard to the current loopholes in the provisions which apply in the Irish Republic, what mechanisms would the centre advocate in support of collaborative cross-border vetting arrangements?

**Ms Caul:** We endorse the NSPCC's position.

**The Chairperson:** Thank you for the presentation and documents.



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## NORTHERN IRELAND ASSEMBLY

*This report was not approved formally by the Committee prior to the suspension of the Assembly on 14 October 2002, but is published by order of the Speaker.*

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### COMMITTEE OF THE CENTRE

Wednesday 11 September 2002

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### COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE BILL (NIA 20/01)

#### Members present:

Mr Poots (Chairperson)  
Mr Gibson (Deputy Chairperson)  
Mr Beggs  
Mrs E Bell  
Dr Birnie  
Mr Dalton  
Mr Ervine  
Ms Lewsley  
Dr McDonnell  
Mr McMenamin  
Mr McNamee  
Dr O'Hagan  
Mr K Robinson  
Mr Shannon

#### Witnesses:

Ms P Leeson ) Childcare Northern Ireland  
Ms P Kelly ) Children's Law Centre  
Ms K Yiasouma ) Include Youth  
Ms E Quinn ) Include Youth

**The Deputy Chairperson:** The Committee welcomes Ms Pauline Leeson from Childcare Northern Ireland, Ms Paddy Kelly from the Children's Law Centre and Ms Koulla Yiasouma and Ms Edel Quinn from Include Youth. I am afraid that my Japanese is not very good.

**Ms Yiasouma:** I am of Greek Cypriot descent.

**Ms Leeson:** I am the director of Childcare Northern Ireland, which is the umbrella organisation for the voluntary childcare sector. This is the second part of a joint submission from the Putting Children First campaign. Last week, several of our organisations spoke about parental responsibility and the roles of children; this week we are raising more detailed and technical concerns about the legislation. I wish to stress that this is an agreed position between the Putting Children First campaign and Childcare Northern Ireland.

We acknowledge the commitment and work that the Committee of the Centre and the Office of the First Minister and the Deputy First Minister have already put in to the Commissioner for Children and Young People Bill. We hope that our proposed amendments will be seen as constructive, as their purpose is to improve the legislation and to enhance the lives of children in Northern Ireland.

**Ms Kelly:** I am the director of the Children's Law Centre and I speak on its behalf, and specifically on behalf of Save the Children, under the umbrella of the Putting Children First campaign.

The Children's Law Centre is an independent charity that provides legal advice, information, and representation to children, young people and their parents in key areas that affect the lives of children and young people. We work with children and young people, their parents, voluntary organisations and statutory professionals in the best interests of children. We also undertake research and training on children's rights and we are advised by a children and young person's advisory group, Youth at Children's Law Centre.

Since coming into operation almost two years ago, our free telephone advice line for children and young people has dealt with almost 2,000 enquiries from children and young people. That is in addition to other advice calls and cases taken by the centre. Most of these calls are made by parents or other adults on behalf of children. That experience has informed our submission to the Committee on the Bill. I congratulate the Committee on its work on the Bill. This will ensure that the Commissioner for Children and Young People Bill lives up to the hopes that we all had of it when it was announced by the First Minister and the Deputy First Minister: to put Northern Ireland at the cutting edge of world practice.

We welcomed the introduction of the Bill in June and congratulate all those who have worked so hard to get us to this stage. There are many very positive things in the Bill that we believe will make a huge difference to the lives of our most vulnerable children. However, we believe that the Bill can be strengthened to afford better protection for our most vulnerable children. In so doing, we believe that we can put Northern Ireland at the cutting edge of world practice.

In our written submission to the Committee, the Children's Law Centre and Save the Children said that it might be useful to outline the amendments that we felt would strengthen the Bill and explain our reasoning. Our submission is consequently quite lengthy and technical. It is not my intention to go through it in detail today, although I will be happy to answer any questions that you may have.

To make best use of the Committee's time and to avoid repetition, Putting Children First has decided to divide the issues that we wish to raise with you today.

Ms Yiasouma will detail certain aspects of the Bill on which the Children's Law Centre and Save the Children share positions.

We welcome the provision in clause 2(1) of the Bill that requires the commissioner

“to safeguard and promote the rights and best interests of children and young persons”.

That is the right standard to which the commissioner should work, and that should be reflected throughout the Bill.

Other people take decisions about the welfare and/or best interests of children. When a decision is taken with the “welfare” of the child in mind, it is taken from the perspective of the agency or the adult. When a decision is taken in the “best interests” of the child, that is a much more holistic approach. It is a decision taken after listening to the child and taking into consideration their views, wishes and feelings, and the age and maturity of the child. It is a much more comprehensive consideration in which the child is placed centre stage in the decision-making process.

“Best interests” is accepted as the international standard in respect of children's rights. It would be unfortunate if the Bill set a lower standard than the highest international standards, and so failed to deliver what the Ministers intended when they announced the establishment of a children's commissioner — to put us at the cutting edge.

The UN Convention on the Rights of the Child (UNCRC) establishes “best interests” as the standard to which public authorities must adhere with regard to children and young people. That is increasingly accepted in domestic legislation and interpreted by domestic courts. The term “best interests” is regularly used in High Court judgements. The European Court of Human Rights has referred to the “best interests of the child” in its judgements. European and domestic courts are increasingly looking to the UNCRC for guidance in respect of international standards of children's rights.

In keeping with the highest standards of children's rights, we believe that the paramount consideration for the commissioner for children and young people should be the “rights and best interests of children and young people”. That should be reflected throughout the Bill, which should be amended accordingly.

The Children's Law Centre and Save the Children believe that there is another weakness in the Bill. The commissioner is the final stop on the bus run with regard to investigations and acting on complaints. That will present huge problems for children who desperately need the commissioner. Children and young people will have problems gaining access to the commissioner, and that will significantly reduce the effectiveness of the office. There are several considerations here concerning the way children relate to the adult world.

Children are vulnerable to abuse, and when children's rights are abused, they need adults to take action immediately. Delays can have huge implications for children. Children do not think like adults and do not define what is happening to them in the same way as adults. They do not think, I must get the complaints procedure examined by the commissioner. They think, I have been abused; my rights have been denied; I need to get that dealt with by the commissioner.

Children, especially the most vulnerable, are reluctant to identify themselves or expose themselves further. They also have difficulty in accessing support when they are in difficulty and, if referred on, will often let matters drop. That has been the experience of the Children's Law Centre in working with children and young people.

I shall give you an example of how that element of the Bill will fail children. If a child is in a children's home and is, hypothetically, being physically abused by several members of staff, the nature of the power relationship and the fact that the child has to continue living there means that the child will be reluctant to raise the issue in the first instance. What will happen if the child manages to gain the confidence to raise the issue, and approaches the commissioner for help, only for the commissioner to say, “What is happening to you is awful, but before I can do anything you must go back and use the complaints mechanism in the children's home”? The child will think that adults have failed him again and will let the matter drop.

If the child is persistent and lodges a complaint, and the complaints mechanism does not deal with the abuse, the child will almost certainly let the matter drop at that stage and allow the abuse to continue. Even if the child is exceptionally persistent and asks the commissioner for further help after going through the complaints system, the commissioner cannot deal with the abuse, but can only review the complaints mechanism. The child will wonder what the point of the process is. That scenario could potentially unfold under the Bill as it is currently drafted.

For a child, the investigation of the complaints mechanism is far removed from the abuse that they have suffered. One can only have sympathy with a child who has been physically abused and has had the courage to raise the issue, only to be pushed from pillar to post and told that all that the children's champion can do is to review the complaints mechanism. Most adults would give up — a vulnerable child living in an institution would most certainly despair and walk away.

The Children's Law Centre suggests that this defect in the Bill can be remedied by the deletion of clause 8(2)(b), which restricts when the commissioner can investigate a complaint. If that amendment were agreed to, the commissioner would still be required to exercise discretion when taking up a complaint and would obviously



be subject to review by the courts in the exercise of that discretion. However, that amendment would allow the commissioner to carry out an investigation on an individual complaint in exceptional circumstances. It is also worth noting that no such restriction applies to the Human Rights Commission, which can investigate individual complaints.

I want to raise specific points on clauses 10(4), 10(5), 11(4) and 11(5). The commissioner has no enforcement powers. Therefore, if the commissioner carries out an investigation under clauses 6 or 8, and the body that is being investigated ignores the commissioner's recommendation and refuses to do anything, the child has no other remedy through the commissioner's office, especially because clauses 10(4), 10(5), 11(4) and 11(5) preclude the commissioner from supporting or taking a case if there has been a previous investigation.

Those clauses may have an effect exactly opposite to what is intended. If the commissioner has no enforcement powers, because of clauses 10(4), 10(5), 11(4) and 11(5) the commissioner may choose to go directly to litigation rather than taking a possibly less adversarial approach to an investigation. Those clauses are probably unnecessary, because the commissioner is still bound to exercise his or her discretion properly and would be subject to judicial review for failing to do so. The Children's Law Centre believes very strongly that those four subsections should be deleted. Again, no restrictions of that kind apply to either the Equality Commission or the Human Rights Commission.

Because of time limitations, I have referred only briefly to some of the amendments to the Bill that we believe would make the commissioner more effective in protecting children. I am happy to answer questions on any issues raised in the written submission.

**The Deputy Chairperson:** Thank you for your presentation. It contained some cogent arguments.

**Ms Yiasouma:** As the director of Include Youth, I thank the Committee for inviting my organisation, as part of the Putting Children First alliance and Childcare Northern Ireland, to give evidence in relation to this important legislation. I am joined by Edel Quinn, who is our policy co-ordinator. Ms Quinn will answer any questions that I cannot.

Include Youth commends Assembly Members, officials of the Office of the First Minister and the Deputy First Minister and, particularly, the Committee of the Centre for the energy and commitment that have been applied at all stages of this process to ensure that Northern Ireland has a children's commissioner who is a world leader and places the best interests of all children at the centre. Include Youth has also informed its submission by talking directly with vulnerable and challenging

children and young people on the issue, and a variety of practitioners and people working directly with children.

I will briefly draw the Committee's attention to some of our key concerns about the Bill. I will attempt to keep my submission brief — which would be a personal first for me — to allow time for questions and to account for the detailed written submission that Include Youth has already provided to the Committee.

First, I would like to discuss child proofing. A duty should be imposed on the commissioner to monitor legislation and policies for compatibility with international human rights standards and the principles of the best interests of children. All legislators and policy-makers should be required to send all proposed legislation and policies to the commissioner at a very early stage in order to obtain comments. Such a requirement would circumvent the current adversarial nature of consultation and debate post-publication of draft legislation. In the interests of saving time, we draw the Committee's attention to the proposed amendments that we have outlined concerning clause 3 on page 14 of our submission.

Our primary concern is that the Commissioner for Children and Young People Bill, as currently drafted, effectively sets up two commissioners — one for children in the criminal justice system and one for everyone else. The definition of "relevant authority" is extremely important. Schedule 3 of the Bill distinguishes between two different groups of authorities — Part I lists those amenable to the devolved Administration and Part II those which deal with matters reserved under the Northern Ireland Act 1998. They are the responsibility of the NIO or other Whitehall Departments. That has adverse implications for children and young people involved in the criminal justice system, particularly with regard to powers to conduct formal investigations. As the Home Office is not mentioned in the Bill, refugee children and those seeking asylum may not come within the remit of the commissioner. The status of those children and young people must be clarified.

As the Bill is currently drafted, the commissioner cannot initiate a formal investigation into advocacy or other arrangements in respect of non-devolved public bodies. For example, the commissioner cannot initiate a formal investigation into the complaints procedures in centres such as Lisnevin or the new Rathgael site, when it opens.

The only way in which the commissioner can undertake a formal investigation in relation to an allegation made by a child in the criminal justice system or a refugee or asylum-seeking child is if the child comes forward to initiate a complaint under clause 8(1). Ms Kelly has outlined the problems with that approach, which is not in the best interests of the child. It means that children who are recognised as being some of the most vulnerable, albeit challenging, in our society do not enjoy the same protection under the Bill as other children by virtue of

the fact that aspects of their care and the services directed towards them are not, as yet, devolved.

All children are entitled to be protected if their rights are at risk of being breached. We cannot find any justifiable reason why it is acceptable to have a children's commissioner who reinforces the message to children, their families and their communities that they are not as worthy of protection as good, well-behaved children. Although we appreciate that challenges may be presented by virtue of the fact that responsibility for children remains with Westminster, we believe that they are not insurmountable and that a way can be found to afford children equal protection from our commissioner.

If the Committee decides to seek an amendment that does away with the unequal treatment proposed for justice, refugee and asylum-seeking children, it should focus on clause 12(1)(a) and recommend that the phrase "other than one listed in Part II of Schedule 3" be deleted. That might not happen. Therefore, we would like to draw the Committee's attention to other amendments which, in the event of a two-tier system remaining, would go some way towards strengthening the commissioner's power to protect children who are involved in the criminal justice system and refugees or asylum-seeking children in Northern Ireland.

We reiterate what Ms Kelly said and suggest that the restrictions placed on the commissioner by clauses 10(4), 10(5), 11(4) and 11(5) in taking, or assisting children in, legal proceedings should be deleted. Those restrictions would prohibit the commissioner from invoking the casework function if the matter has been subject to an investigation at an earlier stage. That would be unnecessary, counterproductive and potentially in breach of article 6 of the European Convention on Human Rights.

Unless those amendments are accepted, we believe that justice children and asylum-seeking children, if they came forward at all, would be directed towards the commissioner's legal function and bypass the investigative role that currently demands that children come forward and put their heads above the parapet by making a complaint. There is no power to enforce compliance with any findings flowing from either an investigation under clause 6 or a substantive complaint under clause 8(1), and the commissioner is prohibited from taking, or otherwise becoming involved in, legal proceedings that may arise as a result of such an investigation. Why would they, or anyone, come forward? It does not make sense.

Children come to us with many problems about allegations of human rights abuses. The second key amendment that would go a long way to help ensure that those children receive adequate protection from the commissioner would be to enable the commissioner to bring proceedings in his or her own name, without having to name a victim. That would be important to a child or group of children who are in custody or in an adult or

juvenile institution, and who might feel vulnerable after making a complaint to the commissioner. The fear of being identified, whether real or imagined, deters most young people from seeking help. Those working in the field of children's rights, and in the system, are acutely aware of the ongoing potential breaches of children's rights, and because a child has difficulty in coming forward to take a case, those remain unchallenged.

The European Court of Human Rights has recognised the difficulty that children have in taking cases, and has allowed those acting for children to bring cases on their behalf. The submission by the Children's Law Centre and Save the Children puts forward several alternative amendments.

Our third group of suggestions for improving safeguards for children under the remit of non-devolved public bodies is that the Committee should give serious thought to asking for clause 8 to be deleted. Ms Kelly has gone into that in detail.

Clause 8(2)(b) places a huge restriction on the power of the commissioner to carry out a formal investigation of a child's substantive complaint by prohibiting such an investigation if the complaint has failed in the existing statutory framework. That clause unduly limits the commissioner's discretion to investigate complaints, as it would be difficult to think of a complaint that would not fall into a statutory complaints system.

Clause 8(2)(b), together with clauses 9 and 12(1), weakens the commissioner's powers to investigate complaints into non-devolved public bodies, and leaves justice, refugee and asylum-seeking children out in the cold. That is not acceptable, and those children must not feel that they will be treated differently.

*(The Chairperson in the Chair)*

**Ms Lewsley:** The issue of "best interests" and "welfare" was raised at the Committee meeting last week. "Best interests" is used in many of the key sections, and "welfare" is used in some cases because of the legal implications. You have said that part of the Bill is a reserved matter, and the Office of the First Minister and the Deputy First Minister had to negotiate with the NIO to get "best interests" included in the Bill. The Committee will have to lobby the NIO about the wording.

Ms Kelly said that some children might not have access to the commissioner. The Committee is concerned that the commissioner might become bogged down in the numbers of individual cases brought by children. The Children's Commissioner for Wales gave evidence to the Committee last week. He said that he did not want to go down that path either, but that any child who came to the Commissioner for help would be guided towards the appropriate organisation to deal with the problem. Perhaps our commissioner could do the same, rather than getting involved in every case. There should be

some sort of follow-up process to ensure that the child was referred to the right place and received help.

**Ms Kelly:** I will answer the second question first. The Children's Law Centre's experience of dealing with children who come to us for advice has been that, if they are referred to another organisation, they will not go. They are not like adults. Even if you offer them a path, they do not have the confidence or the resources to approach another agency. It may take a lot of courage for children to come to us. Often, when they phone the free advice line, they say that they are calling on behalf of friends. The child must first acknowledge that he or she has a problem that can be redressed by the commissioner. However, it is a huge step to summon up the courage or confidence to seek help from any organisation, especially if the child is in an institution, such as a children's home, or a juvenile justice centre, such as Lisnevin. In our experience, if children take that step and are told that they have approached the wrong organisation, they will not go any further.

The Children's Law Centre suggests that the commissioner will not get bogged down in dealing with many individual cases. It suggests the deletion of clause 8(2)(b), which, as Ms Yiasouma said, precludes the commissioner from investigating a complaint that falls under an existing statutory complaint system, which will include most complaints.

Clause 8(2)(a) — that "the complaint raises a question of principle" — must remain. That clause will be the first hurdle, because the complaint must raise a question of principle before the commissioner will investigate it. Presumably the commissioner's strategic plan will include strategic intentions and criteria for investigating complaints. It may say, for example, that the commissioner's priorities for this year relate to juvenile justice. The complaint would be assessed against the strategic plan's criteria, which would determine whether it would be investigated. I do not envisage that all the commissioner's time will be spent investigating individual complaints, because he or she will apply strategic intention to each case and assess whether it raises a question of principle.

The commissioner must exercise discretion properly on all functions, and that provides another safety net. Failure to exercise discretion properly will result in the commissioner being subject to judicial review. The commissioner could face judicial review for engaging in frivolous investigations, or those that are not the best use of resources. The commissioner will also be accountable to the Office of the First Minister and the Deputy First Minister. Therefore, there are safeguards in relation to the valid concerns that you raised. However, the proposed amendment would give the commissioner the opportunity to investigate serious complaints that require immediate remedies, where the system has failed the child to date.

The Children's Law Centre's written submission details why it thinks that "best interests" is the correct standard, and my presentation addressed the issues. "Best interests" is a recognised international standard of children's rights, and it is increasingly recognised domestically. Mr Justice Gillen has repeatedly referred to the "best interests of the child" in his judgements.

That approach is more holistic as regards the standard by which decisions in relation to children should be made. It takes into account the wishes, voice and feelings of the child, obviously respecting the child's age or maturity, and, in many ways, reflects what has already happened in relation to the Children (Northern Ireland) Order 1995. The "best interests" approach is the current standard. Indeed, a member of the UN Committee on the Rights of the Child met several Ministers in Belfast last week and impressed upon them the importance of having that approach in legislation, with specific reference to the Commissioner for Children and Young People Bill.

**Mr Ervine:** The Children's Commissioner for Wales praised our Bill as superior to that under which he had to work. You seemed to say that our commissioner would not have the power to be as proactive as he or she needs to be, and that there are limiting clauses in the Bill. Am I right in that interpretation?

I can only welcome your proposed amendments to the Bill. From listening to my Colleagues, I think that many of them feel the same way. You made a point about other elements of the system that are expected to deal with the issue. Can you elaborate on where you see the flaws on that in the Bill?

**Ms Yiasouma:** Do you mean other complaints mechanisms?

**Mr Ervine:** You said that you failed to see how it could not be affected by some other system.

**Ms Yiasouma:** Most institutions that have contact with children and young people have complaints systems. We question how accessible and bureaucratic those systems are and how adversarial they may be. The bulk of the advice that we received from children and young people was that the first thing that a commissioner should be is recognisable to all children and young people throughout Northern Ireland.

If there is a complaints system where a child must write a letter or meet someone and where it might take a year for a complaint to be heard, or a free telephone number to contact this lovely all-singing, all-dancing person who is extremely friendly and child-centred whom everyone knows will help with a complaint, I know which one I would choose and which one I would encourage my child and the children with whom I work to choose. I would choose the commissioner, because he or she is far more child-friendly. The commissioner will do what Peter Clarke, the Children's Commissioner for Wales,



does, which is, unless it is a point of principle, support and help a child in accessing a complaints procedure and support the system to make its complaints procedure more accessible to children.

As they currently stand, however, none of those procedures is easily accessible to adults and protectors of children, let alone the children themselves. The commissioner will be incredibly accessible to kids, which is why the commissioner will always be the first port of call. If he or she — and I hope that the commissioner will be a she — is continually knocking children back, no one will contact them.

**Mr McNamee:** I have not yet studied the Bill or the office of the commissioner in great detail. Given what you said about clause 8(2)(b) and the points that you have just made, the Bill would effectively give the commissioner very little opportunity to exercise powers, because there would be very few circumstances in which a complaint could not be investigated under existing statutory complaints systems.

My question might be more easily answered by a legal person, but regarding your proposal to delete clause 8(2)(b), if a complaints procedure was already under way that conflicted with a subsequent complaint being brought to the commissioner, would there be any implications for the rest of the Bill in deleting that clause? If there is a statutory complaints system and an investigation is under way when a complaint is brought to the commissioner, does that affect the Bill's competence?

**Ms Yiasouma:** If there are two complaints processes proceeding on the same issue?

**Mr McNamee:** Under the existing legislation, the commissioner could not deal with the complaint. If we were to accept the deletion of clause 8(2)(b), would there be any conflict around the Bill's competence if two complaint procedures were under way simultaneously?

**Ms Kelly:** Protocols would have to be agreed. When operative, I imagine that the children's commissioner will have protocols with a range of agencies — trusts, boards, the Northern Ireland Office, the Northern Ireland Human Rights Commission, the Equality Commission. Those protocols will relate to how the two relevant bodies work and interlink at the interface. It would depend on the facts of the case and the particular circumstances.

**Dr O'Hagan:** I confess that I went through the two submissions in some detail. Considering last week's evidence sessions, it strikes me — and David Ervine has already mentioned this — that there are serious concerns about the Bill in this sector. It looks as if there are fundamental flaws throughout the Bill, including the investigative powers, the remit and the debate around "welfare" and "best interests". I share Mr Ervine's concerns, and I hope that the Committee will be able to strengthen the Bill.

I would like to get your comments on clause 9(2). How restrictive is that clause? What are the implications of the clause being retained in the Bill?

**Ms Kelly:** The implications are significant. Clause 9 relates to the investigation of complaints. It limits when the commissioner will be able to investigate a specific complaint. Clause 9(2) says that the commissioner cannot investigate a complaint after the commencement of criminal or civil proceedings. For example, the commissioner could not investigate a specific complaint that there had been a failure on the part of the Director of Public Prosecutions (DPP) or the police to investigate properly a child abuse case. Those limitations are significant. It could also mean that the commissioner could not investigate an individual complaint about court proceedings in relation to a family matter or a child being taken into care. If there had been undue delay, the commissioner could not deal with that.

That is bad enough in itself, but it must be read in conjunction with the limitations imposed by clause 12, which Ms Yiasouma referred to. That concerns the relevant authorities. In exercising the powers under clause 5, clause 12 limits the powers that the commissioner has over reserved matters. Reading the two together, the commissioner's powers over reserved matters, and specifically the DPP and the operation of the courts, both in relation to family law proceedings and children being taken into care, are severely limited. That could be significant.

**Dr O'Hagan:** My final question is about resources. We all know how key resources are to either limiting a body or giving it as much power as possible. Has any thought been given to the type of resources that this office would need?

**Ms Yiasouma:** How long is a piece of string? We are not unhappy with the resources as quoted in the explanatory documents, as long as they are kept under regular review, and as long as the commissioner's submissions regarding the resources required to do his or her job are taken seriously.

**Mr McMenamin:** I fully support the principle of a children's commissioner, but my fear is that we may become bogged down in bureaucracy and forget the individual. I foresee that lawyers and barristers will make a killing when the matter comes around.

Do you visit our prisons and homes for young offenders? Have you access to individual cases? One of my constituents asked me on several occasions to contact a particular prison, and I did that. Her daughter had been inside since she was 14 years old because she had committed numerous minor offences. She ended up in the men's wing in Maghaberry, and committed suicide last Sunday. The system failed that young lady. Where do you go from there?



**Ms Kelly:** I am aware of that case. The Bill, as drafted, does not empower the commissioner to deal proactively with such a case, because of limitations concerning children who are in the justice system and because of the limitations already mentioned in respect of clause 8(2)(b) and clauses 10 and 11.

**Ms Yiasouma:** It is an example of the importance of having the ability to proceed with a case without naming a victim. Without particular reference to that young woman, we have repeatedly tried to encourage young women who have been sent to Maghaberry to complain. They cannot, will not, or feel unable to do so. We cannot get them to come forward because of the requirement that the child has to make the complaint. The system should enable the commissioner to proceed to investigate on the child's behalf, once we are aware that an abuse has taken place, such as — in this case — a child's having been placed in an inappropriate institution.

Suggested amendments relating to the Human Rights Act 1998 may help those young men and women who should not be in a young offenders' centre and the young women who should not be in such places as Maghaberry. Ms Kelly is correct. As the legislation stands, the commissioner can do nothing.

**Mr McMenamin:** In other words, we are wasting our time on a children's commissioner. The matter of that young lady, from the age of 14, could not be addressed. I am sure that others are in that position and cannot approach the children's commissioner.

**Ms Kelly:** Currently, another 15-year-old is in Maghaberry. The Bill, as it stands, does not enable the commissioner to be proactive in that case. However, our suggested amendments may create a commissioner with the power to act in relation to such cases as that of that poor young woman, and in the cases of other children.

**Mr McMenamin:** Thank you very much. I am delighted to hear that.

**Mr Shannon:** In the role of the children's commissioner, is flexibility necessary to provide assistance, either in the children's commissioner's office or away from it? Are there occasions on which other bodies or agencies may be better placed than the children's commissioner to act on behalf of a child?

**Ms Kelly:** Clause 7(3) states:

"The Commissioner shall not take any action on behalf of a child or young person under subsection (1) unless it appears to the Commissioner that there is no other person or body likely to provide such assistance."

That phrase appears several times in the Bill. We suggest that it may be more appropriate to say that "there is no body better placed to provide such assistance" than an office of commissioner for children, unless there are special circumstances where it would be inappropriate for the commissioner to provide such assistance. That

would give the commissioner discretion either to refer a case to a trust or, in exceptional circumstances, to act. The present wording restricts the commissioner's ability to intervene. This wording limits the commissioner's power to act, whereas our amendments would empower the commissioner to act when appropriate.

**Mr Shannon:** Do you believe that your amendment would provide flexibility?

**Ms Kelly:** Yes. It would provide a flexibility that the present wording of the Bill does not allow.

**Ms Quinn:** It would allow the commissioner to reach a decision more quickly, as the present wording of the Bill could cause undue delay, and that would not be in the child's best interests. A case could end up being bounced between Departments and organisations to find out which is more likely —

**Mr Shannon:** To pay for it?

**Ms Quinn:** Pretty much.

**Mr K Robinson:** Are we, in effect, setting up two commissioners? Will there be a commissioner for children who are going through the legal system and another for all other children? We have had a fairly graphic description of those children who are going through the legal system, and it seems that much of your work deals with them. What about the mainstream children, those who are in a "normal home", who wish to make a complaint? I get the impression that the children and young people who might avail themselves of such a system would come mostly from these "normal homes". Is there a danger that children who are suffering abuse or having their rights denied in such homes will not be able to approach the commissioner?

**Ms Yiasouma:** We have highlighted the two-tier nature of the commissioner's role because that would redress a flaw that removes children from the system. The substantive role of the commissioner will be for "non-offending" children, for want of a better word. Our amendments would strengthen that; they would ensure that children receive health and education services appropriate to their needs. They would strengthen the service that the commissioner can offer to all children, not just those in the care of the state or in the criminal justice system. Many are children or their parents looking for advice on education, on play facilities, or on speech therapy — which is a huge issue here. These are often everyday problems that reduce the quality of the health, lifestyle and life chances of our children. We strongly believe that our amendments, particularly the deletion of clauses 8(2)(b), 10(4), 10(5), 11(4) and 11(5), would strengthen the role of the commissioner in protecting such children.

**Ms Kelly:** We welcome the duty being placed on the commissioner to promote awareness of his office among

children here. Most of the enquiries that the Children's Law Centre receive are about the education of children who are living at home. For example, a child may be the victim of bullying at school. Because there is a complaints procedure in the education system, the Bill, as presently worded, would prevent the commissioner from investigating a claim of bullying. The limitations that we are proposing be amended apply to children across the board; that is just one example.

**Mr K Robinson:** Take the example of a child being bullied at school. Suppose the child's parents are separated or divorced; the child has seen the world turned upside down and is a loner. How would the Bill help a child in such a tragic situation to reach out and get help from the commissioner? Suppose the child is being denied access to someone or some organisation that they formerly had access to. How does this Bill, and the amendments to it that you are suggesting, help that child to reach out and have his or her best interests guaranteed?

**Ms Kelly:** If our amendment were accepted, the Bill would enable the commissioner, exercising his or her discretion, to investigate such a complaint in special circumstances if he or she felt that it raised a question of principle.

**Mr K Robinson:** So it would come in under "special circumstances"?

**Ms Kelly:** Yes. A question of principle would arise if, for example, the complaint was about repeated failure to address systematic bullying at school. Other considerations, such as the child's home environment, might constitute special circumstances. Our amendments would enable the commissioner to investigate. That is one option.

Our amendments to 10(4) and 10(5) would enable the commissioner to take a case on behalf of a child, or to support a case that a child or his parents or guardians have taken, if the school or the relevant education and library board failed to act. Without our amendments, if an investigation had taken place the commissioner would be unable to support the child.

**Mrs E Bell:** I support this Bill and your amendments; we must get this important legislation right. Children must know that they have a last resort in the commissioner. I see that as a very important duty.

Clause 1(2) of the Bill states:

"The Commissioner shall be appointed by the First Minister and deputy First Minister acting jointly."

The Committee is unsure about that. What is your opinion?

Like all legislation, the Bill is difficult to understand. There should be training for Committee members on reading it. How are children expected to understand it? Have children's organisations, such as your own, thought about that? Perhaps something like an executive summary

would be beneficial to the children who might need it in the future. Children should be aware of what is contained in the Bill.

**Ms Yiasouma:** Include Youth's submission included a suggested amendment to clause 1(2), and I think most other submissions suggested similar wording. The proposal is that clause 1(2) be followed by

"following an independent, transparent and open recruitment process".

Include Youth shares your views, but we did not think that it was the intention of the Office of the First Minister and the Deputy First Minister and the draftsman that the two main men would sit in a room together and pick their favourite person.

**Mrs E Bell:** I would not put it past them.

**Ms Yiasouma:** There should be an open and transparent recruitment process. Include Youth has also made a recommendation that a young person's document be produced. From page 3 of our submission:

"a young people's summary of the implications of the Bill should be prepared and actively promoted amongst all groups of young people."

Actually, that should read:

"amongst all groups of children and young people".

That is an editing oversight.

The summary is relevant to all children and, therefore, has to be accessible to all children. When Include Youth talked to children, it seemed as if the offering of Tayto crisps was the most effective way of having them listen to us about the commissioner. The commissioner, the office of the commissioner and OFMDFM must be creative when promoting the commissioner for children.

Include Youth envisages — and would be disappointed if it did not happen — that children and young people will be involved in the recruitment and selection of the commissioner for children and young people; otherwise it is a nonsense. The process should be started as it is intended that it should go on. It is fine if the Committee wants to legislate for that, but Include Youth is happy so long as there is an open process. We will be lobbying hard for it.

**Mr Dalton:** Your submission recommends that "or group of children or young persons" be inserted after "young person". Your argument is that children are unlikely to come as individuals and make a complaint, and I accept that. However, does it add anything to the legal drafting to insert "or group of children or young persons"? Surely if 10 young people come forward, that is a collection of 10 individual complaints that can be grouped and dealt with as a group. That makes more sense than having to redraft the Bill.

**Ms Kelly:** The Children's Law Centre made recommendations on that throughout the Bill. In exercising functions under clause 2(2) in relation to any particular child or young person, there are certain standards. The Children's Law Centre feels that if the commissioner is acting in respect of a group of children, the guiding principles by which he or she acts should be the same as if they are acting for one child or young person. The suggested amendment is an attempt to be more comprehensive.

In the current draft, a narrow judicial interpretation might not require the guiding principles to be the same when the commissioner is acting for a group of children and when acting for one child. Therefore, it is belt and braces in terms of a judicial interpretation to ensure that the same guiding principles apply. The same reasoning applies throughout those amendments.

**Mr Dalton:** Do you see any problem with the drafting in section 8(1)? It says that

"the Commissioner may conduct an investigation into a complaint made by a child or young person".

You have suggested that children should be able to complain as a group. Do you think that there would be a restrictive judicial interpretation of that that would require a child to make a complaint, rather than somebody acting on behalf on the child? Obviously, the actual complainant is the child.

**Ms Kelly:** It is our experience that children are reluctant to put their heads above the parapet. Where a group of children, who may all be suffering the same abuse or denial of rights, can make a complaint, although the circumstances may be the same as a group, we felt that putting the plural in and allowing the commissioner to investigate a complaint made by a group of children would give some protection to the children and insure against a narrow judicial interpretation.

**Mr Dalton:** Are you suggesting that the use of a group should be there to avoid the naming of an individual child as part of the complaint?

**Ms Kelly:** It is to try to protect the individual child.

**Mr Dalton:** The commissioner might investigate a complaint by a group, and none of the individuals contained in that group would have to be identified. However, an individual child making a complaint would have to be identified.

**Ms Kelly:** It is quite difficult. The facts of the case would have to be established before investigating a complaint, so it would be very difficult to have an anonymous child. However, if there were five children in a group, it would offer some protection to the child. In the circumstances that I mentioned in which a single child was being physically abused in a children's home, it would be difficult for that child to identify himself as a single individual. If there are 10 children being physically

abused in that children's home, and they all make a complaint, then, although they are identified, at least there is some security and safety for the child in numbers. We are trying to sandbag against the requirement here that to access the commissioner, children have to identify themselves individually in some circumstances. The changes we require will make the office of the commissioner more effective and more accessible to children and young people.

**Mr Dalton:** I understand why children would be reluctant to make a complaint by reason of being worried about going forward individually, and would rather be part of a group, but I still cannot grasp why it is necessary to redraft. Why can a collection of individuals not be dealt with as a grouped set of cases? I am being picky about the drafting.

**Ms Kelly:** It is a matter of drafting style, but also the belt and braces of judicial interpretation, where there might be a narrow interpretation regarding an individual child or young person.

**Ms Quinn:** It would also be because of the requirement under 8(2)(a) that the complaint should raise a question of principle. If 10 individual children took 10 separate cases, the commissioner would only back one, because it would be seen to be an ineffective use of resources. They would take the other nine on the basis that the first person who came forward was the one who was raising the question of principle, if it got through there.

**Mr Beggs:** Are you aware that under devolution, because some matters are reserved, there are issues that are not within our gift?

**Ms Yiasouma:** We are aware of what is behind some of the reasons for drafting this piece of legislation. We would like a clear statement to the children of Northern Ireland as to why some of them are going to be treated differently. I appreciate why it has been drafted in the way that it has, but we are saying that it is not satisfactory, and people will want to know why it has happened in the way that it has.

**Mr Beggs:** Last week, the Children's Commissioner for Wales informed the Committee that he did not have automatic right of access to some premises. Do you agree that what has been proposed for Northern Ireland is considerably better than what has been presented in Wales?

**Ms Yiasouma:** Absolutely. However, the question is whether "better" is as good as it can be.

**Mr Beggs:** I am concerned that in pursuit of the ideal, the Bill may be put in jeopardy. I understand that it must have the agreement of the Northern Ireland Office. Otherwise, it will fall. The Welsh commissioner said that he believed that the devolved Administrations were driving the system, because they were pressing for the establishment of a children's commissioner for England.



The Home Office will, therefore, finally have to look at the matter in more detail. Do you agree that that would be part of a logical process?

**Ms Kelly:** First, a considerable number of the amendments that the Children's Law Centre suggested in both its written submissions do not affect reserved matters, but would still strengthen the Bill.

Secondly, I agree with Ms Yiasouma that although the children's commissioner for Northern Ireland might be better than that of Wales, if Northern Ireland is to be at the cutting edge of protecting and promoting children's rights, it must do better still.

Thirdly, difficulties that are presented with the devolved institutions and the Northern Ireland Office are a matter for you, the politicians. You must make a political judgement with regard to the Bill. The Children's Law Centre gives its views — which are drawn from its experience — on how the Bill could better serve all the children of Northern Ireland, including those in the justice system, asylum-seekers and refugees.

The Children's Law Centre trusts politicians to make the correct political judgement on what should be progressed, and how to strengthen the Bill. Politicians possess the knowledge — which the Children's Law Centre does not have — with which to make that judgement.

**Mr Beggs:** Would you agree that there is a risk that we must take? We must make sure that some legislation comes in. However, we do not wish the Bill to fall, because it brings considerable benefits.

**Ms Yiasouma:** The children's rights movement has been the core advocate for a commissioner for children in Northern Ireland for many years. The Bill is a piece of legislation that goes some way towards meeting objectives. Include Youth is not in the business of sabotaging the meeting of its own objectives. It is in the business of getting the best it can get for the children of Northern Ireland. I reiterate what Ms Kelly said. As legislators and policy-makers it is the politicians' role to decide how to make that happen. All Include Youth can do is to tell you what it believes.

**Mr Beggs:** One of Include Youth's proposals is that "best interests" and "rights" should be used consistently throughout the Bill. I understand that, for legal reasons, the Northern Ireland Office has stated otherwise. That might, therefore, present a problem.

Is there a danger that that wording could create a situation in which antisocial young people, who might be repeat offenders, could not be dealt with by the judicial

system? There have been instances of young people reoffending 10, 15, 20 or 30 times. In Northern Ireland, that could create a situation in which paramilitaries could claim to be the saviours of their local communities by shooting those people in the knees. Is it not important that the judicial system and the care system be able to deal with such young children, rather than creating a situation in which paramilitaries — by abusing and victimising young people — can claim credibility in their communities?

**Ms Yiasouma:** I am not sure whether you are suggesting that Include Youth believes it to be in the best interests of a child who commits a crime not to be dealt with — either by being arrested by the police or being dealt with by the judicial system. That is not what Include Youth suggests. It argues strongly — and has produced principles to support its argument — that it is in the best interests of children who break the law that they be held accountable and recognise the effect that their behaviour has on themselves, on those around them, and on their victims.

It is not in children's best interests not to be held accountable, or to recognise and deal with the consequences of their behaviour. It is not in their best interests. We are not saying that we should condone them and let them act with impunity. We are saying that we need a system that addresses and balances the needs of the children with the needs of the public at large. We can only do that if we take into account the best interests of those children. We cannot ignore what they have done. Nobody's interests are served by doing that.

**Mr Beggs:** You are acknowledging that the wording must reflect the fact that our justice system must be able to address community needs and the needs of young children.

**The Chairperson:** Thank you for the background and research work that you have done in bringing these amendments to our attention. The Committee is in somewhat uncharted waters. No other Committee has had to deal with a piece of legislation that is being presented by devolved Ministers, but in agreement with the Northern Ireland Office. Therefore, we have some difficulties in scrutinising it that other Committees have not faced. Nevertheless, we shall attempt to do that and, later on, we shall discuss how we might achieve that. The points that you have raised today will be discussed further. We shall be looking at the possibility of making amendments on a range of issues. The Committee will come to some conclusions on what you have said today and make its decisions. Thank you.



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## NORTHERN IRELAND ASSEMBLY

*This report was not approved formally by the Committee prior to the suspension of the Assembly on 14 October 2002, but is published by order of the Speaker.*

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COMMITTEE OF THE CENTRE

Wednesday 11 September 2002

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### COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE BILL (NIA 20/01)

**Members present:**

Mr Poots (Chairperson)  
Mr Beggs  
Mrs E Bell  
Mr Dalton  
Mr Ervive  
Ms Lewsley  
Mr McNamee  
Mr K Robinson  
Mr Shannon

**Witnesses:**

Prof B Dickson           ) Northern Ireland  
Ms D Magill             ) Human Rights Commission

**The Chairperson:** I welcome Prof Brice Dickson and Ms Denise Magill from the Northern Ireland Human Rights Commission.

**Prof Dickson:** I wish to make it clear that the information we have provided is based on our experience as a statutory body over the past three and a half years with some responsibility to promote and protect the rights of children. It is also based on our assessment of whether we have enough powers to do such work. We recently made recommendations to the Northern Ireland Office for an increase in our powers. I also wish to stress that in all our work and in our comments on the Bill we are driven by the internationally accepted rules and principles for the protection of human rights.

With regard to the Bill, we wish to ensure that the office of the commissioner reflects international standards and best practice and that it has all the resources it needs to promote and protect equally the rights and the best interests of all children in Northern Ireland effectively. It is necessary to create an effective and powerful office from the start.

The Northern Ireland Human Rights Commission's experience has been that unless an institution has the powers and resources that it needs, it must spend a great

deal of time establishing its credibility and lobbying for additional powers.

**Mr Beggs:** The legislation covers devolved and non-devolved matters, and therefore not everything is within the gift of the Northern Ireland Assembly. Words such as "welfare" and "best interests" have been used throughout the Bill for legal reasons. In other words, it followed discussions with the Northern Ireland Office.

**Prof Dickson:** We are not aware of the Northern Ireland Office's objections, and we did not anticipate any legal difficulties in changing the wording.

**Mr Beggs:** There may not be legal difficulties, but the Northern Ireland Office's decisions may have been political.

**Prof Dickson:** Perhaps the Northern Ireland Office does not want higher standards to be applied to how reserved powers operate in Northern Ireland compared to how they operate in the rest of the United Kingdom, or at least in England and Wales. That, as you say, is a political matter. The Human Rights Commission is arguing for the highest possible standards to be applied in this part of the kingdom.

**The Chairperson:** It was the Northern Ireland Minister's intention to use the words "best interests". There was discussion with the Northern Ireland Office, and it insisted that the words should be "welfare", but the Welsh Commissioner thought that it would make no difference. However, many people are making an issue of it. What is the difference between "best interests" and "welfare" in appointing a children's commissioner and the work that he or she would have to do?

**Prof Dickson:** That is a good question. In nearly every instance, I would have thought that the welfare and best interests of the child would coincide. The point may be that the word "welfare" is used in the Children (Northern Ireland) Order 1995, whereas the "best interests" principle comes from the United Nations Convention. However, the Children (Northern Ireland) Order 1995 was enacted partly to reflect the requirements of the United Nations Convention. I for one do not appreciate any significant difference between the two terms.

**Mr Beggs:** If there is no difference why is it an issue?

**Prof Dickson:** We prefer the phrase "best interests" because it is internationally accepted.

**Ms Magill:** The United Kingdom has signed up to the United Nations Convention on the Rights of the Child, and that is the standard that it is supposed to uphold throughout the jurisdiction. It is obliged to uphold that standard, but the Northern Ireland Office appears to be looking for what it may perceive to be a lower standard.

**The Chairperson:** That is useful to know because we could have got into a spat with the Northern Ireland

Office about it. If the wording were to delay the introduction of a children's commissioner Bill, we would prefer simply to accept it.

**Mr Ervine:** No.

**The Chairperson:** We may disagree about this, but we will discuss it further. We may be prepared to accept it, as it will make no difference to the delivery of the commissioner's task when he or she is in post. You have assisted the Committee, and you will have the opportunity to develop that in a moment.

**Ms Magill:** It may pose a difficulty for the commissioner insofar as he or she is obliged, under clause 2(3)(b), to

"have regard to any relevant provisions of the United Nations Convention on the Rights of the Child".

It may pose a difficulty for the commissioner if he or she tries to apply different standards. On the one hand, the word "welfare" appears in the legislation, but the commissioner must also have regard to the standards of the United Nations Convention. It reinforces our argument that one standard should apply throughout.

**Ms Lewsley:** "Best interests" is used in all the key areas and "welfare" is used only for legal reasons. The Committee had to fight to have "best interests" included.

**Mr Dalton:** You recommend that a new section 2(3)(c) be inserted to ensure that the commissioner has regard to the full range of relevant international human rights standards above the United Nations Convention. What extra standards do you have in mind? Why should they be included?

**Prof Dickson:** Although the United Nations Convention on the Rights of the Child is a comparatively recent document, dating from 1989, it has been superseded in time and detail by other international documents dealing with the rights of minorities and the rights of employed children. One must not forget that those rights and principles change as they are interpreted by the treaty monitoring bodies. The European Convention on Human Rights is a good example of that. However, to avoid doubt, the Bill should require the commissioner to have regard to the full range of international human rights standards.

**Mr Dalton:** I understand that those other standards are a relevant part of the commissioner's interpretation and work, but I am concerned that the commissioner will be required to take every extraneous convention and international right into account. There would be a judicial review if the commissioner were unable to demonstrate that he had fulfilled every international standard. I am concerned that that would put an unnecessarily heavy burden on the commissioner.

**Prof Dickson:** One can overestimate the difficulties of keeping up to date with the international standards, as there are not many of them and they have been compiled in thin books. Not all of them deal with children.

Therefore it would not be difficult to pick out the provisions that are relevant to children and keep them close by when the commissioner is considering their applicability.

**Mr Dalton:** "Relevant" is subject to interpretation; one could argue about a provision's relevance. That is a large problem, and I am not convinced that its benefit outweighs its detriment.

**Ms Magill:** It may not be the difficulty that it appears on paper. The Northern Ireland Human Rights Commission recently studied a draft policy from the Department of Health on consent, that of children, for example. One area to be examined was the consent of children to non-therapeutic research. The European Convention on Human Rights and Biomedicine provided the exact answer that the commission needed. We would not have got that answer from the United Nations Convention on the Rights of the Child. The European Convention on Human Rights and Biomedicine was a more specific international standard stating that it is not enough to say that children should routinely be encouraged to give consent to take part in non-therapeutic research.

It is not particularly difficult to keep up to date with provisions that are relevant to children, and the Northern Ireland Human Rights Commission has not found it difficult to use general standards and specific standards in harmony.

**Mr Dalton:** The Northern Ireland Human Rights Commission recommended a new section 3(4)(b). It would read:

"The Secretary of State and the Executive Committee of the Assembly shall refer to the Commissioner all draft laws and policies proposed for Northern Ireland as early as practicable and before they are introduced to Parliament or the Assembly or made available to the general public."

You also propose an amendment to clause 3(4)(a):

"The Commissioner shall advise the Assembly whether a Bill is compatible with the rights and best interests of children and young persons."

You know of the Assembly's requirement that Bills are compatible with the European Convention on Human Rights. Indeed, the Human Rights Commission has a responsibility for that. Why should the children's commissioner also be given that extra responsibility? Does it not place an administrative burden on the commissioner that involves replicating work already undertaken by the Human Rights Commission, which already has a responsibility to make recommendations on children's rights?

**Prof Dickson:** Taking your latter point first, we do not necessarily object to two bodies advising the Assembly or the Secretary of State. The Human Rights Commission could establish an agreement with the children's commissioner as to which body will prepare comments first, and if the other body had something

supplementary to say, so be it. However, one would not duplicate the other's efforts.

On your first point, it is important that there be a duty on the Secretary of State and on the Executive Committee to refer matters to the commissioner so that he or she can decide whether there is something worthwhile to be said about new laws and policies. Our experience is that informal arrangements whereby efforts are made to provide the commissioner with information, which is at present the case with the Northern Ireland Human Rights Commission, could collapse very easily. The Northern Ireland Office or the United Kingdom Government have proposed several major initiatives, of which the Human Rights Commission has been given no specific notice.

**Mrs E Bell:** Policies should be child-proofed, and we have been trying to alert the Executive to that. The Committee feels that young people should be involved in appointing a commissioner. Do you agree?

As it stands, the Bill does not have enough teeth; perhaps it will grow some in time. Your paper states that the commissioner should have more power, including a stronger ability to recommend that cases be investigated. Should the commissioner's powers be further bolstered so that children have access and clear information on how to use the legislation?

**Prof Dickson:** Yes. I should have said at the start that the Human Rights Commission welcomes the Bill. It can be improved, and we hope that it will be, but it is certainly better than nothing and better than present arrangements. We want children and young people to be involved in the open and competitive selection for the commissioner. That would be consonant with United Nations standards on human rights.

Our proposed clauses 3(4)(a) and 3(4)(b) would, of course, increase the involvement of the commissioner at the pre-publication stage of draft laws and policies. The commissioner could influence what is put into the public domain, which would then be opened up for argument. The Human Rights Commission wanted that power and has occasionally been given it on some matters, but not generally. The Government could avoid difficulties and even embarrassment if they only asked the Human Rights Commission for advice on whether what they are proposing is compatible with international human rights standards.

**Mr K Robinson:** Our concern is that the child be protected; we all have the best interests of the child at heart, however we define those.

We were impressed with how the Norwegian Commissioner negotiated with people. He gave some graphic examples of how he engaged the confidence of children, but he was also able to bring statutory bodies and commercial interests along with him, which seemed a very effective approach.

Are we not tying ourselves down into a tight, legalistic framework? Are we trying to ensure that the statutory bodies do not wriggle about or are we ensuring that the child's best interests are fully protected?

**Prof Dickson:** It is not a choice of one or the other — both are required. Specific and tightly drafted legislation is necessary to detail what the commissioner can and cannot do. Our argument is that the commissioner should be given extensive powers. When operating in the real world, the commissioner, like the Human Rights Commission, will not always have the relevant Bill at hand but will have the needs of the children to the fore. When we talk to people we have in our minds their human rights concerns.

Our duty, and that of the new commissioner for children, is to promote awareness of rights and responsibilities; and that provides an opportunity to explain and to help people to understand what is involved — a role that the Norwegian Commissioner fulfilled very ably.

**Mr K Robinson:** We have seen, with the fair employment legislation and to some extent the Human Rights Commission, a reticence in people to engage with you because they perceive the legalistic nature of the Bill as a challenge to their role in society.

My hope is that the statutory bodies do not form a circle when they hear the words "children's commissioner" but that they will consider their own structures and any problems yet to be identified by the children. The children would then be confident that the system would not process them through a legal framework or a court but would solve their problem. I am concerned that we may be straying away from that.

**Prof Dickson:** I appreciate your concern, but I would have hoped that the concept of children's rights is not as controversial as the broader one of human rights. Certainly in Northern Ireland — *[Interruption]*.

**Mr K Robinson:** Children may have their rights infringed, but we have all lived long enough to see the possibility of someone, for whatever reason, telling a child that his or her rights have been infringed and using the child as a weapon in another context.

**Prof Dickson:** That is always possible. However, the hope is that it would be avoided in nearly every case. The concept of human rights is controversial in Northern Ireland, as the Human Rights Commission knows only too well, and political parties sometimes make use of the phrase in a way that suits them. Such a danger arises when children's rights are discussed; however, we do not disagree in Northern Ireland about what children's best interests are.

**Mr K Robinson:** I made a similar point earlier. An unfortunate consequence of this matter is that some children are badly served by the legal framework and



institutions. I return to the example of a child who is isolated at home and who may not have access to a commissioner.

**Prof Dickson:** That is why we have suggested improvements to the Bill.

**Mr K Robinson:** Will those improvements safeguard the child?

**Prof Dickson:** I hope so.

**Ms Magill:** It was suggested that statutory bodies may be reticent and close the circle against the children's commissioner. Worldwide, organisations such as ours found that when it was made clear from the outset that the new body was to have strong powers, the statutory bodies quickly recognised its role and the need to co-operate with it so that its powers — such as powers of entry — rarely need to be used. However, when the powers were not strong and were not made clear, the statutory bodies tried to test the boundaries and were less co-operative. Those experiences appear to contradict the idea that if a legalistic approach is taken people close the doors and do not co-operate.

**Mr K Robinson:** Let me give a quick example —

**The Chairperson:** Mr Robinson, we must move on.

**Mr K Robinson:** The anti-bullying policy. The Department, boards and schools all say that we must have it —

**The Chairperson:** Mr Robinson, we are moving on. Will the witnesses disregard the question so that we can move to the next one?

**Mr K Robinson:** We have a policy and have met the required stipulation, but children still get thumped in the playground. How do we prevent that?

**The Chairperson:** May we have the next question, please.

**Mr McNamee:** It has been suggested that clause 8(2)(a) be deleted. It states that a commissioner cannot exercise his power on a complaint unless he is satisfied that the complaint raises a question of principle. It was also mentioned that legislation dealing with the Equality Commission and the Human Rights Commission would include similar constraints. That could lead to unseemly and costly arguments about whether a question of principle has actually been raised. Have the Equality Commission and the Human Rights Commission been involved in such arguments? In practice, the powers granted under this clause mean virtually nothing, and that is why they have been criticised.

Secondly, it was suggested in another submission that clause 8(2)(b) be deleted because it severely restricts the commissioner in the exercise of his or her powers. That point was also made about clause 9, which would allow

the commissioner to use his powers in only a few circumstances. What are your views on that?

**Prof Dickson:** First, I cannot give you any clear examples of unseemly and costly arguments about whether an abuse is a question of principle. However, when deciding whether to grant assistance, the Human Rights Commission considers whether the request raises a question of principle. In practice, the commission finds that question difficult to answer because it is open to many interpretations. It tends to err on the side of caution and decides that it is a question of principle.

If a person is alleged to be suffering a human rights abuse, it is a serious matter for that person and for that reason it becomes a question of principle. To try to be more abstract is difficult and one leaves oneself open to judicial review by saying that X is a question of principle and Y is not. I suspect that this legislation has simply borrowed from other legislation dealing with discrimination without paying regard to the meaning of the phrase. As far as the Human Rights Commission is concerned, that phrase is more or less meaningless. When deciding whether to ask for assistance or to take any other action, one bears in mind a host of concerns and not simply whether it is a question of principle.

I am not sure that we have given particular attention to clause 8(2)(b).

**Mr McNamee:** In your submission, you state that clause 9(1):

“at present excludes the Commissioner from conducting an investigation in virtually every situation.”

**Prof Dickson:** Yes.

**Mr McNamee:** A similar point was made about clause 2(b).

**Prof Dickson:** Yes.

**The Chairperson:** Clause 8(2)(b) would preclude the commissioner from considering anything that is already within the remit of a statutory organisation that can deal with the complaint.

**Prof Dickson:** Yes. Although we have not addressed that in our paper, our view is consistent with what was said about clause 9, that clause 8(2)(b) should be deleted. However, the commissioner should have discretion about what he or she wishes to investigate. There should be no restrictions on that; at the same time there should be no duplication of the work of other organisations if that wastes public money. If anybody is to be given priority in investigating children's rights it should be a children's commissioner who will be appointed for that purpose. If people are to be excluded from investigating children's issues, it should be other organisations — not the children's commissioner.



**Mr Ervine:** The concerns of the groups that I hear from are based on the juvenile justice system, other complaints procedures that can debar the commissioner from investigating, child-only complaints and the limiting clauses in the Bill, of which there are several. When we measure ourselves against Wales we get a round of applause, but it is still not good enough. If we do not make the proposed amendments it will be a missed opportunity. My Colleague has left now, but to question you on “best interests” versus “welfare” was rather foolish. That should have been a question for the Northern Ireland Office and not for you.

I want you to agree with me about the Bill’s restrictions on the commissioner’s powers in the juvenile justice system. If a statutory agency had a complaints system that had not been used, the commissioner could not technically take the complaint until all other complaints had been exhausted. All those issues, the question of child-only complaints, coupled with the limiting clauses, add up to a missed opportunity.

**Prof Dickson:** We agree with that, if by “child-only complaint” you mean that one cannot make a complaint on behalf of a child. Complaints on behalf of a child should certainly be allowed and it would be nonsense, and not just a wasted opportunity, if children in custody in Northern Ireland could not benefit from the functions of the commissioner for children and young people.

**Mr Ervine:** Do you believe that it would be immoral for a commissioner to have knowledge of the suffering of a child or of a child’s best interests being disregarded or of a child’s rights being abused and do nothing about it because there was a so-called procedural system that had to be negotiated? Would it not be a negation of the human rights of the child to ignore that?

**Prof Dickson:** It could well be indirectly discriminatory in that most of the young people in custody in Northern Ireland are young men. For example, are they to be given less protection vis-à-vis their rights than young women not in custody who may be in a different institution and not, perhaps, in the juvenile justice system? It is wholly anomalous, to put it at its mildest, to have different systems applying to children in different institutions in Northern Ireland.

**Ms Magill:** We stress that under the United Kingdom’s obligations, which apply to the devolved Administration as well, the United Nations Convention on the Rights of the Child applies to all children. It is difficult for the Assembly to pass legislation that provides a higher standard of protection to children who are subject to institutions of the devolved Administration than those that administer non-devolved matters.

**Ms Lewsley:** Some strong cases were made during negotiations with the Northern Ireland Office, but the problem is that we do not have any control over it. We

are not happy with what we have, but it is better than what we would have achieved had we not fought as hard as we did. Until certain reserved matters are our responsibility, some of these issues will not be fully resolved. We may get more leeway; we may not. Those in the juvenile justice system, asylum-seekers and refugees may also be excluded.

The Welsh Commissioner was delighted with our Bill because it gives us more powers than Wales could ever have dreamed of. We raised the matter of individual cases and asked whether a commissioner could get bogged down by looking at the case of every child that came to him, whether the case had gone through procedures or not. The commissioner said that he assesses whether the procedures have been complied with when a child comes to his office and that his office will provide the child with guidance in his case.

Perhaps our commissioner could go one step further by maintaining contact or by having an evaluation to ensure that the child went through a system; that the child could make a complaint and that the case either came to a conclusion or would be referred to the commissioner.

You draw attention to the duplication of assistance and state that clauses 7(3) and 7(4) should be deleted. The Committee believes that the Northern Ireland Human Rights Commission should have a role in the office of the commissioner for children. At that time, you suggested that a memorandum of understanding be drawn up to ensure that if the Human Rights Commission were to deal with a complaint from a young person or child, the commissioner would not duplicate the work. There would be an understanding between the two organisations.

**Prof Dickson:** We agree with that. There should be a memorandum of understanding between the children’s commissioner and the Human Rights Commission. We do not follow the logic of the Northern Ireland Office that the Bill must contain a provision amending the Northern Ireland Act 1998, which governs the Human Rights Commission, for otherwise we could be duplicating the work of the children’s commissioner. If that reasoning were right, the Northern Ireland Act 1998 ought to be amended in other respects, because we already overlap with the powers of the Police Ombudsman and the powers of the Equality Commission as well as many other bodies. Naturally, we do not trespass on their areas if that duplicates their work and wastes public money.

**The Chairperson:** Why should clause 11(4) and 11(5) be deleted?

**Prof Dickson:** We see no need to draw a rigid distinction between the investigative and casework roles of the commissioner. Where the commissioner has been involved in an investigation and then wishes to be involved in litigation on the same case, steps can be taken to ensure that information obtained during the investigation is not improperly used in litigation. In any event, at the

litigation stage, the commissioner will have powers of discovering documents that have been obtained during an investigation. This clause deals with a hypothetical problem. If such a problem exists, it can be dealt with in other ways.

**The Chairperson:** Are you content that no one against whom a complaint had been made might say that he or she had been the subject of an investigation by the children's commissioner and that the commissioner was now his or her advocate? Are you content that there would be no infringement of that person's human rights?

**Prof Dickson:** We considered that carefully when preparing our submission. We are confident of complying with article 6 of the European Convention on Human Rights, which deals with fair hearings. We want to see exactly what mechanisms the children's commissioner has for separating the investigative role from the litigation role. If a person is unfairly affected by the commissioner's

dual role, we shall comment on the commissioner's intended procedures. In principle, we see no objection.

**The Chairperson:** Does the Committee still wish to delete clause 11(4) and 11(5)? Could it perhaps be amended to cover such contingencies?

**Prof Dickson:** The exclusion created by 11(4) and 11(5) is much too broad and too wide-ranging; it deprives the children's commissioner of a hugely important role. It should be deleted, not amended.

**The Chairperson:** Thank you very much. Today's meeting has been very useful, and we appreciate your evidence.

Do Members wish that the Northern Ireland Office be requested to attend the Committee to discuss amending the legislation?

*Members indicated assent.*

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## NORTHERN IRELAND ASSEMBLY

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### COMMITTEE FOR ENTERPRISE, TRADE AND INVESTMENT

Wednesday 11 September 2002

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### INSOLVENCY BILL (NIA 14/01)

**Members present:**

Mr Neeson (Deputy Chairperson)  
Mr Clyde  
Ms Morrice  
Dr O'Hagan  
Mr Wells

**The Deputy Chairperson:** The Committee has already dealt with the Insolvency Bill in two previous sessions. Comments have been received from the Minister of Enterprise, Trade and Investment, the Equality Commission and the Assembly's legal adviser, particularly in regard to clause 8 of the Bill.

I am aware that some Committee members still have difficulty with clause 8, and we must examine that. You may remember that, when officials appeared before the Committee last week, amendments were put forward. There were no problems with those; it was a matter of tidying up the situation. Let us now deal specifically with clause 8.

**Ms Morrice:** I apologise for having been absent at the last session of the meeting at which the matter was discussed. I still have concerns. It is very useful to have had the Minister's interpretation, and I appreciated his explanation. I took on board the points made by the Equality Commission and by our legal adviser.

The legal adviser's points are possibly the most interesting, and one of those gives us an opening. It is interesting that in his letter of 29 August, the Minister states that he accepts that the potential adverse consequences of clause 8 are likely to fall more heavily on women. It is important that the Minister has recognised that, and the Committee should not allow it to happen. Are the resources available to insert an amendment to clause 8 so that there is no question of more women than men suffering adversely?

**The Committee Clerk:** The Committee has two options. First, if the Committee is not content with the clause as it stands it can propose an amendment. The clause is drafted in such a way that nothing in it pertains

to a widow whose partner was declared insolvent following his demise.

Secondly, the Committee could oppose the clause, which would remove the question of joint tenancies. That means leaving a gap in the legislation.

The Committee must decide whether to propose an amendment. There are complications in that. Should that refer only to domestic properties, or should it also refer to business properties? There is the question of whether benefit should be given to the widow of someone who was insolvent or to that person's creditors.

Ms Morrice mentioned resources. Currently, there are none available to Committees for drafting. However, the Secretariat staff, with legal advice, draft proposals for amendments for Committees.

**Mr Wells:** There is a principle to consider. If the property is a business property, I see no problem with the estate having the right to seize it. The amendment would apply simply to the matrimonial home. That is a reasonable stance to take and would further eliminate opportunities for the amendment to cause any difficulties. However, if Mr and Mrs Smith are extremely wealthy, and she owns 40% of the business, there is no discrimination in taking that into account if the business goes bust. That principle will apply if she has recently lost her husband and is left at home with three children. Is that a possible middle way to get round the suggested difficulties?

We must also ask whether we have time to do it. How tight is the deadline on this legislation?

**The Committee Clerk:** Consideration Stage of the Bill is currently scheduled for 23 September, but that will be adhered to only if the Committee deliberations have been completed by today or next week. As with any Bill, the Business Committee decides the schedule for the following week's business on Tuesdays, and Order Papers are issued on Wednesdays. There are one and a half days to table amendments. This is exactly the same time as for any other Bill.

**Mr Wells:** How long would it take for an amendment to be drafted?

**The Committee Clerk:** The amendment would be drafted in time for it to be laid by 4.30 pm on the Thursday afternoon.

However, I issue a word of caution. The amendment may not be fully competent, but were it to be passed by the Assembly, we hope that, at the next stage, the Executive would recognise the will of the Assembly. If the amendment were in any way flawed, the Executive's draftsmen would work at it so that, at Further Consideration Stage, a fully competent amendment could be laid to the Bill.

**Mr Wells:** All we are talking about is such property that will not include the matrimonial home.

**Ms Morrice:** Exactly.

**The Committee Clerk:** The amendment will only apply to the matrimonial home in cases in which joint tenancy applies.

**The Deputy Chairperson:** Can we be clear about what we want to achieve? Ms Morrice, are you satisfied that the amendment will only include the matrimonial home?

**Ms Morrice:** I agree with Mr Wells. The separation is useful. The problem is that, in the majority of cases, it is a woman whose husband has died and is bankrupt. If she is joint tenant of the home, she must find the money to pay the creditors for his half of the home. That is my understanding of it.

If there are difficulties between the creditors and the wife, the creditors will be at a disadvantage — which has been pointed out here — because the amendment will not allow them to use the funds of the half-share of the property. The difference between the creditors and the widow in this case is that the widow has not only lost the money from the business, but she has also lost her husband. That is an additional burden, which should be taken into account. The fact is that, in the majority of cases, it is a woman who is in that situation and not a man. That may indeed change, but it implies a certain discrimination against women. It would be very useful to see what amendment we can devise to exclude the matrimonial home from the clause and ensure that it is legally compatible.

**The Deputy Chairperson:** I have just been reminded of a related issue about the complications that could arise if a man were in the same situation and his wife were bankrupt.

**Ms Morrice:** The problem relates to the loss rather than to the gender of the person. In this case, the discrimination or the adverse consequences would affect women more than men. I agree that we should not think that it is only women who are in that situation; men could also be affected.

**Dr O'Hagan:** I am doubtful about the status of the relationship. Perhaps we should not specify “the matrimonial home”, for people are in long-term relationships without being married; something of that sort may need consideration.

**Mr Wells:** Is there no protection for unmarried people? That is the difficulty — there is no protection at all for common-law relationships regarding intestacy

and property. That is the great gap in the legislation. If one is not married, the spouse is entitled to nothing. That is being examined, but as things stand, the partner does not exist as far as the law on property rights is concerned.

**The Deputy Chairperson:** Would it be possible to extend the Committee Stage?

**The Committee Clerk:** I presume so.

**Ms Morrice:** Do we need an extension if an amendment can be drawn up?

**The Committee Clerk:** An extension is unnecessary in such circumstances, Mr Chairperson, because the Committee Stage is due to conclude at the beginning of October 2002. If the Committee agrees the report today, that would mean that it would have at least two or three weeks to sort out and approve the agreed amendment.

**The Deputy Chairperson:** Is the Committee consensus that an amendment is necessary to address the issues raised by members? Might we ask the Committee Clerk to examine it and suggest possible amendments at the next meeting of the Committee?

*Members indicated assent*

**The Deputy Chairperson:** Must we still agree the report today?

**The Committee Clerk:** The draft report does not go into detail; it simply says that the Committee considers that clause 8 should be amended, which is adequate.

**The Deputy Chairperson:** Can we also agree the amendments that we brought forward last week? There were no problems at the time. Could someone make a formal proposal?

**Mr Wells:** Yes.

**Ms Morrice:** I second that. I would like to clarify the points raised by Dr O'Hagan and Mr Wells on the wording “matrimonial home” and common law. A background note on the situation for unmarried couples would be useful.

**The Committee Clerk:** There should be a legal definition.

**Ms Morrice:** I assume that along with the proposed amendment we shall receive information on how it affects couples' long-term relationships.

**The Chairperson:** With the proviso that the Committee will bring forward an amendment, can we agree the report?

*Members indicated assent.*



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**NORTHERN IRELAND  
ASSEMBLY**

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**COMMITTEE FOR EDUCATION**

Thursday 12 September 2002

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**EDUCATION AND LIBRARIES BILL  
(NIA 21/01)**

**Members present:**

Mr Gibson (Acting Chairperson)  
Mrs E Bell  
Mr Gallagher  
Mr McHugh  
Mr McLaughlin  
Mr K Robinson

**Witnesses:**

Ms J Ingram )  
Ms I Murphy ) Department of Education  
Mr J Leonard )

**The Acting Chairperson:** I welcome Ms June Ingram, Ms Irene Murphy and Mr John Leonard from the Department of Education to this morning's Committee session. The officials will give the Committee a briefing on clauses 18, 19, 20 and 31 of the Education and Libraries Bill, and Members will have an opportunity to ask questions.

**Ms Ingram:** There are two parts to clause 18. First, it provides for independent admissions appeal tribunals to continue to be heard in private. The other part amends existing provisions requiring boards to make payments for travel or subsistence allowances to members of an admission appeal tribunal in conditions, and at such rates, as the board may determine. These will be approved by the Department — as opposed to “as determined by the Department”.

**The Acting Chairperson:** Do tribunals usually take place in private?

**Mr Leonard:** Yes.

**The Acting Chairperson:** Why is it necessary to legislate for that?

**Mr Leonard:** It has always been in the Regulations, but on advice from the Examiner of Statutory Rules the Department thought that it would be better to have the power in the primary legislation, which has been the situation in England and Wales since 1996.

**The Acting Chairperson:** Have the Regulations been laid before the Assembly?

**Mr Leonard:** The Regulations are made under the Education (Northern Ireland) Order 1997.

**The Acting Chairperson:** I am aware that the primary legislation cedes these Regulations, but do you deem it necessary for the Regulations to be laid before the Assembly?

**Mr Leonard:** The Regulations are already in place under the Education (Northern Ireland) Order 1997.

**The Acting Chairperson:** I apologise for my ignorance.

**Mrs E Bell:** Human rights issues must be associated with public and private tribunals. Has this been considered?

**Mr Leonard:** That has been taken into account. Sensitive matters, such as family and medical issues, are brought forward at these appeals, and there are good reasons for the tribunals being held in private.

**Mrs E Bell:** I have been involved in tribunals, so I understand and have no problem with that. However, a human rights group might say that tribunals should be transparent and open. Is that possibility adequately covered in the Bill?

**Ms Ingram:** We are aware of the principle that the tribunal should, where possible, be held in public.

**The Acting Chairperson:** Is it necessary for all the tribunals to sit in private? I understand that some of the issues are sensitive and delicate, but does that apply to all the issues?

**Mr Leonard:** Usually the tribunal is hearing reasons why a school has refused admission to a child. Parents put forward their case for that decision to be overturned, and that usually contains information on family and medical circumstances. Therefore, most appeals involve information of a sensitive nature.

**Mr Gallagher:** I appreciate that there are occasions when there is some sensitive information. However, many parents feel that one of the biggest problems is the secrecy surrounding appeals. Parents do not know the personnel involved, or anything about the appeal's format, and I am concerned that there is too much secrecy. There is a difference between sensitive information and the secretive way that the appeals are conducted, and I favour more openness. Except when the tribunal chairperson judges that part of the proceedings should take place in camera or committee, there should be a facility for the public to attend if they so wish. Not many will, but I would like to see an amendment to the way that tribunals have been conducted up to now.

There is much discontent around these appeals, both from the children involved and the schools awaiting decisions, and the current time frame seems to be loose.

Boards have the ultimate responsibility for ensuring that appeals are heard, but there is no date by which they must be heard. That is unsatisfactory for the schools, the children and their parents who are waiting week after week. Is it possible to include a time frame in which these appeals must take place in the legislation?

**Mr Leonard:** The current legislation gives boards the power to make arrangements for the appeals, which is done within a tight timetable. Pupils return to school on 1 September, and when parents are notified of their school placement at the beginning of June, there is a three-month period for the appeal process to take place. After 1 June, there is usually a two- to three-week period when parents must give notice of their intention to appeal. After that, boards know how many appeals they are dealing with and have the appeals procedures in place towards the end of June and July, when most of the appeal tribunals sit. There is already a carefully timetabled procedure for appeals.

**Mr Gallagher:** I do not see that working. At least two people have come to me about appeals that dragged into the middle of August. I cannot quote the cases, but one of the dates ended up being after 19 August, which is too late and unsatisfactory from everyone's point of view. Is the timetable in the legislation, as it is not in practice on the ground?

**Mr Leonard:** A broad open enrolment timetable, which includes the procedure for dealing with appeals, is sent to schools every year. Boards are constrained by the time they have to hear the appeals. Some may drag into August for good reasons, such as trying to establish an appeal tribunal. The vast majority of appeals are held in June or July.

**Mr Gallagher:** They all should be held then, and the legislation should ensure that.

**The Acting Chairperson:** A predictable reaction time should be included in legislation.

I want to push you a little on the point of the legislation favouring tribunals being held in private. I would always want them held in public, unless there were burning issues forcing them to be held privately. Can you prove to me that the burden of evidence should be for private hearings?

**Mrs E Bell:** I have been quite heavily involved in tribunals, and share Tommy Gallagher's concern. Although I appreciate Mr Leonard's point about timetabling, if possible it should be included more explicitly in the legislation so that people are aware of the timescales.

One of my concerns is that many people will not actually appeal if the hearing is automatically in public. Everybody here probably has knowledge of cases, and I know of several cases where parents would not want the circumstances to be heard at a public tribunal. Although

in principle hearings should be in public, we should allow private hearings if necessary.

The problem as I see it, and I agree with Mr Gallagher here, is that the procedure is not really here, and parents really do not know what to expect. People have asked me what they should do about various problems — my child wanted into this school, my child had a good reason for failing the 11 plus, or my child should have really had an 'A' but actually ended up with a 'D' because of the circumstances of the day. These problems are not really covered in the legislation, and if all that has been taken into account, what Mr Gallagher is saying is quite right.

There should be some rationale for these tribunals so that children and parents know what to expect. On hearings in public or private, I have reservations about them all being heard in public. The principle is that they should be in public if possible, so that people know what is happening. However, they should be private if the parent does not wish it to happen in public.

**Mr Leonard:** Some very delicate information comes forward at the appeals.

**The Acting Chairperson:** Clause 18(2) and (3) changes subsistence payments from the Department to the boards. Does that mean that every board can fix its own rate? I would want a higher mileage rate for the west of the Province, so would it not be safer to have a standard rate?

**Mr Leonard:** The rate is determined by the board and approved by the Department. There is an approval role.

**The Acting Chairperson:** Is this a convoluted way of saying it is a fixed rate?

**Mr Leonard:** At present the Department has determined the rates that all boards apply.

**The Acting Chairperson:** I presume the rate is fixed fairly at a nominal rate, so why bring the boards in to complicate it?

**Ms Ingram:** There is a general principle of delegating more to the boards, which is reflected in other provisions, and this is really a read across.

**The Acting Chairperson:** I am just trying to avoid the situation where the west would be penalised with 5p a mile, and the opulent, luxurious east would get something like 50p a mile?

**Mrs E Bell:** I am just wary about giving any more approvals to the Department.

**The Acting Chairperson:** This will obviously be more bureaucratic, so will it be cost-effective?

**Mr Leonard:** This change is part of a general move to delegate from the Department to the boards.

**Mrs E Bell:** Yes, but it then has to be referred back again.

**The Acting Chairperson:** Before I get my mileage somebody in the Western Education and Library Board has to stamp my card, and then it has to go up to the Department. The Department posts it back and then someone in the board checks to see if it is correct. If it is wrong, somebody has to give the approval of the board to make the correction. It then has to go back to the Department and be returned to the board again. By the time I get the money Christmas is over.

**Ms Ingram:** We will not be looking at the travel claims as such.

**The Acting Chairperson:** I am thinking of some poor innocent struggling out of the heart of the Sperrins to attend a tribunal. Money, even though it may be a small amount, is crucial to them, and the speed at which they are reimbursed matters. They have paid for this in advance.

**Ms Ingram:** We will want to take consistency into account.

Clause 19 provides for parents to express, in order of preference, on a single application form, the schools in which they wish pre-school education to be provided for the child. It is designed to remove the significant administrative problems that arise from the current system of multiple applications.

**Mrs E Bell:** I would welcome that. Schools anticipate an intake because of people making applications. Perhaps it is wrong for the school to make assumptions, but they do, and it then transpires that the child went to another school. Will the boards require extra funding to carry out the changes, or will it be in their budget allocation?

**Ms Ingram:** The boards have raised the question of resources, and we will discuss that with them.

**The Acting Chairperson:** The Southern Education and Library Board said that they wanted more time, so should we amend the legislation to give more time to introduce the system?

**Ms Ingram:** We will keep an eye on that as the Bill progresses.

**The Acting Chairperson:** The burning question is consultation with the boards. We noted the Southern Board's comment, but you have consulted other boards. Are you happy that the timescale can be implemented, and is the legislation practical?

**Ms Ingram:** Concerns have been raised about the practicability of the timetable in the context of the progress of the Bill. We will keep a close eye on that as the Bill progresses and, if necessary, we will amend the Bill in order to delay the introduction.

**The Acting Chairperson:** Will the boards be funded for this, or is there an allowance already in the budget?

**Ms Ingram:** Currently, there is nothing specific in the budget. However, we will discuss resources for implementation with the boards.

**The Acting Chairperson:** Can you guarantee consistency across all boards? The issue has been raised of one board being more favourable to a certain condition, so how do we ensure consistency across the boards?

**Mr Leonard:** The boards are careful about other open enrolment issues, such as primary and post-primary, and the same will apply to pre-schools. All the board transfer officers will get together and ensure that the arrangements are uniform across Northern Ireland.

**Mr McLaughlin:** Is that a voluntary arrangement, or is it covered by Regulation?

**Mr Leonard:** It is a voluntary arrangement. It is in their own interest to ensure total consistency because parents apply across board boundaries to different schools.

**Mr McLaughlin:** Has that consistency been delivered in practice?

**Mr Leonard:** It has been delivered since the introduction of open enrolment.

**The Acting Chairperson:** Is the role of the board of governors affected?

**Mr Leonard:** That role remains unchanged. The board of governors remain the key authority in admissions decisions, and education and library boards act as a clearing house to facilitate school preferences. The schools decide admissions based on their criteria.

**The Acting Chairperson:** Why should a parent be asked to give reasons for their choice? The choice of a school is a private, domestic matter, so what right has anyone to ask for reasons? Perhaps that is a peculiar point of view, but it is sometimes raised.

**Mr Leonard:** That is a relevant point, and it comes up in other cases of open enrolment to primary and post-primary schools. There are popular schools, which are oversubscribed with applications, and this gives parents an opportunity to refer to something relevant to the admissions criteria that could make a difference to their child being selected — that is the rationale.

**Mr Gallagher:** Who will give parents the application forms, and where do they forward those to under the new Regulations?

**Mr Leonard:** They will get the application forms from the schools; state their choices on the form and forward it to the first-choice school. The school will forward it to the board, which will begin the clearing process.

**The Acting Chairperson:** What happens if, with the best intentions in the world, a board of governors sets flawed criteria? Who takes the blame — the board or the Department?

**Mr Leonard:** By law, admissions criteria are a matter for the board of governors.

**The Acting Chairperson:** A board could produce criteria that are incompetent, or which breach human rights and could be legally challenged. The civil, decent people who serve on those boards, and who have volunteered to take on extra administrative work, could find themselves culpable in law.

**Mr Leonard:** That sometimes happens in other sectors, and the Department has issued guidance to schools on what is to be included or excluded from the criteria. That is in the legislation. For example, the Department may spot a possible fault in the criteria outlined in a booklet that is due to be published for parents, and, in such instances, the Department would advise the board of governors that there is a potential problem.

**The Acting Chairperson:** Recently, I was involved in a case where the problem was not a fault contained in the criteria, but an omission from them. A vicious-minded parent would not have let it rest there, and the Department must be aware of such problems.

**Mr K Robinson:** Going to nursery school is a child's first step away from home, and it is an emotional experience for everyone concerned. Will anything in the proposed changes ease the emotional distress felt by the children and parents, or assist school governors who may find themselves omitting something and committing some sort of misdemeanour? Is that distress acknowledged in the Bill, and did awareness of that highly charged emotional situation influence the drafting?

**Ms Ingram:** The purpose of the provision is to streamline the process as much as possible so that parents are not receiving offers from several different schools, which slows down the process. Are you referring to the entry into nursery school and the settling-in period?

**Mr K Robinson:** The settling-in period is a matter for the teachers and staff of the school. I am concerned about the panic that parents feel, particularly those with a child entering the system for the first time. They are faced with the formality of the process and gossip from the rumour mill. The process seems fairly simple, according to the legislation, but on the ground the process is complicated and emotional for parents, and their feelings could be transferred to their child.

**Ms Ingram:** Books containing contact information are issued, and board officers make themselves available to help parents through the process.

**Mr McHugh:** Often, parents apply for nursery places for their two-year-olds, and, as a result, three- and four-

year-olds sometimes do not get places. Is that issue dealt with in the Bill?

**Ms Ingram:** Nigel McCormick will deal with that issue in the next evidence session.

Clause 20 empowers the boards to make arrangements for the admission of a child from outside Northern Ireland to a vacant place in a special school within their areas, and to charge for the place.

**The Acting Chairperson:** Why did you leave out special units, learning support centres and mainstream schools?

**Ms Murphy:** The purpose of the clause is to focus on children with significant special educational needs, and, in particular, schools for children with severe learning difficulties, which might be experiencing pressures. In the main, children attending units in mainstream schools have less significant educational needs, and could be accommodated in mainstream schools or other specialist schools in their own areas.

**The Acting Chairperson:** I am unsure about that. Many of the specialist units, particularly in my area, are in mainstream schools. Is that common?

**Ms Murphy:** In practice, there has not been any pressure on education and library boards or requests from other jurisdictions for places other than in special schools.

**The Acting Chairperson:** Is that a reasonable response? We are drafting legislation for the present, but we should also be able to anticipate for the future. Although there may be a demand for special units, if several units are attached to mainstream schools it can easily be seen that the emphasis could be placed on those other provisions.

**Ms Murphy:** Education and library boards have a direct funding relationship with special schools, which they do not have with mainstream schools. Currently there is no provision for ordinary grant-aided schools to set fees. The provision is a means by which special schools can accommodate children with severe learning difficulties.

**The Acting Chairperson:** Will the boards recoup the costs?

**Ms Murphy:** The boards will recoup the costs incurred.

**Mrs E Bell:** The legislation should be as clear as possible, not only to people drafting and implementing it, but also to parents and others affected by it. This provision will create many problems. Parents of children with any special needs or difficulties are very sensitive, and will be unhappy if they think that there is a clause for one set of schools and not for another.

Many problems that we encounter are from parents of children in units, rather than parents of children in special schools. The provision should be made clearer,



as it is the Government's policy for such children to be mainstreamed. Therefore, it would help the Government if it were clear that the provision is intended only for children with severe needs. I appreciate and welcome the provision, but it must be made clearer.

Will the boards take into account costs incurred by parents? For example, if a child moves from Bristol to attend Clifton Special School in Bangor, would it be incumbent on the relevant council to share part of those costs?

**Ms Murphy:** The cost would not be attributed to the parents, but to the education authority responsible for the special education needs provision for that child.

**Mrs E Bell:** My initial reaction is what happens to the parents. Many people are beginning to look at legislation here because it is "our" legislation, so it is in all our interests to make legislation clear. Although I welcome the provision, I want those points taken on board.

**Mr K Robinson:** Reimbursement from another part of the UK is possible. Is it also possible if a child comes from the Irish Republic, which is the most likely place from where a child will come to avail of special education in Northern Ireland?

**Ms Murphy:** Yes. We have consulted the Department of Education and Science on that. In practice, the numbers of children from there who receive special education here are very small, and are primarily placed in the Western and Southern Education and Library Boards. The Department of Education and Science would welcome the opportunity, but only where it is experiencing difficulty in placing children in schools within authorities there.

**The Acting Chairperson:** It must be made clear in the legislation that it refers to children with significant special needs. It is not abundantly clear that this refers to children with significant special needs, and we are all aware of the difficulty, regardless of whether we use that term. We must tidy up that section.

**Ms Murphy:** This would apply to children eligible for admission to special schools, rather than special units. We need the provision to be made by the special schools.

**Mr McLaughlin:** Would those schools qualify under the existing system?

**Mrs E Bell:** Will the criteria be clear to everyone?

**Ms Murphy:** Yes is the answer to both questions.

**The Acting Chairperson:** Will you consider this point again, as I do not think that it will be abundantly clear to the ordinary person? Also, can you reassure us about clause 20(4) and (5)? Will the boards be able to recover the teaching costs?

**Ms Murphy:** The boards will be able to recover any appropriate costs necessary to meet the needs of the child.

**The Acting Chairperson:** The Northern Ireland Human Rights Commission sent you a submission making various recommendations and suggestions. Will you give us your response?

**Ms Ingram:** We received that document at 9.00 am this morning.

**The Acting Chairperson:** Ours arrived at the same time. The Northern Ireland Human Rights Commission makes some worthy points about clause 20(2).

**Mrs E Bell:** I agree with their amendments.

**The Acting Chairperson:** The Northern Ireland Human Rights Commission has suggested two additional paragraphs. Will you come back to us on that, please?

**Ms Murphy:** From what we have read so far, the main issue centres on enrolling the child for one year at a time. In drafting this, we were mindful of what was required of the education and library boards, which have a qualified duty under the legislation to make provision for children who are resident in their area. Also, children who enter that type of school would first attend at not just aged three, four or five, but could do so at any stage. Therefore the boards may not be aware at any given time of children who come to them in subsequent years.

**The Acting Chairperson:** Will you come back to us on that point?

**Ms Ingram:** Clause 31 requires that all members of the Council for Catholic Maintained Schools (CCMS) be appointed at the same time. This will remove a cumbersome process of appointment, which has previously been staggered.

**The Acting Chairperson:** CCMS has not raised any points with us.

**Ms Ingram:** It wants that new system to be put in place.

**The Acting Chairperson:** CCMS has suggested that school admission numbers should factor in considerations of the treatment of children, which is also mentioned in the Bill. Do you have any comment on that?

**Ms Ingram:** That is a much wider issue, and we can comment if that helps.

**Mr Leonard:** Under the current legislation, statemented children are over and above the open enrolment arrangements, and are not counted against the school's admission or enrolment numbers. The CCMS suggests that those children be counted against the enrolment numbers, which is the post-year 8 figure. We treat statemented children as supernumerary, because by virtue of being statemented they are in a special category. We

do not penalise the school by counting them against their enrolment number. If we do that, other local pupils cannot be admitted to the school. The practice, which has always been welcomed by the schools, is that statemented children are treated over and above the approved enrolment numbers, which is important.

**Ms Ingram:** That proposal is new to us, and we will consult with CCMS on it.

**The Acting Chairperson:** This should be given serious consideration. I would not treat this lightly and would like you to give us more of your thoughts on that to ensure that we have covered that sensitively.

That concludes our deliberations on clauses 18, 19, 20 and 31 for today. I thank you all very sincerely for your answers.

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**NORTHERN IRELAND  
ASSEMBLY**

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**COMMITTEE FOR EDUCATION**

Thursday 12 September 2002

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**EDUCATION AND LIBRARIES BILL  
(NIA 21/01)**

**Members present:**

Mr Gibson (Acting Chairperson)  
Mrs E Bell  
Mr Gallagher  
Mr McHugh  
Mr McLaughlin  
Mr K Robinson

**Witnesses:**

Mr N McCormick                   ) Department of Education  
Mr B Fitzsimmons               )

**The Acting Chairperson:** Good morning. Today I should like to deal with clauses 22 and 26. The Northern Ireland Pre-school Playgroup Association (NIPPA) and the Council for Catholic Maintained Schools (CCMS) raised issues concerning the funding of nursery schools for two-year-olds, as Mr McHugh mentioned.

**Mr McCormick:** Clause 22 concerns development proposals for grant-aided schools. It is in essence a procedural rather than a substantive change, and its aim is to reflect good practice recommended by the Department regarding consultation on development proposals aimed at ensuring people's wishes are reflected in the statutory provisions.

**Mr K Robinson:** If that is the case, it is to be welcomed.

**The Acting Chairperson:** Must clause 22 be amended to prevent boards duplicating consultation on maintained schools?

**Mr McCormick:** No. I saw the CCMS's statement. Clause 22 replaces article 14(5) of the Education and Libraries (Northern Ireland) Order 1986 to deal with maintained schools and 14(5A) to deal with controlled schools or where the Department issues a direction to the board to make a development proposal. It is intended that school authorities be consulted only once; in the case of maintained or other voluntary schools, it will be done by the trustees or the school authorities. It will then be submitted to the board, which will consult other schools. Article 14(5B) states that

"the board shall consult the trustees and managers (or representatives of them) of any other school".

The intention is that the school subject to the development proposal will be consulted once, but the board will have responsibility for ensuring that other schools are consulted as well.

**The Acting Chairperson:** Save the Children had concerns about the words "representatives of them" in clause 22, substituting articles 14(5) and 14(5A) of the Education and Libraries (Northern Ireland) Order 1986.

**Mr McCormick:** We were not sure what Save the Children intended, since both 14(5) and 14(5A) contain the words "or representatives of them"; we thought that the issue was addressed in the clause as drafted.

**The Acting Chairperson:** Does article 14(5B) require the board to consult only the trustees?

**Mr McCormick:** Trustees, managers or their representatives.

**The Acting Chairperson:** Is there no duty to consult teachers or parents?

**Mr McCormick:** No. If a school is subject to development proposals, the parents have a direct interest, as do the teachers. In other schools it tends to be the management that is affected by the development proposals. Development proposals submitted by the board to the Department are subject to an objection period, which is a further safeguard for people to make their views known. Parents and teachers of other schools can use the objection period to make their views known directly to the Department.

**The Acting Chairperson:** Is there a formal channel for doing so?

**Mr McCormick:** Yes. There is a statutory requirement for a two-month period after publication of the development proposal for objections to be made to the Department.

**Mr K Robinson:** Do parents and teachers make wide use of it?

**Mr McCormick:** Yes, although of course it varies. In some cases it is very extensively used; in others less so. Mostly it tends to be the subject school rather than parents whose children attend other schools. Objections from other schools tend to be from the school authority or the school management. There are not many parents from other schools.

**Mr K Robinson:** I do not want to disadvantage teachers in any way. They might perceive themselves to be under more scrutiny in such a sensitive situation. Do teachers use that facility, or do unions speak on their behalf?

**Mr McCormick:** Are you referring to the objection period?

**Mr K Robinson:** Yes, that is what I mean.

**Mr McCormick:** It has been known. Over the objection period, the majority of views tend to come from parents connected with the schools involved, but teachers also make their views known.

**The Acting Chairperson:** If a proposal is submitted to the board of a grant-aided school, is there a legislative requirement for the proposers to show that a consultation process has been carried out around it? Some form of consultation needs to take place.

**Mr McCormick:** Yes. We are now putting good practice onto a statutory footing. If a development proposal is made, consultation with the key stakeholders will take place before the proposal is published.

**The Acting Chairperson:** Are there any questions on clause 22?

**Mrs E Bell:** Sorry, but I was out of the room. Have the process for consultation and the issue of maintained schools been covered?

**The Acting Chairperson:** Yes, that was one of the first issues we dealt with.

**Mrs E Bell:** People have been asking me about that situation.

**The Acting Chairperson:** Will clause 26 enable trustees and boards of governors to make payments after the termination of the contract? The CCMS has received advice that the clause does not go far enough, as it states that the relevant authority can make payments

“during the term of the contract or on its termination.”

**Mr McCormick:** Yes. We were made aware of that from the return made to the Education Committee. The legal adviser who briefed the CCMS was involved in the discussion about the need for this clause and how it was to be drafted, and we are in ongoing dialogue with the CCMS. There is no dispute about the scope or intent of the clause. The principle is that the legislation as currently drafted covers most of the costs of PPP contracts where they are held by the trustees of voluntary schools. However, some costs can fall outside the term of such contracts, and the current legislation does not cover those costs being paid by the trustees through grant. It is therefore intended that the legislation be extended to cover those situations; there is agreement on that.

The difference of opinion arises as to whether that form of words is the clearest way to present the issue, and the contentious phrase is “on termination”. The point which the CCMS and the legal adviser made is that the legislation is intended to ensure that costs be paid either on termination or beyond termination of the contract. We must return to the draughtsman and find out if there is a clearer form of words.

**The Acting Chairperson:** I have a major concern about whether many more PPPs or PFIs are initiated. They are long-running, 25-year affairs, so does the board’s commitment change? For the sake of argument, if financial difficulties arise in Northern Ireland, the PPPs and PFIs have the first call, and every other school project could be sadly squeezed. The demands for the PPPs and PFIs are set in stone. In that situation, who carries the can here? Is it the boards or the Departments — or does the boards’ role change?

**Mr McCormick:** Clause 26 does not change the principles or commitments of the boards in relation to PPPs. It makes it clear that some cash properly due under the contract may have become so after the term of the contract had expired. In that sense, it does not change the principle that any cash properly due under the contract is payable. That principle is already in the legislation.

As regards the point about it being a commitment over and above the resourcing of non-PFI schools, PPP contracts are like any other. They are contractual commitments into which people enter. In that sense, it is a contractual commitment in a way that the direct resourcing of schools is not; that is not peculiar to PPP. On the other hand, in making a contractual commitment to pay, you also receive a contractual commitment for the school’s maintenance to certain specified standards. Maintenance costs can be increased or decreased in schools not resourced under a contract, which is not the case under a PPP contract. It is not all one-way traffic.

**The Acting Chairperson:** I ask you to re-examine the wording of clause 26, about which there is general concern. There is a limited amount of money available for capital building at any time. We do not want to allow the boards to carry the can. That might be where the contract stays, but who honours the contract? Is it the board? Is it the Department? All the money originates in the Department. We must be careful about this; the wording must be checked.

**Mr McCormick:** Boards are responsible for the maintenance of maintained schools. The present proposal simply turns that into a PPP contract arrangement.

**The Acting Chairperson:** You are going to come back on that.

**Mr K Robinson:** The North Eastern Education and Library Board expressed concern in its submission that non-PFI and non-PPP schools will be subsidising such contracts. That is a serious situation.

**The Acting Chairperson:** That is the general fear.

**Mr McCormick:** I appreciate that. The concern, however, is about the use of PPP rather than the clause before us. The clause does not change the principle, which is already in the legislation.



**Mr K Robinson:** The board has highlighted its concerns in its submission.

**Mr McCormick:** Even if the clause did not go ahead, its concern would not change.

**Mr K Robinson:** But you are aware of it?

**Mr McCormick:** People are generally concerned about the fact that PPP is a contractual commitment. On the other hand, you get a contractual standard of service too. That equation is to be considered. People tend to have an opinion on that one way or the other rather than on the specifics of the clause.

**The Acting Chairperson:** The North Eastern Education and Library Board and the CCMS raised that issue. That concern seemed to bubble up to the surface several times. We simply wish to make everyone happy and perhaps salve our consciences.

**Mrs E Bell:** I fully agree with the comments made. NIPPA and the CCMS have asked about the loophole between two-year-olds and four-year-olds. I assume that you will try to address that. From a human rights point of view, it would be advisable that it be looked at again if four-year-olds are prevented from getting in because of the loophole. They have told us that they have already raised this with you.

**Mr McCormick:** "Loophole" is perhaps not the right word. The legislation currently provides for two-year-olds to get statutory provision. Two-year-olds have that right to provision when all places for three-year-olds have been made available. Two-year-olds could only apply for spare places under statutory provision. Your and NIPPA's point is that the Department intends to change the legislation, or it at least wants to consult about working towards a change.

**Mrs E Bell:** It is not yet clear whether there will be a big change. It is just a matter of recognising that four-year-olds also have rights.

**Mr McCormick:** Yes.

**Mrs E Bell:** That is fine. We had been asked to bring that to your attention.

**Mr Gallagher:** Are you going to consider an amendment to deal with that issue?

**Mr McCormick:** The primary purpose of the Bill concerned the local management of schools (LMS), which was considered a substantive issue because provisions already exist for two-year-olds. A successful amendment would remove that provision. The consultation is necessary because it is a substantive issue. For example, NIPPA had very strong views on it. The Department was unable to suggest an amendment on that basis, since the consultation has not been undertaken.

**Mr Gallagher:** Several people will be disappointed that such a long-running problem is not to be dealt with and addressed in the legislation now. The Department always said that it would not be a problem, but others said that it would. Time has proven the latter group correct. I agree that it is not really a widespread concern, but it is contentious, especially in certain urban areas. People will expect the Department to deal with the difficulty now within this quite extensive Bill.

**Mr McCormick:** I can only reiterate that the Department views it as a substantive issue requiring consultation, which is not complete. It cannot therefore support an amendment.

**The Acting Chairperson:** It has been a substantive issue for some time, and it must be taken seriously and dealt with. Is the Education and Libraries Bill not the right vehicle to address it?

**Mr McCormick:** The only available option is an amendment, for the provision is not in the Bill as it stands. When the Bill was originally drafted, it was for LMS provisions and other non-controversial technical adjustments. The problem which concerns you did not fall within the Bill's scope, which is why it is not in it. However, if the Department put forward an amendment, it would wish to have had completed consultation first.

**Mr K Robinson:** If an amendment followed at some stage after consultation, what would the timescale be before it could be incorporated into legislation?

**Mr Fitzsimmons:** Full-scale consultation takes at least eight weeks, after which the results must be considered.

**Mr K Robinson:** How long would it take overall?

**Mr Fitzsimmons:** It would take three or four months.

**Mr K Robinson:** Could it be addressed within a school year?

**Mr McCormick:** Potentially, although much depends on the outcome of the consultation. The Committee has received some quite strong views. However, I am not sure how parents or other stakeholders feel, which is why the consultation must be undertaken.

**Mr K Robinson:** If the will were there, matters could progress quite rapidly.

**The Acting Chairperson:** Will the Department seriously consider the issue?

**Mr McCormick:** We take the issue seriously and had intended to undertake a consultation. However, the Bill's timescale must be considered. We did not think that it could have accommodated an amendment.

**Mr McLaughlin:** Are we to infer from your responses that there are no current plans to have such consultation?

**Mr McCormick:** There are plans for consultation during the winter.

**Mr McLaughlin:** When will the consultation be brought forward?

**Mr McCormick:** It was intended to hold the consultation over the winter, but that timescale did not allow for an amendment to the Bill. After the consultation, the Department would have sought the next legislative opportunity to include the amendment in the Bill, provided the outcome of the consultation exercise supported it.

**Mr McLaughlin:** I asked that because we can anticipate when the legislation will be brought before the Assembly. Several Members will express quite a strong interest in the matter. As regards the passage of the Bill, it would be helpful if we could clearly indicate that the matter was being dealt with and would be included in the programme.

**The Acting Chairperson:** A valid point has just been made. The Bill will enjoy a great deal of space and many headlines during its passage through the Chamber. It will be seen as the grand omission or the great escape. Thank you very much for attending.

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**NORTHERN IRELAND  
ASSEMBLY**

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**COMMITTEE FOR EMPLOYMENT  
AND LEARNING**

Thursday 12 September 2002

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**EMPLOYMENT BILL  
(NIA 11/01)**

**Members present:**

Dr Birnie (Chairperson)  
Mr Carrick (Deputy Chairperson)  
Mr Hilditch  
Mr McElduff  
Ms Gildernew  
Dr Adamson

**Witnesses:**

Mr W Caldwell       ) Department for  
Mr R Gamble        ) Employment and Learning

**The Chairperson:** I welcome Mr Roy Gamble and Mr William Caldwell from the Department for Employment and Learning.

The Committee has at least three relevant tabled items at this stage. First, there is a letter from the Equality Commission explaining its argument for favouring the term “worker” over “employee”. It refers to the Employment Rights (Northern Ireland) Order 1996. It estimates that for Great Britain — figures are not available for Northern Ireland separately — the impact of using the term “worker” would be a 5% increase in the number of people covered by the legislation. Roughly speaking, the same would apply here. It also makes some points about the position of self-employed people.

Secondly, there is a detailed note on the various definitions of the term “worker” that have arisen in the various pieces of legislation passed in the 1990s. I thank the Committee Office for producing that. Agency workers are included in some, but not all, of the definitions; people on training apprenticeships are not included. Those two points are particularly interesting.

Thirdly, there is a research paper by Eileen Regan from the Assembly Research and Library Services.

There are two points to note in the report. First, page 2 contains a list of categories such as casual, seasonal, home, temporary and agency that might come under the heading of “workers” rather than “employees”. However, she stresses that that list is not necessarily exhaustive —

it is long but in theory it could be longer. Moreover, there may be overlaps, so the categories should not be seen as exclusive. She does not offer those definitions as the correct legal ones. She implies that if we wanted to specify groups we would have to commission further research to ensure that the terminology is correct.

Secondly, she stresses that any amendment to the Employment Bill would affect previous legislation, particularly to social security benefits, and parallel legislation, including the Social Security Bill that is making its passage through the Assembly.

If the Committee wishes, we can ask Hugh Widdis, the Assembly legal adviser, to give us technical advice on legal matters. Likewise, we could also check whether Eileen Regan would be available to meet the Committee. Is the Committee content to do that?

**Ms Gildernew:** I thought that we agreed last week to proceed with an amendment to the word “worker”.

**The Chairperson:** There are problems with that that I will discuss in a moment. If necessary, we could ask Eileen Regan to talk to the Committee about her paper and answer any questions on it. Similarly, Hugh Widdis could answer questions about the legislative aspects of the Bill. Does the Committee want to call them in?

**Mr Carrick:** Chairman, perhaps you should complete the submission and the report on your meeting yesterday with the Minister and her officials, and then we should consider what to do.

**The Chairperson:** I shall call Mr Gamble and Mr Caldwell to answer questions on the rest of the Bill.

I shall summarise my meeting with the Minister, which took place yesterday. We had hoped that both the Deputy Chairperson and I could attend, but that was not possible. The Minister does not seem minded to accept the amendments, although if we could come up with a good satisfactory explanatory title for the Bill that was also reasonably short, she would certainly consider it.

The Minister suggested that there are two main objections to our proposed amendment to change “employee” to “worker”. We became aware of the first objection before the meeting with the Minister as it was mentioned in Ms Regan’s paper; it questioned the extent of the change to the amendment in the range of persons who are eligible for maternity, paternity or adoption benefits. The supporting legislation would subsequently have to be amended. It emanates from the Department for Employment and Learning; the Department for Social Development then decides who is eligible and makes arrangements for payment. We became aware of that objection just lately and it must be carefully considered.

The Minister raised the second objection that some who could be defined as workers do not pay National Insurance contributions. That matters because the National

Insurance contribution system refunds employers for the maternity, paternity and adoption leave payments. If the scope of these benefits is to be widened to apply to non-National Insurance contribution payers, new legislation would be required to find a means to compensate employers. It is already proving difficult to get this Bill through in the time available; therefore we must consider carefully whether we want to get involved in a matter that would more likely fall into the remit of the Committee for Social Development.

The Minister also stressed the danger of the time factor if the process were to be stretched unduly. I advised the Minister that we were asking for an extension to the Committee Stage, and she warned that if the process ran on too long there was a danger of losing the whole Bill; then there would be no Employment Act. The Minister also pointed out that the Bill contains powers that open up the possibility of the Department's extending the scope of maternity, paternity and adoption rights in future.

The employment status in relation to statutory employment rights consultation ends in mid-December. There is also likely to be a European Directive on temporary or agency workers that all member states would have to apply. Whether that comes into force next year or the following year is not clear at this stage, but it will apply in future. We therefore face two problems: the relationship with other legislatures; and National Insurance contributions. Those were the basis of my meeting with the Minister.

As the Social Security Bill was granted accelerated passage on Monday, amendments to it must be tabled by 4.30 pm today. Therefore we are almost out of time. If the Committee decided to table an amendment, it might stray into the business of another Department. We must decide what we should do. There is a case for the use of "worker" rather than "employee", but given the problems with other consequential amendments and National Insurance contributions, that may be impractical. That is true of the proposed amendment to change the eligibility of maternity, paternity and adoption benefits, which allow for paid leave.

If the Committee does not recommend amendments, there is no reason why its report could not say that, in principle, the use of "worker" as opposed to "employee" must be seriously considered, especially given trends in the labour market and the fact that some workers have employment experience that means that they might as well be employees, even though legally they are not.

There is no reason why the Committee should not contribute to the consultation on employment rights, which finishes in December, by investigating the status of temporary and agency workers. I recommend that the Committee not propose an amendment to the clause on paternity, maternity and adoption leave. There is an

argument about the definitions, but it could be difficult to implement the correct changes.

The Bill also provides for the right to request flexible working hours, which is different from maternity, paternity and adoption leave because there is no public expenditure benefit. Therefore the National Insurance contribution system need not come into play. As it is a new right, there is no previous primary legislation, and, therefore, nothing else needs to be amended to support the Bill.

The Committee could agree to run with the definition "employee" for maternity, paternity and adoption leave. However, it could argue that the right to request flexible working should apply to "workers", and, in that case, the term "workers" should be defined. The Committee must decide whether it is worth making that amendment. In a negative sense, it would create a contrast in the Bill. Some provisions would relate to "employees"; others would relate more broadly.

As there is a consultation on employee status and rights, it could be argued that the Committee should reserve judgement until it makes its contribution in December. However, it could also be said that a marker is being put down. There are arguments both ways.

I welcome the departmental officials who will give evidence. Roy Gamble is the assistant secretary of employment rights in the New Deal division and William Caldwell is the Employment Bill team leader.

To sum up yesterday's meeting: although there may be an argument in principle that makes the definition "worker" attractive, it is not practical in the immediate future for most of the Bill. It may be practical for one part of it, but I am not convinced that it is worth changing one part when the consultation process is going on. The Committee should collect evidence on some of those issues to make an informed judgement. During further discussion with the Minister, I countered her points, but it is more useful for me to give a summary of the Minister's arguments. Do members have any comments?

**Dr Adamson:** I agree with your assessment. Mrs Carson has also communicated her concerns.

**The Chairperson:** I am aware of that. The Minister gave me a letter and a copy of annexe A that deals with many of those points at length, including the Committee's points on the Minister's proposed amendment on exemption from the right to request flexible working for those serving in the armed forces. There is also a proposed amendment on the Labour Relations Agency, but I did not ask a question on that.

**Mr McElduff:** A press release, which may have been embargoed until 6.00 am today, appears to be inconsistent. It appears to suggest that there has been a sudden change of heart on the Chairperson's part in that an amendment



of the definition is desirable. Is it in the public domain that the Committee feels that “worker” should be the term used as opposed to “employee”?

**The Chairperson:** That press release was written earlier in the week when I was unaware of the National Insurance contribution point and the parallel legislation. It reflected my feelings at the time but not now, except insofar as the press release states that there is an argument for the definition “worker” being used, with which I still agree. The problem is a practical one about what can be done in the near future, given that the Social Security Bill received accelerated passage and that the National Insurance contribution system applies to some, but not all, workers.

**Mr Carrick:** Although the Committee believes that, in principle, the term “worker” should replace “employee”, now is not the time to make such a change. The employment legislation should be consolidated and should contain clear definitions of the terms “employee” and “worker”.

Mr Chairman, you referred to how this legislation would affect the Department for Social Development. This is a parity measure, and it is important that the definitions are consistent with those in Westminster legislation; otherwise the grey areas will make regulation a nightmare and will create additional problems for employers, particularly small employers. We do not want that to happen.

The social security and National Insurance systems were set up in accordance with the Westminster definitions. We are part of the United Kingdom and any change to the definitions would create administrative difficulties. Therefore there are practical reasons that now is not the time to tinker with the definitions in the Bill.

**Ms Gildernew:** Last week’s discussion was productive, and I agree with the position that the Committee took on the matter. I have listened to the arguments outlining the potential administrative difficulties and the need to retain parity. However, I do not believe that those arguments stand up. As a scrutiny Committee, it is our responsibility to get the best package for the people that we represent. Although I take Mr Carrick’s point about small businesses, we must consider the needs of those who stand to benefit from a change in definition. Many of those who fall into the category of “worker” are already disadvantaged — ethnic minorities and casual workers, for example. I believe that we should accept the amendment to the term “worker” and let the Minister and the Committee make their cases to the Assembly.

**The Chairperson:** I agree with much of what you say. Time permitting, we will deal with the clauses today, and it is open to Members to propose amendments to them. We will see how the Committee feels.

The Minister makes a genuine argument; there are practical barriers to extending the definition, at least in

the short to medium term — it is not just a political smokescreen. Regardless of how one feels about the greater equity or apparent greater justice that extending the definition would bring, it is not possible to make such a change because of the National Insurance contribution system. Certain workers do not pay National Insurance contributions. Therefore a system of payments and compensations for employers would have to be put in place, and that would have consequences for other legislation. The Committee must consider the effect that such changes would have on other legislation.

We would have to create another vehicle, and I doubt that we could do that in time. In fact, I am not sure how we could create the necessary vehicle. The consultation affords us the opportunity to make our mark. If the Committee feels strongly, it can collect evidence and make recommendations in the report on the Bill that will be sent to the Assembly. Even if the Committee decides not to agree the amendment, we can make recommendations that point in the direction in which we would like to move. I accept Ms Gildernew’s point about the apparent attractiveness of the definition “worker”. I was convinced by the argument last week, but I must consider what can be done at present.

**Mr McElduff:** Is it possible to postpone making a decision on “worker” versus “employee” so that the Committee can take further advice, given that new evidence has emerged?

**The Chairperson:** Unfortunately, time is short. Members or parties who object strongly to the Committee’s report can table an amendment to the Bill. That can be done at any point before 18 September, and the Committee is seeking an extension of that period until 18 October.

**The Committee Clerk:** There is some leeway. However, it depends on the outcome of today’s meeting, because the motion has been scheduled for debate next Tuesday, although it does not have to be moved.

**The Chairperson:** The Committee must deal with a great deal of other business, and members have heard the arguments about the danger of losing the entire Bill through needless delay. I take the point that these are difficult technical issues, and people want time to reflect on them. Does the Committee feel that we should postpone the decision or press on?

**Mr McElduff:** I ask for a postponement because it could exclude 10% of the workforce.

**The Chairperson:** I am not sure whether I stressed that annexe A of the Minister’s letter estimates that the figure is 5% at most. That estimate may be open to question, but the real figure is probably less than 10%.

**Mr Carrick:** Given that Members or parties can table an amendment to the Bill if they feel strongly

about it, this issue should not be allowed to delay the Committee's consideration of the Bill.

The Committee made a decision about a possible change last week. What is the procedure for changing that decision? Does it require the consent of the majority of Committee members?

**The Chairperson:** I will take advice on that. However, it is my understanding that if the Committee proceeds to a clause-by-clause consideration, members vote on each clause. At each clause I will invite members to propose amendments by suggesting either new wording for the clause or a change in principle. The precise wording of the clause can be agreed later. Perhaps the Clerk can confirm that?

**The Committee Clerk:** There is nothing in Standing Orders that prevents a Committee making a change when other evidence becomes available. Last week, the Committee discussed the principles of the Bill; a clause-by-clause consideration is a different matter, but it is ongoing debate.

**Mr Carrick:** Therefore the Committee is not committed to abide by the decision that was made last week?

**The Chairperson:** That is correct.

**Mr McElduff:** If this were a district council, it would take six months to rescind a previous decision.

**The Chairperson:** I cannot comment on that.

**The Committee Clerk:** The name-change Bill that became the Department for Employment and Learning Act (Northern Ireland) 2002 was a step backwards.

**The Chairperson:** I propose that we move to clause-by-clause consideration.

**Ms Gildernew:** If the Committee will not propose the amendment, will it still recommend that the provision be reconsidered? Even if members do not propose the amendment, can the Committee say that it feels strongly about this and wants it included in future legislation?

**The Chairperson:** It is up to the Committee, but I agree that we should. We can say what direction we think things should move without proposing an amendment.

**Mr Carrick:** Not all Committee members are present to give their views.

**The Chairperson:** The Committee must agree the written report; it is like any other Committee response. The Committee will see the entire document, including minutes, votes and results. Like any other Committee document, members can agree and/or change the wording.

**Ms Gildernew:** When the Committee brings this to the Assembly for debate, will the Chairperson say that the Committee discussed whether to take the point as a recommendation or as an amendment and that the

Committee sought counsel and strongly recommends that, although it may not be practicable now, it be reconsidered in the next Assembly session?

**The Chairperson:** I have no problem in saying that the Committee recommends that it be considered as part of the consultation on the definition of eligibility for employment rights. The Committee will need a form of words, agreed in the report on the Bill, saying something similar. The Committee will in turn make its own contribution to the consultation before mid-December. It is up to the Committee, if time allows, to collect evidence. We can listen to arguments from the agency/temporary worker sector about whether temporary workers should be given enhanced employment rights.

We will now move to a clause-by-clause consideration of the Bill. The Bill contains 18 clauses and two schedules. Each clause and its subsections must be considered in turn. The Committee has three options: first, to agree that the Committee is content with the clause as drafted; secondly, to agree that the Committee recommends to the Assembly that a clause be amended, with a further option to suggest an amendment; thirdly, to agree that the Committee recommends to the Assembly that a clause be amended and simply state the proposed objective of an amendment rather than suggest its wording. Departmental officials are here to guide us.

**Mr McElduff:** I hate to go over old ground, but I am uncomfortable that the Committee does not know the definitions of "worker" and "employee". There seems to be consensus, but I am unsure about it. I planned to propose that the Committee use the term "worker", but in an attempt to gain consensus on such a fundamental issue, I suggested that it be postponed. I do not know whether the Committee reached a decision on that.

**The Chairperson:** I got the impression that most members wanted to proceed. If we delay there is a danger of losing the whole Bill.

**Mr McElduff:** Perhaps if we had a few days to allow the Committee to get legal advice on "worker" versus "employee". Many of us came to the meeting believing that that was the case. It was proposed and seconded last week.

**The Chairperson:** The Committee received legal and research advice, some of which was there last week. I am not certain how much information would be uncovered in an additional week. In any case, given that the time in which to table amendments to the Social Security Bill is up in an hour and a half, the problem is less about definition and principle and more about practicality. Some "workers" do not pay National Insurance; therefore it would be difficult to accommodate them. If the feeling of the Committee is that we should delay for a week, I will not rule it out.

**Mr Carrick:** Further advice might prove contrary to the advice that the Committee has received. There are practical difficulties in implementing the term “worker”, and although I do not want to pre-empt it, additional advice is unlikely to alter the situation. Given the question of timing between different pieces of legislation and the practicality of working the scheme throughout the United Kingdom, the problem will remain.

#### **Clause 1 (Ordinary adoption leave)**

**The Chairperson:** Are there any comments on clause 1?

**Mr Carrick:** Clause 1(3)(c) says that the employee

“is entitled to return from leave to a job of a prescribed kind.”

That does not necessarily mean the job that he or she left.

**The Chairperson:** Do you want an answer to that technical question?

**Mr Carrick:** Yes. It implies that the employee returns to a similar job and that he or she has the option not to return at all. Therefore the employer must keep the position open, even though at the end of the adoption leave the employee may decide not to return to work.

**Mr Gamble:** The Regulations will deal with most of the detail. However, as in the case of maternity leave, an employee can return from ordinary adoption leave to the job that he or she left. If an employee takes additional adoption leave he or she can come back to the job that he or she left, if that is reasonably practical for the employer. If it is not practical, the employee is entitled to come back to a job that has similar status. The employee is entitled to benefit from any rights that have accrued in the meantime, for example, changes in terms and conditions. If, at some point, the employee decides not to return to work, that changes everything.

**Mr Carrick:** Is an employee required to give notice if he or she decides not to return to work? Can the employee wait until the end of the leave before informing the employer of that decision?

**Mr Gamble:** I do not think that there is a period of notice for not returning.

**Mr Caldwell:** I am not sure whether there is a period of notice. The employee could give notice while on adoption leave, but I do not know whether such a period of notice would be part of the adoption leave or some time after that.

**Mr Carrick:** It is important that the employee give such notice so that the employer has time to organise a permanent replacement.

**Mr Gamble:** It is assumed that when someone takes adoption leave of six months or 12 months the employer will make arrangements from the start. The employee must

give notice of when the leave will start, so one assumes that the employer would make arrangements then.

**Mr Carrick:** At that point, the employer would assume that it would be a temporary arrangement.

**Mr Gamble:** Yes. However, that is not as bad as having no one in place. The temporary employee’s employment could be extended, for example. We are still working on the Regulations, and I cannot recall having seen anything that says that the employee must give notice that he or she does not intend to return to work. We will check on that.

**Mr Carrick:** It is not an unreasonable request.

**Mr Gamble:** It is a matter for the Regulations.

**Mr Carrick:** Nevertheless, they could be amended to take such a contingency into account?

**Mr Gamble:** We are still working on the Regulations, which will come before the Committee.

**Mr Carrick:** Clause 1(3)(c) refers to

“a job of a prescribed kind”.

You seem to have divided the adoption leave up, at the end of which one returns to one’s job. Then there is the further adoption leave, after which one gives up the right to return to one’s own job but is entitled to a similar one.

**Mr Gamble:** That is the same as maternity leave. Part of the Bill’s principle is to keep everything as much of a piece as possible so that employers are not dealing with a variety of terms and conditions, which can be difficult.

**Mr Caldwell:** If a person takes ordinary adoption leave, not the additional leave, it would be reasonable for the employer to return him or her to the same job once the leave is finished. However, if the employee takes additional adoption leave more time will have elapsed and the employer may have to take alternative measures.

**Mr Carrick:** Is clause 1 subject to the Regulations?

**Mr Caldwell:** The Regulations will be put before the Assembly in the usual way. They will be considered in future. However, there are enabling powers to make the Regulations.

*Question, That the Committee is content with the clause, put and agreed to.*

#### **Clause 2 (Paternity leave)**

**The Chairperson:** Much of the detail will be in the Regulations, which will come before us in due course.

**Mr Carrick:** In clause 2 the new article 112A(7) states:

“In this Article —

‘newborn child’ includes a child stillborn after twenty-four weeks of pregnancy;”



Is that consistent with other legislation?

**Mr Caldwell:** Twenty-four weeks is now accepted.

*Question,* That the Committee is content with the clause, *put and agreed to.*

**Clause 3 (Statutory paternity pay)**

**Mr Carrick:** I presume that it refers to the biological father in all cases.

**The Chairperson:** There is a question about the definition.

**Mr Gamble:** Under the Regulations, a woman can choose to take paternity pay if a couple adopt a child and the male partner takes adoption leave. There is paternity pay for biological paternity and there is also paternity pay for adoption. It is a difficult concept.

**Mr Carrick:** Is adoption the only exception to the rule?

**Mr Caldwell:** No, but it will be set out in the Regulations, which will come before the Assembly in due course. In the case of same sex partners, the care of the child could come from the partner of the biological mother of the child. Therefore a woman could, ironically, avail of paternity leave. However, the relationship with the child will be set out in the Regulations.

**Mr Gamble:** The important thing is that there is a parenting relationship with the child. It is not simply any family member who could be entitled to paternity leave and pay after the birth of a child. The parenting relationship will be stressed in the Regulations.

**Mr Carrick:** There could be a mother and a partner, but the partner may not be the father of the child.

**Mr Gamble:** As I understand it, that partner would be entitled to take paternity leave and pay as long as the parenting relationship and the intention to act as a parent to the child was established.

**Mr Carrick:** Could the biological father circumvent that?

**Mr Caldwell:** No, because the relationship with the child would be set out in the Regulations. The person who is assisting the mother with the care of the child will be entitled to paternity leave.

**Dr Adamson:** Biology is a very difficult concept.

**Mr Carrick:** I am finding that out.

**Mr McElduff:** Is there room for a challenge to the word "paternity" in that it presumes male? Dr Adamson could help us out with the Latin.

**The Chairperson:** Should another term be used as, theoretically, a woman could take paternity leave? Did you consider whether there was any possible form of words that could cover such cases?

**Mr Caldwell:** The vast majority of cases would be men, and they would probably be the biological fathers. In exceptional circumstances, someone other than a man may avail of paternity pay. However, it would be unnecessary to change the term "paternity" for that minority. Its present application will be defined in the Regulations.

**Mr Carrick:** In some cases, the biological father pays under the Child Support Agency (CSA). He may support the child financially, but the mother's partner would be doing the parenting, with emphasis on the parenting and not the support.

**Mr Gamble:** That is my understanding of how we would interpret that.

**Mr Caldwell:** Care and parenting are important.

**Mr Gamble:** That applies to a two-week period around the birth of a child; therefore the circumstances that you posit would be unusual but by no means impossible. Leave would be applicable somewhere within eight weeks after the birth of the child. However, it is likely that in most cases the biological father will care for the child.

**Mr Carrick:** We must not underestimate the ingenuity of people when it comes to social security benefits.

**The Chairperson:** In the case of fraud, how would you establish who parents the child? It is in the Regulations, and the Department for Employment and Learning or the Department for Social Development will have to work it out and endorse it.

**Mr Caldwell:** Clause 11 deals with fraud and penalties, and account has been taken in drafting the Bill to cope with abuse of the system.

**Dr Adamson:** It is more difficult in Papua New Guinea where fathers breastfeed their children.

**The Chairperson:** I really do not know what to make of that observation. Fortunately, we do not need Statutory Rules to cover such possibilities.

*Question,* That the Committee is content with the clause, *put and agreed to.*

**Mr Gamble:** Clause 3, article 167ZJ(3)(b), states that

"cases where a person who would not otherwise be an employee for the purposes of this Part of the Act is to be treated as an employee for those purposes."

Regulations may be made to bring that about. It concerns widening the definition, which you mentioned earlier. That will be inserted into the Social Security Contributions and Benefits Act 1992.

I am afraid that there is a slight slip in the Minister's letter that says that the Bill contains a power for us to count other people as employees. That is actually contained in article 24, the "Power to confer rights on individuals", of the Employment Relations (Northern Ireland) Order



1999. That power in the Employment Relations (Northern Ireland) Order 1999 and also that which will be inserted into the Social Security Contributions and Benefits Act 1992 will leave open the option to extend the definition after better understanding of the matter.

**The Chairperson:** That point was made during the discussion with the Minister yesterday — the enabling power exists for the Department or the Minister to extend those rights in future.

#### **Clause 4 (Statutory adoption pay)**

**The Chairperson:** Does the Committee have comments or observations on clause 4?

**Mr McElduff:** I am struck by the reference in clause 4, article 167ZL(2)(a), stating:

“the conditions are that he is a person with whom a child is, or is expected to be, placed for adoption under the law of any part of the United Kingdom.”

Is that a barrier to cross-border mobility?

**The Chairperson:** How would that affect the adoption of children from overseas?

**Mr McElduff:** I am thinking about this island. People in Newry or Strabane/Lifford have different social interaction and use different routes to travel to and from work from those in Belfast.

**The Chairperson:** How does the clause deal with that?

**Mr Gamble:** The clause merely states that the adoption must be done under the adoption law of the United Kingdom. The adopted person can come from anywhere.

**Mr Carrick:** I would like guidance on the qualifying period, which must be

“for a continuous period of at least 26 weeks ending with the relevant week”.

Is that consistent with other parts of employment legislation?

**Mr Gamble:** Yes. At present, the legislation covers only maternity leave and pay. The length of periods of service for adoption leave and pay and paternity leave and pay mirror the maternity arrangements.

**Mr Carrick:** Is it the case that the 26 weeks of continuous service are not necessarily 26 weeks of paying National Insurance contributions? Would those who have been employed for 26 weeks for pay below the National Insurance threshold qualify?

**Mr Gamble:** Yes. People will qualify for adoption leave, but they will not qualify for adoption or paternity pay unless they are above the lower earnings limit. These should be regarded as contributory benefits. If you do not contribute you do not get the benefit. You will be entitled to other social benefits for a period but not these benefits.

**Mr Carrick:** Let us be clear. To qualify for statutory adoption pay you must have been paying over the minimum National Insurance threshold for 26 weeks continuously before you adopt?

**Mr Gamble:** Yes.

*Question, That the Committee is content with the clause, put and agreed to.*

#### **Clause 5 (Financial arrangements)**

**Mr Carrick:** This has been organised through the taxation and PAYE scheme. An employer may be compensated by his National Insurance contributions being reduced. If a small employer's compensation exceeds the National Insurance payable there is scope for the employer to withhold income tax.

**Mr Gamble:** That is what the clause will do. Under the present arrangements if you owe money to the Inland Revenue it can only be withheld in strict order. If you owe National Insurance contributions and you want to offset some of your contributions you can only take those two sums away. In future, you will be allowed to aggregate what you owe on tax as well as for National Insurance contributions. If the money that you are due to get back for National Insurance is more than your National Insurance contribution you do not have to have a credit with the Inland Revenue. You take off the aggregated sum.

It is supposed to be simpler for employers; they do not have to keep everything in separate columns and boxes. They aggregate what they owe and subtract what they are due to get back from the Inland Revenue and pay the balance instead of doing separate calculations.

**Mr Carrick:** Does that flexibility extend to student loans?

**Mr Gamble:** Student loans are included.

**Mr Caldwell:** It is aimed at reducing the employers' burden.

**The Chairperson:** Assembly Library and Research Services produced an estimate that the compensation to small firms was 104.5%. That shows that smaller companies — and they are defined by the total National Insurance contributions paid — get more money paid back when they pay into the scheme. That is to cover their administrative costs.

**Mr Carrick:** At present, there is a convoluted system of compensation for small employers who are paying out statutory sick pay. It is not easy for some of the smaller employers. It is hoped that that will eventually disappear in this flexibility.

*Question, That the Committee is content with the clause, put and agreed to.*

**Clause 6 (Funding of employers' liabilities)**

**Mr Carrick:** With regard to clause 6(2)(1), I understand that employers' relief is achieved by withholding the appropriate percentage from the payment, as opposed to any direct payment coming from the Government. Must the small employer make that calculation?

**Mr Gamble:** Yes. I understand that a percentage would be withheld. It could be an offset.

**The Chairperson:** What is the offset for larger businesses whose employers are above the threshold?

**Mr Caldwell:** Ninety-two per cent. They make a contribution to the cost.

**Mr Carrick:** How many small employers are there in Northern Ireland?

How many larger firms will the 92% affect?

**Mr Gamble:** I do not have those figures. This definition of small employers is different from the one normally used by the Department, which is determined by the number of people employed by a company, not by the National Insurance contributions that that company pays. That would have to be checked with the Inland Revenue.

**The Chairperson:** The Committee would like to examine that data, if possible. I refer the Committee to the research paper produced by Assembly researchers and tabled at last week's meeting. The small employers' relief applies to companies that pay up to £40,000 of National Insurance contributions a year. That cannot be translated precisely into a number of employees. However, it is based on an average industrial wage of around £20,000 a year, with payment of 8% National Insurance. The yearly contribution is therefore £1,600. When £40,000 is divided by £1,600, it works out at 25 employees.

**Mr Carrick:** Where did you get the figure of 8%?

**The Chairperson:** That is the rate of National Insurance.

**Mr Carrick:** I believe that the rate of National Insurance is 10%.

**The Chairperson:** It is 10% at a higher rate which would apply to employers. That is a good point.

Is that the total National Insurance that the company pays, regardless of whether that £40,000 is its worker or employer contribution? Or is it simply the workers' contribution?

**Mr Gamble:** That is the total that the company pays — its own National Insurance contribution and those of its employees.

**The Chairperson:** In which case, one should probably reckon on contributions for each person of approximately £3,000 or more, then divide that into the £40,000. That rough calculation applies to companies that employ up to 12 people.

**Mr Caldwell:** I am not sure whether we estimated the number of employees who would be deemed as small employers under this legislation, because that involves a different way of calculating to the one we normally use.

**Mr Gamble:** The figure was raised from £20,000 to £40,000 last year for statutory maternity pay purposes, which, if your estimate of £3,000 is correct, would mean it would have excluded only companies of six employees. I am not sure whether that is correct, but the best that we can do is to check it out.

**The Chairperson:** Although last week's research papers do not directly relate to that point, small businesses are defined as those employing fewer than 50 people. Those small businesses account for over 200,000 employees in Northern Ireland, and the total number of people who work in Northern Ireland is about 700,000.

*Question, That the Committee is content with the clause, put and agreed to.*

**Clause 7 (Regulations about payment)**

**Mr Carrick:** That clause merely broadens the documentation that employers who operate the PAYE scheme already maintain.

**Mr Caldwell:** This is an enabling clause that empowers the Department to make Regulations specifying what records an employer is required to keep, so that in the event of any dispute about employees' information, the Inland Revenue may ask for that documentation.

*Question, That the Committee is content with the clause, put and agreed to.*

**Clause 8 (Decisions and appeals)**

**Mr Caldwell:** Clause 8 adds to the existing mechanism. The clause allows the tax commissioners to resolve disputes over employer contributions or a dispute between employer and employee. However, it is hoped that any disputes can be resolved without formally going to those lengths.

**The Chairperson:** Paragraph 5(b) amends the Order, stating that

"Regulations under this Article must be made with the concurrence of the Department for Employment and Learning in so far as they relate to statutory paternity pay or statutory adoption pay."

Can you clarify the purpose of the clause?

**Mr Caldwell:** The Inland Revenue would probably make those Regulations. Regulations on maternity pay would be made with the concurrence of the Department for Social Development. As those new issues are coming from the Department for Employment and Learning, Regulations must be made with the concurrence of that Department.

**Mr Gamble:** The amendment will be inserted in a social security contributions Order, which is the preserve of the Department for Social Development, but this Department will be consulted because it is introducing the Bill.

**The Chairperson:** Can you describe the mechanics of that? Will an amendment to the Order go before the Committee for Social Development in the near future, or is it part of the Social Security Bill, which is currently going through the Assembly?

**Mr Gamble:** I am not sure that I understand. The amendment will be inserted in the Social Security Contributions (Transfer of Functions, etc) (Northern Ireland) Order 1999. Therefore, the Department for Social Development will be required to consult the Department for Employment and Learning in making the Order insofar as it relates to statutory paternity and adoption pay. Have I answered your point?

**The Chairperson:** I am trying to work out how that was done. Does the Department for Social Development issue or change the Order to reflect what is in the Employment Bill?

**Mr Caldwell:** No. Once the Bill is passed it becomes part of that Department's legislation. The clause requires the Department for Employment and Learning to be consulted on any Regulations that need to be made by the Department for Social Development, the Inland Revenue or other authority.

*Question, That the Committee is content with the clause, put and agreed to.*

#### **Clause 9 (Power to require information)**

**Mr Carrick:** I have a concern about non-compliance. There is a reference to the spouse at 9(2)(b). Is it consistent with other law to provide that the spouse can be forced to testify against a person?

**Mr Caldwell:** That reference to a spouse or partner is simply a mechanism whereby, in unusual circumstances, there is a requirement for the Inland Revenue to make routine enquiries about whether or not people are receiving what they are entitled to. If you are referring to a spouse giving information against a partner, I assume that it is compatible with general law. I have never considered that point before.

**Mr Gamble:** Is the scenario of a spouse testifying against a partner not confined to criminal law?

**Mr Carrick:** It may well be. I am open to guidance.

**The Chairperson:** Perhaps we should seek legal advice on that.

*Question, That the Committee is content with the clause, put and agreed to.*

#### **Clause 10 (Penalties: failures to comply)**

**Mr McElduff:** Would it be appropriate to add the word "knowingly" at 10(1)(a), and subsequently?

**The Chairperson:** May I ask if that was considered, or why it was not included?

**Mr Caldwell:** It would not have been considered. We have to have faith in the parliamentary draftsman as to whether it complies with the legal requirements. I am not sure that the word "knowingly" would add anything.

**Mr Gamble:** The situation envisaged here is where a request has been made for someone to produce a document. If you fail to produce a document, you do so knowingly. If you have not got the document, you cannot produce it. If you do have it, and fail to produce it, you have failed to comply with a direct request.

**Mr McElduff:** Twenty-six per cent of adults have literacy problems, and that is only one slant on this point. Apart from that, "knowingly" or "wilfully" comes into play. It is a question of whether someone is being deliberately obstructive or not. Consignia might pose a problem.

**The Chairperson:** All those points are valid, but it is a question of whether the word should be inserted in a legal sense, and whether it is implied.

**Mr McElduff:** I think that legally it has material value.

**Mr Caldwell:** The sanctions that are mentioned in the Bill would not be applied in a draconian fashion. Each case would be considered on its merits. If it became apparent that someone was not wilfully trying to abuse the system or to confuse or mislead the Inland Revenue, draconian sanctions would not be taken against them. However, if someone did not comply, a system would have to be put in place to deal with it.

**Mr Carrick:** In my experience, the Inland Revenue inspecting officer has discretion, which is exercised in the light of the degree of co-operation, the gravity of the offence and other criteria against which the judgement is made.

**The Chairperson:** If there are no other questions, I will put the question. If Members feel strongly about a point, they will have an opportunity to express their disagreement. If that is the case, there must be a formal division.

**Mr McElduff:** I beg to move

That the Committee recommend to the Assembly that the clause be amended as follows: insert

"knowingly"

before the word "fails" in 10(a), (b), 10(3) and 10(6).

*Question put.*

*The Committee divided: Ayes 1; Noes 4.*

AYES

Mr McElduff

NOES

Dr Birnie, Mr Carrick, Dr Adamson, Mr Hilditch

*Question accordingly negated.*

*Question*, That the Committee is content with the clause, *put and agreed to*.

**Clause 11 (Penalties and fraud)**

**The Chairperson:** Are there any questions on clause 11?

**Mr McElduff:** I repeat that I prefer that “knowingly” be included in clause 11(1), to read:

“Where a person fraudulently, negligently or knowingly”.

That should be repeated in 11(2), 11(3), 11(4) and 11(5).

**Mr Carrick:** Those are maximum figures. I should be concerned if they were more prescriptive; however, it is to be hoped that proper discretion will be exercised.

**The Chairperson:** That point should perhaps be put to officials. It says “a penalty not exceeding” £300 or £3,000 in whichever case. Presumably, that means that there is discretion and the amount could be any sum up to the relevant figure.

**Mr Caldwell:** Exactly. The penalty is set at a maximum of £3,000, but where someone has made only a slight error, the fine or penalty — if any at all be imposed — reflects the seriousness of the offence.

**The Chairperson:** The Committee would be interested in the previous record on the size of annual fines imposed for fraudulent claims with respect to maternity pay. Any available data will be of interest; however, it does not affect our view of this Bill.

Is the Committee content to recommend that clause 11 stand part of the Bill?

**Mr McElduff:** I disagree, in the absence of the word “knowingly”.

I beg to move

That the Committee recommend to the Assembly that the clause be amended as follows: insert

a comma and “knowingly”

after the word “fraudulently” in clause 11(1), 11(2), 11(3), 11(4) and 11(5).

*Question put.*

*The Committee divided: Ayes 1; Noes 4.*

AYES

Mr McElduff

NOES

Dr Birnie, Mr Carrick, Dr Adamson, Mr Hilditch.

*Question accordingly negated.*

*Question*, That the Committee is content with the clause, *put and agreed to*.

**Clause 12 (Rights during and after maternity leave)**

**Mr Carrick:** Please explain clause 12(3), which substitutes the words:

“(7) the Department may make regulations making provision, in relation to the right to retain paragraph (4) (c)”.

**Mr Caldwell:** That clause enables provision to be made for situations in which maternity leave is extended and there are potential combinations of ordinary maternity leave and new types of leave, such as adoption leave. It is quite technical because such situations do not normally arise. There is, however, potential for them in limited circumstances; for example, if maternity leave is extended to one year and the new rights to adoption and paternity leave are introduced. These Regulations outline the contractual benefits and rights to return which apply in specific circumstances.

**Mr Carrick:** Am I to understand that it will not be explained in the Regulations that initially come before the Committee, but is rather a provision for a future date? The clause refers to seniority, pension rights and similar rights, which last is a fairly broad term; and to terms and conditions of employment on return, which suggests that those could change.

**Mr Caldwell:** It means that there is a permissive right for the Department to make Regulations if they are deemed necessary. Whether Regulations are found to be necessary will depend on future experience.

**Mr Carrick:** In that case, during maternity leave, could the Department suggest amendments to the terms and conditions of employment agreed by employee and employer?

**Mr Caldwell:** That is contained in the clause — the Department may make Regulations, which affect maternity leave, for seniority, pension rights and other rights. There is no impetus for that now, but it is a permissive power.

**Mr Carrick:** Could the Department make an arbitrary decision to do that without consultation?

**Mr Caldwell:** No.

**Mr Gamble:** The clause ensures that the rights of women who return from maternity leave have not been eroded in their absence. It amends the Employment Rights (Northern Ireland) Order 1996 to give us the power to



make Regulations, which will be Statutory Rules that come before the Assembly. The Assembly would have to agree those either by confirmatory or affirmative resolution.

**Mr Carrick:** Is it a tool to make the employer conform?

**Mr Gamble:** No. It will be the same as any other employment rights Regulation. It will provide longer periods of leave and new forms of leave, which may include a combination of adoption leave and maternity leave or additional maternity leave. It is an attempt to ensure that when people return to work after lengthier periods of leave, they find neither their rights eroded nor a perverse situation in which they get better rights because they were on leave for longer. It is a power to make Regulations which will not have effect unless the Assembly agrees. It would be a law like any other — a Statutory Rule, passed by the Assembly.

I am not sure that I understand what you are saying about employers complying with the legislation. Employers are expected to comply with any legislation that the Assembly makes.

**Mr Carrick:** I understand that the thrust of employment legislation is to protect the rights of the employee. Clause 12(3) replaces paragraph 7 of article 103 of the Employment Rights (Northern Ireland) Order 1996. Has that been inserted to allow the Department to go beyond that at some point and impose something on employers that has not been agreed with employees?

**Mr Caldwell:** It is a permissive power to cope with peculiar circumstances. Such circumstances cannot arise at the moment, but may do so when the new rights, such as adoption leave, are introduced and a combination of different types of leave may be used. Further consideration may be required to ensure that neither the employee nor the employer is disadvantaged.

**Mr Carrick:** I see. It is a sweeping-up clause.

*Question, That the Committee is content with the clause, put and agreed to.*

### **Clause 13 (Flexible working)**

**Mr McElduff:** What was the outcome of last week's debate on extending flexible working hours? Is that a done deal?

**The Chairperson:** I said before we began the clause-by-clause scrutiny of the Bill, that because this provision contains no benefit or payment elements, the issue of National Insurance contributions does not arise. It is a new right, and therefore does not require the amendment of previous or parallel primary legislation. That means that if members feel strongly that the category of people eligible for flexible working hours should be widened, the option is open to them. However, that would create two types of provision in the Bill: payments to employees; and flexible working hours, which may affect a wider

category of people. It would create an inconsistency, although members may be prepared to live with that as more people would benefit from flexible working hours. In a sense that would anticipate the outcome of the consultation on the status of different categories of workers and the way in which those affect people's employment rights.

**Mr Carrick:** Employers' duties are detailed on page 29 of the Bill. Employers are permitted to give many reasons for refusing an application. Employees have the right of appeal under the new article 112G(2)(d) that is proposed in clause 13. I could be misunderstood, so I must preface my remarks by saying that most employers in Northern Ireland would wish to co-operate with, and accommodate the needs of, their workforces. However, if small-scale employers did their homework, they would find that the Bill details many reasons that they may give for refusing an application for flexible working hours.

It may be difficult to disprove, but it is up to the employee.

**The Chairperson:** Article 112H describes situations in which an employee can dispute a decision by going to an industrial tribunal and specifies the grounds for that: namely, that the employer has not followed the correct process. The tribunal's job is not to adjudicate whether the decision meets those criteria under article 112G(1)(b).

The Committee looked previously at the modernisation of industrial tribunals. That was driven by concern that the caseload had grown dramatically in recent years. However, I suppose that in this case the Department has made an assessment that the likely impact on industrial tribunals will be manageable and the number of cases of disputes regarding decisions on flexible working will not be huge.

**Mr Gamble:** I am not sure that it would be easy to make a guess about that, but the Department is trying to improve the workings of the tribunals and increase the numbers of full-time tribunal chairmen so that the caseload can be dealt with. However, the number of kinds of dispute that can be taken to tribunal is growing fast. Over 70 kinds of dispute can now be taken to tribunal and those include the discrimination legislation as well as the standard employment costs such as unfair dismissal or deduction from wages.

The tribunal system may have to be extended in the future, but it is hoped that a lot of disputes could be settled between the employer and the employee or with some conciliation through the Labour Relations Agency. As the Committee knows, one of the Minister's proposed amendments concerns applying the arbitration system to disputes on flexible working. The more rights that are created, the greater the likelihood of dispute. Tribunals and other means of dispute resolution must try to keep up with them.

**The Chairperson:** Is the Committee content to recommend clause 13?

**Mr McElduff:** I am not, Chairman.

I propose that flexible working be extended to all working parents of disabled children so long as they are dependent. I shall not detail the arrangements; there are special problems post-18. Moreover, the right to request flexible working should be extended to all parents of children under the compulsory school leaving age.

**Mr Carrick:** Does “working parents” come under the definition of workers as opposed to employees?

**The Chairperson:** The definition is certainly different to that of “employee”. I am not sure of its precise meaning. If the Committee were to make such an amendment, a form of words to define “working parents” should more precisely be determined.

**Mr Caldwell:** It is my understanding that disabled children, and all parents of disabled children, are covered by this Bill. In other words, a child is a person who has not reached the age of 18; beyond the age of 18 a person, legally, is not a child. Therefore all children would be covered by the Bill.

**The Chairperson:** This was discussed last week, and I suspect that what Mr McElduff means is that those persons above the age of 18 who are disabled and dependent on their parents are children. Although they are no longer legally classified as children, they are children in an everyday sense. We have had problems in finding a way to express that.

**Mr McElduff:** The reason I make the proposal — and I accept that it will probably be lost — is to give it some status.

I beg to move

That the Committee recommend to the Assembly that the right to request flexible working be extended to all working parents of disabled children so long as they are dependent.

*Question put.*

*The Committee divided: Ayes 1; Noes 4.*

AYES

Barry McElduff

NOES

Dr Birnie, Mr Carrick, Dr Adamson, Mr Hilditch.

*Question accordingly negatived.*

*Question, That the Committee is content with the clause, put and agreed to.*

**Mr McElduff:** I will leave it at that for now.

## Clause 14 (Regulations)

**The Chairperson:** It seems permissive to allow the Department to make subsequent Regulations when it considers that they are necessary. Is that interpretation correct?

**Mr Caldwell:** This clause determines the nature of the regulatory powers — in other words, it determines whether they are subject to affirmative, negative or confirmatory resolution.

**The Chairperson:** Does the clause suggest that they should be subject to negative resolution?

**Mr Caldwell:** The Regulations would be subject to negative resolution.

**The Chairperson:** Why are they subject to negative rather than affirmative resolution?

**Mr Caldwell:** I am not quite sure why. Some clauses in the Bill propose the insertion of new provisions into existing legislation. Thus, Regulations arising from such legislation may be subject to confirmatory, rather than negative, procedure. A judgement must be made on which type of Regulation it is reasonable to lay, and any member who wishes to challenge that has the opportunity to do so.

*Question, That the Committee is content with the clause, put and agreed to.*

*Clause 15 agreed to.*

## Clause 16 (Commencement)

**The Chairperson:** 5 April was mentioned. Is that the correct date? Will the Minister decide on a date at a later stage? This clause allows the operation of the Act on such days as the Department may by order appoint.

**Mr Caldwell:** All the provisions in the Bill would apply to parents whose children are due to be born on the week beginning 6 April. The commencement Order or Orders that are required to give effect to the provisions would be made on a specific date before 6 April.

*Question put, That the Committee is content with the clause, put and agreed to.*

## Clause 17 (Interpretation)

**The Chairperson:** I shall return to the definitions of worker, employer and employee. If it were decided that wider definitions were appropriate, the Social Security Contributions and Benefits Act 1992 would have to be amended. Would that require a new piece of primary legislation or a new Act?

**Mr Gamble:** Yes, it would. I do not pretend to know all about social security legislation. However, if the Bill were to introduce a system of paying benefits that was linked to the social security system, the two systems could not operate independently. The definitions would

have to be compatible or identical. That is my understanding of the matter.

**Mr Caldwell:** Let me explain how the mechanics of it might work. If, following the consideration of the outcome of the employment status review, a definite decision were taken to extend employment rights to groups or classes of individuals who currently do not enjoy them, another section would have to be added to employment legislation to change the definition of employee. The term employee might be extended specifically to include additional classes of person who are normally regarded as workers. I am not sure what effect that would have on social security legislation. Obviously, that would have to be considered carefully.

*Question,* That the Committee is content with the clause, *put and agreed to.*

### **Clause 18 (Short title)**

**The Chairperson:** This very short clause states that

“This Act may be cited as the Employment Act (Northern Ireland) 2002.”

Some Members said last week that they would prefer the name of the Bill to be more explanatory. If members come up with what they feel would be a better title for the Bill, this clause will have to be amended. I recall that two options were discussed last week. Two possible titles were discussed; the “Work/Life Balance Act” and the “Parent and Doctors’ Rights Act”. Do member have any questions or comments?

**Mr McElduff:** The term “work/life balance” does not accurately reflect the nature of the Bill. The Minister made a statement about Work/Life Balance Week, which is coming up soon, but that is a different issue. Ideally, I prefer the “Work and Parenting Act”. I accept that the term “work” has been substituted by the word “employment”. The title “Employment and Parenting Act” would give, to use the Chairperson’s word, clarity.

**The Chairperson:** That is another possibility. Do members have any other proposals or does “a rose by any other name smell as sweet”? The title of the Bill is not that important.

**Mr Carrick:** The title of the Bill should accurately reflect every aspect of it. The suggestion that the “Parental Employment Rights Bill” more accurately reflects the four elements of the Bill.

**The Chairperson:** The four elements are maternity, paternity, adoption and the right to request flexible working. It can be argued that adoption is covered by the term “parental” or “parenting”. The two titles that were originally proposed are broadly similar, although one contains the word “rights” and the other does not.

**Mr McElduff:** I am happy to support the title, “Parental and Employment Rights Bill”, and withdraw my suggestion, if that is appropriate.

**The Chairperson:** The Bill would become the Parental and Employment Rights Act.

**Dr Adamson:** That title sounds fine and contains all the elements of the Bill.

**The Chairperson:** Do the departmental officials want to comment on the title of the Bill? It has been discussed in previous evidence sessions, and there is an argument to retain the existing title. Is there any insuperable difficulty in having a slightly longer title, such as “Parental Employment Rights Act”, which is a four-word title instead of a two-word title?

**Mr Gamble:** I would prefer to be silent on that. The Department would naturally defer to the draftsmen of the Office of the Legislative Counsel on such matters. Much of this Bill will be incorporated into other legislation and is simply a vehicle for inserting things into other Orders and Acts. Therefore, the title does not have to be that specific. A draftsman would normally use the same title as the counterpart Bill in GB. The expertise and mysteries surrounding Bill titles rest with the Office of the Legislative Counsel, which will no doubt have a view on it. However, I do not know who makes the final decision on titles.

**The Chairperson:** Are there any other comments or questions? Do members agree or disagree with the clause as drafted?

**Mr McElduff:** Disagree.

**The Chairperson:** Given that there has been some disagreement, we shall examine an amendment to clause 18 to delete “Employment Act” and insert “Parental Employment Rights Act”.

**Mr Carrick:** I have listened to what Mr Caldwell and Mr Gamble said. Is there a danger that our legislation will be confused with the Employment Bill in Great Britain? That might sway me. I have sympathy with conveying a message through the short title, but in doing so we may be causing confusion. We must be consistent.

**The Chairperson:** The Act in Westminster is substantially the same thing. Might harm be done if the two pieces of legislation bore different names?

**Mr Caldwell:** Generally speaking the convention is that Northern Ireland tends to follow Westminster closely because employment law in Northern Ireland, with a few minor exceptions, is identical to that in Great Britain, thus making it easier for internal investors, various employers and employment lawyers to understand what the rights are in Northern Ireland. This is because, in many instances, business transcends across the United Kingdom.

As Mr Gamble said, most of the provisions are inserting provisions in other existing legislation. The Bill, when enacted, will probably only be referred to by legal people or people directly concerned with it, such as MLAs, MPs or officials. For simplicity, in many instances, it is easier for people to grasp that in Great Britain the Employment Act contains provisions dealing with adoption leave, paternity leave and maternity leave and flexible working. To call the Northern Ireland counterpart the Employment Act (Northern Ireland) is generally simpler all round.

**The Chairperson:** That is a powerful case in favour of keeping the title. A counter argument, which might be seen as a political judgement, is whether the Assembly should adopt a different approach.

**Mr McElduff:** Are we afraid to lead? Do we have to follow all the time?

**The Chairperson:** As the Northern Ireland Assembly, we may want people to read in the newspapers that the Employment Bill or the Parental Employment Rights Bill has been enacted, and we might prefer a title that told people what is in the Act. Arguably, that approach is better than that adopted in Westminster hitherto. There may be a gain from copying the traditional Westminster practice; equally, if we decide that we do not like that practice, there is a loss from copying it. We have to weigh that up.

I beg to move

That the Committee recommend to the Assembly that the clause be amended as follows: leave out "Employment" and insert "Parental Employment Rights".

*Question put.*

*The Committee divided: Ayes 3; Noes 2.*

*AYES*

*Dr Birnie, Mr McElduff, Dr Adamson.*

*NOES*

*Mr Hilditch, Mr Carrick*

*Question accordingly agreed to.*

*Question, That the Committee is content with the clause, as amended, put and agreed to.*

**The Chairperson:** We still have to cover the two schedules and the long title.

#### ***Schedule 1 (Penalties, procedures and appeals)***

**Mr Caldwell:** The Committee has already passed the sections that cover the schedules.

**The Chairperson:** There might be a problem if we were to amend schedules because of the consequential effect on clauses. Nevertheless, we have to formally

recommend each of the schedules. Do members have any comments on schedule 1?

**Mr McElduff:** We need a quorum and toilet rights act.

**The Chairperson:** We may be able to have a short break after we have got through the long title.

**Dr Adamson:** Unfortunately I shall have to leave shortly.

*Question, That the Committee is content with the schedule, put and agreed to.*

#### ***Schedule 2 (Amendments)***

**The Chairperson:** Are there any questions or comments on the amendments to schedule 2? The point of the schedules is to define terms used in the clauses.

**Mr Caldwell:** They tend to be consequential.

**The Chairperson:** If we have agreed the clauses earlier, then the schedules must be agreed to support the clauses in consequence.

*Question, That the Committee is content with the schedule, put and agreed to.*

*Long title agreed to.*

**The Chairperson:** The Committee has completed the clause-by-clause scrutiny of the Bill. Therefore, with the Committee's agreement, I ask the Clerk to produce a draft report for next week's meeting. The report will detail the process that the Committee has completed and include a preamble on some of the points that we discussed before the clause-by-clause scrutiny, such as the definition of the term "worker". The Committee must also decide whether it is happy for the motion to extend the Committee Stage for up to four weeks to be tabled on Monday.

**Mr McElduff:** What is the principal argument for an extension?

**The Chairperson:** The main reason for requesting an extension is that the Committee may need longer. We may be able to agree on the Bill relatively quickly, but that depends on the Committee's reaction to the report. In fact, the motion for requesting an extension has been tabled, but the question is whether I move the motion. It would be wise to move the motion so that the Committee has an option to fall back on. If I do not move the motion, the Committee Stage ends on 19 September, which is this time next week. The Committee, therefore, would have only a week to agree on the report.

I also seek the Committee's agreement to the Clerk's reducing the length of time given to members and witnesses to suggest corrections to the Hansard evidence.

**The Committee Clerk:** The normal time frame for making suggestions is 10 working days, but I intend to present as much of the report as possible, if not the whole report, by next week. That will depend on the agreement



of members and witnesses to a very short turnaround time. Would members prefer to have part of the report included in their packs for next week's meeting?

**The Chairperson:** In other words, would the Committee prefer to wait until next week's meeting for the whole report or to receive part of the report a few days ahead of the meeting, and the remainder at the meeting?

**Mr McElduff:** I would prefer to receive part of the report in advance.

*Members indicated assent.*

**The Chairperson:** We have completed today's business. I thank Mr Gamble and Mr Caldwell from the Department for Employment and Learning, and the clerk from the Bill Office.



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**NORTHERN IRELAND  
ASSEMBLY**

*This report was not approved formally by the  
Committee prior to the suspension of the Assembly on  
14 October 2002, but is published by order of the Speaker.*

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**COMMITTEE FOR SOCIAL  
DEVELOPMENT**

Thursday 12 September 2002

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**HOUSING SUPPORT SERVICES BILL  
(NIA 23/01)**

**Members present:**

Mr Cobain (Chairperson)  
Sir John Gorman  
Mr B Hutchinson  
Mrs Nelis  
Mr O'Neill  
Mr M Robinson

**Witness:**

Mr J Burns      ) Department for Social Development

**Clause 1 (Provision of housing support services)**

**The Chairperson:** I welcome Mr Jerome Burns from the Department for Social Development.

Members will recall that when we examined this clause previously, we thought that an amendment was appropriate. Officials undertook to check whether the Minister would agree to such an amendment and if he was content to arrange for it to be drafted.

**Mr Burns:** Following the meeting on Tuesday, I made a submission to the Minister pointing out the Committee's desire that provision for consultation be included in the Bill, as suggested by a number of the consultees. The Minister has indicated that he is quite content with this, and he will bring forward an appropriate amendment in this regard. I have also been in contact with the legislative draftsman, and he does not see any difficulty with it

either. He will draft a suitable amendment that mirrors the Great Britain provisions.

**The Chairperson:** Can you confirm that the Minister has agreed to arrange for an additional subsection to be drafted?

**Mr Burns:** Yes.

**The Chairperson:** Are we content with that?

**Mrs Nelis:** The additional subsection will be on the consultation process. Is that with regard to means-testing and charging?

**Mr Burns:** As the title of the clause suggests, it is with regard to the provision of housing support services. The issues of charging and means-testing will be dealt with under clause 2(4) which says that

"Grants under this section may be paid on such terms and conditions as may be prescribed."

Again, the Department will be taking the views of people on issues such as charging and means-testing.

**Mrs Nelis:** I just want to clarify that point. Will there be a separate consultation exercise on that?

**Mr Burns:** It will not be as wide as the exercise for the 'Towards Supporting People' document, which went out to a number of people and bodies who would not have a direct interest in this Bill. As the amendment says:

"such recipients or representatives of recipients of housing support services as appear to be appropriate; and such providers or representatives of providers as appear to be appropriate."

They will all be included in any discussions and consultations.

**The Chairperson:** The question is that the Committee is content with clause 1, subject to the Minister's making legislative provision for consultation on the relevant subordinate legislation and on the basis that he has undertaken to arrange drafting of a new subsection along the lines suggested by the Northern Ireland Council for Voluntary Action and the Law Centre (NI).

*Question, That the Committee is content with the clause, subject to the Committee's proposed amendment, put and agreed to.*

**The Chairperson:** That concludes the Committee's clause-by-clause consideration of the Housing Support Services Bill.





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**NORTHERN IRELAND  
ASSEMBLY**

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**COMMITTEE FOR THE ENVIRONMENT**

Thursday 12 September 2002

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**PLANNING (AMENDMENT) BILL  
(NIA 12/01)**

**Members present:**

Rev Dr William McCrea (Chairperson)  
Ms Lewsley (Deputy Chairperson)  
Mr Armstrong  
Mrs Carson  
Mr Ford  
Mr Molloy  
Mrs Nelis  
Mr Poots

**Witnesses:**

Mr D Nesbitt ) Minister of the Environment  
Ms M Hempton )  
Mr J Lambe ) Department of the Environment  
Mr I Maye )

**The Chairperson:** I welcome the Minister, who is here to discuss two important issues, and I thank members for agreeing to bring forward the meeting.

**The Minister of the Environment (Mr Nesbitt):** We have had many a disagreement, but I appreciate your bringing the meeting forward, because I have to catch a plane.

The Committee raised the issue of the criminalisation of planning, and I empathise strongly with that. The Department of the Environment commissioned research from Queen's University Belfast, and it supports criminalisation. The Department is drawing up a letter to send to the Executive seeking their endorsement, in principle, for the introduction of criminalisation of planning, which would mean that there could be no development without planning permission. I intend to propose an amendment, but I will consult the Committee on that. I publicly endorse that this is in response to the Committee. I am conscious of development without planning permission, which is unacceptable.

**The Chairperson:** What is the opinion of your Executive Colleagues on the matter?

**Mr Nesbitt:** Prior approval is almost like applying for planning permission. The request is sent to Executive Committee members, and if they have no objections, it

is put formally to the Executive. The five Ministers who responded within the timescale support it. We are taking the silence of the other Ministers as acceptance; however, I cannot be sure. Nevertheless, I am going forward with a measure of support. I have also had initial discussions with the Secretary of State, and he understands why the Department wants to propose the amendment because the research shows that it has not been operating in England and Wales. However, research from Queen's University Belfast shows that it has been operating as a deterrent in the South of Ireland, and it is causing a smaller financial increase. It works throughout Europe also.

There is a strong precedent of having prior approval, and there is indicative support from the Secretary of State. There has also been no dissension in the Executive. It will go to the Executive next Thursday for approval. If they endorse it, we will draw up the amendment. Then the Committee will assist me in examining the amendment.

**The Chairperson:** Will the wording of the amendment be open for discussion and scrutiny by the Committee?

**Mr Nesbitt:** Yes.

We have had much discussion about third-party rights of appeal. At the last Committee meeting we discussed the increase of the unlimited fine to £30,000 if the matter is dealt with in a higher court. I have sympathy with the criminal aspect, and we have conducted some work on that. Consultation on the review of the planning process was divided. Some people said that we need third-party appeals, but others were unsure. However, there was unanimity from both sides of the House that it was tricky and required further consultation and thought. We want to go down that line, but that does not mean that we are putting it on the back burner. We need a commitment to the consultation, and we need to embark on that before Christmas.

If, or when, we embark on consultation, I want the Committee to see how we are consulting and to give us its views on the consultation. However, across the board it is viewed as a difficult issue. Mr Maye can outline the model that we have suggested. Further thought is required; the consultation will prepare the ground for serious consideration.

**The Chairperson:** You said that the matter would not be put on the back burner: is that a direct commitment to consultation?

**Mr Nesbitt:** I give my commitment now — readily.

**The Chairperson:** Is there, therefore, a timescale as to when the consultation will commence and finish?

**Mr Nesbitt:** I anticipate that it will be completed by Christmas.

**Mr Maye:** It will commence before Christmas, and we will publish a consultation paper, having agreed the

detail with the Committee. Then it will take the normal three to four months for consultation.

**Mr Nesbitt:** I read my very brief brief. I should have made it clear that the process would be completed and a paper issued before Christmas. The Committee will be involved in discussion on the consultation document.

**The Chairperson:** It has been suggested that a detailed regulatory impact assessment is needed. What does that process involve, and how long would it take?

**Mr Maye:** That assessment would be done within the same timescale; it would be published with the consultation paper. We have already tasked consultants to help us to carry out an analysis and to draw out the potential implications for the public sector and society.

**The Chairperson:** Are the resources available for drafting the consultation paper?

**Mr Nesbitt:** I will ensure that that is the case. It could be seen as going up an alley; it is not. It is showing that there are concerns on all sides, and more time is needed.

**Mr Poots:** In the light of human rights legislation, how safe is it to decide not to introduce third-party appeals?

**Mr Nesbitt:** We have been assured that that would not be in breach of human rights legislation, and that proposition was tested in the Alconbury case. In deciding whether it should be introduced, we must be mindful of the review of public administration and other aspects.

**Mr Poots:** Is that the Edinburgh case?

**Mr Maye:** The Foster case, which is before the Northern Ireland courts, bears on the issue. A hearing was held about six months ago, and we have not yet received a judgement. The judge who heard the case will not be reporting publicly for at least another six months. He wants to hear further oral evidence on more recent cases in England and Wales and in other jurisdictions before making his judgement. Our view, which is backed by senior counsel, is that we can regard the current system as compliant on human rights grounds. However, we will not be sure until we receive the judgement on the Foster case.

**Mr Poots:** The situation will not be clear-cut if it will take the judge a year to make his decision.

**Mr Maye:** I agree, it is a very fast-moving area, and recently there have been many cases on the issue in England and Wales. The cases have all been moving in a similar direction. The judge wants to take stock of the general feel of the other cases, and to hear further evidence before he decides what to say in his judgement.

**Mrs Nelis:** I agree that the consultation is important, but it is happening at the same time as the review of public administration. Will the Committee get only one bite of the cherry or will there be a further opportunity to become involved in the issue?

**Mr Nesbitt:** You will view the consultation document before it goes out, and your view will probably be sought when it comes in after Christmas. We will have a new Assembly from 21 March 2003, and I am not sure how much can be done between January and March. However, the Committee will be involved at all stages.

**Mrs Nelis:** Are you confident that you will be able to meet the deadline and that the Committee will fulfil its duties?

**Mr Nesbitt:** I give a commitment here, and I would readily give it in the Assembly: this process with the Committee will be up and running by Christmas, and it will take place three months after that.

**Mrs Carson:** How would a change in the law on third-party appeals affect the review of public administration?

**Mr Nesbitt:** That is a big question. De jure, I make all of the 24,000 planning decisions. De facto, planning officials make many of those, but they all consult with councils. The review of public administration may, therefore, make a key recommendation that an elected representative take every decision. That would mean that councils, through the consultation process, could become the deciding body — if their numbers remain the same. That being the case, it could be argued — and this happens in the South — that accountability is introduced to the planning process, in that elected representatives reflect their constituents' views to the planning officials. A third-party appeal might take the planning decision out of the hands of elected representatives, giving a Planning Appeals Commission the right to decide.

Planning is included in the review of public administration, regardless of whether a third-party right of appeal is introduced. Elected representatives in district councils must address that.

**The Chairperson:** Is there not a basic equality issue? For example, an unsuccessful planning applicant has the right to an appeal. However, if the rest of the community is aggrieved by a planning approval, it has no right to appeal. Does the community not have a basic human right to receive equal treatment? In several cases, despite the fact that a whole community has been aggrieved by a planning decision, the approval could not be appealed. The concept of "beauty is in the eye of the beholder" is applied, and community members do not understand why a planning decision was forced on it.

I fully support the right to appeal of applicants; however, a community has rights, and they are being regarded as inferior to the applicants'.

**Mr Nesbitt:** I empathise with the intuitive logic of that. The community should not be merely consulted in an advisory capacity. It is correct that a development may proceed even if the whole community or council opposes it. If the community, through its elected representatives,

opposes a proposal, the planning decision should reflect those community's views. Elected representatives could, therefore, have an important function to perform in upholding, or at least subscribing to, the rights of everyone.

**Mr Molloy:** There are two sides to the problem. First, we are working under the assumption that those powers will be returned to local government. Many councils are reluctant to take on that role, because it is easier to blame the planners.

**Mr Nesbitt:** Nothing crystallises the mind more than responsibility.

**Mr Molloy:** That is a growing problem in the rural community. Poultry houses, for example, might never be built if the planning decision were left to the rural community. It is a matter of trying to balance conflicting rights. I agree that there must be some mechanism by which the community can appeal against a decision, especially if there is strong objection to a plan. However, I am not certain that giving the responsibility to local government will be the best way of dealing with the matter.

**Mr Nesbitt:** I am not saying that it is the best way of dealing with it. As Mr Molloy said, local government may not wish to make such decisions. When I was a councillor, Planning Service officials and Roads Service officials said that they wished that the council had authority. They wanted the council to tell them what to do, so that they could do it. However, I take the point.

**The Chairperson:** I am informed that the Planning Appeals Commission is examining the human rights aspect of the issue, but it has not yet reached a decision.

**Mr Nesbitt:** I look to Mr Maye for the details of that.

**Mr Maye:** Like the Department, the Planning Appeals Commission awaits the outcome of the Foster case. They were a notice party in that case and gave evidence. We all await the judgement on the Foster case with bated breath, because we hope that it will clarify the legal issues. It will not, however, clarify whether people think that the introduction of a third-party right of appeal is a good idea from a policy perspective or a natural justice perspective — which is not necessarily the same as justice that is dispensed by a judge.

The two arguments are slightly separate. However, for its own reasons, the Planning Appeals Commission firmly believes that there should be a third-party right of appeal. I do not want to say on its behalf what those reasons might be.

**The Chairperson:** If the consultation shows that third-party appeals should be introduced, can we speed their implementation by including enabling provisions, which would allow the right to be introduced through secondary legislation, in the Planning (Amendment) Bill?

If the Committee thinks that that is the correct route to take, the legislation could be introduced before dissolution.

**Mr Nesbitt:** It would be possible to introduce enabling powers. However, that would involve making further legislative changes to the Planning (Northern Ireland) Order 1991. Any decisions on the proposed scope of that legislation must be drafted and made subject to a public consultation process. I am not sure that the timescale will allow for that.

**Mr Maye:** The advice from legislative counsel is that the Department must decide on a precise model for third-party appeals. A broad enabling power, which puts all the responsibility for changing the primary legislation onto the subordinate legislation, is not legally possible. Therefore, we would have to make the primary legislative changes in the Planning (Northern Ireland) Order 1991 now. That can be done only if a precise model is decided upon now. The power to make subordinate legislation will just add flesh to the bones.

Legislative counsel firmly believes that it could be done in the time available, but the third-party right would be extremely limited.

**The Chairperson:** The Committee will seek further legal advice.

**Mr Nesbitt:** I will mention the moratorium briefly. The Committee is seeking an extension to the Committee Stage of the Planning (Amendment) Bill in the Assembly, and the Department does not want to lose the Bill, given the enforcement powers, greater fines, spot listing, et cetera, that it will introduce. However, I would like the Committee Stage to be concluded by early or mid-November at the latest.

If the Committee applies for an extension until late November, it will have some flexibility. It can apply only once for an extension. The last time the Committee applied for a long extension, it tried to complete the work well within that time. It should aim to complete the Committee Stage by early to mid-November if we want to be reasonably confident that the Bill will receive Royal Assent before 21 March 2003. If the Committee does not complete its stage by then, the Bill could be lost.

The word "moratorium" was mentioned. I must be clear that there is no moratorium. Sewerage problems in Downpatrick and the Derry City Council area were becoming apparent, and an EU Directive was issued in March 2002 that raised the bar. Two hundred new sewerage works were required by the Regulation. We found that only 57% of Northern Ireland was compliant, whereas Britain was 95% compliant. With regard to the EU Directive, Northern Ireland was only 35% compliant. So, the Department issued a statement to planning officials in each division stating that refusals on the grounds of sewerage treatment works should not be issued. The

Department said that we should hold back and look at the dynamics of the problem.

I had another meeting with Peter Robinson yesterday. Officials are working on the problem, and I am committed to making a statement in mid-September. Put simply, the Department is considering the capital works programme for sewerage, when it will be introduced, and when the works will be up to standard. If, for example, I allow development on a particular site, I must consider whether it will be two years before the works are up to standard, and whether, therefore, we are exposing people to pollution. My judgement must be balanced. I want to be open with the community and let people know that, if I am to approve development, I have to consider the level of pollution. I must achieve a balance, and I want people to understand the dynamics of the situation when I make a recommendation.

I may make the decision myself, and I may seek the Executive's opinion. I wish to support the Department for Regional Development, because it has often said that it needs additional resources. I also want the Executive to be seen to support what the Department for Regional Development is doing because their actions are measured by the colour of their money, as the old saying goes.

We are trying to address the magnitude of the problem, and to help the Department for Regional Development, which, in turn, helps me to deal with environmental issues. The Executive support both Departments. That is the situation in a nutshell.

**The Chairperson:** The Deputy Chairperson and I met the Minister last week, and we reported back immediately to the Committee. We understand that the window of opportunity that the Committee is looking for must be sensible and rational in the circumstances, and we are now waiting for the Minister's statement.

**Mr Nesbitt:** I said that I would make the statement in mid-September. I want to make it on Monday 16 September, but if I am to consult the Executive first, I could not make the statement until Thursday 19 September. I have given an undertaking. Clarity and certainty are needed on the direction that we are taking.

**The Chairperson:** Minister, thank you for your time. I trust that the Committee will be able to make progress with these matters. We will consider what you said about the timetable for the Committee Stage of the Bill.

**Mr Nesbitt:** Completion of the Committee Stage by early to mid-November would help to ensure that the Bill receives Royal Assent in time, and that it contains the parts that we want it to include.

**The Chairperson:** I cannot make any promises on that. The Committee will decide whether that is fact.

**Mr Nesbitt:** The Committee always does.

**The Chairperson:** We are determined to do what we can to assist the community with planning.



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**NORTHERN IRELAND  
ASSEMBLY**

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**COMMITTEE FOR THE ENVIRONMENT**

Thursday 12 September 2002

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**POLLUTION PREVENTION  
AND CONTROL BILL  
(NIA 19/01)**

**Members present:**

Rev Dr William McCrea (Chairperson)  
Mr Armstrong  
Mrs Carson  
Mr Ford  
Mr Molloy  
Mrs Nelis  
Mr Poots

**Witnesses:**

Mr D Bell                   ) Department of the Environment  
Mrs E Harkness        )  
Mr N Simmons         )

**The Chairperson:** We welcome Mr David Bell, Mrs Ethne Harkness and Mr Norman Simmons back to the Committee.

**Mr Simmons:** I shall run through the letter written to the Committee on 9 September. That dealt with the issues which followed last week's meeting of the Committee.

The first item concerns amendments to the explanatory and financial memorandum. As requested, we have provided two amendments. One of those relates to clause 2(5), and attempts to set down more clearly the purpose of the clause and the Department's intentions as to its use. The second amendment is to the text in clause 4, which clarifies the meaning of "appointed day" and "relevant day", as used in the clause.

**The Chairperson:** The proposed amendment refers to clause 4(5), which should have been deleted, as agreed last week.

**Mr Simmons:** Sorry. We have made the amendments to reflect the Committee's views of last week. The other incidental amendments will be made when we rewrite the explanatory and financial memorandum after Consideration Stage.

We have provided two draft amendments. The first is the amendment requested by the Committee last week, and it inserts the requirement in clause 2 to consult

bodies or persons appearing to be representative of district councils. That subsection will now read:

"Before making any regulations under this section, the Department shall consult —

( ) district councils and such bodies or persons appearing to it to be representative of district councils as it may consider appropriate;"

**Mr Ford:** My scribbles last week are perhaps not as coherent as other people's notes, but they refer to the issue of representatives of council staff. I thought we had discussed that.

**Mr Simmons:** I am sorry; that was not in the Committee's letter to us.

**Mr Ford:** I appreciate that and I do not point the finger; I only raise the question.

**The Chairperson:** I am not so sure that the proposed wording provides for what we want. It says: "appearing to it to be representative of district councils". There is no reference to staff. You have the representatives of district councils, but not of the staff.

**Mrs Harkness:** On what basis would there be an interest in staff? Why would that be? What is the objective of including an express reference to staff? You would normally expect that when a Bill was going to involve contracts of employment, terms and conditions of appointment or something like that, but presumably that is not what the Committee is interested in here. I am not sure where this could be directed.

**The Chairperson:** When we have been talking about district councils in the past, we have been anxious to include the staff, who have representatives as well, in any consultations. We have been trying to protect that in the past.

**Mrs Harkness:** But the decision-making responsibility and so on would be in the hands of the district councils. Their staff would just be in a role of advising, and then handing over. The decision-making role would be for the councils as such.

**Mr Ford:** In my experience as a district councillor, I have sometimes felt that the advice of officers can be very valuable. I would have thought that there would be a strong argument for saying that the involvement of council staff at the consultation stage would help to smooth matters. Sometimes the Department does benefit from the advice that it receives from other people, especially experts closely related to the work that is involved.

**Mrs Harkness:** Absolutely, but there are other bodies that are named consultees, through which the views of experts — environmental health officers or whoever — can come. This is not something that has been referred to legislative counsel, because it was not in the letter, but I imagine that there would be a difficulty in deciding what mechanism you should use to consult staff on an issue such as this. When you are talking about

terms and conditions of employment you can see a clear trade union role, but how do you do it in a situation like this?

**Mr Ford:** How does the Department consult the interests of small businesses? If it goes to bodies that apparently represent the interests of small businesses, I do not see how consulting council staff is any more difficult than liaising with the other list of consultees.

**Mrs Harkness:** For small businesses there are representative bodies, such as chambers of commerce and so on, and there would also be, through advertisement, scope for individuals to come forward and describe their position and the locus standi that they have for putting forward their views. It is more difficult in terms of individual staff, who can only speak in this matter as individuals. It is harder to see how the consultation would operate.

**Mr Molloy:** I do not want to break rank with the Committee on this, but I am inclined to agree that council staff are representative of the council if they are appointed to be so. There is a danger here. The primacy of the elected representatives within district councils is an important aspect. When expert advice is required, that comes through a certain structure. It is important at that level that we do not get personal opinions overruling the district council's opinion. A representative of the district council could be an officer or a councillor, but it is not necessary for that to be defined.

**The Chairperson:** Before we have any further discussion, because we are talking about councils, could we have a declaration of interest please?

*Various members declared an interest.*

**The Chairperson:** I would prefer to go back to the first wording — “representative of the interests of district councils” — because it was more open. That would take in Mr Ford's point. The interests of district councils could include staff. When you say “representative of district councils”, that can tie it very much to an elite body, rather than the unions that represent staff. I have always found that it is much better to bring staff with you, rather than to say that their opinions do not count and that they are simply tied onto it.

**Mr Simmons:** We could reinsert the words “the interests of” —

“representative of the interests of district councils”

— if that was the Committee's wish. I do not think that that would cause any problems.

**Mrs Nelis:** Would the word “both” not qualify it?

— “both district councils and such bodies or persons ... representative”?

To me, that would be staff.

**Mrs Harkness:** This is really looking at what will be paragraph (a) of a series of things. We are really looking at one paragraph in isolation. There is, in effect, a list. It would not be necessary to say “both”, because we are saying

“district councils and such bodies or persons appearing to [the Department] to be representative of the interests of district councils ... as it may consider appropriate”.

In drafting terms, subject to advice from legislative counsel, I do not see any difficulty in doing that. If you were to say “both”, there might be a difficulty about just how many you would want to consult. You might be limiting it.

**Mr Armstrong:** I do not see much of a problem with the original wording. It says:

“the interests of district councils, industry, agriculture and small business”.

That takes in everyone. I refer to your list of what constitutes pollution. That has to be discussed at all times, because sometimes what is deemed to be pollution is not pollution. You have to consult with everyone, and I think that everyone is marked up in the section that gives that. You really have everyone there.

**The Chairperson:** Well, there is a proposal from the officials, but we may be making a different proposal. We have done that before, and we shall continue to do so in the future if we are trying to get clarity. We want to be sure that we know exactly what this means. There is not much of a difference between our positions; it is just getting clarity on the wording. You mentioned a moment ago the wording that you were trying to include. Can you send that quickly through to us?

**Mrs Harkness:** The only change — and it would have to come from legislative counsel — would be “representative of the interests of district councils” rather than “representative of district councils”. Keep that as a new paragraph (a). Paragraph (a) would then cover district councils and bodies or persons representative of the interests of district councils; paragraph (b) would refer to those representative of the interests of industry, agriculture and business; and the miscellaneous consultees would be covered in paragraph (c).

**The Chairperson:** That could be a way forward on this.

**Mr Simmons:** Yes, that is fine.

**The Chairperson:** It is a way that we can move forward on that. Let us move on to the next amendment.

**Mr Simmons:** The next amendment is the raising of the maximum fine level from £20,000 to £30,000. Our legislative counsel has drafted that for us. In line with our commitment last week, we are in the process of putting that to the Minister to seek his views on approaching the Secretary of State.

**The Chairperson:** When is that going to the Secretary of State?

**Mr Simmons:** We are holding off because there is another amendment proposed by the Committee on the same issue, and we will send the Minister a composite submission.

Another issue raised was the proposed amendment from the Committee that certain matters should be taken into account when deciding levels of fines. Departmental officials have been working hard this week on that proposed amendment with legislative counsel. However, he has identified some serious legal problems with some of the concepts that the Committee would like to see reflected in the clause. Mrs Harkness will give the Committee a summary of the counsel's points.

**Mrs Harkness:** The points are presented in a short document that has just been circulated to Committee members. The proposal came from the Committee to introduce an amendment requiring the courts to have regard to certain factors determining the level of fines. The Committee saw that as being in line with clauses in the Planning (Amendment) Bill and provided a draft of what it had in mind. The draft clause is set out in the paper that you have just received. The view of legislative counsel is that that violates some fundamental principles of the criminal justice system and sentencing process and, consequently, could not be supported as a package.

Various issues arose from the proposal, and some of the points that I want to make focus on the overall thrust of the proposal, and some concern the individual factors that are listed in the handout. The first proposal concerns "seriousness", and the draft states that "the court shall in particular have regard to the seriousness" of the pollution incident. That provision is not found in the Planning (Amendment) Bill. The seriousness of the offence, its consequences, and the relevant circumstances are already the most important factors in sentencing. The courts are obliged to do that by criminal justice provisions.

To provide in a Bill that the court must have "regard to seriousness" would not just be stating the obvious, but, in the words of legislative counsel, it would be "extremely dangerous". It would throw into question the whole issue of what the courts are doing in other situations. If the courts are to be told to look at the "seriousness" of one offence, then what is the role of "seriousness" elsewhere? For that reason legislative counsel's firm advice is that "seriousness" as a concept should not be a factor that is expressly mentioned in this way.

The second point relates to the costs of prosecution to be taken into account. Legislative counsel said that it would be "entirely improper" to take into account the cost of prosecution because it is not a matter that the accused can control. As well as that, everyone has a constitutional right to defend themselves, and to say that a punishment

will be increased because the accused had the temerity to defend himself against this charge is constitutionally improper.

There is an existing regime to deal with the payment or recoupment of costs. There is scope for costs orders to be made in criminal cases, but that is entirely unrelated to the system of criminal law penalties. It is a separate regime that is not part of the sentence, and it is expressly designed to compensate the authority rather than to punish the offender. Therefore, the matter is dealt with through that regime. It would not be proper for that issue to be dealt with under the Bill.

The third issue relates to costs of restoration, which is not just restoration in the limited sense, but remediation, which, although not a very attractive word, means remedying the effects of environmental damage. There are already several provisions relating to remediation and site restoration that are not specifically in the Bill, but appear in the Regulations. The Bill contains enabling powers to allow those Regulations to be brought forward. Although I have not gone into detail, I have referred to the provisions, which members can read to see the scope of what can be done. Does the Committee want more details on those provisions?

**The Chairperson:** Can you give a brief résumé of those?

**Mrs Harkness:** Paragraphs 6 to 8 of schedule 1 are among the paragraphs that deal with permits. Many of the Regulations address the point. In particular, paragraph 8 of schedule 1 allows for provisions to be made regulating the transfer or surrender of permits. Sub-paragraph (3) states that permits may be issued

"Authorising the imposition by enforcing authorities of requirements with respect to the taking of preventative or remedial action ... in connection with the surrender ... of permits."

That covers a situation where a person is about to leave the site of an installation, and the enforcing authority will not accept a surrender of the permit without being satisfied that adequate site restoration has been carried out. It is followed through in Regulation 19 of the draft Regulations, of which members have a copy.

I have drawn attention to paragraphs 14 to 18. Paragraph 15(1)(a) allows the enforcing authorities to serve notices requiring permit holders to take remedial action. It is not quite the same as restoration work, but we took it that the Committee meant that overall type of work. Regulations 26 and 36 of the draft Regulations take that provision forward. My colleagues from the operational side could give more information on that.

**The Chairperson:** Therefore, there is already provision in several other parts of the legislation, be it the schedules, Regulations or whatever, for what we want to incorporate.

**Mrs Harkness:** Not only is it covered elsewhere, but duplicating such provisions would, in itself, raise a difficulty by creating the risk of a double penalty. If it is mentioned as a factor to be taken into account in sentencing, it might restrict the powers of the enforcing order to issue a remediation or restoration order, because the accused might point out that while his or her fine is being increased to take account of that, he or she is also being ordered to pay the bill for remediation. Therefore, there is the risk of a double penalty. That is dangerous territory.

**The Chairperson:** Do members want to comment on any of the issues already covered?

**Mr Ford:** I have a degree of sympathy with the view that is expressed at paragraph (a) of the Department's paper. Clearly, the Committee does not want to do anything that is outside normal criminal law. However, with regard to the arguments that have just been advanced about paragraph (c), the examples that were given were not related to restoration. Remedial action is referred to in paragraph 15(1)(a). It does not refer to restoration. Are you sure, on remedial action, that that covers not only ensuring that pollution does not continue but also includes full responsibility for restoration? I am concerned that paragraph 8(3) is merely concerned with surrender or permits; indeed, Regulation 19 refers to "application to surrender". When it gets to that stage it is not an effective power to deal with an ongoing problem. Does paragraph 15(1)(a), which refers to remedial action, specifically include full powers to get restoration work done and paid for, as opposed to merely stopping the existing pollution? "Remedial" and "restoration" do not have the same meaning in the English language, but they may have the same meaning to lawyers.

**Mrs Harkness:** Even to lawyers they do not have the same meaning.

**Mr Ford:** If that is so, where is the power of restoration?

**Mrs Harkness:** Paragraph 8 leads to that.

**Mr Ford:** I accept that, but that is only at the surrender of a licence. With regard to an ongoing problem you cited at paragraph 15, where is the provision to ensure that restoration, as opposed to mere remedial action, takes place?

**Mr Bell:** In the context of the Regulations, site restoration has a specific meaning that comes from the EC Directive. The Directive requires that on cessation of operations the site be restored to a satisfactory state. I believe that in the context of the Regulations the word "restoration" relates to cessation of operations. "Remediation" has a more general meaning. When site restoration is referred to in the context of the Regulations and the permit surrender provisions, it refers to the site of the installation, which is the footprint of the installation. The "remediation" measures could go well beyond that.

Pollution could have occurred outside the boundary of the site and would need to be addressed. That is covered by Regulations 26 and 36.

Regulation 26 provides for enforcement authorities to issue notices requiring remediation. Regulation 36 provides for the courts to order remediation. Therefore, in that context, there is a differentiation, in that the word "restoration" is used in the context of the site and putting the site right before a cessation of operations. "Remediation" has a more general use, but it does mean putting right the effects of pollution and not just stopping the cause of pollution.

**Mr Ford:** Are you saying that Regulation 26 is covered by paragraph 15(1)(a) with regard to the word "remedial"?

**Mr Bell:** Yes. Regulation 26 gives effect to the general power in paragraph 15(1)(a).

**Mr Ford:** OK.

**The Chairperson:** It seems that once again the Department and the Committee are of the same mind with regard to wanting to ensure that the issue is covered. Officials say clearly that what we are endeavouring and desiring to do is already there and will be empowered by the legislation.

**Mrs Harkness:** We move to paragraph (d) of our paper and a difficulty raised by legislative counsel. It relates to the nature of the legislation involved. The proposal assumes that offences under the Bill will result in pollution. It contains the idea of cause and effect, but that will not necessarily be the case. The Bill is focused on concepts of permitting, and regulatory offences. There are also concerns about substantive pollution harm, and offences which cause pollution. There is not necessarily a causal link between the offences established in the Bill and the harm that can be seen on the ground. For example, with regard to the primary offence of operating without a permit, it cannot be said that harm arose next door to a site because someone was operating on the site without a permit. In the same way, it cannot be said that because someone was driving a car without a licence, there are pedestrians lying on a zebra crossing. There is no consequential link. That is the difficulty, and it is not just a pedantic, purist legal argument; it is a difficulty of substance.

There are some offences under the Bill. The Regulations create several offences; some could be described as regulatory, such as giving false information or not supplying information. To create that causal link would be very difficult. With some it could be argued — at least to the satisfaction of some people, if not the purists — that there is a connection. Even where it could be said that the pollution effect resulted from that infringement of the code, there would be other mechanisms for taking the scope or extent of that pollution harm into account in



the sentencing process. That would be via the route of seriousness again.

If an offence does not technically lead to pollution, but is part of the scenario in which pollution arises, the seriousness of the offence and the elements associated with it will, in any event, be taken into account by the court. I submit that that is why, for example, there is no provision in the Planning (Amendment) Bill, which is our precedent, requiring that the dramatic or widespread effect of disregarding an enforcement notice must be taken into account. That already impinges on the seriousness, and on the overall role of the courts.

Our argument is, therefore, that first, in many cases, the link will not be made and that inroad will not be there. Secondly, seriousness as an overriding concept will take care of that difficulty. The draft refers not just to the seriousness of the pollution incident, but the environmental impact as well. The same argument applies to that too, and that is really what legislative counsel's objections to that point are.

**The Chairperson:** If the link cannot be established in all cases, but can be established in some, why should there not be legislation to cover the particulars of those cases in which it can be established?

**Mrs Harkness:** If it could be established, then it would be possible to draft something that isolated not just offences out of the list of possible offences, but the way in which they were carried out on the ground. There would be difficulty in establishing the cause and effect. It could be done, but you would really be creating a subset of offences from the overall category of offences, where the seriousness of the whole scenario associated with the offence is already relevant. Potentially you would be dangerously impinging on the overarching concept of seriousness. It is hard to see how the court would distinguish between what it is doing under its implicit requirement to have regard to the seriousness of the offence and what it is then doing under its express requirement to have regard to the environmental impact. It would do both at the one time. If you separate them, you have arguments about whether the court is taking the same factor into account twice. It could be argued that it is unfair to the accused, who is being hit twice for essentially the same factor.

**The Chairperson:** Many of the words being used here, such as seriousness of pollution incidents, the costs of prosecution, and the environmental impact, are words used by the Department in its letter of 6 August to us.

**Mrs Harkness:** Yes, but they are used in the context of the overall sentencing regime that is familiar in criminal law. You are not requiring the courts specifically to address that.

**Mr Armstrong:** I cannot get my head around this. When is a pollution not a pollution? That is going to be

the problem. A person could be deemed to be polluting, when in fact using anaerobic digesters or involved in the pasteurising process. That could be deemed to be pollution at the start of the process, but not to be pollution by the end of the process. How do you address that problem?

**Mrs Harkness:** In that situation the offence is not specifically polluting; it could be operating without a licence, breaking a condition of the permit, not supplying information required and things such as that. Those could be offences even if no pollution actually materialises — in the same way as the drunk driver is committing an offence even if he makes it safely home. He has still committed an offence, and this could be the same. With regard to the penalty, you want to punish more severely the drunk driver who actually knocks down the person, or, likewise, the operator whose wrongful operation results in a measurable impact of pollution. They are both wrongdoers.

**Mr Poots:** I do not think that the courts see it that way. A court looks at a situation where wrong was done, even if it may have been a matter of good fortune that something harmful was not done. A judge will look at both aspects and will regard them with the same gravity.

**Mrs Harkness:** The court has to take into account what arose as a result of the wrongdoing, or even the risk that wrongdoing exposed.

**Mr Poots:** Exactly.

**The Chairperson:** We saw that in connection with mobile phones recently, where someone got a two-year sentence for using a mobile phone while on an aeroplane. The plane did not crash, but the risk was there.

**Mrs Harkness:** There was a case involving someone driving on a motorway a short while ago. The driver dropped something and was fumbling to pick it up, when he lost control and crossed the central reservation with devastating results. It was a moment of carelessness, and most of us have got away with it many times, but the sentence in that case was imprisonment. We all run those risks if we drive carelessly. The same situation applies here.

**Mr Simmons:** The last factor is the question of the financial benefit, and it most closely resembles what is contained in the Planning (Amendment) Bill. We feel that it is not a direct comparison with the Planning (Amendment) Bill, and there are practical difficulties in establishing and quantifying financial benefits. However, having discussed it with legislative counsel, we are coming to the view that there may not be any overriding legal reason why a provision along those lines could not be inserted into the Bill, although we would have reservations about its practical outworkings. There may well be scope to explore with legislative counsel a provision in the Bill

that restricted itself to financial benefit, very much along the lines of what is in the Planning (Amendment) Bill.

**Mrs Harkness:** The practicalities of doing that are different, and there are several reasons why. The difficulties arise when you move from the question of technical competence or “draftability” to the issue of how that provision would work, operate or make a difference in practice. In this context, unlike planning, it is difficult to see a close correlation of the type that the courts would need between offences under this legislation and financial benefit accruing.

It is difficult to see a causal link, and it is difficult to see the scope for doing it. It is also difficult to quantify any possible financial benefit. That is unlike the planning context, where you can have evidence of differentials in the value of land. You can say that there was an enforcement notice in place forbidding a building from being knocked down. You can show that the offender calculated the cost-effectiveness, decided to infringe the enforcement notice, and made a profit as a result. You can produce evidence from the experts about the level of the profit. That is easily workable by everyone involved.

It would be more difficult in this context. It would not be a one-off infringement; it would probably be a pattern — a continuing operation. An enforcing authority with a continuous, proactive role would be involved. The practicalities are different, but, as Mr Simmons said, it is possible to draft such measures. It can be done, but it would be difficult to put into operation.

**The Chairperson:** We must be careful. There are examples: there was a scandal in Craigavon some time ago regarding pollution, and a connection could be made. The Assembly’s legal advisers have advised the Committee that there is scope to draft provisions to cover the causal connections aspect, and thus meet the Committee’s concerns.

**Mrs Harkness:** It would be possible to take account of the need to show a causal connection. However, it would be difficult to convince a court that that requirement had been satisfied in relation to the evidence that would be forthcoming.

**The Chairperson:** It may or may not be difficult. The legislation could be in force for some considerable time, and it could be a long time before we get the chance to put it right again. The Assembly’s legal advisers have told the Committee that it can be drafted to take account of the causal link.

**Mrs Harkness:** I agree with that legal advice.

**Mr Ford:** In talking about the causal link, you highlighted the issue of the standards of proof. In taking an enforcement action, is it judged as in a civil case as opposed to a criminal prosecution? Are you looking at

the balance of probabilities rather than being “beyond all reasonable doubt”, thus making it easier to establish?

**Mrs Harkness:** No. We are talking about criminal offences and the factors that a court has to take into account when sentencing. If a court is to have regard for the financial benefit accruing as a result of the offence, it would have to be convinced that the evidence provided justified increasing the sentence. My difficulty is that I can see how, in the planning context, even anecdotal evidence of property values would show that someone had made a killing from his or her actions. It is not so easy to do the financial calculation, or to present the evidence, in this context.

**Mr Ford:** Is the enforcement action, and the potential recovery of costs by court order, easier to tie into some of these points relating to the gravity of the offence because of the question of the burden of proof that is required, or are you simply objecting to the concept of introducing this in the criminal part of activity?

**Mrs Harkness:** No. I do not have an objection to that — *[Interruption]*.

**Mr Ford:** Sorry. I meant to say “expressing reservations about”.

**Mrs Harkness:** My reservations would be based on the workability of the provision and how the courts would use it on a day-to-day basis. It could become a provision that lies on the statute book but is never used successfully. It is not likely to earn its keep on the statute book, and it is raising issues which the courts already ought to be considering. The general rubric concerning the circumstances of the offence and the sentencing approach already include those who set out to make a profit from an infringement. That is another objection. I do not envisage the courts using this provision, or people being able to present the sort of evidence that would convince the courts to use it. However, I can imagine accused people bringing appeals based on the argument that their sentences were increased on the basis of this provision, when they should not have been. I can envisage that counterproductive element. However, I do acknowledge that, as the Planning (Amendment) Bill would show, it is possible — unlike some of the other provisions that we have discussed — to draft a provision that requires the courts to have regard to this factor. We would then see what the courts do with it.

**Mr Molloy:** I can envisage this provision being used in cases where, for example, a contractor has disposed of waste improperly and has created a major pollution problem. The cost could be calculated on the basis of what the contractor was paid for disposing of the waste. Such improper disposal is one of the major causes of pollution.

**Mrs Harkness:** Waste disposal is one area where this provision could be used. However, some of those offences

would come under waste Regulations, and not necessarily pollution prevention and control (PPC) installations.

**Mr Bell:** Some PPC installations may be handling waste, but in the situation that Mr Molloy has described it is usually the case that the waste being transported never actually reaches waste disposal installations. Such cases would not be covered by the PPC Regulations. In theory, there may be some sort of a link in a limited number of cases, but it would be difficult to quantify. The improper disposal of waste is a relevant issue, although not one so directly linked to PPC. However, it could not be ruled out as some installations may handle waste.

**The Chairperson:** Is it not better to look at something than to look for it? If including this provision in the legislation will not hurt anyone, is it not better to consider the matter, and have the power, than to need the power, and not have it? The provision may not earn its keep, but we do not just pass legislation on the basis that it will earn its keep. To tell you the truth, there is a pile of legislation on the statute book that has not been dusted for 100 years — but it has not been removed, because it just might be needed some day. If it can be drafted, and if it will not injure the Bill, it should be included in case it is needed.

**Mrs Harkness:** I argued not only that it would not earn its keep, but that it may be counterproductive. It may cause problems, but the Committee must evaluate that.

**Mrs Nelis:** I am inclined to take the advice of the Committee's legal advisers. I accept that the Bill is regulatory, but polluters have been finding loopholes in the Regulations for years. Some form of deterrent must be built into the Bill.

**The Chairperson:** If possible, the Committee wants that point to be covered in legislation; the Assembly legal adviser says that it can be done. I do not think that it would have an adverse impact on the Bill. The Committee is working within a time limit, and we promised the Minister that we would meet the required deadline. Because of that, the drafting on outstanding issues is urgently required so that our staff can send it out to Committee members before the clause-by-clause reading next week.

**Mrs Harkness:** I wish to be clear about what is required. Are we talking about the accrual of financial benefit or other issues such as prosecution costs?

**The Chairperson:** May I have clarification on paragraph (a), which was mentioned by Mr Ford?

**Mr Ford:** We have no other option but to accept the advice that we received on paragraph (a).

**The Chairperson:** Our legal advisers focused on paragraphs (d) and (e), which relate to the causal link.

**Mr Ford:** I am concerned about paragraph (d), although I accept that the officials are meeting us halfway on paragraph (e).

On a practical level, some people may cause serious pollution incidents at relatively minor financial benefit to themselves. For example, in dumping a couple of tonnes of waste in a burn as opposed to a proper landfill site, a polluter might only save a few hundred pounds in gate fees, while causing tens of thousands of pounds worth of damage. If the Committee wishes to pursue that line, paragraph (d) will be more important than paragraph (e). Officials are meeting us halfway on paragraph (e); however, I am not sure that the issue of financial benefits is as important as the issue of external costs.

**Mrs Harkness:** The difficulty with what you are saying about paragraph (d) is that it impinges on the idea that courts implicitly give the matter of seriousness consideration. It involves duality.

**Mr Ford:** I accept your concerns, but there would be more practical value in pursuing paragraph (d), because the financial benefits to operators of not using a landfill site may be relatively small compared to the costs incurred by public authorities in remedying damage.

**Mrs Harkness:** That is how this situation is different from planning.

**Mr Ford:** Mr Chairperson, I am not sure whether that means that the Committee should just roll over and accept the arguments against paragraph (d) or whether we should continue to push the matter.

**The Chairperson:** We must look seriously at paragraphs (d) and (e). Our legal adviser tells us that both paragraphs are important and that there is scope for accommodation.

**Mrs Harkness:** My view is that paragraph (e) could be drafted to meet those concerns, but I would not feel free to say that legislative counsel would be satisfied that something along the lines of paragraph (d) could be done — he has serious reservations about getting into that territory.

**Mr Simmons:** Mrs Harkness and I can speak to legislative counsel to see what he can come up with; however, regardless of whether we go for (d) and (e), or (e) alone, the approval of the Secretary of State is required.

In putting our case to the Minister, who may refer the matter to the Secretary of State, we must reflect legislative counsel's views, including his opinion that paragraph (d) is seriously flawed. It will then be for the Minister to decide what to do; however, I believe that the Secretary of State would give heavy consideration to legislative counsel's opinion. Primarily, it is for the Minister to decide what to do. As well as putting the Committee's case, we will be duty bound to give the views of legislative counsel.



**The Chairperson:** Legislative counsel's opinion is that the Bill as it is drafted is flawed. Our legal advisers, who are also senior counsel, tell us that there is scope for doing something on (d) as well as (e). We are in the hands of lawyers who, as you know, are wonderful people. However, the good book says:

"Woe onto you also, ye lawyers!" (Luke 11:46)

They are like doctors — some patients die. However, we have taken advice.

We have a time constraint, which we are trying to fulfil. The Minister can help by giving genuine consideration and importance to the views of the Committee. You must keep in contact with Committee officials and our legal advisers to see if we can come up with wording that can satisfy some of the matters that we are asking you to review urgently. We must carry out a clause-by-clause consideration next Thursday.

**Mr Simmons:** We will speak to legislative counsel, and we will pass on to the Committee as a matter of urgency anything that we can draft. However, we cannot give unqualified approval until the matter goes to the Minister and, if need be, the Secretary of State.

**The Chairperson:** Would it be helpful if legislative counsel spoke to the Assembly's legal advisers about a possible draft? If the opinion of both advisers is that it is not possible, at least the Committee will know where it stands.

**Mr Simmons:** We have been working closely with your legal advisers for the past week, and we will continue to do so. If an amendment is agreed, we will draft that to the Committee as quickly as possible. There is, however, this other loose end: it is a qualified passing, because we cannot say unequivocally that the proposal will be included in the Bill until we have the view of the Minister, who may decide to go to the Secretary of State on the issue.

**The Chairperson:** We must ensure that the Minister approves all our amendments otherwise they will not stand.

**Mr Simmons:** That is the first step in the process. We will now discuss the other amendment relating to the £20,000 to £30,000, and take what arises out of that to the Minister to seek his views on a way forward.

**The Chairperson:** If you pass on that information to us, the Committee officials will distribute it to members as quickly as possible.

You were also to update us on the financial security aspect.

**Mr Bell:** I want to clarify some of the comments that we made last week. We have been looking at the issue in more detail. To refresh everyone's memory, we are referring to schedule 1, paragraph 15(1)(b), which relates to a general power to enable enforcing authorities

to issue notices requiring financial security after a contravention of a permit, and pending remedial action.

The provision, if implemented in the Regulations, would complement Regulation 26, which allows enforcing authorities to take remedial action after a permit contravention and to recover the costs of that action from the operator. In cases where the costs are likely to be substantial, the enforcing authorities could benefit from having greater certainty that they will be able to recover those costs from the operator before committing themselves to the expenditure.

Last week, I said that such provisions would be relevant only in the event of a major incident, and I stand by that view. I said that I found it difficult to think of circumstances in which it would apply in Northern Ireland, but a major incident could occur. For example, a significant oil spill would require costly remedial action.

The difficulty arises from the complexities of the financial arrangements. They are not like insurance, because they do not deal with a risk; they deal with an event that has happened. It is difficult to define the financial security. Possibly, it would consist of some sort of bond or secure lodgement.

Financial security provisions are complex, and they are still evolving in several related regimes. There is a draft Directive on environmental liability, which might contain a clause relating to permit exemption. In other words, it would limit the environmental liability of operators who operated within the conditions of their permits. Sub-paragraph 15(1)(b) of schedule 1 would allow us to introduce a provision in the Regulations that would satisfy the requirements of that environmental liability Directive. However, the arrangements for financial security are not at present sufficiently developed for that regulatory power to be drafted. The power could be used in the future to implement the requirements of the environmental liability Directive. Last week we discussed whether the sub-paragraph was needed, if it was not reflected in the Regulations. The Department would rather leave it in place, because it would allow us to satisfy the requirements of the draft environmental liability Directive by amending the Regulations. I hope that that clarifies the paragraph.

**The Chairperson:** We must tease out whether it will earn its keep on the statute book.

**Mr Simmons:** To elaborate on what Mr Bell said, the environmental liability Directive, as it stands, would require any operator — carrying out any activity — to take out protective financial security. That is a massive undertaking. The UK is among several member states that are trying to deal with that by suggesting the concept of permit exemption. However, if we choose permit exemption and no financial security, we will be left with little environmental liability. Permit exemption



is in the melting pot, and that sub-paragraph is designed to reflect or deflect the possible outcomes.

**The Chairperson:** Thank you for your advice and patience in taking the Committee through the material. We will go through the Bill clause by clause next week.

**Mr Simmons:** May we take the amendment on district councils as read, by putting in “representative of the interests of”?

**The Chairperson:** Yes.



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## NORTHERN IRELAND ASSEMBLY

*This report was not approved formally by the Committee prior to the suspension of the Assembly on 14 October 2002, but is published by order of the Speaker.*

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### COMMITTEE FOR FINANCE AND PERSONNEL

Tuesday 17 September 2002

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### MARRIAGE BILL (NIA 18/01)

#### Members present:

Mr Molloy (Chairperson)  
Mr Beggs (Deputy Chairperson)  
Mr Close  
Mr Hussey  
Mr R Hutchinson  
Ms Lewsley  
Mr Maskey  
Mr Morrow  
Mr Weir

#### Witnesses:

Mr R Poole ) Religious  
Mrs M Cameron ) Society  
Mr M Andress ) of Friends

**The Chairperson:** I welcome you, Mr Poole, Mrs Cameron and Mr Andress, from the Religious Society of Friends. Perhaps you will make your opening remarks, after which we shall ask questions.

**Mr Poole:** Thank you for inviting the Religious Society of Friends (Quakers) in Ireland to give evidence to you. I am Donald Poole, and I am the registering officer for marriages in the Lurgan monthly meeting. Our Society has two other registering officers in Northern Ireland. Accompanying me today are two Friends, Muriel Cameron, immediate past clerk of our Ireland yearly meeting, and Michael Andress, also from the Lisburn district, who is a solicitor practising in Belfast.

As our submission says, we have given written evidence on a number of occasions to the Law Reform Advisory Committee for Northern Ireland and the Office of the Registrar General for Northern Ireland.

Our religious body embraces the Christian doctrine based on a simple interpretation of New Testament teaching. Our meetings for worship are held without a leader or minister, relying on the Holy Spirit to guide, direct and teach in the silence of the meeting. Members may make

contributions as they feel led by the Spirit, and the meeting becomes a living act of worship. Marriages take place in a similar setting, and many of our difficulties arise out of this different form of worship.

We are concerned about some aspects of the Bill. The first matter may seem trivial, but we do not have an officiant or a celebrant, as he is known in Scottish law. No one conducts the service. We were content with the previous name, which is “registering officer” in existing law. However, we would like to agree a description that is acceptable to all churches such as “authorised person”, or, as in clause 39(2), “person solemnising a marriage”. We welcome a simplification of the marriage law, but you may marginalize society in your desire to achieve that.

We want to continue the harmonious relationship between our Society and the state, but the Bill appears to lack evidence of that partnership’s being encouraged. The process applied to free a couple to marry concentrates only on the legal requirements. No heed is taken of the need to counsel couples on the meaning of marriage, the seriousness of the commitment, et cetera. The Committee may say that that is a matter for the religious body, so, in the case of religious marriages, the law should require formal communication to that body giving reasonable time before the date of the marriage. The marriage schedule plays no part in that preparation, as plans are firm 14 days before a marriage takes place. Heretofore, the notice and issuing of a certificate brought both processes together.

With regard to records, the Bill seems to have moved responsibility for administrative duties firmly into the territory of the state. Our Society currently has custody of duplicate marriage registers, and we make returns to the state at three-monthly intervals. With the transfer of that responsibility, we will have to devise a separate recording arrangement. Presumably, we will also lose custody of the dedicated copy of the register, which we keep in our archive. In the past, our Society was diligent about record keeping, hence our ability to provide information prior to 1922 when many records were lost. Could registers dedicated to each domination be kept by the state, and completed duplicates returned to our Society, which is a reverse of the present arrangement?

Generally, the Bill meets our Society’s needs. However, we will lose the privilege of issuing special licences. This is a valued provision, and we want an assurance that the new Bill will cover all aspects of the special licence. We will also lose the record keeping, as I said earlier.

Finally, we generally welcome the new law. In the past, the outmoded residence requirements concerned us, and we are pleased to see that they are gone. We welcome recognition that our marriages take place when couples make their vows and that it is not necessary for anyone to pronounce them married. That would be a difficulty for us. The inclusion of that requirement at an earlier stage presented us with difficulties, and we mentioned it

in our submission to ensure that we were right to assume that this change would be made.

Greater freedom in the use of venues will benefit larger weddings that cannot use a small building. We appreciate that, as the Society is small, implementation of the new law may be easier. Some of the larger churches will find the appointment and training of clergy more difficult. It would be better if marriage law was simplified and a more uniform approach adopted, but to achieve that objective the law must not lose particular identities valued by smaller groups.

**The Chairperson:** As you know, the Committee is taking evidence today and will issue a formal response.

**Mr Weir:** Thank you for your submission. The first key issue for you is the use of the term “officiant”. You said that you were happy with the previous term “registering officer” and suggested a couple of alternatives. What term does the Society use to refer to the person who officiates at weddings?

**Mr Poole:** We use the term “registering officer”, which is also the term used by the Government. Registering officers are approved and appointed.

**Mr Weir:** From that point of view, I can appreciate why you are unhappy with the term “officiant”.

**Mr Poole:** Even my computer objected to it this morning.

**Mr Weir:** A computer can object to many things. The Department has suggested that, if the term “officiant” is still used in legislation, Regulations must be produced to ensure that the definition of the term “officiant” includes the registering officer. Do you consider that to be a possible way forward?

**Mr Poole:** It would be a solution. It is irritating that the law uses a word that does not appear in the dictionary. If you looked far enough in some dictionaries, you could find it. It is an odd word. The state is giving a person authority to do a certain task, but in a sense the law is saying that the person is an officiant, a person who celebrates a service in a church, which does not cover our —

**Mr Weir:** I appreciate that your circumstances are such that the couple make the vows to each other. One possible solution to the problem has occurred to me. Your objection is to the term “officiant”, so would it alleviate your concerns if a definition in the Bill said that “officiant” included “registering officer”?

**Mr Poole:** It would be a solution of a secondary nature, but still a solution.

**Mr Beggs:** It is difficult for you to keep a detailed copy of your marriage register. You said that you provided detailed information prior to 1922. What prevents you from recording the information in the current fashion?

If the new process were introduced, what would stop you doing that?

**Mr Poole:** There is nothing to stop us doing that. The advantage of a system which meets the needs of the Government and the Religious Society of Friends is that it is simpler and the records are kept properly. Another system running in parallel may lapse and is just another administrative task. At present we hold two registers, and when one is full it is sent to the Government and we keep a copy. We send three monthly returns of what is in the register, and that works well.

**Mr Hussey:** I am not quite clear on that last point. Is Mr Beggs satisfied? I cannot understand why you still cannot keep a record with the proposed new system.

**Mr Poole:** If the Bill goes ahead the Society will have to have its own marriage register printed, and that would be an additional part of the procedure. The register would contain the same information that is in the marriage schedule and would be put in the register kept by the local registrar. That seems unnecessary. As the Bill stands, the administrative procedure seems to be being taken over by the registrar. That keeps the Society out of it altogether. That is good, but it does not help our record keeping. We would prefer a joint system where we kept part of it and you kept part of it.

**Mr R Hutchinson:** How many members does the Society have?

**Mr Poole:** It has about 1,600 members in Ireland.

**Mr R Hutchinson:** What about Northern Ireland?

**Mr Poole:** In Northern Ireland there are approximately 900 members.

**Mr R Hutchinson:** How many marriages does the Society solemnise? In the Brethren or Elim Pentecostal Church, of which I am a member, most marriages are from within. I am sure that few people from outside get married in a Quaker meeting.

**Mr Poole:** The weddings that I have been responsible for have involved a member of the Society marrying a non-member, and there is about one a year. I have one or two colleagues who probably have the same sort of experience.

**Mr R Hutchinson:** Do you think that there is a difficulty with keeping a record of one marriage a year?

**Mr Poole:** The Society likes the system that obtains.

**Mr R Hutchinson:** I appreciate many of your arguments, but I am finding it difficult to understand why there is such a problem with just one marriage a year.

**Mr Poole:** A bad system that is tolerated merely because it is small is not a good system. As the Society is small, we would like it right.



**The Chairperson:** Will the Clerk clarify some of the responses from the Department?

**The Committee Clerk:** Officials are present, but I will not call on them. The official line from the Department is that there is no bar on your keeping records in whatever form you wish to but that responsibility for registration is centralised. From what the Department is saying, historical records can be maintained for ever and a day, but they have no basis in law. Legal registration of marriage now falls to the Registrar General. Mr Chairperson, you may want to ask the officials, when they give evidence, whether the register will be published from time to time and if it will include details of denomination. Perhaps that might resolve some of the difficulties.

**Mr Poole:** Will there be one register, and will all denominations be included?

**The Committee Clerk:** You will have to ask the officials?

**Mr Poole:** If there were to be a register for each denomination, we would be one step nearer the possibility of receiving a copy from time to time.

**The Chairperson:** Will the Committee Clerk advise the Committee about the special licence?

**The Committee Clerk:** The Society has asked for clarification on the privileges associated with the special licence. The Bill, as the Society rightly points out, abolishes the need for a special licence, and the Department's advice is that the Society's concerns have been taken into account and that the same arrangements will apply to all religious bodies.

**Mr Poole:** We use the special licence, particularly for a person living abroad who wants to marry one of our members here. It does away with the residence requirements and makes it easier to go through the formalities without the person's being in the country. The Bill takes care of that.

**The Committee Clerk:** The Department advises that there will be provision for special arrangements where a marriage is being performed at a very late stage, for whatever reason. The Department feels that the rationale for the special licence no longer exists. There will be a more centralised, simple procedure.

**Mr Close:** I note that you referred to the meaning of marriage and the necessary commitment to marriage. Would it be useful and helpful to have the definition of marriage incorporated in the Bill?

**Mr Poole:** Is there not something in the Bill already?

**Mr Close:** There is something about it in the explanatory and financial memorandum, but it is not in the Bill.

**Mr Poole:** Do you mean a form of words stating, for example, that marriage is an agreement for life?

**Mr Close:** Yes.

**Mr Poole:** That would be helpful.

**Mr Morrow:** We were talking about the word "officiant". Would the phrase "officiant or registering officer" help you in your dilemma?

**Mr Poole:** Yes.

**Mr Weir:** The word "officiant" could be replaced by "officiant or registering officer" each time it occurs in the Bill, and the same definition could be given for registering officer as officiant in clause 39. I cannot envisage any objections from the Department or others. That may offer a way of getting round the problem without making too many direct changes to the overall meaning of the Bill.

**Mr Beggs:** Do you think that "registering officer" is plain and simple English rather than "officiant", which may well confuse people when they first hear it?

**Mr Poole:** It says what it is. When I am acting as a registering officer, I am seeing that the law is being adhered to and that forms are filled in and signed at the right time. I am not conducting a service.

**Mr Close:** Picking up on Mr Weir's point, surely Regulations could cover the definitions. That one word could be retained, but the complications would be appreciated —

**Mr Weir:** Most other Churches are comfortable with the word "officiant". Only the Society of Friends has objected to it. It should be retained in the Bill, because dropping it might cause concerns in other Churches. An acceptable alternative could be offered in the legislation which would give greater comfort than a promise of its appearing in later Regulations.

**The Chairperson:** Will the Committee Clerk tell us the Department's view?

**The Principal Committee Clerk:** The Department's view is that the term "officiant" has no religious connotations — the officiant is simply the person with the authority to conduct the marriage. Several religious bodies have difficulty with some terms, and the choice of the term "officiant" is a compromise in that the office is divested of religious connotations. The various nomenclatures that have been proposed could all be included in the Regulations, and that would avoid any descriptions that other groups might not like on the face of the Bill.

**Mr Weir:** The point is that, with the exception of the Society of Friends, all other religious bodies, even if it is not their first choice, are comfortable with the term "officiant". Adding the term "registering officer" will not detract from its meaning if it is retained. What would the additional objections be if the special circumstances were taken into account? In virtually all other Churches "officiant" describes what the person is, a celebrant of marriage, whereas in the Society of Friends the couple make

the vows, and the role of the other person is simply to register that.

**Mr Poole:** What is the dictionary definition of officiate?

**Mrs Cameron:** The dictionary says that to officiate

“is to discharge priestly office, which perform divine service”.

The difficulty arises because we do not have a priest or somebody else performing the divine office. Our registering officer is not the person who marries.

**Mr Weir:** He is a record keeper effectively.

**Mrs Cameron:** Yes.

**Mr Address:** The term “registering officer” would suit us perfectly. The Marriage (Society of Friends) Act 1860 and the Marriage (Society of Friends) Act 1872 were passed specifically for the Society of Friends because we did not fit in with everybody else’s plan of how to get married. We are not asking for a separate Act now.

**The Chairperson:** OK. We will have to put that to the Department.

**Mr Poole:** The marriage schedule seems to be a record of everything that happens immediately prior to the wedding, the factual details that allow a wedding to proceed. We want to ensure that some time before the marriage date we get official notification of the marriage from the Department. It would be unfortunate if a couple were to go to the registrar, go through the various formalities and hear about it later. A religious marriage should be a partnership between a religious body and the state, and the Bill is weak on that.

**Mr Close:** Does the notice of marriage not overcome your problem?

**Mr Poole:** At what time is notice given?

**Mr Close:** Off the top of my head, it is one year.

**Mr Poole:** How many people go to the civic centre and look at the notice? If a couple decide to be married in the Society of Friends, they must give the date of the marriage, and the registrar should notify us formally at an early date.

**Mr Weir:** Can you not get around that by imposing your own regulations? I understand that our regulations are such that no religious body is told that it must perform a particular ceremony. Since at least one of the couple belongs to the Society of Friends — you would not usually marry two people who are not members — you could say that a certain period of notice must be given.

**Mr Poole:** It can happen, but it rarely does.

We want to be sure that the situation does not arise in which a couple is complying with the legal side and does not realise that there is another side to comply with. We are concerned about that. The legal side does not go into counselling or emphasize the seriousness of marriage, so

we would like to be told by the registrar, or an appropriate body, that notice has been given.

**The Chairperson:** The only matter that comes to mind is that sometimes each religious body will want to make its own regulations to suit its conditions.

**Mr Poole:** We have our own regulations. We will have to amend them in the light of the Bill, but that is our business.

Currently when a marriage takes place by certificate, a couple gives notice to the registrar who issues a certificate after three weeks. The certificate is sent to us, as we are the authority for allowing the marriage to take place. That happens well in advance of the marriage, but the schedule seems to be taking the place of that. It will be within 14 days of the marriage, which does not leave us enough time, so the schedule must be taken out of the scenario. We want something to take the place of the certificate, which we would receive well in advance to show that notice has been given. It is a courtesy communication.

**The Chairperson:** Can the Committee Clerk give us the Department’s position?

**The Principal Committee Clerk:** There are two reasons. First, the 14-day period is to avoid issuing the schedule too early — circumstances can change. Secondly, the marriage schedule is distinct from the notice to marry and the agreement of the religious body to marry anyone. The Bill seems to say that the religious body sets its own rules and does not need to marry someone if he does not comply with them.

**Mr Poole:** We appreciate that, but we, or the Department, may not hear about it.

**The Principal Committee Clerk:** For the officiant to marry the couple he will have to have heard about it, or he would not have agreed to marry them, and they would not be on the marriage schedule in the first place — one presupposes the other.

**Mr Poole:** Sometimes a couple who want to get married see booking the taxi, the photographer and the video as more important. Some people only realise at the last minute that there is a legal procedure, and if that has been started and the couple have not come to us, it would help bring to light something that we must be doing, which is better than apologising at the last minute because the wedding cannot go on.

**The Chairperson:** We will raise that particular point.

**Mr Hussey:** Are you suggesting that during the middle of a meeting, a couple could hold up a certificate and declare their vows to each other without having let anyone know?

**Mr Poole:** If that were to happen, we would have to say that the marriage was null and void.

**Mr Hussey:** In other words, as the religious body you have control of the situation and can say “Sorry, tough”.

**Mr Poole:** You highlight an extreme circumstance. A situation could arise in which I would get a knock on my door perhaps two weeks before. That would not be enough time for us.

**Mr Hussey:** You still have the right to say “Sorry, tough”.

**Mr Poole:** I know, but we do not want to say sorry if it is merely because we have agreed a law that does not encourage the state and the religious body to communicate.

**Mr Hussey:** I would have thought that it should be the couple who were communicating.

**Mr Poole:** Yes, but are we not dealing with human beings?

**The Chairperson:** That is as far as we can go today. Thank you for giving evidence. It will form part of the consultation, and a response will be given.





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## NORTHERN IRELAND ASSEMBLY

*This report was not approved formally by the Committee prior to the suspension of the Assembly on 14 October 2002, but is published by order of the Speaker.*

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### COMMITTEE FOR FINANCE AND PERSONNEL

Tuesday 17 September 2002

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### MARRIAGE BILL (NIA 18/01)

**Members present:**

Mr Molloy (Chairperson)  
Mr Beggs (Deputy Chairperson)  
Mr Close  
Mr R Hutchinson  
Mr Maskey  
Mr Morrow  
Mr Weir

**Witness:**

Dr D Stevens ) Irish Council of Churches

**The Chairperson:** Dr Stevens, you are very welcome.

**Dr Stevens:** I am the general secretary of the Irish Council of Churches, which has the three largest Protestant Churches — Methodist, Presbyterian and Church of Ireland — in its membership. It also represents the following smaller Churches: the Salvation Army; the Religious Society of Friends; the Non-Subscribing Presbyterian Church; the Lifelink Network of Churches, which is a recently formed body; the Greek Orthodox Church; the Coptic Orthodox Church; and the Moravian Church. The Committee has taken evidence from representatives of some of those Churches, which I will supplement.

The legislation is generally welcome, because it will tidy up marriage laws and treat all religious bodies equally, which currently is not the case. However, any mention of Churches or clergy is absent from the wording of the Bill, which reads strangely in a place such as Northern Ireland. It simply talks about “religious bodies”.

My main concern is with clause 9, which addresses the registration of officiants. The proposals would work for smaller Churches, but there must be careful thought about their practicality for larger Churches. Most Irish Churches are all-Ireland bodies, and there is a significant movement of clergy from North to South and vice versa. Furthermore, some clergy have responsibilities that straddle the border, which is also the case for some administrative

areas. It may be that, in practice, all clergy from the four larger Churches would be required to register, which is a significant number of people, probably in the region of 5,000.

The Roman Catholic Church and the Church of Ireland are organised in dioceses, and clergy in good standing is determined at diocesan level, not central Church level. Therefore, a significant number of administrative centres will have to be contacted under these proposals. Also, in the case of the Roman Catholic Church, religious orders must be factored in. The system proposed by the Bill will cause a significant administrative headache, and careful thought must be given to that.

It would, perhaps, be better if clergy, or other persons authorised by prescribed religious bodies, were automatically entitled to solemnise marriages, and a mechanism to allow admission to the status of “prescribed religious body” created. Such provisions could be created through Regulations. That proposal would meet the equality concerns and avoid much of the administrative headache that the current proposals would generate.

Clause 4 addresses objections. The officiant could be put in a difficult position if it is not practical for the registrar to notify him or her of an objection.

Under clause 5, in the process of preparing the marriage schedule, it is important for the registrar to ensure that the officiant agrees to conduct the ceremony before the documentation is prepared. Some clergy will object to conducting a marriage that, for example, involves divorcees, and those circumstances must be provided for.

It is important that the prescribed period under clause 5(2) be a reasonable length of time; for example, three months. Preparation for marriage is not just about administrative detail. The officiant is also required to work with the couple. Clause 5 should contain a provision for a duly authorised deputy to act if, for a very good reason, the named officiant cannot act.

Clause 12(1) states that temporary authority to solemnise marriage may be granted by the Registrar General to “a member of a religious body”. Does that mean any member of a religious body? That wording is a consequence of removing any mention of clergy from the text. It must surely mean “an authorised person”. Surely the Bill does not intend for every person in the Catholic Church, the Church of Ireland and the Presbyterian Church to be authorised to conduct religious marriages?

Clause 14 deals with the registration of religious marriage. Subsection 14(3) states that parties to the marriage

“shall arrange for the marriage schedule to be delivered to the registrar within three days of the marriage.”

I suspect that that will not be a high priority for newly married couples, and there must be a danger that a couple

will neglect to do that. There is an issue of record-keeping there.

**Mr Weir:** Can you clarify that? Clause 14(3) reads

“The registrar shall register the marriage as soon as practicable after he receives the marriage schedule.”

The clause 14(3) that you read out does not correspond with that.

**The Chairperson:** Did you mean clause 14(2)?

**Dr Stevens:** Sorry, I meant clause 14(2).

The proposals remove the responsibility on Churches or religious bodies to keep records, which is a very significant change. More thought must be given to record-keeping. I suspect that Churches will still wish to keep their own records, but the Bill should encourage records to be kept as a useful backup.

**Mr Morrow:** What is to stop Churches or religious organisations from keeping their own records?

**Dr Stevens:** There is nothing to stop Churches from keeping records. However, it would be useful to encourage the keeping of backup records.

**Mr R Hutchinson:** You said that the Irish Council of Churches represents the three main Protestant Churches: Methodist, Presbyterian and Church of Ireland. You mentioned the difficulties that they would have in registering their ministers, but when the consultation paper was issued to those Churches, there was no adverse comment about removing the responsibility to keep records.

**Dr Stevens:** The consultation process happened over the summer. The Churches have found it difficult to get their machinery into action to consider the Bill.

**The Principal Committee Clerk:** The consultation process began before the Bill was introduced to the Assembly.

**Dr Stevens:** There was a consultation process, but the Churches did not expect the Bill to move in this direction. In Scotland, for example, there is a prescribed list of authorised religious bodies. This Bill is a big departure from legislation in other parts of the United Kingdom or the Republic.

**Mr R Hutchinson:** Are you suggesting that the Bill should name the Presbyterian Church, the Methodist Church and the Church of Ireland, and that all ordained ministers within those Churches should automatically become officiants?

**Dr Stevens:** Yes, and the Bill should have a mechanism for allowing religious organisations to become prescribed bodies to do that —

**Mr R Hutchinson:** It is kind of you to allow other religious bodies to be nominated, but there are several smaller denominations in Northern Ireland that have no

difficulty in having their ministers' credentials recognised through their central organisation. Why should we make an exception?

**Dr Stevens:** The proposal will not present problems for smaller Churches. However, there will be problems in administering the system, and not necessarily solely for the larger Churches.

**Mr Beggs:** I do not fully understand your point. The denominations and the dioceses that you talk about maintain a list of authorised ministers, or whatever one wants to call them. Is that correct?

**Dr Stevens:** Yes.

**Mr Beggs:** My understanding of the procedure is that the denomination or the diocese can simply pass a copy of that list to the Department, and it will update the register. That can be done once a year if a particular denomination decides to do so, or it can be done every week if there are regular amendments with names being added or removed.

**Dr Stevens:** Have you considered that ministers move to and fro across the border a lot?

**Mr Beggs:** Is there anything in the legislation that stops you simply registering all of the members of a particular denomination in Ireland?

**Dr Stevens:** All of the clergy —

**Mr Beggs:** I presume that each particular denomination has a list of all of its authorised ministers.

**Dr Stevens:** The dioceses, as opposed to the central Church, sometimes maintain such a list.

**Mr Beggs:** Could a copy of a diocesan record be sent to the Registrar General for registration?

**Dr Stevens:** Yes, of course it could. However, this is a major administrative change. If the Registrar General feels that that is the way to proceed, that is fine. That is substantially different from what happens in the remainder of this island and the other island. We should be harmonising things, not moving in a radically different direction.

**Mr Beggs:** I am trying to understand the administrative difficulties that the various groups might have with this, and I do not fully appreciate them. I understand that England and Wales, and perhaps even Scotland, might be moving towards this system.

**Dr Stevens:** I do not know how they are proceeding. There are approximately 5,000 clergy in the four larger Churches, and that is a significant register to maintain.

**Mr Beggs:** The point is: do you maintain it?

**Mr R Hutchinson:** To my knowledge there is what is called a yearbook, which is changed annually anyway. What is the difference? It will be the same difference. In

other words, if a Methodist minister is moved in June from Belfast to Larne, for example, that will be stipulated in their yearly book anyway, so there is no difference.

**Dr Stevens:** The yearly book includes all sorts of clergy; some are active in congregations, some are retired, and some are in sectoral ministries.

**Mr R Hutchinson:** You are missing the point. I am saying that the work has already been done.

**The Chairperson:** The Committee Clerk will clarify the Department's response.

**The Principal Committee Clerk:** The Department consulted with the main Churches prior to the Bill's introduction. It advises that this will be a one-off responsibility, after which it will be responsible for inputting names to the computer; a list will then be sent regularly to the respondents for updating. The Department has also advised that that updating can be done online.

The Department says that every effort will be made to minimise the administrative burden that will be placed on religious bodies.

**Mr Weir:** I want to pick up on that point. Mr Beggs made a useful point, which is that to get round the issue of congregations in cross-border parishes, as most of those Churches are organised on an all-Ireland basis, everybody in Ireland should be registered. When a new minister is ordained, for example, every church is notified, either at diocesan or central level. However, that does not happen every week.

The Presbyterian Church told us that, on average, there was perhaps one change a week, whether it was a death, a change of address or a change of ordination. Given that that administration is happening anyway, and that a church will be notified if, for example, a new minister is ordained, it does not strike me as an undue burden for the church to pass on that information centrally, because that type of registration does not require a particularly lengthy letter.

Secondly, on Mr Hutchinson's point, if there were a power to add Churches to a prescribed list, how would you answer the allegation that you are creating two tiers of Churches and the idea that certain Churches are, for want of a better term, second-class citizens?

**Dr Stevens:** I am sure that everybody would be entitled to register.

**Mr Weir:** Yes, but the point is that at the moment, the proposals are such that every religious body is treated on exactly the same level. Your suggestion of a category of prescribed Churches to which others could then be added immediately creates a two-tier system in which certain bodies would perceive themselves to be second-class citizens. Is that not a major drawback of your proposal?

**Dr Stevens:** I would have thought that every religious body would be able to pass that test.

**Mr Weir:** Yes, but if virtually everybody is prepared to think that, what is the point of having that initial list? What difference does that make?

**Dr Stevens:** It reduces the need to have a register of 5,000 or 6,000 names.

**Mr Weir:** Presumably, if there is any dispute at any stage on whether, for example, a marriage has been conducted properly by an appropriate officiant, the state must be able to check whether that person is a properly ordained officiant. That means that they must go either to the church or to their own records to check whether that person is properly ordained or not. Records must be kept somewhere.

What happens to a minister who falls out of favour with his Church? That has happened in several Churches. There is a question mark over whether that person is counted as a proper Christian. Look at the well-known case of Pat Buckley. An ordained minister might fall under your definition but not be recognised by his Church as somebody who could conduct a marriage in a Catholic church or diocese. It might well be that they could be registered by a different religious body by a different route. Records are kept, no matter which system is used. How is this system avoiding the administration?

**Dr Stevens:** I am proposing an extension of what has operated up to now. There have been few problems. It is not as if there have been huge problems with the present situation.

**Mr Weir:** There are two other points. You mentioned the marriage schedule and the prescribed period; you said that there should be some reference in the legislation to a three-month period.

**Dr Stevens:** Or in the Regulations.

**Mr Weir:** OK. You are happy for that to be dealt with by the Regulations. However, is there not an opportunity for any Church, if it feels that that period is insufficient, to refuse to marry a couple whom they feel have not sufficiently prepared?

**Dr Stevens:** That is a drastic thing to do in the context of a pastoral relationship.

**Mr Weir:** By requiring a three-month period, are you not asking the state to get the Churches off the hook, so that they do not have to refuse people on the grounds of insufficient preparation? It allows them to say that their hands are tied. Many Churches, with good reason, may feel that three months is an appropriate minimum period. Others may take a different view, and have a shorter or a longer period. Should it not ultimately be up to the Churches themselves to decide what is an appropriate period?

**Dr Stevens:** The state also has an interest in good marriages. This is not just an administrative tool. Preparation for marriage is something that the state has some interest in. The more stable relationships there are, the better.

**Mr Weir:** I remember making that point elsewhere today.

You made a couple of points in relation to clause 4, which is concerned with objections. You said on each occasion that the concerns that you had were matters that should be clarified in Regulations. Would you be happy if the wording of the legislation was not changed, but in each case there was clarification in the Regulations?

**Dr Stevens:** That is fair enough, as long as they are there. We must look at the wording “a member of a religious body” in clause 12(1). That should be changed to “authorised person”.

**Mr Morrow:** I am slightly lost, because I am not sure who I am meeting today. Is the Irish Council of Churches speaking on behalf of the three main Protestant denominations on this issue?

**Dr Stevens:** No. In my original submission, I made a comment on one particular issue. I encouraged the Committee to call the four larger Churches in Northern Ireland to give evidence. I was not expecting to be called to give evidence, so I am not claiming to speak on behalf of the Churches mentioned. I have consulted them, and some of our smaller Churches, and I have sought to supplement the evidence given by them.

**Mr Morrow:** Is it correct to say that the Irish Council of Churches represents the three main Protestant denominations plus a number of other smaller denominations?

**Dr Stevens:** Yes.

**Mr Morrow:** But you are not speaking for them today?

**Dr Stevens:** No. Nor did I seek to speak on their behalf.

**Mr Morrow:** But you say, with all due respect, that you have around 5,000 clergy throughout Ireland.

**Dr Stevens:** No. I said that the four larger Churches have 5,000 clergy.

**Mr Morrow:** By inference, would that not lead anybody to believe that you are articulating their particular stance on this issue?

**Dr Stevens:** I did not seek to give evidence to the Committee. I was asked to give evidence, which I have done. I am not claiming to speak on behalf those Churches. I have seen their evidence.

**Mr Morrow:** They did not articulate the same point that you are making today. Is that correct?

**Dr Stevens:** Yes. They are concerned about the issue of officiants. You will see that in the Presbyterian submission.

**Mr Maskey:** If Dr Stevens is not representing the Irish Council of Churches, then, with all due respect, why is he here? He said that he did not ask to give evidence; he was asked here to give evidence. How is that?

**The Principal Committee Clerk:** I shall clarify the position on evidence.

**Mr Maskey:** May I also clarify whether he is speaking for himself?

**Dr Stevens:** No. I am the general secretary of the Irish Council of Churches. We made a submission on one particular point.

**Mr Maskey:** You are not here representing the Irish Council of Churches?

**Dr Stevens:** Yes, I am.

**Mr Maskey:** A moment ago you said that you were not.

**Dr Stevens:** I said that I was not speaking on behalf of our member Churches.

**Mr Maskey:** Who are you representing?

**Dr Stevens:** I am here as the general secretary of the Irish Council of Churches. We made a submission on one aspect of this discussion.

**Mr Maskey:** I am totally unclear. You told Mr Morrow that you were not representing the Irish Council of Churches.

**Dr Stevens:** No, I did not say that. I said that we had made a submission on the issue of officiants and encouraged the Committee to seek oral evidence from the four larger Churches, which I believe it has done. I was then summoned to give evidence.

**Mr Beggs:** On the issue of ensuring that there is a deputy in case the officiant or minister becomes ill on the day in question, I noticed that the —

**Mr Maskey:** I am sorry to interrupt, but I wish to have that point clarified. I need to know how much weight to put on Dr Stevens's commentary.

**Mr Beggs:** Dr Stevens, you expressed concern about the need for a deputy. Under the registrars and local government legislation there are procedures to create deputy registrars of marriage who can officiate at marriage ceremonies. Is it your understanding of the legislation that a deputy is not listed? Is the minister in question listed, or is it simply the case that the registered officiant is present on the day in question? Are you still concerned that the issue of deputies should be clarified?



**Dr Stevens:** Let us say that a clergyman was flying in from London on the day of the wedding, and the flight was delayed, or something happened on the day of the wedding. Under the present arrangements, he could phone a colleague and ask him to deputise. It is that sort of emergency situation that I am concerned about.

**Mr Beggs:** The Department must clarify what would transpire, because I am not certain whether that could happen under the current legislation. It is an important issue to address.

**The Chairperson:** May we have clarification on Mr Maskey's point?

**The Principal Committee Clerk:** Dr Stevens is correct to say that he is here to represent the Irish Council of Churches and was invited in that capacity. The Committee agreed some time ago to take evidence from all those who provided written submissions. The Irish Council of Churches was one such group, through Dr Stevens, and he has been invited in that capacity. He clearly has a representative role with regard to all the Churches in that body, and has asked the Committee to take evidence

from them, which the Committee has sought. Dr Stevens was not summoned here; the Committee invited him to give evidence and is glad to have him here.

**Mr Morrow:** I do not have a problem with Dr Stevens being here. I am just trying to find out in what role he is here. On the one hand he tells me that the Irish Council of Churches represents 5,000 clergy from the three main Protestant denominations, plus a host of smaller ones, yet I do not hear the comments that he is making coming from the Presbyterian Church, the Church of Ireland or others. I am trying to find out whether Dr Stevens is articulating their view or the view of some of the folk that he represents. I have no problem with him being here.

**The Principal Committee Clerk:** It is clear from the evidence provided by the Presbyterian Church and the Church of Ireland that they share the concern about registration of the Church per se, as opposed to the individual officials.

**The Chairperson:** I thank Dr Stevens for coming along. The Committee will take his evidence on board.



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**NORTHERN IRELAND  
ASSEMBLY**

*This report was not approved formally by the  
Committee prior to the suspension of the Assembly on  
14 October 2002, but is published by order of the Speaker.*

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**COMMITTEE FOR FINANCE  
AND PERSONNEL**

Tuesday 17 September 2002

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**MARRIAGE BILL  
(NIA 18/01)**

**Members present:**

Mr Molloy (Chairperson)  
Mr Close  
Mr Hussey  
Mr R Hutchinson  
Ms Lewsley  
Mr Maskey  
Mr Weir

**Witnesses:**

Dr N Caven           ) Registrar General for  
                              ) Northern Ireland  
Mr M Foster         ) Office of Law Reform

**The Principal Committee Clerk:** Dr Mawhinney should be here shortly. The Committee may want to read his submission and the advice on it.

**Mr R Hutchinson:** Mr Beggs asked about changing the officiant at the last moment. The letter from the Department does not clarify it at all.

**Mr Weir:** I agree with Mr Hutchinson on the point that Mr Beggs raised. It is one of the —

**Mr R Hutchinson:** It is very important.

**Mr Weir:** Without wanting to be pedantic, some of the concerns reflect a degree of misunderstanding or, alternatively, points that I do not agree with. There is a genuine concern about substitution at the last minute. I am not sure that that has been got right. I am not convinced that what I have heard from the Department has made the situation clear or that there is sufficient provision for it.

**Mr R Hutchinson:** Have you read that, Mr Weir?

**Mr Weir:** Yes.

**Mr R Hutchinson:** There is nothing in that at all.

**The Chairperson:** We have Rev Edmund Mawhinney next. He has raised issues, and there is a response from

the Department. It seems to me that it wants more Regulations; the point about deputising is covered.

**The Principal Committee Clerk:** It is covered in the response of 16 September. The question that Mr Weir is raising is —

**Mr R Hutchinson:** It is not really answered.

**The Principal Committee Clerk:** Is it covered sufficiently?

**Mr Weir:** There is a difference. It has given us an answer, but I am not convinced that it would, in practice, cover all situations. This may be worth further consideration or even an amendment.

**The Principal Committee Clerk:** That is one of the points that the Committee can take up with the officials next week.

**Mr R Hutchinson:** They are sitting here now. Can they not —

**The Chairperson:** We are not taking evidence from them.

**Mr R Hutchinson:** Are we not waiting for someone else to come? Could they not —

**The Chairperson:** I have no problem listening to them. It would be better than all this toing and froing.

**The Principal Committee Clerk:** That is a matter for the officials.

**Official 1:** I have no objection to speaking briefly.

**The Chairperson:** Go ahead.

**Mr Foster:** In relation to the point about appointing a deputy, the Bill as it stands means that the officiant has to be named on the marriage schedule. In the same clause, at subsection 5, we have said that Regulations will make provision for any changes that need to be made to that. In other words, in 99.9% of cases you will have a marriage schedule that will give the name of the officiant and the place where the marriage is to take place. However, we also intend to provide in Regulations for the name of the officiant to be amended in exceptional circumstances. Effectively, a deputy would be appointed in such a situation that Mr Beggs described earlier. Also, in even more exceptional circumstances the place might have to be changed at the very last minute.

**Mr R Hutchinson:** Most weddings take place on a Saturday. If the officiant on the schedule falls ill, a registrar must be contacted to approve the choice of replacement. How does one do that on a Saturday?

**Mr Foster:** Dr Caven may be better placed to answer that. My understanding is that someone is on call.

**Dr Caven:** A registrar has to be on call in case of deaths. Each registrar in each area has a mobile phone,

and the numbers are supplied. Also, my mobile phone is on 24 hours a day, seven days a week, so at least three contact numbers are always available. The general registrar's office has an automated telephone system, which provides emergency numbers that people can ring at any time of the day.

**Mr R Hutchinson:** Nerves are already strained on wedding days. Emergency situations such as the minister not turning up are not adequately covered. Some kind of simplification is needed.

**Mr Weir:** How quickly does the process work after contact with the registrar? Such situations arise in only 0.1% of cases; nonetheless, problems do occur. For example, if an officiant was flying in to perform a ceremony at 2.00 pm, it might only be at the very last minute that the couple would know that his flight had been delayed. What would the turnaround speed be then?

**Dr Caven:** A new schedule should be issued, but if that is not practical, verbal approval will be given and

the paperwork completed afterwards. No wedding will be stopped because of a piece of paper.

**Mr Weir:** I appreciate that, but it may not provide much comfort for couples who plan to get married. What about allowing a registered member of that religious body to act as a substitute?

**Dr Caven:** We intend to deal with that by way of Regulations.

**Mr Weir:** Would it do any damage to do it in the Bill?

**Dr Caven:** I suppose not. We thought that Regulations would make it easier to tune the system to meet the needs of those involved.

**The Chairperson:** A mechanism will be put in place to allow the wedding to go ahead. In some cases, people might wish that they could find some means of delaying it. Thank you very much for attending.



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## NORTHERN IRELAND ASSEMBLY

*This report was not approved formally by the Committee prior to the suspension of the Assembly on 14 October 2002, but is published by order of the Speaker.*

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### COMMITTEE FOR FINANCE AND PERSONNEL

Tuesday 17 September 2002

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### MARRIAGE BILL (NIA 18/01)

#### Members present:

Mr Molloy (Chairperson)  
Mr Beggs (Deputy Chairperson)  
Mr Close  
Mr R Hutchinson  
Ms Lewsley  
Mr Maskey  
Mr Morrow  
Mr Weir

#### Witnesses:

Rev Edmund Mawhinney )  
Rev Winston Graham ) Methodist Church in Ireland  
Rev David Mullan )

**The Chairperson:** Welcome, Gentlemen.

**Rev Winston Graham:** Thank you for inviting us to represent the Methodist Church. I am Rev Winston Graham, president of the Methodist Church in Ireland. My colleagues are Rev Edmund Mawhinney, the general secretary of the Church, and Rev David Mullan. We have made a written submission to the Committee, but we would like to draw attention to some points pertaining to the Marriage Bill.

**Rev Edmund Mawhinney:** Thank you for giving us the opportunity to contribute to the consultation. I want to expand on two or three of the points that we made in our submission.

The Methodist Church has several concerns about officiants and their registration. People, and Churches, who are already authorised to conduct marriages should not have to apply for registration. Current officiants should already be included in the register when the legislation comes into force. That register can be updated as new officiants come forward.

Keeping the register updated should not be a huge administrative task from the Methodist Church's point

of view, because it will affect approximately 200 ministers. However, it may be a bigger task for larger denominations. The registrar might have to take on a greater administrative role.

All Methodist ministers who have been approved to conduct marriages, in both Northern Ireland and the Republic of Ireland, should be included in the register. Our denomination requires that for two reasons. First, ministers in the Republic of Ireland are frequently asked to conduct weddings in Northern Ireland. Secondly, and more importantly, the Church moves its ministers around the whole of Ireland. Ministers from Northern Ireland can spend a period of service in the Republic of Ireland and vice versa. The legislation should respect that system.

In our submission we also made a point about the training of officiants. The new legislation will represent a sea change, and training must be made available. The Church does not want to take responsibility for that training, and it asks that the registrar or the appropriate Department be responsible for it. That said, there would be some merit in the Church working in partnership with the organisation responsible.

The submission highlighted several other points. The Church is concerned about the places where a wedding can be held and the position of deputy officiants. Although we hope that such a situation would not arise very often, it is possible that a wedding could be arranged for a particular venue on a specified date but, for reasons beyond anyone's control, such as community strife, it cannot be held at that place. All the other wedding arrangements would be in place for that date. A provision must be made under which it would be possible for that wedding to take place in another venue nearby, which could be arranged fairly quickly in extreme circumstances. However, the legislation does not allow for that at present.

There does not seem to be legislation for the possibility of using a deputy at short notice. If I were to take sick suddenly on the day of a wedding, it would be possible, under the present arrangements, for another minister to conduct the wedding ceremony. There does not seem to be the opportunity for that in the Bill, and that should be clarified.

In several places the Bill refers to the fact that Regulations will be drawn up, and we accept that. If this Bill became law and the Regulations were in place, and if there were a dispute of any nature on any issue, I am assuming that those responsible for making a judgement would turn to the primary legislation, so it would be useful to see what the Regulations will cover and to approve them.

**Mr R Hutchinson:** I congratulate Rev Winston Graham on his appointment as president and wish him well for the year.

Every denomination that we have spoken to has referred to ministers taking sick. Would you be happy if the Bill stipulated that any minister, or ministers, under licence to the particular denomination could conduct the marriage if a minister took sick?

**Rev Winston Graham:** I would be very happy with that.

**Mr R Hutchinson:** That point has been made to the officials, and we may propose an amendment to get that sorted out.

Would there be a problem if the venue had to be moved in the event of civil unrest, as the minister had the licence to marry? Would it not be irrelevant where the ceremony took place?

**Rev Edmund Mawhinney:** Does the legislation not say that the ceremony must be at a given place?

**Mr R Hutchinson:** Within the marriage schedule? Sorry, my mistake, I apologise.

**The Chairperson:** The information received from the Department was that necessary last-minute changes could be made in an emergency situation if the minister was either late and could not make the venue or took sick. I assume that the same would apply if the ceremony were transferred to a different venue, provided that that venue was registered as a place where a marriage could take place.

**The Principal Committee Clerk:** The place is not registered; it is named in the schedule. The Department's advice is that late changes can be made by phone on the day, if necessary.

You wanted clarification on the issue of clergy in the South of Ireland. The Bill will provide for churches to register any officiants, wherever they may be, as long as the marriages take place in Northern Ireland.

**Mr Weir:** That point has been raised because one possibility that the Committee will be considering is amending the legislation to have greater flexibility for late changes, especially of officiant. The Department suggests that, instead of a change to the legislation, the matter is dealt with through Regulations. I presume that your preference would be for that level of flexibility to be built into the actual Bill. Would Regulations offering flexibility be sufficient?

**Rev David Mullan:** We could work with the Regulations if the flexibility was built in. The difficulty would be if, for example, a dispute arose. We cannot see where any dispute could arise, but if it did, primary legislation would win the day. Even though we could work with Regulations that incorporated flexibility, we would prefer it if flexibility was contained in the primary legislation.

The Law Reform Advisory Committee's report on marriage law (LRAC 9/2000) does not give clear guidelines about trans-jurisdictional marriage — for example, where a couple who have been residing in America, or even Great Britain, return to Northern Ireland to be married. There is no clear indication as to how that should be dealt with.

**The Principal Committee Clerk:** A couple would give notice by post, and it would be dealt with in the normal way, or so the officials behind you are telling me.

**Rev Winston Graham:** Does that answer apply to couples in the UK and outside the UK?

**Mr Weir:** It does not matter.

**Mr R Hutchinson:** The other two main Churches — the Church of Ireland and the Presbyterian Church — want individual Churches to be named in the Bill. If the Churches were named, the ministers belonging to a Church would not have to be individually registered and would be covered by a blanket approach. The Methodist Church does not seem to have a problem with that. Are you quite happy for the proposed legislation to register each minister individually?

**Rev Edmund Mawhinney:** As a religious body, we would not have a problem with Churches being named. We would live with the legislation.

**Mr R Hutchinson:** Is that your preference?

**Rev Winston Graham:** Yes. However, we did not want to have a totally defensive response to the Bill. As our secretary said, we could live and work with the legislation, although we recognise that it might be a problem for Churches with many more officiants to register. We would prefer the bodies to be named, but we could work with it if they were not.

**Mr Morrow:** Would that mean that every denomination would have to be named? Bearing in mind the litany of denominations in Northern Ireland, that might lead to further complications.

**Rev Winston Graham:** That issue needs to be addressed.

Following on from that, clause 8(1) makes reference to "a member" being included on the list of officiants. What is meant by the word "member"? We would take that to mean additional clergy. However, we are not sure what is meant by that word and what the implication for all Churches or denominations would be of the inclusion of those members on the list.

**The Principal Committee Clerk:** The Bill provides for officiants to be registered by religious bodies, whether they be standard denominations or small religious bodies that meet regularly. That means that if the Methodist Church wished, it could register non-ministers as officiants. It ensures that smaller organisations that are not standard

denominations can nominate their members to be officiants at marriages.

**Mr R Hutchinson:** The Methodist Church could nominate its lay preachers.

**Rev Edmund Mawhinney:** After ministers have been registered and accepted, and the list has been updated, I imagine that a central office of each Church would respond to the Registrar General to update the list. Heretofore, in our case, that has been done to inform the Registrar General of the names of those who had been recently ordained and were therefore eligible to conduct marriages and to remove those from the list who had died or moved away.

Clause 8(5) states that a religious body shall not apply to register members to solemnise marriages

“unless it is satisfied that there is a need for a larger number of its members to be registered”.

Is it possible that a dispute could arise? Could the Registrar General decide that a religious body did not need so many people to officiate at weddings? We assume that the people who are ordained each year and heretofore have been recognised as —

**Mr R Hutchinson:** The Registrar General would not be in a position to disagree with a Church about someone it considered suitable to perform marriages. That would exceed his or her remit.

**Mr Morrow:** Do you have an example in mind that demonstrates that such a situation could arise?

**Rev Edmund Mawhinney:** I am not thinking of a particular case. I was simply imagining a situation in which the Methodist Church already had 130 or 140 people registered to conduct weddings and had conducted 400 weddings that year —

**The Principal Committee Clerk:** The Department’s position on that is that the inclusion of the reference to “a larger number” is to ensure that various religious bodies do not register all their members, in addition to the clergy, as officiants. That would be seen as excessive and undesirable. I cannot imagine that the Bill would prevent a body, particularly a standard denomination, from registering all its ministers. The provision is there to ensure that smaller religious groups, in particular, do not register all their members as officiants.

**Rev Winston Graham:** At present, when the Registrar General receives an application from a couple who specify the name of the officiant they wish to perform the ceremony, the officiant is notified. The legislation does not make it clear whether that will continue. The officiant could question a wedding that he or she had been named to conduct. Then one is put in the awkward position of asking whether he or she is really considering doing it. Is there any comment on that?

**The Principal Committee Clerk:** The advice previously provided by the Department is that notice of marriage can be given up to a year in advance. An officiant need not marry the couple; his permission would need to be sought before he could be included in the marriage schedule in the first place. It obviously requires a degree of communication between the officiant and the intended couple. I suppose that one would expect that in the normal course of preparation for any marriage.

The Bill provides for the religious body to give whatever guidance is necessary under the regulations governing couples married by its officiants.

**Mr Weir:** One of the points that we should make to the various religious bodies that have made submissions is that there is always the option to refuse couples, although I appreciate that such a course could leave the officiant in a very awkward situation. What changes to regulations or legislation could get round that?

**Rev Winston Graham:** Hitherto it has been the case that couples married in churches speak to the minister about the matter before they make application, even if sometimes that has not happened easily. We receive notice from the registrar about every upcoming marriage after the couple have applied, asking us if we have any comment or response. I am not sure that that will continue to happen, though I think that it should.

**Mr Weir:** Regulations might provide a way round the matter. Correct me if I am wrong, but the couple must make an application naming the officiant. If the form had a space for the signature of the officiant, then, unless one were to forge that signature, that would be a way of holding them to account. The officiant would have to be approached by the couple and sign the form when they made the application.

**Rev Winston Graham:** That would be very helpful; as officiants we feel that we have quite a responsibility in agreeing to conduct a wedding. We want it to be clear that we are in agreement.

**Rev Edmund Mawhinney:** From a practical point of view, without prior agreement the wedding could be arranged at a time and place that did not suit the officiant.

**Mr R Hutchinson:** For example, Gary Mason on the Newtownards Road might refuse to marry a divorced couple, but Jim Rea in Portadown might say that he would do it. There is a potential difficulty if the couple name someone else to come and conduct a marriage in your church.

**Rev Winston Graham:** Yes, that is right. I am currently ministering in a church which is very popular for weddings because of its location and the kind of building it is. Several of the weddings are conducted by others, since I do not do them. There is a code of honour between ministers about the matter, and it is up to us to



see that it works well. We think it important that there be something such as a signature to show that the officiant is aware of the intended marriage and agreeable to it.

**Mr Beggs:** Could the issue not be dealt with by the internal regulations of your denomination? You will have your own procedures stating that permission must be granted to use the church building, the minister agreed with the church's governing group and so on. Can that not be inserted into an individual denominational area for the different faiths to have their own regulation in addition to the overall guiding Regulations that the Department issues?

**Rev Edmund Mawhinney:** It is quite clear that, when all the legislation is in place, Churches will have to draw up their own codes of practice in addition. That is accepted, but — and do not think that we want to make too much of this — there is still potential for conflict and misunderstanding if, for example, a ceremony is arranged and the minister named is not available at that time. We are not always available to comply with people's requests as and when they choose, so there is a need for further checking and clarification.

**Rev David Mullan:** If a couple go directly to the registrar for the schedule, it could happen that other arrangements may have been made for the church on that day.

**The Chairperson:** It would be foolish for anyone to book a wedding in a church without first checking its availability.

**Rev David Mullan:** On the issue of where civil marriages may be solemnised, the Bill takes into account people in certain medical circumstances, but its provisions do not extend to cover religious marriage ceremonies in that set of circumstances. Are we to assume that the legislation covers both civil and religious ceremonies?

**The Committee Clerk:** Perhaps the officials will keep me right in this, but it is my understanding that the Bill covers both civil and religious marriages, and it is for the religious bodies to define where the religious marriage will take place and what sort of ceremony is performed. The Bill seeks only to set the legal framework for the formal preliminaries for the solemnisation of marriage that apply to both civil and religious bodies. It does not deal with the nature of the ceremony, premarital advice or guidance or any regulations that the Church may wish to stipulate.

**Mr Close:** Is it the case that the religious body could refuse to carry out a marriage ceremony in a specific place if it so desired?

**Rev David Mullan:** We are in sympathy with that suggestion; the only difficulty is that the Bill seems to specify civil marriage, while religious marriage is not

mentioned. I am working from what the explanatory and financial memorandum says about clause 16, "Places at which civil marriages may be solemnised".

**Mr Weir:** The Bill's intention seems to be that there will be certain restrictions placed on where civil marriages can take place, but, in the absence of any direct reference as to where a religious ceremony can take place, it seems that the only restriction is that imposed by the religious body itself. Some religious bodies only permit a ceremony to take place in their churches, whereas other religious bodies take a more flexible approach and may be happy to carry out marriage ceremonies in hotels, for example. There is no direct regulation, so the decision as to location will be at the discretion of the individual religious body. There would be nothing to prevent a couple marrying in a hospital, unless the religious body was unhappy with that.

**Rev David Mullan:** I appreciate that clarification. The issue that caused me to question the situation was that of medical statements and the fact that, although it depends on the internal regulation of the denomination as to where such marriages will be carried out, the medical requirements stipulated in the legislation still have to be met.

**Mr Close:** Again, that refers specifically to civil marriages. My understanding is that the religious body would still have its power and jurisdiction.

**Rev David Mullan:** It is entirely up to the religious body to come to its own conclusion, even though there may be a medical condition that raises concern.

**Rev Edmund Mawhinney:** Without intruding too much on your time, I would like clarification of clause 5(2), with reference to the marriage schedule. The clause says that in the case of a religious marriage the schedule shall be completed in accordance with subsection 1 and issued by the registrar at his office and — clause 5(2)(b) — "during such period as may be prescribed". Does that phrase refer to office hours or to the period of time in which the schedule is issued? If it is the latter, our point is that the period of time before the marriage schedule is issued should be defined in the Regulations. I am not sure which it refers to.

**The Committee Clerk:** I suspect that it is 14 days, and the officials are nodding in agreement with that.

**Rev Winston Graham:** We assume that the registrar will take responsibility for ensuring that the couple applying for the wedding are aware that, according to this legislation, it is their responsibility to make the return after the wedding about the details that the registrar needs, confirming that the wedding has taken place and who has taken part in it. Until now, the officiant has always done it, and we are quite concerned about this. Is there some way in which the registrar plans to make sure that couples are aware of their responsibilities?



Does the officiant have to ensure that that happens, and how can we be sure that it has happened?

The registrar will write again in 14 days if he has not heard the response he needs, but many couples leave on honeymoon as soon as the reception is over. If we have taken responsibility for officiating at the wedding, we want to make sure that the couple are very aware, through the registrar's office, of what is required afterwards.

**The Chairperson:** The responsibility is on the couple to make sure that they register. Where does the clarification of that come from?

**The Committee Clerk:** It falls to the couple to get the schedule and to bring it back.

**Rev Winston Graham:** Will the registrar advise them of that when they apply?

**Rev Edmund Mawhinney:** I have a vision of wedding suits being returned to the cleaners with the certificate in the pocket.

**Mr Close:** Surely there would be nothing to prevent the religious body taking on that if it so wished?

**Mr Morrow:** I suspect that that is not what they were asking.

**Rev Winston Graham:** No, it is not. Recently I had a wedding where the certified copy went back with the hired suit.

**The Chairperson:** The dry-cleaners might work wonders in that situation.

Many issues have been raised, and obviously we will raise them with the Department and get responses. Thank you very much for coming along.



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## NORTHERN IRELAND ASSEMBLY

*This report was not approved formally by the Committee prior to the suspension of the Assembly on 14 October 2002, but is published by order of the Speaker.*

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### COMMITTEE FOR SOCIAL DEVELOPMENT

Tuesday 17 September 2002

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### HOUSING BILL (NIA 24/01)

#### Members present:

Mr Cobain (Chairperson)  
Mr B Hutchinson  
Mr G Kelly  
Mrs Nelis  
Mr O'Neill  
Mr M Robinson

#### Witnesses:

Mr S Baird )  
Mr S Carson ) Department for Social Development  
Mr G Davidson )

**The Chairperson:** I welcome Mr Scott Carson from the Housing Bill team, and Mr Stephen Baird and Mr George Davidson from housing management branch. That is the policy branch that is responsible for the matters contained in the early clauses of the Bill.

It may be necessary to suspend proceedings at approximately 2.15 pm so that Committee members may participate in the plenary debate on the motion seeking extension to the Committee Stages of the Housing Bill and the Housing Support Services Bill.

Welcome, gentlemen. Mr Carson will outline the reasons behind the need for the Bill and its main thrust. Members will also find it useful if you indicate housing legislation that will be amended as a consequence of the Bill's provisions.

**Mr Carson:** The Housing Bill is the first piece of primary housing legislation for almost 10 years. It contains provisions that relate to a discretionary grants scheme, provisions to help with antisocial behaviour and social housing, provisions regarding caravan sites for travellers, and a registration scheme for houses in multiple occupation. Furthermore, it contains a range of miscellaneous items. It is therefore a large Bill, with 150 clauses and 5 schedules.

The Bill was published in draft for consultation and its provisions were largely welcomed in the subsequent responses. The amendments to the Housing (Northern Ireland) Order 1981, the Housing (Northern Ireland) Order 1983, the Housing (Northern Ireland) Order 1988 and the Housing (Northern Ireland) Order 1992 are set out in the Bill. Some of the Bill's provisions are self-standing.

**The Chairperson:** The Committee's purpose is to carry out the detailed clause-by-clause scrutiny of the Housing Bill, to scope the Bill and to identify, in the first instance, those clauses with which the Committee is content, and to agree to return to the remaining clauses at a future date.

Where it is evident that a clause must be explored in detail, either because of concerns or suggested amendments, we shall not dwell on it today but shall return to it in due course.

I stress that members should read the relevant clauses and paragraphs in the Bill in association with the relevant commentary in the explanatory and financial memorandum, and in the other papers provided. Each clause and schedule must be considered in turn. The Committee's options are to agree that it is content with the clause as drafted, or to refer the clause for further consideration at some later date. Before reaching such decisions, members may seek clarification on any clause.

The detailed arrangements for consideration of the Bill were agreed at our previous meeting on 5 September 2002. If we cannot reach agreement on a clause or amendment I shall, with permission, put it to the members that consideration of that clause be referred for further consideration.

*Long title agreed to.*

#### **Clause 1 (Introductory tenancies)**

**The Chairperson:** Several amendments have been suggested by interested parties.

**Mr O'Neill:** We need to discuss the clause in considerable depth.

*Clause 1 referred for further consideration.*

#### **Clause 2 (Duration of introductory tenancy)**

**The Chairperson:** Again, several amendments have been suggested by interested parties.

*Clause 2 referred for further consideration.*

#### **Clause 3 (Licences)**

**Mr O'Neill:** What terms will the officers use to define "nuisance"?

**Mr Carson:** It is not proposed to define "nuisance" in the legislation. The words "nuisance" and "annoyance" have been used for some years in legislation, and it has

been left to the courts to define “nuisance”. One person’s nuisance may not be a nuisance to someone else.

**Mr O'Neill:** That is exactly why I asked you. In your view, it is a judicial matter. It impacts on people’s concerns about visitors and on how those concerns can be managed by the Housing Executive or the housing association. Does the Department’s lack of clarity at this stage present difficulties in management?

**Mr Carson:** There is no lack of clarity in the Department’s thinking. The Department is satisfied that the courts will interpret “nuisance” and “annoyance” as they have done in the past, and it is as well to leave interpretations up to them. If “nuisance” is defined today, something will certainly happen. Someone else’s definition of “nuisance” will be different, and the legislation must always be changed.

**Mr O'Neill:** It is difficult to talk without thinking of practical situations. You said that “nuisance” would be defined legally. Suppose a visitor arrives at a tenant’s house and “nuisance” occurs. The tenant is responsible for that visitor and that nuisance. Are we not in danger of putting vulnerable tenants at risk? The best example of a vulnerable tenant is a woman who is estranged from her husband as a result of domestic violence. The husband may turn up, perhaps after a few pints, seeking what he considers are his rights. A melee may ensue, and, according to some people’s interpretation of the Bill, that vulnerable woman would be responsible for that tenant’s behaviour.

**Mr Carson:** No. The Housing Executive must act in a reasonable manner when taking action against someone. It would be unreasonable for the Housing Executive to take any action against the woman in Mr O'Neill’s example who did not have any control over the separated husband or against an old person who was unable to control certain people.

**Mr O'Neill:** I admit that it is a stark example, but there are degrees in between. You have to admit that unless the rules are clear, an innocent person will end up carrying the can.

**Mr Carson:** That will not happen because the case will go to court and the court will have to consider whether it is reasonable to expect the person to make that decision.

**Mr G Kelly:** Mr O'Neill talked about who might be responsible, and that is something that we shall face as we move through the clauses. It is right that the Department should not interpret who or what is the nuisance and annoyance. Will there be a definitive legal interpretation of nuisance and annoyance, or will the court treat each case individually?

**Mr Carson:** The court will interpret the circumstances case by case.

**Mr G Kelly:** Therefore, the decisions will be left to the court, and the Committee cannot be given a legal definition of nuisance or annoyance.

**Mr Carson:** No, that will not be defined in the Bill.

**Mr B Hutchinson:** How do you get somebody to court? The court only makes a decision about what to do; who makes the decision to bring a case to court?

**Mr Carson:** I assumed that we were talking about a case in which the Housing Executive was going to repossess a house because of the behaviour of, for example, a visitor. In that case, the Housing Executive would have to go court to get possession of the house.

**Mr B Hutchinson:** Therefore, the Housing Executive decides why one should go to court and the court decides the punishment.

**Mr Carson:** The court decides the punishment — whether the house should be repossessed — and decides whether it was reasonable for the Housing Executive to take the action that it did.

**Mr B Hutchinson:** Why might the Housing Executive want to take somebody to court to repossess his or her house?

**Mr Carson:** When a house is being used to sell drugs.

**Mr B Hutchinson:** I would like to see the Housing Executive do that. I have reported around 10 such instances.

**Mr O'Neill:** In order to initiate the process a judgement must be made. That judgement is made on the basis of what constitutes a nuisance. Therefore, it is the officer who makes the judgement. Clarity is needed about what the officer should do, and a decision should be made on what constitutes a nuisance or annoyance.

**The Chairperson:** In order for the Housing Executive or housing associations to use the clause there must be a history of nuisance in the home. It should not be a one-off. We are talking about complaints about noise; that is similar to problems that arise with tenants who complain about their neighbours. The difficulty with defining nuisance is knowing where to stop.

**Mr B Hutchinson:** That is why I ask my question. Everybody’s definition of nuisance is different. Noises annoy elderly people more than they annoy a young couple or a young single person — the least wee thing will annoy elderly people, which is understandable. They are at a different stage of life and want different things out of life. The elderly people should be protected. What constitutes a formal complaint in the first instance, and what constitutes a number of formal complaints?

**Mr Davidson:** The Housing Executive has some experience in this area. Therefore, I suggest that we obtain some details from it about the type of case in which it has been involved. The Housing Executive could



provide some background to nuisance or behaviour that it has encountered and the process it has gone through. Eviction is a last resort for the Housing Executive when it has explored every other avenue. Before it takes any action, the Housing Executive must be sure that a court would support its recommendation.

**Mr O'Neill:** Will there be sufficient advice on the issue?

**The Chairperson:** Does the Committee wish to refer the clause for further consideration until it has that information?

**Mr B Hutchinson:** No, I am happy enough.

**Mr O'Neill:** I am happy to accept the clause on the Department's assurance. Undoubtedly, such a clause is necessary, but it must be structured.

**Mr B Hutchinson:** My concern is that each district office or housing association will deal with it in a different way, which would be a breach of people's human rights. We need the same structure across the board. We cannot have Belfast district 5 deciding that it will take certain action and Belfast district 6, using the same information, deciding that it will not take that action. People will complain, saying, "I have a sister who lives in district 5 and this and that happened; and she got this done, and I can't get it done". That is the difficulty.

**Mrs Nelis:** The clause is open to interpretation.

**Mr B Hutchinson:** We need guidance.

**Mr Davidson:** Another issue is whether the Housing Executive's individual districts would have the final say as to who is taken to court or has proceedings taken against them. There may well be a central headquarters function, where it looks at individual cases and tries to achieve commonality.

**The Chairperson:** I assume that the Housing Executive will take the cases rather than individual offices. We require an overall strategy from the Housing Executive because, as Mr Hutchinson said, each case will be judged against a criterion. It would be crazy to have individual offices taking cases.

**Mr B Hutchinson:** That will happen with housing associations.

*Question, That the Committee is content with the clause, put and agreed to.*

*Clause 4 referred for further consideration.*

#### **Clause 5 (Notice of proceedings for possession)**

**Mr O'Neill:** Most support agencies seem to be in favour of this clause. Our research note indicates that there is some concern about social landlords ensuring evictions are carried out fairly and appropriately. Will clarity be provided for social landlords?

**Mr Davidson:** The Department can bring any clarity or instructions required to the Housing Executive, which already has the powers to direct social landlords in any of their functions. If necessary, we can do that.

**Mr O'Neill:** I imagine that it will.

**Mr B Hutchinson:** We need to be careful. We are dealing with private landlords, and we know how they have behaved in the past. One of my concerns is that private landlords do not appear to have to provide any proof for grounds for possession. How will we deal with that?

**Mr Carson:** The clause does not deal with private landlords, merely the Housing Executive and registered housing associations.

**Mr O'Neill:** The clause raises the perennial question of where those tenants go.

**Mr B Hutchinson:** To private landlords.

*Question, That the Committee is content with the clause, put and agreed to.*

*Clause 6 referred for further consideration.*

#### **Clause 7 (Effect of beginning proceedings for possession)**

**Mr O'Neill:** The clause is acceptable, but it could be subject to amendments to earlier clauses.

**Mr Carson:** It will depend on the amendments.

**Mr B Hutchinson:** We do not know whether we are content with the clause. Suggested amendments to other clauses may affect this one.

**The Chairperson:** If we have difficulties, the clause should be referred for further consideration.

*Clause 7 referred for further consideration.*

#### **Clause 8 (Persons qualified to succeed tenant)**

**The Chairperson:** Why does the clause employ the word "he"?

**Mr Carson:** Under the Interpretation (Northern Ireland) Act 1954 "he" is taken to mean "she" also; therefore we normally use the word "he" in legislation.

**Mr B Hutchinson:** I am sure Ms McWilliams will love to hear that.

**The Chairperson:** There is a serious point to be made here.

**Mr Carson:** The Interpretation (Northern Ireland) Act 1954 provides that "he" is taken to mean both male and female.

**The Chairperson:** Can we not say "he or she" in the Bill?

**Mr Carson:** There is no need to: the Interpretation (Northern Ireland) Act 1954 automatically applies to the Bill.

**Mr B Hutchinson:** Therefore, if you know the Interpretation Act you are all right.

**Mrs Nelis:** It is sexist: the terminology is totally out of date and needs to be changed.

**Mr Carson:** You would need to change the Interpretation Act.

**Mrs Nelis:** If we need to do it, we should: in the meantime you should defer to the Equality Commission and try not to be sexist.

*Clause 8 referred for further consideration.*

*Clause 9 agreed to.*

**Clause 10 (Succession to introductory tenancy)**

**The Chairperson:** Several amendments to the clause need to be considered.

*Clause 10 referred for further consideration.*

*Clause 11 agreed to.*

**Clause 12 (Right of introductory tenants of the Executive to have repairs carried out)**

**The Chairperson:** Tenants are also entitled to get repairs carried out.

**Mr O'Neill:** In light of our earlier discussions, the clause should be referred for further consideration.

*Clause 12 referred for further consideration.*

**Clause 13 (Provision of information about tenancies)**

**The Chairperson:** . Amendments to the clause have been proposed.

*Clause 13 referred for further consideration.*

*Clause 14 referred for further consideration.*

*Clauses 15 and 16 agreed to.*

*Clauses 17 to 20 referred for further consideration.*

**Clause 21 (Power to grant injunctions against anti-social behaviour)**

**The Chairperson:** Several amendments to the clause have been suggested. Does the Committee wish to refer the clause for further consideration?

**Mr B Hutchinson:** I want to ask a question before the clause is referred for further consideration. Why is

this happening? The provision was included in legislation in 1996, and the UK Government are going out to consultation. Therefore, why do we include the clause in the Bill when it has been proven in England not to work? People there have recognised that enforcement is not the way to deal with the problem. We must understand and deal with the causes. Why are we lifting it from English legislation for our Bill? The provision dates from 1996; it is now 2002 and the legislation will probably not be implemented until 2003. We are going with 1990s' thinking, yet the British Government have decided to go out to consultation.

**Mr Davidson:** It has been included because social landlords in Northern Ireland want the power to take out an injunction as one element of dealing with antisocial behaviour. It was not included in the original legislation that the Department drafted in 1996; it was added subsequently.

**Mr B Hutchinson:** Do you agree that it has been decided in England that the provision is wrong, it is to be changed and that the Government are going out to consultation?

**Mr Carson:** England went out to consultation on much wider powers. They are considering antisocial behaviour in the wider context, and not only in relation to housing.

**Mr B Hutchinson:** What does "in the wider context" mean?

**Mr Carson:** It takes into account antisocial behaviour in the streets, town centres et cetera, as opposed to this clause, which only deals with social housing.

**Mr B Hutchinson:** The English legislation dealt with social housing in many different places, including Bradford.

**Mr Davidson:** Perhaps I might ask the member whether he is considering antisocial behaviour orders as opposed to injunctions, which have been in use in England for some time but have proven —

**The Chairperson:** Perhaps we might refer the matter for further consideration.

*Clause 21 referred for further consideration.*

**The Chairperson:** We shall suspend until Thursday at 2.00 pm.

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## NORTHERN IRELAND ASSEMBLY

*This report was not approved formally by the Committee prior to the suspension of the Assembly on 14 October 2002, but is published by order of the Speaker.*

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### COMMITTEE OF THE CENTRE

Wednesday 18 September 2002

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### COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE BILL (NIA 20/01)

#### Members present:

Mr Poots (Chairperson)  
Mr Beggs  
Mrs E Bell  
Mr Kennedy  
Ms Lewsley  
Dr McDonnell  
Mr McElduff  
Mr McMenamin  
Mr McNamee  
Dr O'Hagan  
Mr K Robinson  
Mr Shannon

#### Witnesses:

Mrs M Bunting ) Office of the First Minister  
Mrs H Stevens ) and the Deputy First Minister

**The Chairperson:** I welcome officials from the Office of the First Minister and the Deputy First Minister. Mrs Mary Bunting is head of the Equality Directorate, and Mrs Heather Stevens is head of the Children and Young People Unit. I look forward to your presentation.

**Mrs Bunting:** Thank you for inviting us to give evidence. I apologise on behalf of Mr Chris Stewart, who cannot be here. He and Mrs Stevens have been the driving force behind the Bill, but he is part of the UK delegation giving evidence to the UN Committee on the Rights of the Child today.

We are aware that the Committee has worked hard over the summer to examine evidence on the Bill, and the Office of the First Minister and the Deputy First Minister (OFMDFM) is happy to work with the Committee to produce the best possible Bill. OFMDFM recognises that the current Bill is not as perfect as everyone would like it to be. The Committee will want to raise several issues with us, but I would like to raise one or two points first. I am also aware that the Committee has invited departmental officials to be present during the clause-by-clause

scrutiny of the Bill. Mrs Stevens and, possibly, Mr Stewart will attend those sessions.

One specific issue, the differential treatment of juvenile justice, has been a cause of concern for some of the witnesses. It was difficult for OFMDFM to deal with that issue in preparing the Bill. It involved many detailed discussions and negotiations with the Northern Ireland Office (NIO) at official and ministerial levels. I am aware that the NIO has been invited to give evidence, and it can make its own decisions about that. Suffice it to say that OFMDFM has done its best to reach an accommodation on the matter.

The bottom line is that the Committee and OFMDFM must consider whether to choose a system based on the NIO's current position or a two-tier system — one for juvenile justice and another for everyone else — which is effectively the present system. A further option is to water down the Bill across the board, although I do not think that anyone wants that. Those were the options, as we saw them, when we were preparing the draft Bill. We must be mindful that the Secretary of State has the power to give or withhold consent to the Bill. Those issues can be further considered in the question session, but it is important to make them clear at the outset. We have spent many hours trying to get the best deal for juvenile justice.

I will not say anything more because there are many issues that the Committee wants to raise. It is probably best to get stuck into the main issues.

**Mr Beggs:** In OFMDFM's discussions with the NIO, what areas were discussed and what were the particular areas of disagreement?

**Mrs Stevens:** I draw the Committee's attention to several provisions on safeguards, especially where the commissioner might want to act as advocate and ombudsman. The NIO felt strongly that safeguards should be put in place so that the commissioner cannot exercise those roles at the same time in relation to the same child because there is an obvious conflict. On the one hand, the commissioner is acting solely in the interests of the child, and on the other he or she is trying to take a neutral third-party stance.

Those safeguards are in clauses 10(4), 10(5), 11(4), 11(5) and 13. Other clauses and paragraphs were added at a late stage to reassure the NIO and to secure its consent to the Bill. For example, the last five lines of clause 2(2) were incorporated to account for the fact that statutory provisions relating to juvenile justice do not refer to the term "best interest".

The handling of general reviews under clause 5 and schedule 2 is the main distinction in the Bill between children involved in the juvenile justice system and other children. Differentiation was introduced because NIO was concerned that a commissioner might, to use

the NIO's phrase, go on fishing expeditions. The NIO wanted to tighten the commissioner's access to the very strong powers provided in the Bill for formal investigations in general review cases.

The other provision relates to clause 9(2). Although that is a standard provision found in legislation relating to Commissioner for Complaints, the NIO made it clear to OFMDFM that it would require that to remain in the Bill. It provides that the commissioner cannot investigate certain matters, essentially involving court proceedings.

**Mr Beggs:** Have you managed to get a much more satisfactory Bill than, for example, the National Assembly for Wales did in its equivalent dealings with the Home Office?

**Mrs Stevens:** I think so. Our Bill is more far-reaching and contains more extensive powers. Imperfect though the current draft is, it is still at the leading edge of best practice.

**Mr Shannon:** You mentioned the difficulty that could arise when children identify themselves. How can that be avoided so that children can keep their anonymity and the process can still go forward?

**Mrs Stevens:** Group actions are a very tricky issue. The Bill, as drafted, does not prevent the commissioner from taking a collection of individual cases and running with them together. However, there may be difficulty if a class action were taken where certain children were not identified, and we would want to take more legal advice on that. Article 6 of the Human Rights Act 1998 may have implications if people do not know their accuser.

**Mr Shannon:** Should the final wording be left until the legal position is clarified?

**Mrs Stevens:** We would be prepared to look at that and take more legal advice. However, my advice would be that the wording should stay.

**Mr McMenamin:** You said that the Secretary of State would have power to overrule or override any decisions. When does a teenager of 14, 15 or 16 years of age who commits a heinous crime cease to be a juvenile, and what happens when a teenager ceases to be a juvenile during his or her sentence?

**Mrs Stevens:** I am not sure when someone moves between the juvenile justice system and the adult system in criminal law. However, the commissioner's remit would extend to 18 years of age. The commissioner would be interested in that child until he is 18, regardless of whether he is in an adult institution.

**Mr McMenamin:** Am I right in saying that the Secretary of State can overrule any decision made on any person?

**Mrs Stevens:** Not in relation to what the commissioner might do. The Secretary of State has power to veto the legislation.

**Mr McNamee:** You have said that the Bill, as presented, reflects best practice. Similar points were made in relation to clauses 6 to 10, and particularly clauses 8, 9 and 10, which restrict the occasions when a commissioner could exercise his or her power. The Human Rights Commission felt that clause 8(2)(a), where the commissioner could not exercise any power unless the complaint raised a question of principle, was unnecessary. It felt that that was an opportunity for people to contest any exercise of power by the commissioner. The Human Rights Commission, the Children's Law Centre and the Equality Commission expressed concern in relation to clause 8(2)(b), which says that the commissioner cannot exercise any power unless the complaint falls within the existing statutory complaints system. They felt that would eliminate an enormous amount of circumstances. Similar comments could be made in relation to clauses 9 and 10, where the Bill, as presented, narrows the opportunities and scope of the commissioner.

**Mrs Stevens:** The commissioner will utilise a large amount of public funds, and Ministers have been keen to ensure that we do not duplicate the functions and cause unnecessary replication. The provision at 8(2)(b) is there so that the commissioner does not investigate a complaint if it falls within an existing statutory complaints system and a formal system is already available to the child.

It is important, when looking at clause 8, not to lose sight of clause 7, which will be used much more heavily, together with clauses 5 and 6. We refer to that as the commissioner's handholding power, and that will be crucial. That is the provision that Peter Clarke in Wales has found to be most useful and which makes a real difference to children. Instead of the commissioner's being the last port of call, because nobody else can deal with the complaint, he can be the first port of call and take the child through the existing complaints systems. If the Welsh experience is anything to go by, the authorities pay much more attention to the child when he has a commissioner sitting next to him.

A pragmatic approach was taken to the question of limits, because the commissioner could be swamped. The commissioner needs scope to look at issues that will affect other children and young people, so that he can make best use of his resources.

**Mrs Bunting:** The handholding effect of clause 7 should ensure that other complaints procedures will be used properly and will be open and transparent. The commissioner's powers in that regard will produce a ripple effect, in that better results will be obtained from complaints procedures than if he were left to deal with them with his resources alone. It is a mainstreaming of dealing with children's complaints properly and fairly.

**The Chairperson:** Sub-paragraphs (3) and (4) of clause 7 suggest that the commissioner should not act if



there is any possibility of anyone else acting on behalf of the young person. The view has been expressed to us that the commissioner will be at the end of a queue and anyone who has gone to other bodies and not received satisfaction will not then go to the commissioner, because he has lost heart.

**Mrs Stevens:** We took the view that the words “likely to provide such assistance” were significant. There is disagreement among non-governmental organisations about whether “likely to” is better than “better placed to”. We took the view, as did the draftsman, that the phrase “likely to provide such assistance” gives the commissioner more flexibility. The commissioner can decide if someone may have the power to give assistance and can become involved if it transpires that he is not likely to.

**Dr O’Hagan:** My first question concerns the recruitment process. OFMDFM is going to appoint a commissioner rather than have an open competition. What are the implications of that decision for the equality agenda and for the involvement of young people in that process?

It is clear that the Bill is stronger than the Welsh model, although I do not know whether it is appropriate to use that model as a yardstick. Over the last few weeks, people working in the sector have given compelling evidence of the serious weaknesses of the Bill in relation to best interest and welfare, restricted powers of investigation and the fact that a commissioner will be last in a queue. Many of those problems arise from the fact that the NIO is taking a particular line. How far is the Department prepared to go? Is it a case of rolling over and allowing the NIO to call the shots, or is the Department prepared to get the strongest legislation and the strongest commissioner possible?

**Mrs Stevens:** I shall try to answer all those points. Ministers are absolutely committed to an open selection and recruitment process. We are hoping for an international field of applicants for such an important post. An addition to the legislation stipulating that the process should be open and transparent would be unusual. We already operate under strict guidelines on public appointments, and we have already begun to follow those guidelines in relation to this appointment. An independent assessor who will oversee everything that we do in connection with the appointment has already been put in place.

We have also already put in place arrangements to select a group of young people who can become involved in the appointments process. We have established a young people’s advisory forum, which will comprise 50 young people from all over Northern Ireland with representation from children from ethnic minorities, young mothers and children with disabilities. They will form a sounding board for my branch as we advance the work on the children’s strategy. On 19 October, we will ask them to self-select a group of approximately a dozen young people whom we can train further to enable them to participate

in the appointments process. The commitment to that is under way.

You asked about the appropriateness of the First Minister and the Deputy First Minister making the formal appointment. It will be a formality after an open recruitment process has been gone through. It is appropriate because of the lines of accountability that are proposed in the Bill. Accountability by the commissioner will be through OFMDFM in relation to finance and through our Department ultimately to the Assembly. Ministers feel strongly that the First Minister and the Deputy First Minister should make the appointment.

You then spoke about when “rights” and “best interests” were used in the Bill. That was the subject of much discussion with the NIO. From the start, our term of choice has been “best interests”, recognising that that reflects international best practice. In some parts of the Bill, it talks about “rights and best interests”; sometimes it refers to “rights or best interests”. No policy difference is intended. Those phrases have been used on the advice of the draftsman, and it is purely for grammatical reasons that “and” or “or” is used in a particular context.

There are several occasions in the Bill where we have had to use the term “welfare” on the advice of the first legislative counsel because it refers to an existing body of law on welfare. We do not have a body of law relating to best interests. The legislative term that is used throughout Northern Ireland is “welfare”, so we felt that it was more appropriate to use “welfare” in these instances.

In other places in the Bill, particularly clause 7(1)(b), the word “interests” is used on its own. The reason is purely grammatical; it did not make sense to use “best interests”. It would be setting an impossibly high standard for a public authority if the term “best interests” were used there. That is why those phrases have been used at particular points in the Bill.

The one area that caused most discussion is in clause 2(2)(a). In clause 2(1), it states that the commissioner’s principal aim is to safeguard and promote “rights and best interests”. In clause 2(2)(a) it states that the

“paramount consideration shall be the rights of the child”.

To be frank, if the words “best interests” had been included, the NIO would have withheld consent. It was so important to the NIO because under the juvenile justice system there are other issues to be considered apart from the best interests of the child; they must be balanced against the wider interests of the community. The NIO is better placed to answer those questions than I, but we were under no illusion that it would withhold consent.

**Mrs Bunting:** Your first point was about equality issues in relation to how the process would operate. Any appointment process that the Department runs must comply with equality legislation and must be open, fair and transparent. That would also apply in this case. We

are aware that the Committee feels that there may be a need to make it more explicit in this clause that we will be involving children and young people in the process. That is something that we may consider if Committee members feel that it would strengthen and make the Bill more transparent.

We went very far indeed with the NIO. We were left under no illusions that there were certain things to which it would not consent, which is one reason why it took us so long to get to where we are now. We would have liked to have the draft Bill much sooner, but a great deal of time was spent dealing with those issues.

There are issues surrounding the fact that justice systems may eventually be devolved. The question is whether we should take juvenile justice out of that altogether. That option was on the table, but we felt that this was not the best course of action, since it would be better to secure some movement in that area now rather than none. We are most concerned to ensure that we get a children's commissioner. We were left in a difficult position, but we have certainly not rolled over. We stood up to things earlier in the process, and we have the best that we could have hoped for given the strength of feeling in the NIO at the time.

**Dr O'Hagan:** I do not want to hog the time, but my question is very important: you mentioned clause 2(2)(a), but could you inform the Committee of all clauses to which the NIO objected? Mr Chairperson, does the Committee intend to invite witnesses from the NIO to give evidence?

**Mrs Stevens:** The relevant provisions of the Bill were clause 2(2)(a) and the ones that I mentioned that were specifically included for the NIO, including the last five lines of clause 2(2). Schedule 2 in its entirety — and the way it interlinks with clause 5 — was introduced for the NIO, as were clauses 9(2), 10(4) and 10(5), 11(4) and 11(5) and 13.

**The Chairperson:** The Committee and the Office of the First Minister and the Deputy First Minister have been working to get the NIO to give oral evidence and will continue to do so. Until now, however, we have not succeeded. As a last resort we could opt for written evidence, but I will be pushing for an oral evidence session.

**Mr Beggs:** Is it within the power of a NIO minister to decide not to attend?

**The Chairperson:** We dealt with that point before. Under the guidance notes, the Minister is to be invited to the Committee and cannot be instructed to do so, as in Westminster. However, Ministers are to try to treat the devolved institutions as they would treat a Westminster Committee. The Minister would be expected to attend, so we shall pursue that line.

The document refers to both “rights and best interests” and “rights or best interests”. Why does the reference differ?

**Mrs Stevens:** No policy difference was intended. On the advice of the first legislative counsel, it was decided that in certain places it made more grammatical sense to write “or” and in other cases “and”.

**The Chairperson:** So the difference is simply grammatical. I should have thought that “rights and best interests” was stronger and could be inserted throughout.

**Ms Lewsley:** You commended the Committee on its input to the Bill; I commend you and the Department for all your hard work, particularly in the negotiations with the NIO that are being refused us. I should like to follow up two matters regarding our meeting with the Welsh Children's Commissioner. Some people here last week thought that the commissioner should take on more individual cases. The Committee's feeling was that such a step would only swamp the person appointed. We were looking at more specific issues or themes.

The Welsh Commissioner said that they do not refuse any young person help but try to guide them. It is hoped that that our commissioner will have such a remit and the authority to monitor the young person's progress. Last week, some members said that they feared that the commissioner would start the procedure but, because of the bureaucracy, fail to conclude it and that people might be put off. Someone in the commissioner's department should be entitled to support the young person through the process and ensure that any red tape is dealt with to see the child through to the process's end.

**Mrs Stevens:** That makes sense. The intention behind clause 7 was to ensure that the commissioner would not just take the child to the door and say “There you go”. If the Committee thinks that clause 7 should be stronger to reflect that, the OFMDFM will look at ways to amend it.

**Ms Lewsley:** Can the commissioner's remit be extended with regard to disabled people in care? It would be beneficial if the commissioner could help disabled people aged up to 25 years leaving care.

**Mrs Stevens:** The Bill provides for the commissioner to have a role as regards care leavers up to 21 years old. Children with a disability are treated differently because their difficulty arises from a disability and not because of their childhood. That is why children who have been in care are singled out in the Bill for special treatment. The Children (Leaving Care) Bill acknowledges that young people are in a period of transition due to the circumstances of their childhood. The OFMDFM contends that children with disabilities are in a different position so the Bill treats them differently. However, I am happy to work with the Committee to consider the matter.

**The Chairperson:** The commissioner's main power regarding the clawback on the part of children and young people against those who have treated them unfairly is the "name and shame" provision. Clause 14 and clause 15 negate that. They state that the report of an investigation should be sent to

"(a) the relevant authority concerned and, where the report contains recommendations as to action to be taken by any other relevant authority, that relevant authority; and

(b) such other bodies or person as the Commissioner thinks appropriate."

There is no indication that the report referred to in the Bill would be public. The report is to be sent to relevant and other appropriate bodies, but the naming and shaming would not be public.

**Mrs Stevens:** Clause 14(1)(b) provides flexibility for the commissioner to send the report to whomever he or she thinks fit in order to make it public. The naming and shaming provision that flows from the notice procedure in clause 15 includes scope for a register that would be open to public inspection. That register records the authority's response to the commissioner's recommendations, and there are two opportunities for the commissioner to send out notices to seek the authority's response to the recommendations. That provides the public aspect.

**The Chairperson:** If the commissioner thinks that a children's home is not providing appropriate care he will make recommendations, compile a report on it and send it to the local health board that is responsible for the home. Where else does the report go?

**Mrs Stevens:** It would be at the commissioner's discretion.

**The Chairperson:** Does the commissioner have the discretion to make information fully available to the public?

**Mrs Stevens:** Yes.

**Mrs Bunting:** He has the discretion. However, I get the feeling that you would prefer it if the Bill stated more explicitly that such information would be made public.

**The Chairperson:** I am concerned that the commissioner may feel that, although he or she may be allowed to make information public, it may be inappropriate. I do not want the commissioner to feel shackled by those clauses. I want the commissioner to feel that he or she has the freedom to make information public if something is seriously wrong. The only power that the commissioner has is to name and shame, and the only people who receive that information are those directly concerned.

**Mrs Stevens:** We could consider the provision in clause 14(1), and if the Committee felt that clause 15 needed to be strengthened at the other end of the process, which is very public because of the register that is open to inspection, we could consider that clause also.

**Mr K Robinson:** I share that concern, but from a slightly different angle. A commissioner could decide to make findings available to certain groups, such as the media, which would undermine the purpose of the Bill. If it were explicit that the commissioner has the power to release information to the media per se, so that we do not have selective reporting, that could negate the object of the Bill. If the information were released to one area of the media only, such as television, or to a particular type of journalism, as opposed to journalists per se, there is a danger that sensationalism could creep in, rather than factual reporting of how the problem was discovered, addressed and remedied. In such situations, the explicit comment must be made.

I do not normally defend public bodies and persons who find themselves in the dock, but clause 12 seems to remove the right of witnesses to cross-examine. Those of us who have served on bodies that consider measures such as equality sometimes wished that we had the power to cross-examine the complainant and draw the commissioner's attention to facts that he or she omitted to mention. It would be awful if that were the case again. For example, if a child makes a complaint against an adult, there is a certain in-built sympathy for the child, which may not be well placed. However, once an adult in authority is perhaps wrongly, or too heavily accused, their attempt to redress that imbalance is a non-starter. I do not want anyone to be badgered by the person under investigation but, by the same token, I do not want the person or authority under investigation to be put in the position where one hand is tied.

**Mrs Stevens:** In drafting the clauses for formal investigations, we were mindful of our obligations under the Human Rights Act 1998, which states that people have the right to a fair trial. Paragraph 9 of clause 12 outlines a provision that would give an authority that felt that an adverse finding might be made against it an opportunity to do that. If the Committee feels that that clause should be strengthened, we can do that.

**Mr K Robinson:** That would be good. I am not happy with the term "inquisitorial". It is emotive. I would like the person who is subject to the accusations to have a fair opportunity to respond and to provide the commissioner with information so that a fair and sensible conclusion could be reached.

**The Chairperson:** There is concern that the wording of clause 17 could restrict the commissioner's access to public places, such as leisure centres, that regularly cater for children. Is it necessary to be so definitive? Could the wording not be more open?

**Mrs Stevens:** The Department is happy to reconsider that matter. It depends on the definition of other services provided for children or young people. If a leisure facility were construed as providing services for children and young people, it would come within the scope of clause 17.



**The Chairperson:** I would not expect most local authorities to be awkward about that. Nevertheless, we should leave the door open for the commissioner at all opportunities by making the legislation as inclusive as possible at an early stage.

Clauses 10(4) and (5), 11(4) and (5) and 13 are similar in policy, intention and content. They are intended to prevent a conflict between the commissioner's advocacy and ombudsman roles. It has been suggested that it is logical for the commissioner to carry out an investigation, and then intervene in, or assist with, legal proceedings as necessary. Many submissions stated that those were exactly the steps that the commissioner needs to be able to take. One submission suggested that retaining these parts of the clauses might encourage the commissioner to move straight to legal proceedings instead of taking the less adversarial route of complaint or investigation.

**Mrs Stevens:** We are aware of those arguments. However, the Bill provides for the commissioner to carry out an informal investigation before deciding whether to pursue a more formal investigation or legal proceedings. The NIO and others expressed concerns that safeguards should be introduced to the Bill so that the commissioner could not act as a neutral third-party arbitrator or act completely on the part of the child in relation to a single case. That is why the safeguards have been introduced in paragraphs 4 and 5 of clauses 10 and 11. There is still provision for the commissioner to carry out an informal investigation before starting legal proceedings.

**The Chairperson:** Concern has been expressed about clause 10(2). If a child comes forward but does not wish to make an official complaint, and the commissioner believes there to be a problem, he or she could not investigate the potential breaches in his or her own name. It would have to be done in the name of a victim. Currently, the Northern Ireland Human Rights Commission can carry out investigations without a complaint having been made.

**Mrs Stevens:** The Northern Ireland Human Rights Commission is restricted in its ability to bring about proceedings under the Human Rights Act 1998 if no complaint has been made. The provision in the Northern Ireland Act 1998 that deals with that matter has not been included in this provision. We felt that it might be limiting. Clause 10(3) deals with that point. The commissioner can bring proceedings in his or her own name if the case raises a question of principle or if other special circumstances make it appropriate.

**The Chairperson:** During the Second Stage, many Members raised the issue of the commissioner's powers being extended to include unborn children. The Committee wondered how appropriate it would be to include in utero provisions in clause 24. What is the possibility of those being included, and what are the thoughts of the

Office of the First Minister and the Deputy First Minister on that issue?

**Mrs Stevens:** Ministers obviously support the promotion of the health of pregnant women, as it clearly influences the health and welfare of unborn children. The legislation, as drafted, already allows the commissioner to do that. However, we must ask what the added value of the commissioner's doing that would be, because the Health Promotion Agency already deals with that. We are keen to ensure that the duplication of responsibility is kept to a minimum so that public money is used in the best way possible.

Extending the definition of "child" to "unborn child" raises the difficult issue of abortion. Domestic law on abortion in Northern Ireland is unclear, and a definitive ruling has not been given in Europe under international human rights instruments. Therefore, if we extend that definition, it would immediately throw the commissioner into the debate between pro-life and pro-choice. It may be inappropriate to do that at this stage as the commissioner already has a remit under the Bill. However, if the words "unborn child" are not included in the definition, the commissioner can have a view on abortion and can contribute to the debate without it being included in the legislation.

**The Chairperson:** There have also been cases of human rights abuses of unborn children. Two cases stand out in my mind. The first case happened in Bangor, when an individual was charged with causing the death of an unborn child through the savage and brutal beating of the child's mother. The second case was that of the twins killed in the Omagh bombing. There are thousands of smaller cases in which unborn children have suffered unnecessary abuse and harm. Many Assembly Members and members of the public expressed their concern in that regard. The Committee will probably discuss the matter further.

**Mrs E Bell:** Would it be useful to have a summary of the Bill for young people, since it was introduced for their protection? Clause 17(4) mentions "the parent of the child", and it is also mentioned in another part of the Bill. However, it may be useful to change that to "someone with parental responsibility" to suit today's circumstances.

**Mrs Stevens:** I agree with that. They are very good points, and we will re-examine the definition of parent with a view to including people with parental responsibility. A young people's summary of the Bill is an excellent idea, and we are happy to produce that, as the legislation is very difficult to read. The Bill became more complex as additional safeguards were introduced, and it has resulted in a hefty piece of legislation that would be too unwieldy for young people and their advisers to deal with. One of the commissioner's first tasks would be to publicise the role and make the legislation accessible.



**Mrs E Bell:** A publication similar to the young people's edition of the Human Rights Bill would be appropriate, as young people said that that was a useful consultation paper.

**The Chairperson:** I want to examine clause 22, which is the definition of "relevant authorities" and the differential remit for children in the juvenile justice system.

The Bill relates only to public bodies, but private bodies' functions will occasionally affect the rights of children. In addition, "relevant authority" is sometimes restricted to health and social services independent providers. For example, the work of the Training and Employment Agency applies to children under the age of 18. Recruitment agencies, many of which are private companies, would also come into play. However, the Bill does not provide any powers in that regard.

**Mrs Stevens:** You are correct. It was not our policy intention to exclude such bodies, and we will consider the definition of independent providers so that it can be extended beyond the health field.

**The Chairperson:** Thank you very much for coming. Members appreciate the Bill. Several of us are concerned that the NIO restricted its progress, but we will try to pursue the matter. We are happy with what OFMDFM has put in the Bill thus far. We will probably suggest some amendments, but the bulk of it is acceptable to the Committee.

We look forward to seeing you again.

**Mrs Bunting:** We have been encouraging the NIO to appear before the Committee, because it is important that members hear its arguments so that both sides of the debate can be fully understood.



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**NORTHERN IRELAND  
ASSEMBLY**

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**COMMITTEE FOR HEALTH, SOCIAL  
SERVICES AND PUBLIC SAFETY**

Wednesday 18 September 2002

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**PROTECTION OF CHILDREN AND  
VULNERABLE ADULTS BILL  
(NIA 22/01)**

**Members present:**

Dr Hendron (Chairperson)  
Ms Armitage  
Mr Berry  
Rev Robert Coulter  
Mrs Courtney  
Mr J Kelly  
Ms McWilliams

**Witnesses:**

Mr P Doran	) Probation Board
Mr B McCaughey	) for
Ms V Owens	) Northern Ireland

**The Chairperson:** I thank Brian McCaughey, Paul Doran and Val Owens from the Probation Board for Northern Ireland for coming to make presentations to the Committee on the Protection of Children and Vulnerable Adults Bill. I hope that you do not mind keeping your presentations short, so that my Colleagues can ask the relevant questions.

**Mr McCaughey:** On behalf of the Probation Board for Northern Ireland, I thank you for the opportunity to give oral evidence on the Protection of Children and Vulnerable Adults Bill. I am Brian McCaughey, and I am director of operations. Paul Doran is assistant chief officer; he has operational responsibility in the Probation Board, at a senior management level, for all our work on child protection, supervision of sex offenders and policy development on risk and danger. Val Owens is a middle manager based at the Alderwood centre; she is leading on the development of the assessment and management of our work with sex offenders.

I will highlight briefly the relevance and importance of the Bill in relation to the work of the Probation Board for Northern Ireland. We have five main points that we wish to make, as highlighted in our submission on the Bill. No doubt you will have questions for us, and we will deal with those, individually and collectively, as they arise.

The primary aim of the Probation Board for Northern Ireland is to prevent further victims — that is to reduce crime and the harm it inflicts. We do that through the assessment and management of risk posed by offenders, which is especially important with those who have committed sex offences. In all our work we strive to evidence our commitment to partnership, public protection and professionalism. The Probation Board welcomes the introduction of the Bill and supports its objective of strengthening existing arrangements to ensure that appropriate checks are carried out as to the suitability of those seeking to work with vulnerable adults and children.

As an employer of 340 staff, the Probation Board obtained category A clearance for all its employees at all levels including volunteers, which ensures that they have all had a criminal record check and a Pre-Employment Consultancy Service (PECS) check.

Our child protection procedures state that a child's welfare must be paramount in any intervention and, as such, thus overrides all other considerations and social work principles. Where there is conflict, a child's interests will always come first. The emphasis of our work on public protection, and our relation to the Bill, is specifically on children and vulnerable adults, and that will continue to be our emphasis

**Mr Doran:** There is confusion in the community about registers for dangerous people. For example, there is some confusion between the sex offender register, the PECS register and a register for those who are convicted of other serious offences. There must be an overarching public safety strategy to deal with that issue, because there may be people who are on the PECS register but not on the sex offender register and vice versa.

The Probation Board is aware that a PECS awareness group has been set up recently. The board welcomes the setting up of the group, which will address some of those issues. The board believes that it would be useful as part of an overall strategy, which highlights the responsibility of parents. No register can, by itself, protect children. We do not want to lull the public into a false sense of security. However, as Mr McCaughey said, the board firmly welcomes the introduction of the Bill. It believes that a public advertising campaign — explaining who can access the register and in what circumstances — would be of value.

In the proposed legislation, only those people who are convicted of an offence that leads to a sentence of 12 months' imprisonment or more are eligible for disqualification orders. However, that is not apparent from an initial reading of the Bill. When the Bill is studied in more detail, it becomes clear that it is designed only for people who are sentenced to 12 months' imprisonment or more. The Probation Board supervises people who are on probation — who may never have gone to prison — or people who have been in jail for less than 12 months.

It might assess certain people in those categories as posing a risk to the public. The board, therefore, wants to deal with clause 23, which states that the qualifying sentence must be 12 months or more. Perhaps it should be extended to include those who are serving community sentences, because — since they must serve their sentence in the community — they pose a potential threat.

Sometimes criminal records do not identify the victims of certain offences, such as abduction or kidnapping, of which kidnapping may be more relevant. The Probation Board believes that it is important that criminal and court records clearly identify whether the victim was a young person or a vulnerable adult, because there may be child protection issues surrounding the conviction for abducting a child, which may not be the case with kidnapping for financial gain. There needs to be clarity in criminal records.

I mentioned briefly that the board has acknowledged the work of the PECS awareness group, which has flowed partly from the work of the Committee and the Assembly. There are issues emanating from that, especially with regard to employment, the ability to access the register and accreditation, which my colleague, Ms Owens, will address.

**Ms Owens:** I want to talk briefly about the accreditation process. Other submissions have also dealt with that issue. The Probation Board welcomes a system of accreditation for organisations and groups that work with children. Part of the difficulty with the system is that it does not regulate the many individuals who work with children; that may have been pointed out to the Committee by other groups. I am not sure whether that can be overcome by legislation. The board is concerned that an unintended consequence of the Bill might be to encourage more people into that area.

A range of occupations often involve one-to-one contact, which is a high-risk situation for adults who work with children. Such people would include tutors, music teachers and ice-cream vendors. Those people work in an unregulated area. Through the Probation Board's work with offenders, it has come across situations in recent years in which people have been convicted while they were employed in such an occupation. It is difficult to regulate that, and I am not sure whether the legislation could. However, it may be possible to include, if not the individuals themselves, the agencies that those people may have to go through in order to procure work of that nature. Children's entertainers, for example, are often signed up to agencies. An effect of the legislation is that agencies that procure employment for people who are disqualified from working with children could also be subject to prosecution. I am not sure how that could fit in with accreditation. Agencies, such as those that represent children's entertainers, also need to be accredited. It is important that that be considered.

It is important that there is parity with the Republic of Ireland's legislation about vetting arrangements, because it is likely that people will seek employment in both jurisdictions in organisations that work with children. The discussion may raise other issues, but those are the main points that I wanted to mention.

**Ms McWilliams:** You have extensive experience of working with offenders and a body of knowledge that many of the witnesses do not have. It is, therefore, important for the Committee to hear your views.

I am interested in the inclusion of community orders. The Northern Ireland Office (NIO) has not declared an intention to extend Part V of the Police Act 1997 to Northern Ireland. Therefore, criminal records are the only hard evidence of a successful prosecution. However, prosecutions are not always successful. The National Society for the Prevention of Cruelty to Children (NSPCC) provided a scenario of a case in which the child was deemed to be incompetent to give evidence, hence the prosecution was unsuccessful. Yet, had that case been prosecuted in England, there would have been sufficient evidence to issue an enhanced criminal record certificate. That cannot happen here. Will you tell us your views about that?

We are trying to get the NIO, and perhaps police officers, to give evidence. However, in the absence of Part V, or even alongside it, would you favour the inclusion of community orders?

**Mr Doran:** The principle of child protection is paramount. We are often faced with a dilemma about sharing information with employers. We would rather worry about the risk of proceedings further down the line than put a child at risk. That is the course of action that we have taken in the past, and we have shared information on people about whom we have had concerns.

Having said that, we must respect the rights of the individual and his or her family. We must remember that the majority of sexual offences are committed by people who know the victim. It is never a straightforward matter of the child being attacked by the bogeyman who lives around the corner. Unfortunately, the bogeyman is often someone whom the young person knows. He might be the school caretaker, or whatever.

I support the inclusion of community orders. The courts and the public want to see more effective sentencing, and they want to see that the Probation Board is committed to public protection. The board may be supervising ex-prisoners whom it would not have supervised in the past. It wants to enjoy the confidence of the public and politicians in carrying out that task.



**Mr McCaughey:** Ms McWilliams referred to hard and soft evidence. All evidence should be considered, if a person is deemed to be a risk to children or vulnerable adults.

**Ms McWilliams:** Will you elaborate on that, Mr McCaughey?

**Mr McCaughey:** Ms McWilliams said that in England, if a conviction or a court hearing breaks down because the child is unable to give evidence, the police could provide information about the accused's background or behaviour. That evidence should be a contributory factor in deciding whether a person should be disqualified from working with young people.

**Ms McWilliams:** I have been told that the police are reluctant to go down that road, because it might be seen as gathering intelligence for other reasons. It all comes back to the troubles.

**Mr McCaughey:** We do not view this matter in the context of the past 30 years in Northern Ireland, but in the context of child protection. It comes back to our original statement that the welfare of the child is paramount and should override everything else.

**Ms McWilliams:** In contrast with probation officers in the rest of the UK, probation officers here felt that their role was affected by the troubles. It is good to know that you have no difficulty with that aspect.

**Mr McCaughey:** We have no difficulty at all with that aspect. The Probation Board for Northern Ireland works in and with communities in Northern Ireland, and those communities support that work.

**Mrs Courtney:** The protection of children is always at the forefront of our minds, but even more so in the light of recent high-profile cases. In dealing with the legislation, we must bear in mind that other families may endure similar abuse.

I wanted to know more about disqualification in other jurisdictions. Ms Owens mentioned parity with the Republic of Ireland, and I agree that such parity is necessary. How does the Probation Board access information on nationals from other EU states who are working with children here?

**Mr Doran:** With difficulty. Our job is to assess and manage risk. We want to be satisfied that a person would pose no risk to children or vulnerable adults. Therefore, we must have confidence in the system in the country of which the person is a national. We have contacted the Conférence Permanente Européenne de la Probation (CEP), a European network of probation services. A recent case involved a person living in Northern Ireland whose first language was not English and who planned to return to his country of origin. With some difficulty, we tried to make contact with the equivalent probation service in that person's country of origin to pass on our assessment that that person was a risk to children. We have also received similar information from other countries,

but on an ad hoc basis. The system only applies when we know that the person plans to leave the country.

I do not want to move into a political arena, but we may not have access to information on soldiers in Northern Ireland who have been convicted or court-martialled in England. They could be involved in duties that might give them access to children or vulnerable adults. Attention must be given to that issue, even within the UK. As regards Europe, we are keen to become more involved with the CEP because it has carried out much work on the management of dangerous people.

**Mrs Courtney:** Clause 30 states that

"section 28 shall apply in relation to an individual falling within subsection (2) as it applies in relation to an individual who is disqualified from working with children."

Can that clause be tightened up? England and Wales are not included because it is assumed that we are all part of the same jurisdiction. It will be difficult to access the relevant information. How can you ensure that probation officers will be able to contact probation services in a person's country of origin? Did you succeed in contacting the probation services in the case that you mentioned earlier?

**Mr McCaughey:** Yes, we did.

**Ms McWilliams:** You said that information from other European countries is relayed on an ad hoc basis. There is the Criminal Records Bureau in England, a disclosure body in Scotland and PECS here. Do similar organisations exist in Europe, other than the CEP?

**Ms Owens:** Perhaps I should not be speaking on behalf of the police, but I imagine that they would have connections in Interpol and could access information in that way. However, that information would probably be as a result of a criminal conviction, and I am not sure whether that would include people who had been investigated but not convicted.

**Mr McCaughey:** We have phone networks and contacts in related agencies. However, we would have to go through the police for a definitive version of someone's criminal record.

**Ms Owens:** Several cases have reached the courts, when foreign nationals who come here to seek employment, or who have been recruited, have been convicted. Some of those people have now returned home, and we try to pass on that information and our assessment.

**Mr McCaughey:** There will be more and more movement across borders in Europe.

**Mrs Courtney:** We cannot access the registers. There are times, even on holiday, when I am concerned about young children being around adults and nothing is known about the history or background of the adults, and yet intuition tells me that those people cannot be trusted. However, nothing can be done about it.

**Ms Owens:** People who leave Northern Ireland for more than eight days, or who return to the same location twice a year for a total of eight days, are required to tell the police service where they are going. The difficulty lies in what to do with that information and whether it should be shared automatically with child protection agencies.

**Mr J Kelly:** Ms Owens said that there is no parity between this part of the island and the rest of the island, and Mr Doran said that there are circumstances that presume that there is parity with England, Scotland and Wales, yet there are exceptions, such as court-martialing, where there is no access. What is meant by parity? Can a paedophile come from Dublin to Belfast without anyone knowing?

**Ms Owens:** There are systems of communication, but they are still informal, ad hoc and based on procedures that individual agencies have developed. I was referring to the ability to access an equivalent of PECS and criminal records in the Republic for people who come to Northern Ireland and vice versa, so that if someone from Northern Ireland goes to the Republic, the Republic can access PECS and criminal records here. We must ensure that there are no loopholes.

**Mr J Kelly:** Does that not happen at present?

**Ms Owens:** It does happen, but it is not completely foolproof. It happens when people are aware of a change of location, but that does not happen in all cases.

**Mr J Kelly:** Mr Doran made a point about not being able to access information.

**Mr Doran:** Soft information refers to the police having concerns about an individual. For example, the PSNI may not be able to bring charges against a soldier who had been court-martialled in England and found not guilty. In England there is still a question about the power to put that person on a register. However, that power does not exist in Northern Ireland unless a person is employed by an agency that has grounds to dismiss him.

I want to emphasise one point: The register itself will not protect children. The parental responsibility remains with regard to holidays and so on. The register should never be seen as the panacea for child protection.

**Mr McCaughey:** No piece of legislation could, or should, absolve parents from responsibility. Equally, however, parents must be supported in that responsibility.

**Mr J Kelly:** On the question of downloading child pornography, is there a distinction between those who download it, perhaps for distribution, and those who commit an offence against a child?

**Ms Owens:** Not in the sense of a child protection agenda.

**Mr J Kelly:** Is one less culpable than the other?

**Ms Owens:** We do not go into culpability or league tables. The bottom line is whether the person presents a risk, and the answer is yes. That is linked to a point concerning legislation on disqualification. I understand that there is a process, through a social care tribunal, whereby someone who was a young person at the time of disqualification can be reviewed after 10 years.

Comments were made in that process, but not in the legislation, about the risk having passed. I am not happy about that. In no situation could it be said, in respect of that type of behaviour, that the risk had passed with the passage of time. People are convicted at pensionable age for sexual offences. It might be important that any review procedure make it clear that if an individual applies for a review there should be an update of the risk assessment.

**Mr J Kelly:** Do you mean across the board? The reason I asked the question was because an individual in my own area was arrested and sentenced for downloading child pornography. The debate locally was that downloading child pornography was not as bad as participating in it.

**Ms Owens:** It is not possible to know the risk until details are known of how long someone has been engaging in that behaviour. Sometimes what appears at the surface is not everything that has gone on.

**Mr J Kelly:** No one will ever know how long it has gone on.

**Ms McWilliams:** There is a concern regarding clause 21. In respect of an offence committed when someone is under 18 years of age, a person will be disqualified only if there appears to be a likelihood of further offences being committed by the individual.

"An order shall not be made under this section if the court is satisfied, having regard to all the circumstances, that it is unlikely that the individual will commit any further offences against a child."

The words "it is unlikely" concern me. Should we consider deleting them because they allow a wide-open interpretation? How is that decided when there is already a behaviour pattern?

**Mr McCaughey:** It could, perhaps, be reversed to read: "An order will be made in this case unless it is proven".

**Ms McWilliams:** That puts it into the negative.

**Ms Owens:** It is very difficult. Such a judgement could not be made at that stage of the court procedure, because the assessments carried out will not have reached the court.

**Ms McWilliams:** Could we perhaps consider drafting something of that sort when we come to it?

**Ms Armitage:** Where entertainers are concerned, the situation is not as bad; usually a group of children is present. Home tutoring, however, concerns me. That is dangerous. Children go for home tutoring after school to

a house where perhaps only the tutor is present and are there for two hours. Although that situation is on our own doorstep, we seem unable to check it.

**Ms Owens:** Oliver Brannigan, the chief executive of the Probation Board for Northern Ireland, has discussed this issue recently, and he suggested that self-employed people could carry a licence.

**The Chairperson:** Without that, parents have no way of knowing about that person's credentials.

**Ms Armitage:** Perhaps such people should register as a tutor. Tutoring is popular, and dozens of children receive it. That problem has been left wide open.

**The Chairperson:** Ms Armitage has made a good point.

**Mr McCaughey:** Parents are aware of tutors who have criminal convictions for offences against children, and they continue to send their children for music lessons and so forth. It is known in the community that that individual served a period of imprisonment for those types of offences. When the Committee is considering

legislation, I urge it to remember that the behaviour of parents and others must match their knowledge.

**Ms Armitage:** That is very difficult, because when the child goes home, he or she may not discuss what happened in the previous couple of hours, because children often do not do that.

**Mr McCaughey:** People's involvement in, and conviction for, such crimes and their subsequent release is well-known in communities. Others are informed through word of mouth and the local newspapers. Parents make choices based on that information.

**Ms Armitage:** That is correct if those people have been convicted, but they may continue to commit offences. Parents have responsibilities, but this could be a problem. Tutoring is very common, and the children go in and shut the door and are out again in two hours.

**The Chairperson:** We shall wind up the discussion. I should like to thank the Probation Board for Northern Ireland for its documentation and presentation and for answering our questions.





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**NORTHERN IRELAND  
ASSEMBLY**

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**COMMITTEE FOR HEALTH, SOCIAL  
SERVICES AND PUBLIC SAFETY**

Wednesday 18 September 2002

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**PROTECTION OF CHILDREN AND  
VULNERABLE ADULTS BILL  
(NIA 22/01)**

**Members present:**

Dr Hendron (Chairperson)  
Ms Armitage  
Mr Berry  
Rev Robert Coulter  
Mrs Courtney  
Mr J Kelly  
Ms McWilliams  
Ms Ramsey

**Witness:**

Ms M Smith ) SSAFA Forces Help

**The Chairperson:** I welcome Ms Maggie Smith from the Soldier's, Sailor's, and Airmen's Families Association (SSAFA) Forces Help. Please make a presentation about SSAFA, and the Committee will then ask you some questions.

**Ms Smith:** Thank you for inviting me.

I am here because there are gaps in the protection of children who are from military backgrounds, and I am interested in the impact that those gaps have on Northern Ireland. I began social work late in life, when I did a diploma in social work aged 42. At that stage I had four children, who were aged from two to 18. I count myself as one of the lucky people who managed to have three children at first, two girls and one boy, and, ten years later, I had one of life's little surprises. That gave me a good lead into the field, as I had a real interest in the protection of children and a desire to improve their situations.

I worked in childcare in east Belfast for five years, then moved to SSAFA in 1994 as a social worker, and I have been managing the association's social work department here for four years.

Not a lot is known about the SSAFA social work service in Northern Ireland. The organisation was established in 1885 because families of soldiers who joined the Egyptian Expeditionary Force needed support. It continued

as a volunteer group until 1892 when a health visiting service was introduced. It is interesting to note that the first health visitor, under the SSAFA umbrella, was employed in the Curragh Camp near Dublin. The organisation continued to grow from strength to strength, until social workers were introduced in 1963. That was the forerunner of a very strong social work service throughout the world, in Germany, Cyprus and Gibraltar. My employment with the association in 1994 introduced the current network to Northern Ireland.

In my letter, I outlined the difficulties that we face. I am here to see whether we can resolve some of those difficulties. I am interested in the Committee's views and will try to answer any questions.

**Mrs Courtney:** The Bill has raised issues about how you can employ people when you know nothing about their backgrounds. You referred to the serious gap in provision in the Bill as regards members of the armed forces. From your work, you may know that certain people are unsuitable for employment, but is it correct to say that their record is not available to any organisations here?

**Ms Smith:** Yes. The SSAFA social work service keeps records of people known to it. The difficulty is that people in Northern Ireland employing dependants or military personnel may not know that they can access those records through me. We are trying to bridge that gap in knowledge.

**Mrs Courtney:** Do you want the Committee to let employers know that they can access your service if they want to check someone's background?

**Ms Smith:** Yes.

**Mrs Courtney:** That is good to know. We will consider the matter further.

**Ms McWilliams:** When I had read your submission, I contacted an organisation to see what happens in cases such as this. In the UK alone, there are three different operations. In England and Wales, the Criminal Records Bureau carries out the relevant checks. The Central Registered Body in Scotland, or Disclosure Scotland, does not have a statutory register such as the one we are about to introduce, but it does incorporate Part V of the Police Act 1997, which makes it different again. In Northern Ireland, the Pre-employment Consultancy Service (PECS) will have a statutory register, but does not incorporate Part V of the Police Act 1997.

**Ms Smith:** We are not registered with PECS as yet.

**Ms McWilliams:** I suggest that the Committee writes to the three-bureau implementation group, which is apparently going to take on the co-ordination of these bodies and Maggie's work. As I understand it, if a member of the armed forces has a criminal conviction, your organisation would hold that information. However, if a serious

offence is committed, the armed forces have their own procedures.

**Ms Smith:** That does not happen in all cases. Any member of the armed forces can come before a civilian court, and, in such a case, proper records would be kept. The court martial system is different, and I am not convinced that there is a way of tracking it. For example, I do not know whether there is a link between the records of members of the armed forces convicted in Germany, and the records of members of the armed forces who serve here.

**Ms McWilliams:** Apparently, there is no link. If an offence has been committed against a child outside the armed forces and the parent takes a prosecution to the criminal courts, the accused will receive a criminal conviction in our criminal courts that will ensure that he or she is registered on the sex offenders register and, later, I assume, on the Pre-employment Consultancy Service's register. Please explain what happens if the same offence occurs within the armed forces.

**Ms Smith:** I can give one example. Allegations were made against a male babysitter after an offence was committed in Germany. That person was tried by court martial and found to be not guilty even though the evidence suggested that he might have been guilty. He was then posted on to the next place. The Probation Board for Northern Ireland mentioned "soft evidence" in their evidence. There would have been soft evidence in that case, but there was no way to pass that on. There is no problem if there is a conviction. This week, there was a successful conviction by a court martial in Aldergrove.

**Ms McWilliams:** Let us take the example of a successful conviction.

**Ms Smith:** If there is a conviction, the person's name is added to the sex offenders register in the normal way. It is the non-convicted person who would not be registered.

**Ms McWilliams:** So, if a case internal to the armed forces is tried by a court martial, the convicted person's name is automatically put on the sex offenders register?

**Ms Smith:** I am not sure if it is automatic, but that has happened. The non-convicted person concerns me.

**Ms McWilliams:** It would also concern me if registration is not automatic.

**Ms Smith:** I cannot answer that; I do not know. I may be able to find out more about that.

**The Chairperson:** How effective are the current liaison arrangements between your organisation, the social work service and local health and social services trusts in relation to child protection? Could they be improved?

**Ms Smith:** The system works well when people apply to become childminders or nursery school staff. All our offices work well alongside social services offices. A

system is in place whereby anyone applying to become a childminder who is part of the military population has a separate form to complete for our records. All social services offices are aware of that. The only way the system could fall down is if the applicant did not disclose that he or she was part of the military community.

**Mr Berry:** Thank you for your presentation. Your submission refers to local residential and/or day care facilities not asking for SSAFA Forces Help for background checks on childminders. In what ways could the public be better informed about the advice and information available from SSAFA Forces Help?

**Ms Smith:** We are currently trying to think of ways to advertise. We do not advertise externally. Perhaps we could communicate with each of the residential homes in the garrison areas and make them aware that they can apply to us for records. I would welcome the Committee's advice on that matter.

**Mr J Kelly:** Thank you for your presentation. What is the position in respect of members of the forces serving abroad who are tried overseas by court martial? Are such records maintained? What form of liaison exists with social services?

Secondly, how can SSAFA Forces Help contribute to improve co-ordination of tracking potential abusers in that mobile type of community?

**Ms Smith:** There is no direct link between the court martial system and social services. There is no mechanism for that. SSAFA wants to improve that, and the ways to do so are being considered continually. This is a starting point.

**Mr J Kelly:** How would you remedy that? How could we contribute to resolving that?

**Ms Smith:** The Committee can help by highlighting the nature of the problem and supporting us in the advancement of our initiatives. We want to think of some links. We need the support of the Assembly and the Government to carry that forward.

**Mr J Kelly:** On the last question, how can SSAFA Forces Help contribute to improving the co-ordination of tracking potential abusers?

**Ms Smith:** We contribute as much as we can through our own records. Beyond that, we look for hints and support to carry it out. What would you like me to take away so as to consider the next step?

**Mr J Kelly:** It is a gap in the system that has to be addressed.

**The Chairperson:** Perhaps you would write to the Committee on that point.

**Mrs Courtney:** From my experience I know that sometimes when people from the local forces apply for a position in hospitals they would be employed before a

local person, because their record would be clear. It is not always so, but there is no doubt that it happens. Perhaps the Committee could inform hospital trusts about the gap in the system so that checks can be made. An amendment could be made to the Bill.

I have singled out hospitals because I know that service personnel and their families are posted here for three months and are then transferred elsewhere, and that ends their employment. I doubt if any checks are carried out on their background. That happens a lot.

**Ms Smith:** We sent a letter to each of the boards for the family and childcare section. It may be wise for us to send such a letter to each of the hospitals.

**Mrs Courtney:** We could recommend that suggestion in our report.

**The Chairperson:** I agree that that would be helpful.

**Ms Smith:** Is there a central point from which such a letter would emanate for distribution?

**Ms McWilliams:** The letter should go to the family and childcare section of the Department, which should send it to every trust.

**Ms Smith:** We have already done that: I was thinking of the hospitals.

**Mrs Courtney:** You should send it to the chief executive of each board. They should be told that the matter has been brought to our attention and should be remedied.

**Ms McWilliams:** We can assume that they have already got it.

**The Chairperson:** We can incorporate that into our findings.

**Ms Smith:** Would the letter also be passed to private residential homes or daycare facilities?

**Ms McWilliams:** Yes, via their inspection facilities.

**Ms Courtney:** It should, but they are not all registered.

**Mr J Kelly:** Are you suggesting that Ms Smith should write to the Committee?

**The Chairperson:** Yes.

**Ms Smith:** Are you referring to the point about courts martial?

**Mrs Courtney:** It would be better for the Committee if you cover all of the issues.

**The Chairperson:** Please address the letter to the Clerk of the Committee for Health, Social Services and Public Safety, Peter Hughes, and it will be passed on to Committee members. Thank you, Ms Smith.





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## NORTHERN IRELAND ASSEMBLY

*This report was not approved formally by the Committee prior to the suspension of the Assembly on 14 October 2002, but is published by order of the Speaker.*

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### COMMITTEE FOR REGIONAL DEVELOPMENT

Wednesday 18 September 2002

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### STRATEGIC PLANNING BILL (NIA 17/01)

**Members present:**

Mr McFarland (Deputy Chairperson)  
Mr Byrne  
Mr Bradley  
Mr Ervine  
Mr R Hutchinson  
Mr Hay  
Mr Hussey  
Mr McNamee  
Mr M Robinson  
Mr Savage

**Witness:**

Mr J Warke ) Planning Appeals Commission

**The Deputy Chairperson:** Good morning. I welcome Mr John Warke of the Planning Appeals Commission to the Committee. We are keen to hear the views which you provided in your written submission, and we also welcome the opportunity for Committee members to discuss them with you.

**Mr Warke:** I shall set the commission's role in context, for that will also put our comments into context. The Planning Appeals Commission is an independent appellant body with no role in making policy or promoting legislation. When the commission is invited to comment on proposed legislation or policy, that is the context within which we comment.

Generally, we comment in four areas: general legal issues which may concern us; any impact on the status of the commission; procedural issues relating to our work if we are involved; and any impact on resources.

At the outset, it is important to clarify that the comments which Mrs Campbell made in her letter came under the heading of procedural issues relating to the work of the Planning Appeals Commission, not under any of the other headings. The commission is not suggesting that anything unlawful is being proposed in the Strategic

Planning Bill. However, it has some concerns about procedural aspects of it. Those concerns relate to statements of general conformity, which clause 2 of the Bill covers, and are to be issued in two stages. The first stage is before or at the draft plan stage, and the second stage is before adoption of the plan. The second stage concerns the commission because the draft Bill makes it clear that if the Department for Regional Development issues a statement that the plan does not conform to the regional strategy, that immediately becomes an objection to the plan, and, on the assumption that the plan leads to a sufficient number of rejections giving rise to a public inquiry, that becomes an objection before the commission.

In essence, the Department for Regional Development would appear as an objector to the plan prepared by the Department of the Environment unless it persuaded the Department of the Environment to adjust the plan. That is one area in which the Department would appear before the commission in such a role.

Secondly, even if the Department for Regional Development issued a statement saying that the draft plan conformed, the strong likelihood is that someone would object, and we should have to examine the objection. In such a situation, the Department would take part in the inquiry, explaining why it had said that the plan conformed to the regional strategy.

The difficulty we see emerging is in the procedures. After the inquiry, when the commission made its report and recommendation on the issue — as it would have to do with an objection before it — the Department for Regional Development, as party to the proceedings, or possibly as an objector, would have a second bite of the cherry. That would be a departure from established procedure and practice, more generally in relation to plans in England.

The broad approach in relation to statements of general conformity has been taken from equivalent provisions in the Town and Country Planning Act 1990, which deal with the relationship — not of a development plan to a regional strategy but rather of a local plan to a structural plan. However, the same principle of conformity applies. There is only one statement of conformity, and that is at the initial stage, not after the public inquiry.

If the commission judged that a proposal or issue raised conformed to the plan, and the opposite view had been taken by the Department of the Environment and the Department for Regional Development, the two Departments might not agree with the findings. Other parties would have been involved in the public inquiry and would have had their say. In England, when local planning authorities do not accept the recommendations of the independent inspector's report, they publish the recommendations and allow 28 days for further representations to be made. If those representations raise any significant issues, the local authorities ask the public

inquiry to be opened. That provision is included in the regulations in England.

The other interesting development in thinking across the water — on which the Office of the First Minister and the Deputy First Minister has recently issued a consultation document — is the proposal requiring local planning authorities to accept the recommendations of the independent panel. The thinking is that when you have had a public inquiry in which everyone has put forward their views, it undermines the credibility of the system if the subsequent recommendations are not accepted.

The proposal is to allow the Secretary of State to issue a direction in extreme cases where the local planning authority could disagree with an inspector, but that would be the exception rather than the rule. That is the context of our remarks on the procedural issue, the issue of fairness and practice elsewhere. I hope it has been clear.

**The Deputy Chairperson:** The Department's involvement in this matter results from the regional development strategy. The reason this wording is in the strategy document is that there was a concern that, although we had spent two or three years producing a regional strategy, there was technically nothing to stop other Departments thumbing their noses at it, which is why the phrase started off as "in conformity with". There was then a problem because some of the planning decisions already taken would not have been "in conformity with", and so the wording was changed to provide a degree of flexibility so that Department of the Environment plans already under way, particularly the area plans, would not be embarrassed by not being in keeping with the strategy.

I am not clear about the Planning Appeals Commission's role in that matter. It has a planning role, which is dictated by the Planning Service's decisions and fights. However, the issue has nothing to do with planning decisions. It is to do with whether the Department for Regional Development believes that the plan is in keeping with the regional development strategy. What does that have to do with the Planning Appeals Commission, whose role is to adjudicate between the Planning Service and other parties as to whether a detailed plan is correct?

**Mr Warke:** In the event of the Department for Regional Development issuing a statement that the draft plan — or some part of it — does not conform to its strategy that automatically becomes an objection to the plan, and it will be referred to the Planning Appeals Commission in the context of any public inquiry.

The second way in which the Planning Appeals Commission will be drawn into the matter is that — irrespective of the stance which the Department for Regional Development or the Department of the Environment might take — another party might object to the plan on the basis that it, or aspects of it, does not conform to the strategy. That issue would have to be dealt with

by the Planning Appeals Commission at the stage of the public inquiry. It would have to give its recommendation on the objection. In all those scenarios, the Department for Regional Development would be involved, either as an objector to the Department of the Environment's plan or to put forward views in opposition to those who were raising objections.

The difficulty is that the legislation appears to be unfair, since it draws in the final statement without any opportunity for other parties to respond and have a second bite of the cherry. The commission is not taking issue with the principle that it makes good sense that the plan be in general conformity with the regional strategy. It endorses that view entirely, and its recommendations acknowledge it too.

**The Deputy Chairperson:** You will be aware that an accusation levelled at the current system is that developers already have a second bite of the cherry. That is one of the great complaints. Apparently, when there is a inquiry under section 30, developers are allowed to respond, but other parties are not.

If large developers have that facility already, why should there be any objection to the Department joining them and having an extra chance?

**Mr Warke:** You are talking about the Department's development control function in relation to planning applications. An applicant — whether developer or individual householder — who is refused permission can appeal to the commission for an independent adjudication, whereas, if the application is granted permission, someone who had objected to it cannot appeal. That is the case. However, that is different from the development plan issue. It is one issue that —

**The Deputy Chairperson:** It does not transfer to the commission's adjudication?

**Mr Warke:** No, it does not. Irrespective of the plan coming out, someone can make a planning application which may not be consistent with the plan or the strategy, and there may be an appeal for the commission to examine it again.

**Mr McNamee:** Given Mr Warke's concern about the Department for Regional Development's opportunity to submit a statement on two occasions after the commission's consideration of the initial statement or objection from another party, how would he amend the Bill?

**Mr Warke:** One could follow the model which I mentioned in relation to English regulations, whereby all the Department of the Environment need do at the second stage is take account of the Department for Regional Development's statement. It does not say that it must be accepted. If it accepts it in the context of an inquiry where the issue had been debated, and it is contrary to the commission's recommendation, it is

suggested that it be published and that a further 28 days be allowed for further representation from those parties to air their views. There could be discretion on whether the matter was referred back to the public inquiry or whether Departments went ahead with a decision. The initial point is that other parties can have a say.

It is a procedural point about fairness and the credibility of the system. In any event, the problem is lacking in the development plan system. My point is of more general significance, but it is all the more potent because some might see it as an advantage to a Government Department which an ordinary objector might not have.

**Mr Bradley:** It has been the norm that an applicant refused has the right to appeal. An objector to an approval has no right of appeal. Is that currently under review?

**Mr Warke:** This moves into cross-functions. I understand that a Planning (Amendment) Bill is currently under consideration. There is no provision for what are called “third-party appeals”, and the matter falls into that area. I suspect that various parties made representations on that point to the Committee for the Environment.

**Mr Byrne:** Perhaps Mr Warke could enlighten us. During the finalisation of the regional development strategy there was an issue concerning the term “consistent with”. That was superseded by “in general conformity with”. Is that likely to make it more difficult for the Planning Appeals Commission to adjudicate on the local development plans?

**Mr Warke:** It is a matter of policy; however my position will not be compromised by giving my views. The change from “consistent with” to “general conformity with” is welcome. It offers a degree of flexibility, although in the real world, where circumstances change, it is important that development plans and planning applications be decided in the context of a regional strategy, for unforeseen events can take place. No one wants to be left in a straitjacket. The definition of “consistent with” is very tight, and the change is welcome. In general, it will probably be easier for the commission and for all Departments to approach their work.

**Mr Savage:** When an appeal leaves the council, how long should it take to arrive with the Planning Appeals Commission?

**The Deputy Chairperson:** It was decided at the beginning that the Committee was meeting with regard to a legality and to go through the Strategic Planning Bill. It was agreed that discussion would be confined to the Bill, rather than include other aspects of the Planning Appeals Commission.

**Mr Warke:** If the member wishes to ring me after the meeting, I shall willingly answer that question.

**Mr Savage:** Someone might have good grounds for planning permission on one or two sites in one location,

but he might have difficulty in being granted it. A developer could put a different angle on it and be granted permission for three or four sites.

**The Deputy Chairperson:** This is a legal discussion on the Strategic Planning Bill, and Hansard is recording it.

**Mr Savage:** As far as I am concerned, this is also a legal implication.

**Mr Warke:** I am available at any time to discuss the general work of the Planning Appeals Commission outside this context. If members wish to contact me, I shall be happy to speak to them. For obvious reasons, I cannot discuss specific cases currently before the commission.

**Mr Ervine:** You indicated that one way around the problem might be to have a 28-day period in which everyone could be heard. Whom must we convince during that period?

**Mr Warke:** The people who appeared and said that they had convinced the Planning Appeals Commission. We want to hear details of why the Department for Regional Development and the Department of the Environment take a different view so that we can respond to it.

**Mr Ervine:** What might happen if, at the end of those 28 days, you had not changed the minds of people in the Department for Regional Development?

**Mr Warke:** Without those 28 days, nothing would happen. The system lacks credibility because people ask why there was a public inquiry.

**Mr Ervine:** Let us assume that we adopted a theory which might make that a little better, but what would happen if, at the end of those 28 days, people in the Department for Regional Development had still not changed their minds?

**Mr Warke:** The plan would be adopted. However, the principle is that people would have had an opportunity to put forward their views. Alternatively, the Department of the Environment could refer the matter back to the Planning Appeals Commission if new issues arose. That is always a possibility, and it happens quite often in England.

**Mr Ervine:** If I understand what I am reading, there is less capacity for independent assessment or an independent decision-making process if we adopt what has been offered.

**Mr Warke:** The Department of the Environment and the Department for Regional Development must make the independent final decision. That is their role, and I have no problem with that. However, the process which leads to that decision should be open, transparent and fair. It would add an important layer of openness, transparency and credibility to the final decision, whichever way it goes.

**The Deputy Chairperson:** What was the Department for Regional Development’s reply during your discussions?

I presume that it is aware of the letter and has given you its view.

**Mr Warke:** In a brief telephone call to the Department, I was told that it had taken legal advice and that there was no legal requirement. That is not the commission's argument. I am talking about procedural issues, openness and transparency. I do not suggest that it would be

legally flawed. However, I believe that the change would be a good measure. That was the only discussion which I had with the Department.

**The Deputy Chairperson:** Next week the Committee will get another opportunity to tease the issues out. Thank you for your attendance. It has been useful.



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## NORTHERN IRELAND ASSEMBLY

*This report was not approved formally by the Committee prior to the suspension of the Assembly on 14 October 2002, but is published by order of the Speaker.*

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### COMMITTEE FOR REGIONAL DEVELOPMENT

Wednesday 18 September 2002

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### STRATEGIC PLANNING BILL (NIA 17/01)

#### Members present:

Mr McFarland (Deputy Chairperson)  
Mr Bradley  
Mr Byrne  
Mr Ervine  
Mr Hay  
Mr Hussey  
Mr R Hutchinson  
Mr McNamee  
Mr M Robinson  
Mr Savage

#### Witnesses:

Mr A Coleman ) Royal Town  
Ms J Crawford ) Planning Institute

**The Deputy Chairperson:** Ms Jenny Crawford and Mr Alex Coleman have come from the Royal Town Planning Institute to give their views to the Committee. Thank you for your submission. Please give a short presentation, after which members will ask some questions.

**Ms Crawford:** The institute appreciates the opportunity to give evidence to the Committee. I am the Irish planning policy officer for the institute. My colleague, Alex Coleman, is a legal associate member of the institute. He is also a member of the institute's Irish planning policy panel and was the previous chairperson of the branch in Northern Ireland.

I want to summarise the points that the institute made in response to the Committee's invitation to give evidence. It is the institute's view that the replacement of the "consistent with" clause by one of "in general conformity with" may have the effect of weakening the status of the regional development strategy within the newly emerging planning framework in Northern Ireland. The institute wants to emphasise that Northern Ireland — indeed, the whole United Kingdom — is at the stage of reviewing and reforming planning systems in order to

put in place a system that is more responsive to the requirements of both modern business and public confidence. We, therefore, responded to the point, made in the putting forward of the Bill, that the precedent had been set by other documents in other regions — in particular, structure plans using the words "in general conformity with" rather than "consistent with". Our view is that, to some extent, that precedent may be outmoded. The powers that be in England, Scotland and Wales are considering putting new planning frameworks in place. In England, for example, it is proposed that structure plans be abolished and that new regional development frameworks and local development frameworks be drawn up. The institute has found that the Government at Westminster are struggling with how to put those in place, given the absence of a regional framework of government in England.

In Northern Ireland we have regional government and we have a regional development strategy, so we are ahead of the game. The regional development strategy is the only such document in the whole of the United Kingdom, and it reflects best practice throughout the European Union on strategic planning. We suggest, therefore, that the unique wording in the Strategic Planning (Northern Ireland) Order 1999 — that development plans should be "consistent with" the strategy — reflects the importance and nature of that document.

Elsewhere the relationship that relates to the clause "in conformity with" is one between government — whether national or regional — and local authorities. Here, however, we have a very different relationship; it is the relationship between two Departments. That will have different implications.

Another reason we felt that the concerns that were being expressed as the foundation for changing the wording were insufficiently founded was that if, as we hope, the regional development strategy is going to be subject to constant review — and given that the strategy was examined and found to be sufficiently flexible as a regional document — it seems illogical to say that it could have a deleterious effect on the potential for local development plans to deliver their statutory function.

We also feel, for public confidence and for consistency and certainty, that we need a regional policy statement on the development planning system in Northern Ireland. Both England and Scotland have a planning policy statement on development plans. Such a statement is needed here, and it would help to set out the relationships.

We also wanted to highlight an issue that is largely about procedure. At the next stage, if we do have certificates of conformity or certificates of consistency — whichever is finally decided on — then what will the mechanism be for resolving differences between the two Departments if it is found that a local development plan is not consistent with the regional development strategy? From our experience, where such wording is used in

relation to, for example, structure plans, these sorts of agreements can hold up the formulation and adoption of local development plans for quite lengthy periods. They introduce uncertainty, which is unhelpful to all parties, and can undermine the efficacy of the planning system.

One of our suggestions is that the Planning Appeals Commission should act as an independent arbitrator to resolve the differences between the two Departments and that its decisions should be binding. However, we have not considered in detail the procedures that would have to be put in place to enable the commission to make such decisions. That issue needs to be examined further. Those are the three main points in our submission, but we will happily discuss any other points with the Committee.

**The Deputy Chairperson:** I wish to discuss the issue of “consistent with” versus “in general conformity with”. The Committee was comfortable with “consistent with” because it felt that there was no point in producing the strategy if it was not binding on everyone involved. The problem arose when the Department of the Environment informed the Department for Regional Development that several area plans that had been under way for some years were about to be published. However, those plans would not be consistent with the regional development strategy, and that would be embarrassing. Although the Department of the Environment understood what was meant by “consistent with”, the best get-out was to change the wording to “in general conformity with”, to avoid the Department getting into big trouble.

It might be more reassuring if the words “in general conformity with” applied to existing plans and “consistent with” applied to future plans. However, I am not sure that that would be possible. The Royal Town Planning Institute has obviously looked at that issue in some detail. How can that dilemma be resolved?

**Ms Crawford:** My understanding is that the Strategic Planning Bill makes provision for derogation in relation to those plans that have raised concerns. Although we were disappointed that at least one of those plans had not been sufficiently integrated, we felt that it was fair that such plans should be granted derogation given that the Assembly had only recently confirmed the strategy.

At an earlier consultation stage, the Department assured us that derogation would apply only to existing plans that were not consistent with the strategy. Therefore, it is not necessary to struggle with the wording. We would simply recognise that those plans are not “consistent with” the strategy, nor, it could be argued, “in general conformity with” it.

**Mr Coleman:** An element of derogation is inherent in the introduction of any regional development strategy. The English system will produce regional development strategies on a regional basis. As work on area plans is

ongoing, some plans will have already been started before the regional development strategy is introduced. Depending on how advanced they are, it may be possible to bring some of them into conformity with the strategy. However, derogation will be necessary if gestation is too advanced. Some plans will always be caught in the middle in transitions of this kind.

**Mr Ervine:** If I heard Mr Warke of the Planning Appeals Commission correctly — and I think that I did — he welcomed the change in wording.

I find that interesting because, if I have interpreted you correctly, you believe that too much latitude is being offered to whichever Department — and probably both. Is my interpretation that you feel that too much latitude is being afforded, or that there is a capacity to move away from best practice, correct?

**Ms Crawford:** That has certainly been our argument. There seems, at face value, to be so little difference between “consistent with” and “in general conformity with”; you are really talking about dictionary definitions. Why was the decision made to change the wording? Admittedly, there is some speculation that it may be to give greater latitude to local development.

**Mr Ervine:** Please do not believe that I am trying to upset you, but what I am about to say may have some effect. In acknowledging that it was wise to change the wording, Mr Warke suggested that we all “live in the real world”. Your wish to retain the wording would indicate that you do not live in the real world. Are you, therefore, the true guardian of all things good in relation to planning? I am not trying to provoke you. I merely want to make the point that your words are at absolute variance with those of someone from the Planning Appeals Commission.

**Mr Coleman:** The institute’s position is based on the assurance that the regional development strategy will be constantly reviewed, if not annually then at least on a five-year basis. If the political commitment and the resource commitment to constant reviews exist, there should not logically be any necessity for change. If one adopts an alternative view and says that in the real world there will be resource pressures and the resources may not be found in five years’ time to carry out a review, that would be a different set of circumstances. We can only go on what the Department is saying currently. If the Committee feel that the Department’s commitment may not be as strong as in latter years, that would be a different set of circumstances.

**Mr Ervine:** Thank goodness there are two sides to the argument.

**Mr Hussey:** Thank you for your presentation. I note that you represent the Royal Town Planning Institute, but I have a concern about the rural population. I am trying to bring into line the situation of identified settlements

vis-à-vis those who live in the rural community. You would agree that we do not want a regional development strategy that is over-prescriptive. We do not want one that says: "There shall be a house there. There shall be a shop there." The regional development strategy should be a directional document. If the regional development strategy is a directional rather than a prescriptive document, is the wording of "in general conformity with" not more suitable than "consistent with"?

**Ms Crawford:** I agree certainly that the regional development strategy and all regional frameworks that are currently being developed are aspirational, strategic and set out a vision for the regional area they cover. They are valuable in that they give an idea of where a development would go. It is critical that that then relates to the democratic decision-making. The regional development strategy is valuable as it is the most democratic planning document that we have in Northern Ireland. I accept that.

The regional development strategy is not prescriptive with regard to planning. Those producing local plans already have the freedom to influence the development of their local areas. The regional development strategy, as it is set out, does not hinder that. One of the aspects that the independent examination panel considered was whether the strategy was sufficiently flexible, even with the wording as set out in the Strategic Planning Order (Northern Ireland) 1999. The panel found it to be so. It is not a prescriptive document, and it was not designed to be a prescriptive document.

**Mr Hussey:** Zoning is included in area plans for identified settlements, but outside such settlements the lines are much more blurred. I do not wish to weaken the democratic input. People around this table who argue cases on behalf of individual developers would appreciate the words "in general conformity with", rather than "consistent with", to allow for that democratic input to planning decisions.

**Mr Savage:** I welcome the discussion. Large villages are allowed to grow into small towns, and if those small towns continue to grow, there will come a time when there is no open space left in such towns. In advising the Planning Service, where does the institute draw the line? Where development is allowed in open spaces, recreation facilities will soon disappear. What advice does the institute give the divisional planning offices on that matter? This has become a major problem in certain parts of Northern Ireland, and there is no open space left in some towns where development has taken place.

**Ms Crawford:** One of the most valuable features of the regional development strategy is that it sets out policy on just such issues. It includes a policy for protecting open space. Unfortunately, at present, there are not enough relevant local plans that clearly incorporate that policy. If there is not at least the drive to implement local plans that are either "in conformity with" or

"consistent with" the regional development strategy, a very important resource will be being ignored. We hope that we have the political and legislative back-up to move the strategy forward. The policy to ensure that there is sufficient open space is contained in the regional development strategy, but it may not be contained in local plans.

**Mr Coleman:** I do not wish to labour the point, but the key to the whole system is that the regional development strategy be reviewed at least every five years. That will address social and demographic change, or the perception that change is needed in a particular area of Northern Ireland. Where changes have taken place, or population projections have not proved to be accurate, change could be made at a strategic level. That is a political and resource commitment that the Department for Regional Development would have to make. In that way, other changes, in addition to those concerned with open space, could be taken into account. If the policies that Ms Crawford described are not strong enough, stronger policies could be put in at the next review of the strategic document. They would be the cornerstone of the plan process.

**Mr McNamee:** Thank you for your presentation. During the debate on the regional development strategy in the Assembly I mentioned the wording, because the strategy refers to the change in the wording between "consistent with" and "in general conformity with". Derogation in relation to those plans which are far advanced and almost completed is dealt with in the Bill. In the Chamber I told the Minister that I hoped that the change of wording would not weaken the primacy of the regional development strategy in giving it direction. The Minister's response, which was based on legal advice, was that "consistent with" would be unnecessarily inflexible with regard to the development of future plans. Your submission stated that the legal advice to the Department had not been explained. Would it be useful for the Committee to ask the Department to elaborate on the advice that it received on the change of wording, bearing in mind that the regional development strategy does not deal with any specific area plan and that it is a strategy document for the region?

**Ms Crawford:** That would be useful; certainly the institute would have found it useful in its deliberations.

**Mr Coleman:** The precedent that attaches to the words "in general conformity with" is relevant in England and Wales. However, that is a different system, where there is one Department and the planners are operating, by and large, in a local authority context. The framework in which those same words would have to be interpreted by the Planning Appeals Commission or the High Court in Northern Ireland is different. Here there are two Departments of equal status, and the planners, and the planning context, are from a centralised authority — the Department of the Environment. I do not doubt that



there are legal arguments of precedent, but there are other, equally weighty, factors on the other side, and it would be interesting to see what those factors are.

**Mr Hay:** This is an interesting topic. We are really talking about policing the regional development strategy. The Department of the Environment is responsible for handling planning applications, and the Department for Social Development is responsible for strategic development across Northern Ireland. The Department for Regional Development is making sure that all of this fits into the regional development strategy, but it is still trying to leave it flexible enough not to stifle major development in Northern Ireland.

I am sure that everyone associated with planning in Northern Ireland will have different ideas on the best way of policing the regional development strategy. "In general conformity with" sends out the clear message to people that, whatever they do in development, they must adhere to the regional development strategy. I agree that there must be guarantees that the strategy will be revisited to ensure it is working — whether it be after three years or five years.

You said that a dispute between the Department of the Environment and the Department for Regional Development should go to the Planning Appeals Commission. In my experience, the Planning Appeals Commission can take quite a while to look at a dispute.

I know of planning appeals in Londonderry that have been sitting for nine months before there is even a meeting to try to resolve the issue. I wonder whether that is the best mechanism for resolving disputes. Is there another mechanism that could speed matters up and not create a blockage, especially when it comes to major planning applications? I have heard of major planning applications being held up for two or three years because of disputes and appeals.

**Mr Coleman:** The institute believes that there are three possible models. In a dispute, the first certificate of non-conformity would go into the normal area plan inquiry as an objection. We are, therefore, talking only about the second certificate of non-conformity where a draft plan has been sent to the Department for Regional Development.

There are three possible ways forward. If the two Ministers in the Executive cannot resolve matters, the first resolution procedure would be the courts. However, our courts have a common law tradition, which does not take kindly to deciding matters of policy. They are happy to decide on matters of procedure but not of policy. The other way of dealing with it would be on an ad-hoc basis, where an inspector or arbitrator would be appointed as each dispute arose. That is a fair enough method, but there would have to be agreement regarding the person concerned. There might be some loss of continuity, because

the same person would not be appointed to every case. It might take time to find a suitable arbitrator. The other alternative is to use the existing dispute resolution machinery, which is the Planning Appeals Commission. On balance, the institute thought that that would be the best, and most consistent, way forward.

As Ms Crawford said, there are details to be worked out. If a matter were referred to the Planning Appeals Commission, and the two Departments subsequently agreed, could they recover the reference? Would it take the form of written representations or a public hearing? Could third parties attend? You would not want a rerun of the area plan inquiry. The third issue to be considered is whether the Planning Appeals Commission should act as a tribunal, taking decisions on the evidence presented to it, or as an expert, taking other considerations in the planning sphere into account.

The institute, having thought that through, concluded that the Planning Appeals Commission option was the best one.

**Mr Hay:** Disputes do not happen that often, but it is important to have the proper procedure in place so that action can be taken if it is needed. We need to examine that issue more closely.

**The Deputy Chairperson:** I am afraid that I cut Mr McNamee off in half flow.

**Mr McNamee:** Mr Coleman spoke about the resolution of disagreements between the Department of the Environment and the Department for Regional Development, both being considered as equals. However, the Minister and others have referred to the regional development strategy as an overarching strategy for the region; other strategies should flow from that and reflect what is contained in it. With regard to "in general conformity with" or "consistent with" regional development strategy, I imagine that priority should have been given to the Department for Regional Development. In the event that there is a need to resolve a disagreement between the two Departments you suggest that the Planning Appeals Commission should be involved. What requirement is there for the Planning Appeals Commission to have due regard to the regional development strategy, as opposed to the Planning (Northern Ireland) Order 1991 and planning statements?

**Mr Coleman:** That would be a new head of jurisdiction for the Planning Appeals Commission. If the Committee were to suggest that as a dispute resolution option, it would be beneficial if, in its recommendations to the Department, the Committee could consider the basis on which the Planning Appeals Commission could undertake that. As with all planning forms, material considerations would have to be taken into account. However, it would be up to the Committee to suggest a framework and particular



methodology for the Planning Appeals Commission to resolve disputes.

For example, it is often only at the eleventh hour — immediately before going into court — that people are able to resolve difficulties. If that were the case, could the Department then withdraw the application to the Planning Appeals Commission? That is a very practical decision that would have to be taken. Would a referral to the Planning Appeals Commission be irrevocable? The Committee's work in those areas would be very beneficial to the Department.

**Mr Byrne:** The Strategic Planning Bill mainly refers to the Department of the Environment and the Department for Regional Development as having the primary input into views about the shape of a local development plan. Given that the regional development strategy is the primary framework, and that local development plans are largely expected to live within its parameters, is sufficient account being taken of a local authority's having some input into the development of a local development plan or looking for amendments or changes to such a plan after the initial draft stage?

**Ms Crawford:** That is a key point, but perhaps not for inclusion in the Strategic Planning Bill. It may be more appropriate to a wider review of local government and planning in Northern Ireland and the whole role of local government in developing policy for their particular areas. The current perception is that there is a lack of input from local government, and a lack of involvement by local people, in the local development planning process. Perhaps that is a separate, although complementary, issue to that under consideration here.

**Mr Coleman:** That is an interesting point. Mr Byrne is quite right. Where, in relation to an area plan, there is a

dispute between the Department of the Environment and the Department for Regional Development, it should be borne in mind that the local authority is one of the major stakeholders involved with the plan. I would have thought that where a referral is made on the second limb to the Planning Appeals Commission, any local authority would be tremendously interested in the outcome. The Committee will have to think about that.

Although no one would welcome a replay of the area plan, if the Planning Appeals Commission were arbitrating in a dispute, what other stakeholders could make representations to the Planning Appeals Commission? Would it only be public authorities and the statutory consultees, or would non-governmental organisations or members of the public be included? Arguably, the Committee should address that question if it decides to recommend that type of dispute resolution.

**Mr Hussey:** You mentioned the periodic review of the regional development strategy. Many area plans are past their sell-by date. Given that, and the length of time it takes to produce those plans, how confident are you that a proper review system for the regional development strategy can be established?

**Mr Coleman:** That is a resource question. Commissioner Warke's comments have validity in that there are resource pressures "in the real world". The Committee must make a judgement call on that and balance it out.

**Mr Hussey:** But experience makes one wonder.

**Mr Coleman:** That is a very fair argument.

**The Deputy Chairperson:** Thank you very much for your very interesting submission. It has raised many issues for the Committee to put to the Department next week.



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**NORTHERN IRELAND  
ASSEMBLY**

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**COMMITTEE FOR EDUCATION**

Thursday 19 September 2002

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**EDUCATION AND LIBRARIES BILL  
(NIA 21/01)**

**Members present:**

Mr Kennedy (Chairperson)  
Mr S Wilson (Deputy Chairperson)  
Mrs E Bell  
Mr McHugh  
Mr A Maginness  
Mr K Robinson

**Witness:**

Mr T Smyth                   ) Department of Education

**The Chairperson:** I welcome Mr Terry Smyth from the Department of Education. Thank you for being brave enough to attend on your own. We intend to consider separately clauses 15, 16, 17, 23, 32, 34 and 35 of the Education and Libraries Bill and to take questions, section by section.

**Mr Smyth:** Clause 15 introduces a duty on Boards of Governors of schools to safeguard and promote the welfare of their pupils. Under existing legislation there is a duty of care on the Boards of Governors; however, that applies only in relation to pupils who are boarding at school and represents a comparatively small number. This clause extends that duty of care to all registered pupils so that all pupils at the school, whether boarders or day pupils, will be afforded the same protection. The legislation therefore makes that duty explicit in law.

A duty is imposed on the Board of Governors of a grant-aided school to safeguard and promote the welfare of all registered pupils while in the care of the school. This, in effect, extends the duty that already applies under the Children (Northern Ireland) Order 1995 in respect of schools' boarding departments. It also empowers the Department to direct the Boards of Governors of schools with boarding departments to comply with recommendations from inspections intended to safeguard and promote the welfare of pupils accommodated by the school.

Those, essentially, are the provisions of clause 15, and I am happy to address any questions the Committee might have.

**Mr S Wilson:** If I were a governor of a school, what would that mean in practical terms with regard to my responsibilities and liability? For example, what does it mean for me, as a member of the Board of Governors, if a youngster is badly injured or something unfortunate happens, either at school or on a school trip?

**Mr Smyth:** Under existing legislation a Board of Governors is, effectively, a corporate body. It means that the Board of Governors will have responsibility for safeguarding and promoting the welfare of the pupils. In other words, the Board of Governors must put in place reasonable precautions to prevent injury to pupils in the circumstances mentioned. It is not possible to legislate for all eventualities — there will be accidents, and things will happen. I am not aware of the liability in law were such an issue to crop up. This clause makes it a duty on the Board of Governors to ensure that, insofar as is reasonably possible, they have arrangements in place to safeguard and promote the welfare of registered pupils at the school. It is essentially an extension of a provision that already exists for boarding pupils.

**Mr S Wilson:** The Board of Governors is perhaps two or three times removed from the care of the young person. The Board of Governors may well tell the principal that there is a duty and that he or she must make sure measures are put in place. The principal will then talk to the teachers who are involved. The governors are by a fair degree removed from the practical care of the youngsters.

You say that you do not know what liability this is likely to place on members of the Board of Governors. People are not beating down the doors of schools to become members of Boards of Governors. You cannot tell me what the liabilities are for individual members. Does that not present a problem?

**Mr Smyth:** There will be no liability on individual members but on the Board of Governors as a whole. If a parent had a problem with how this was worked out, it would be with the Board of Governors as a body and not with individual members.

**Mr S Wilson:** It does not matter whether liability is shared among six people or taken on by an individual. I would have thought that the Department could at least have assured people who are applying to take on the role. I do not know how practical this provision is, because of how far removed the board of governors is from the day-to-day care of the youngsters.

Has the Department considered whether this, on top of the other responsibilities of Boards of Governors, such as school finances, will make it even more difficult to recruit people for these posts?

**Mr Smyth:** That will become more obvious as time goes on. The Department is not aware of any problems that have been expressed about people's reluctance to become members of Boards of Governors because of the proposed

legislation. Somebody must be responsible for promoting the care and protection of pupils in schools. If that duty is not imposed on Boards of Governors, on whom will it be imposed?

**Mr S Wilson:** Do schools not have a duty for the care and protection of children?

**Mr Smyth:** There is an argument that under common law the school is acting in loco parentis, but the legislation makes it specific.

**Mr A Maginness:** I declare an interest as a member of the Board of Governors of St Patrick's College in Belfast.

Mr Wilson's question got an interesting response. I would have thought that the duty of care rested with the management of the school and that that is separate from the Board of Governors. Therefore, is it necessary to extend the duty of care to the Board of Governors? I sympathise with Mr Wilson's point when he says that you are imposing an additional burden on Boards of Governors and that that could deter people from taking up positions. It is not easy getting people to take up that burden.

Mr Smyth seems to be saying that the duty of care is a collective responsibility and that it does not then devolve to individual members or governors. However, the proposed legislation does not make that explicit. It refers to the Board of Governors, but it does not exempt individual members from any indemnity that might be imposed on them. The legislation should make it clear that, while the Board of Governors as a collective body has a duty of care, individual members should not be liable for the consequences of a breach of that duty of care.

**Mr Smyth:** That is a legal issue, and we would need to take advice as to whether it would be necessary to be specific about it in this clause.

**Mr A Maginness:** It is a very real issue. You are saying that it is not a matter of their being joint and severally liable, but jointly liable.

**Mrs E Bell:** I concur with my Colleagues, and I am concerned about that as I am a member of a Board of Governors. Indeed, I have been on several boards. Boards of Governors are generally not aware of their present responsibilities, never mind adding more.

I am not undermining the boards — they are given training — but the whole question of liability, collective or otherwise, should be looked at. It has always been assumed that the management of the school dealt with the duty of care, and I agree, especially as Mr Wilson said that management impacts on a day-to-day basis and the Board of Governors does not. I do not see any Board of Governors assuming that it would be liable, so the legislation needs to be much clearer.

School trips should also be taken into account, and I am glad that Mr Smyth said that that would be looked at.

You have the submissions from the Children's Law Centre and Save the Children. What are your views on the "best interests" principle?

**Mr Smyth:** I have looked at the submissions received from the Children's Law Centre and Save the Children, and both raise the issue of "best interests", which is part of the UN Convention on the Rights of the Child. I should preface these remarks by saying that we are looking at these now, but none of this has been exposed to the Minister. Ultimately, the Minister will decide what should be done.

Having said that, I can give you my response to some of these issues. Personally, I have no problem with the introduction of these words, but we would need to discuss this with the legislative draftsman. If you make it a duty of the Boards of Governors to safeguard and promote the welfare of the pupils, one might ask in whose other interest would that be done. It may well be that advice from the draftsman will be that the addition of these words will have no practical difference in law. Having said that, it is something I personally feel we would be able to look at very positively.

**Mrs E Bell:** Our intention is that any legislation be as clear as possible to everyone.

**Mr Smyth:** There may be a view that it would be implicit, given the fact that the duty to safeguard and promote the welfare of the pupils is being laid on the Boards of Governors. How could it be done other than in their best interests? The draftsman is very reluctant to put something in just for the sake of it. He will do so if it will essentially make a difference and add to the legislation, not just because it looks good. I will take advice on this from the draftsman, but it is something I would have a positive response to.

**The Chairperson:** When will you be in a position to indicate to the Committee that the Minister is comfortable with this?

**Mr Smyth:** This could be something that the Committee can assist me on. These submissions are made to the Committee and have not been made to the Department — although they have been made available to the Department. This session will benefit me, as I will get a feeling from the Committee about which responses it feels should be looked at and might wish to consider further.

I have already started this process of going through all these submissions — essentially looking at them as if they were submissions to the Department, and asking what we would be saying if we had to respond to them. We will do that at official level and will be making recommendations to the Minister on what line we should be taking on this. With the requirement to address the



legal point with the draftsman, this will take a few weeks. The Committee has put down a motion to extend the period of the Committee Stage, so we have a little time to do this. There is quite a substantial amount in the submissions, particularly the one from the Children's Law Centre, that needs to be addressed.

**Mr McLaughlin:** I certainly feel that we do not need both "welfare" and "best interests" — it is a question of either/or. What is the difference between the two?

**Mr Smyth:** That is precisely the point that we need to take up with the draftsman.

**Mr McHugh:** Clause 15(1) refers to care of children while they are in school. There are implications for practices such as detention, for the child's journey home after school. Also, some schools take the attitude that bullying is part of life. Will this improve that, or is this legislation even weaker than the 1995 Children Order?

**Mr Smyth:** I do not believe that it is weaker. I know the circumstances you describe: a child is kept in after school and the supervisor may well not be a teacher. The duty is on the Boards of Governors to ensure that circumstances like that are fully taken care of.

**Mr K Robinson:** In its submission the North Eastern Education and Library Board says:

"Often Boards of Governors are not able to perform the functions placed on them."

I declare an interest as a governor in that particular board area.

That is the situation. There is a parallel with special education. Where a code of practice has been drawn up, schools should adhere to it. However, because of various constraints placed on the schools and Boards of Governors, they are unable to do that.

Some recent investigations into special education have highlighted that practice on the ground is totally different from the intention of the code of practice. Is there not a danger that that could happen here? There is no way that a Board of Governors or school can undertake some of the duties imposed by clause 15. The Western Board is up to date with its cyber bullying policy, which is beyond me, as I cannot operate computers, but it has been flagged up as a danger. How can a school prevent that type of bullying, which might be very insidious on a child's welfare, at all times?

**Mr Smyth:** I noted the North Eastern Board's comment that Boards of Governors are often unable to perform the functions placed on them. I was not entirely clear whether that was because boards felt that they did not have enough resources or were not given sufficient guidance. There is a broader issue about the functions and powers of Boards of Governors and the extent to which they feel able to exercise them. That is a much bigger issue, which must be considered in that context.

**Mr K Robinson:** The Children's Law Centre suggested a new clause 15(1) where, before any decision is made about a child within its lawful control, a Board of Governors shall, so far as is reasonably practical, ascertain the wishes and feeling of (a) the child, (b) its parents, (c) any person who is not the parent but who has a parental responsibility or (d) any other person whose wishes and feelings the Board of Governors considers to be relevant. As a grandparent, I might have a few concerns to express, but the Board of Governors may not agree that I am a relevant person under (d).

**Mr Smyth:** The Children's Law Centre recommended that that new clause be inserted. If that were to happen, the Department would need to consider it in light of your point. Currently, there is no requirement to consult either parents or pupils on those matters. The Children's Law Centre suggests including a requirement to ascertain the wishes and feelings of parents and children.

**Mr K Robinson:** It is very relevant in that the areas where grandparents are active members of the community are the areas where children are most vulnerable.

**The Chairperson:** When will you be able to indicate, on behalf of the Department, whether the outline of that suggested new clause had been accepted?

**Mr Smyth:** The principle is whether there should be consultation with pupils and parents on whatever arrangements Boards of Governors draw up for promoting and safeguarding the welfare of the pupils. If that principle were to be accepted, the extent and breadth of the consultees would need to be considered.

**The Chairperson:** You would have to guard against including Uncle Tom Cobley and all.

**Mr Smyth:** Exactly.

**Mr S Wilson:** Some of the Children's Law Centre's suggestions are, in practical terms, crazy. Boards of Governors cannot be expected to consult as widely as that. We must try to live in the real world while drafting this legislation. There are problems already with the proposals.

**Mr Smyth:** My next point reflects what you have just said. Although we are all anxious to ensure that as much as possible is done as regards people expressing their views when procedures are drawn up, whether they are in relation to pupil welfare, child protection or anti-bullying, we must nevertheless bear in mind that setting up what some people might call bureaucratic consultation structures will actually impose a significant burden on Boards of Governors. A balance must be struck between the interests of the children and imposing a burden on a Board of Governors.

**The Chairperson:** I draw your attention to the Education Act 2002, recently passed in England. It places a requirement on the local education authorities to promote and safeguard the welfare of children. The

Act also refers to the duties of further education institutions to do the same. Given that the Education and Libraries Bill extends the potential for 14-year-olds to attend further education institutions, why is consideration not given to the need for similar protection for such children in clause 15?

**Mr Smyth:** It was decided that it was appropriate to impose this duty on the Boards of Governors in controlled and maintained schools. As you say, clause 175(1) of the Education Act 2002 places a duty on local education authorities to

“make arrangements for ensuring that the functions conferred on them... are exercised with a view to safeguarding and promoting the welfare of children.”

We could take that on board and consider to what extent there is a need to extend that duty to boards or other employing authorities.

**The Chairperson:** Clause 16 deals with child protection measures.

**Mr Smyth:** On several occasions since 1989, the Department has issued guidance to schools on the action that they should take to protect pupils from abuse and on how to respond when allegations of child abuse are made. There is evidence that not all schools follow the guidance fully on every occasion. Therefore, we must ensure that all schools have appropriate procedures for protecting pupils from abuse and responding appropriately to allegations of abuse.

Clause 16 places a requirement on schools to have, and implement, a written policy. In preparing the policy, the Board of Governors must have regard to any current guidance issued by the Department, the education and library board for the area and, where appropriate, the Council for Catholic Maintained Schools. The clause also imposes the requirement to make copies of the policy available to parents.

Many schools already have such a written policy. The Department thinks that this issue is so important that it must be underpinned in the legislation by a requirement on all schools to have a written policy that reflects the guidance issued by the Department and other relevant authorities. The most recent guidance was issued by the Department in 1999. It was very comprehensive guidance to schools on the measures they should take to ensure the protection of their pupils and the actions they must take where there are suspicions of child abuse.

**Mr S Wilson:** I am concerned about the wording of the clause. The clause states that measures should be taken

“with a view to protecting pupils from abuse (whether at school or elsewhere)”.

How does a Board of Governors or a school do that? I understand how a school can take measures to seek to protect youngsters from abuse in school, or when they

are under the control of school, but for the life of me, I do not see how they can protect them from abuse elsewhere. This clause seems to be all-embracing. How is a school supposed to protect pupils elsewhere?

**Mr Smyth:** The word “elsewhere” does not apply to any activity that is not under the control of the school. For example, it could apply to a situation where children go away with the school for a couple of weeks to Ardnabannon or wherever. A school’s responsibility would extend to such activities, and the child protection policy that the school draws up must also deal with those. It does not mean that it is the school’s responsibility to protect children from abuse everywhere, at all times.

**Mr S Wilson:** In that case, why is the same wording not used in clause 15?

**The Chairperson:** I must interject to say that it is a huge mistake to mention any particular location in such a discussion. We are in a public session, so I must caution everyone not to make the people who work in any particular location feel that anything other than what is appropriate is happening.

**Mr S Wilson:** Why is the same wording not used in clause 15 and clause 16? Clause 15 uses the words

“under the lawful control or charge of a member of the staff of the school”.

Do not forget that this legislation will be torn apart by people such as Alban Maginness at some stage when a case goes to court. The word “elsewhere” is not qualified.

**Mr Smyth:** I take your point. The Department is satisfied that the word “elsewhere” does not apply to activities that are not under the control of the school. However, we will take further advice from the draftsman, and, if necessary, we will add the words that you have suggested to make that point absolutely clear.

**Mr McLaughlin:** There are resource implications arising from that. I am concerned about neglect and physical or mental harm to a child. Is there a legal definition to help Boards of Governors and teachers? Will resources be applied to ensure adequate training and preparation? Some examples have been given in earlier discussions about how to recognise when a child is being abused and to recognise the nature of that abuse. Are teaching staff being put in a vulnerable position if they are required to recognise and report abuse? That can be very difficult unless they are trained to develop that capacity.

**Mr Smyth:** With regard to cost implications, most schools have a written policy, have fully implemented it and are working it very successfully. Some schools do not have such a policy, and there would be costs and implications for them. I am unclear what training was introduced to enable schools that have implemented the policy to carry out their duties. The protection of children

is the primary concern for the Department and for everyone else. Therefore it is incumbent on the Department to ensure that it provides additional resources, if necessary.

**Mr McLaughlin:** If all schools do not have a written policy, there could be a clear resource implication. How much guidance is given for teachers during their training?

**Mr Smyth:** I do not know, but I can find out.

**Mr McHugh:** With regard to the definition of the word “harm” and what Boards of Governors consider is meant by it, there are many forms of abuse ranging from the way in which kids are dealt with or spoken to by teachers and how they are exposed to the rest of the class to whether they want to continue with their education at a certain age. In clause 16 it is unclear whether those areas will be covered. Will it deal with all instances of possible harm to kids?

**Mr Smyth:** The Department issued comprehensive advice to schools, and I can make copies of that available to the Committee. The advice is detailed and deals with how schools can identify signs of possible abuse and the circumstances in which that abuse occurred. The legislation imposes a duty on schools to have a written policy, and that must reflect the comprehensive guidance that the Department has provided. Many of those things are covered in the guidance rather than the legislation.

**The Chairperson:** If the legislation now gives full statutory force, why do the guidelines provided by the Department deal with child abuse? Are members of the Boards of Governors legally obliged to report cases of suspected child abuse? Are they compelled to assist in any investigation and disclose evidence, regardless?

**Mr Smyth:** The issue of which authorities should be advised in cases of possible child abuse is covered in the guidelines issued by the Department. Essentially, it should be the police and social services.

This is an interesting area, and the Department of Education is examining the issue. The legal requirement to report an incident of abuse, and the extent to which the failure to do so is a criminal offence, is a live issue. It is an offence to fail to report an arrestable offence. Therefore it is an issue if such an offence occurs in a school and is not reported. There is a view that the criminal law might be changed to strengthen that provision and require all cases of abuse to be reported to the police or to social services, and it would be an offence to fail to do so. However, that is an issue for the criminal law and the Northern Ireland Office to address.

**Mr K Robinson:** If a governor, or a member of staff in a school, reports a suspected case of abuse, and the allegation turns out to be false, what sort of protection will be afforded to that person from personal or corporate liability?

**Mr Smyth:** The guidance explains the circumstances in which abuse is likely to arise, and it advises that cases of suspected abuse should be reported in certain circumstances. If a child makes an allegation of abuse, the principal must examine it first and make a judgement about the extent to which it must be reported. For example, it may be clear that the alleged incident could not have happened; the teacher concerned might not have been in school that day. With other allegations that appear to be more serious, and there is a possibility that they happened, the principal must exercise his or her judgement about how to report it. If the allegation is investigated and found not to be right, I do not see how it could rebound on the principal, who, in good faith, and on the available evidence, followed the guidance and reported the incident.

**Mr K Robinson:** It would be helpful if the Committee were to check the legal position of a governor or principal who tried to act in the best interests of the child in a case that was not pursued. Such people should be afforded protection. One of the major obstacles to people coming forward when they suspect abuse — despite its being an offence not to do so — is the fact that they might find themselves totally isolated with no protection from the board or the Department.

**The Chairperson:** Can you confirm my understanding that the legislation will give full statutory force to those guidelines?

**Mr Smyth:** Yes. Any statement of child protection policies will have to reflect the guidelines.

**Mr K Robinson:** The Belfast Education and Library Board makes a good case for additional resources being made available. The board has three officers, and any new duties that are imposed on them will have resource implications which will affect governors and schools also.

**Mr Smyth:** The boards make cases to the Department for additional resources to cover circumstances such as that, where new duties are imposed on them or on the governors.

**Mr K Robinson:** There is also an issue about levels of training. If I am correct, the training for governors consists of one or two part-time courses, depending on whether they can spare a couple of evenings or the occasional day. If governors are expected to deal with reporting abuse, they will need more in-depth training. That has resource implications. Governors are laypersons who may have to work during the day. One evening course may not suffice, given the extent of the problem.

**Mrs E Bell:** I am extremely unhappy about the whole issue. The legislation is not as strong as it could be, given the cases that have occurred recently here and on the mainland. It does not make the child's position clear, nor does it say what a child can do. There is nothing to encourage a child to go to a Board of Governors or a



principal. The Bill should be examined from the child's point of view; it is not child centred.

We have touched on the question of liability for Boards of Governors. That is a tremendous responsibility on governors. As a governor, I would have to take that seriously and be trained to know exactly where I stood. If I did not, it would have untold repercussions. There have been cases where a child has told the principal who the perpetrator is, or there is general knowledge of the perpetrator within the school, but the matter is not dealt with. There is nothing in the clause to deal with that. It must be made very clear so that parents and children know where they stand. That has already been suggested, but I would prefer that, instead of reviews being carried out "from time to time", as in clause 16(1)(a), there should be a yearly review.

**Mr Smyth:** The Children's Law Centre also suggested that.

**Mrs E Bell:** I am suggesting it on a personal level. We have all had dealings with the Northern Ireland Human Rights Commission and the Children's Law Centre. If a yearly review was built into the legislation, a Board of Governors could be confident that a review would take place. Apart from anything else, membership of Boards of Governors changes.

Some organisations have mentioned the need to have a copy of the legislation. You mentioned guidelines. Do the children know what is in the guidelines? Do they know their rights and responsibilities? Organisations like the National Society for the Prevention of Cruelty to Children (NSPCC) have placed counsellors in schools, which are proving very successful, but the legislation should be strengthened to ensure that measures are implemented. That can still be done.

**Mr Smyth:** The Department is considering those aspects in the context of submissions made to the Committee. The Children's Law Centre made a point on that in relation to consulting children and parents. There is not the same need to consult parents and children on that policy as there is for other policies such as bullying, where children are more likely to have had experience of it.

**Mrs E Bell:** I cannot let that pass. What do you actually mean? Are you saying that if a child is being abused, sexually or otherwise, that it is not as serious?

**Mr Smyth:** No, I did not mean that at all. We are talking about consultation on a statement of child protection policies and what that should contain. The Department has already issued very comprehensive guidance. The statement will reflect that guidance. I am not sure what parents and children could contribute that would significantly change it. However, the Department is not totally against it and is considering it.

**Mrs E Bell:** Parents have contacted me about such incidents. Will the Department have another look at that?

**Mr Smyth:** Yes.

**Mr S Wilson:** I want to make a contrary point. As a teacher, my principal often asked me to prepare policies on this and that, and this Committee has asked the Minister countless times to lift the bureaucratic burden from teachers. We must be very cautious not to introduce a legislative requirement that not only requires schools to provide a policy but to review it every year. If that happened, some teacher would have to devise a policy and consult numerous people when reviewing it every year. We must balance what is necessary to protect youngsters against letting teachers get on with their jobs.

When focusing on one part of a piece of legislation, it is easy to want all the Rolls-Royce extras built in to it. However, those extras increase the workload for teachers and schools. It is sensible to have a policy and to review it from time to time and, on occasion, it may be of benefit to consult with people who are experienced in problems such as bullying. However, that policy is one of dozens to which schools must adhere. If the Committee applies the same principle, it will create a massive burden for schools, for which they will not thank us.

**Mrs E Bell:** Therefore, you are putting bureaucracy before child protection.

**Mr S Wilson:** No, I am not.

**Mrs E Bell:** That is what you are saying.

**The Chairperson:** Order please.

**Mr Smyth:** I assure Cllr Bell that copies —

**Mrs E Bell:** I am an Assembly Member, not a councillor.

**Mr Smyth:** I am sorry.

**The Chairperson:** I am not sure how a slap would appear in Hansard.

**Mr S Wilson:** If the meeting is being recorded, you will be able to hear it.

**Mr Smyth:** Child protection policy measures will be made available to parents. It is always open to parents to say that certain aspects of the policy do not go far enough and should be reconsidered. It is for parents to contact schools and tell staff that policies should be changed, and a responsible school will respond to such an approach.

Mr Wilson referred to reviews being held from time to time, which is right. The Department is leaving it for the school to decide how often it should review its policies. We must not forget that the Department has issued comprehensive guidance, as have other bodies, and the policy reflects that. If the Department changes



its guidance, schools' policies must be reviewed to reflect that. However, it is for schools to review their policies when they think that it is necessary. As Mr Wilson stated, there are those who think that it should not be a statutory requirement for schools to review their policies every year, whether it is needed or not.

**Mrs E Bell:** I do not mean that it should be a statutory requirement. I was just thinking of things that have happened that could have been stopped had the child protection policy been reviewed from time to time. Perhaps someone would have been brave enough to highlight problems. I do not want to put further pressures on teachers because I know that they have a heavy workload. However, we must have legislation to ensure that the child, parent and school are covered.

**The Chairperson:** I am slightly concerned by the vagueness of the term "from time to time", because potentially some schools may review their policies annually, while others may chose to review policies only after 10 years. It might be sensible to include a provision whereby schools are required to review their policies every five years, for example.

**Mr Smyth:** It is possible to introduce a form of words such as "shall review its policy from time to time and not less than once every x number of years". That might be a compromise between leaving it up to the school and the school's having to do it every year.

**The Chairperson:** Does the definition of abuse in the Bill encompass all potential forms of harm?

**Mr Smyth:** The policy reflects the guidance issued by the Department, in which all those issues are covered.

**The Chairperson:** Does that guidance include neglect and emotional problems?

**Mr Smyth:** Yes, and it defines abuse and the signs of abuse that schools should look for.

**The Chairperson:** I did not fully understand your response to Mrs Bell's question about whether there would still be a legal requirement to report incidents.

**Mr Smyth:** There is a legal requirement to report actions that are arrestable offences.

As I understand it, that is the position in criminal law. At present, there is no legal requirement on schools to report everything that they think might happen. The principal can exercise his judgement. It is possible to change the criminal law to make it more all-embracing than it is now.

**The Chairperson:** That completes discussion of Clause 16. We now move to Clause 17, which deals with school discipline measures to prevent bullying.

**Mr Smyth:** Sadly, bullying exists in our schools. I imagine that many of us witnessed bullying when we

were at school. I would not dare to suggest that any of us have been bullies.

**The Chairperson:** Only at home.

**Mrs E Bell:** Only here.

**Mr S Wilson:** The Chairperson bullies us all the time.

**The Chairperson:** Good chairmen are bullies.

**Mr Smyth:** Many schools have already voluntarily adopted an anti-bullying policy. We feel that we should strengthen the legislation on school discipline. There is provision on school discipline in the Education (Northern Ireland) Order 1998. We wish to make it mandatory for schools to have not merely a disciplinary policy, but to have a separate anti-bullying policy.

Under article 3 of the 1998 Order the Board of Governors and the principal of every grant-aided school are required to have a written discipline policy designed to promote good behaviour and discipline on the part of pupils. In drawing up their disciplinary policy, they are required to consult the parents of pupils at the school. We propose that they will be required to have a separate anti-bullying policy as part of the disciplinary code in the school.

We are introducing a requirement to consult parents about that and, for the first time, pupils. You may well ask why in this case and not in others, but bullying is something that affects everybody. Many pupils have experience of bullying; we hope that not that many pupils have experience of serious abuse in schools. We felt that pupils and parents would have a view about what should go into an anti-bullying policy. For that reason, there is now a requirement to consult the pupils of a school as well as the parents.

**Mrs E Bell:** I am reasonably happy with this because I know that a great deal of work has been done in schools to prevent bullying. Staffs and Boards of Governors have been given the guidelines, but would the children be frightened by them? Should the children see the guidelines? I welcome the consultation, but would it be for all pupils from primary one to primary seven?

**Mr Smyth:** It would be for all the pupils in a school. It is a matter for the school to decide how it will fulfil that requirement. It can be done in several ways; it could organise groups of senior pupils to canvass the views of the younger children in the school. Perhaps "circle time" could be an issue. It could also be dealt with as part of personal and social education or in other parts of the curriculum. We would leave it up to the good sense of each school to decide the best way to implement it. Obviously, the arrangements in a primary school would be different from those in a post-primary school where the older pupils may feel that they can express their views directly. In a primary school it cannot be done to

the same extent because the children do not have the same understanding of the issues.

**Mrs E Bell:** Is there a statutory obligation to provide parents with the guidelines?

**Mr S Wilson:** There is a statutory obligation to show parents an anti-bullying policy.

**Mrs E Bell:** That is what I thought, but I do not see it here.

**Mr Smyth:** This is an amendment. I do not have a copy of the 1998 Order; it contains everything that is required.

**Mr McHugh:** The problem of consulting primary school pupils is made greater by the waiting lists for statementing of young pupils who have difficulties such as autism. Children are often bullied because their siblings have moved on. Clause 17 cannot fully address that difficult issue.

**Mr Smyth:** I accept that. Youngsters at school can be bullied for all kinds of reasons. The most obvious are race or appearance. A child can be bullied for wearing glasses, as I know to my cost, or for having red hair — there are many reasons. If a child is being bullied for any reason, the schools must deal with it in their arrangements to prevent bullying.

**Mr McHugh:** It is outside the power of the school that children may be waiting two years for assessment.

**Mr Smyth:** Anti-bullying measures can extend only to the powers of a school's governing body; one cannot impose duties on Boards of Governors for matters beyond their control.

**Mr S Wilson:** The Bill states that principals must determine measures to encourage good behaviour and respect for others on the part of pupils and particularly:

“preventing all forms of bullying among pupils”.

That is like saying that the principal will ensure that everyone gets three grade As in their A levels. It is not in the power of any principal to prevent bullying completely, yet we are laying a statutory obligation upon principals to do just that.

**Mr Smyth:** There will be a statutory obligation on the principal to draw up arrangements, as far as is reasonably possible, to prevent bullying. There are no procedures that will prevent bullying completely; however, we can put procedures in place, which, as far as is reasonably possible, prevent it.

**Mr S Wilson:** That is not what the Bill says. The wording is:

“and, in particular, preventing all forms of bullying among pupils”.

**Mr Smyth:** That is the objective of the measures.

**Mr S Wilson:** It does not state that that is the objective — it states what the principal is required to do. With the best will in the world, no principal can do that. There is no point in making legislation that requires someone to do something that he cannot, despite his best efforts. I wonder why that has been adopted. Article 3(3)(a)(ii) of the Education (Northern Ireland) Order 1998 speaks of “encouraging good behaviour”, which is fair enough. However, to prevent bullying completely — to be so absolutist — given human behaviour, is not possible.

Why was that wording chosen? What is the legal position of principals if bullying happens despite the Bill's provisions?

**Mr McLaughlin:** The qualifying phrase is “encouraging good behaviour”. Will that not deal with prevention? Is that not, in effect, a get-out clause? Measures are in place to encourage good and reasonable behaviour, and that is within the power of the principal.

**Mr S Wilson:** It is to encourage good behaviour; that is correct. The word “preventing” is absolutist — “encouraging good behaviour” is not. One can do one's best to encourage good behaviour, but it is too absolutist and impractical to say that one must prevent all forms of bullying.

**Mr Smyth:** Clause 17 means that principals have a duty to determine measures to prevent bullying. If it does not mean that, we will change it.

**Mr S Wilson:** If the clause seeks to prevent bullying, that is fair enough.

**Mr Smyth:** That is my understanding.

**Mr S Wilson:** Perhaps it should say that.

**Mr Smyth:** I am not a lawyer, but draftsmen sometimes express things in a certain way, and they assure us that that is the clause's legal meaning. It may not necessarily mean that to a layman, but it does to the draftsmen. We can check that.

**Mr A Maginness:** The clause is unclear on that point; one would expect the clause to call for “all reasonable measures”, or something similar. However, that is absent from the clause.

**Mr Smyth:** The Belfast board made the point that it is unrealistic to expect the principal to prevent all forms of bullying — nobody would suggest that it is possible for anyone to put such procedures in place. A procedure should be implemented that, so far as is reasonably possible, will provide for steps to be taken to prevent bullying. However, it will not prevent it in all cases.

**Mr S Wilson:** The wording that Mr Maginness suggests is more realistic.

**Mr McHugh:** Could it refer to preventing all forms of bullying that have been brought to the principal's

attention rather than an ideal ban on all bullying, actual and hypothetical?

**Mr Smyth:** We will take that up with the draftsman.

**Mr S Wilson:** Some principals have gone as far as expelling bullies, only to see them return after an appeal. Although principals took steps to stop the bullying, it continued because it was beyond their control. Even after action has been taken, it is not always possible to prevent bullying.

**Mr K Robinson:** The Belfast Board and the Catholic Council for Maintained Schools (CCMS) were concerned that it was not possible for the principal to control bullying.

**Mr Smyth:** We do not want to make laws that are meaningless because they cannot be implemented.

**Mr K Robinson:** Has consideration been given to the bullying that principals and governors suffer at the hands of parents or pressure groups?

**Mr Smyth:** That is important; however, it is not part of this legislation. Teachers may feel that somebody should be doing something about the abuse that they suffer from some pupils.

**Mr S Wilson:** Why can it not be included in the Bill? It is an education Bill.

**Mr Smyth:** This part of the Bill deals with the protection of pupils. I am not saying that it cannot be done, but it would be covered in another part of the Bill.

**The Chairperson:** Several organisations have recommended that article 3(3)(a) of the Education (Northern Ireland) Order 1998 should be amended to state that “principals shall make rules”, rather than “may” make rules. What is the Department’s view?

**Mr Smyth:** The Children’s Law Centre made that point, and we are considering the implications. I cannot say more than that, except that I do not have strong views on it.

**Mr McLaughlin:** What is the difference between the words “shall” and “may” in legislation?

**Mr Smyth:** “May” is very different from “shall” in legislation.

**Mr McLaughlin:** We are trying to achieve a standard in all boards.

**The Chairperson:** Under this legislation, what right of redress is there for young people if effective measures are not in place to deal with bullying? Should there be a statutory complaints procedure?

**Mr Smyth:** The Department can direct schools to put such measures in place. Some consultees expressed the view that a statutory requirement should be placed on the Department to review procedures so that information

could be gained about incidents and types of bullying. Questions have been asked in the Assembly about the incidence of bullying in schools, and there is an issue about whether the Department has the necessary information to enable the Minister to answer such questions. However, the consultees go further, as they say that it is a matter of collecting the information and using it to review arrangements that schools may have in place for bullying. I am not sure whether a statutory duty should be placed on the Department, as you may feel that we review how any new policy would be implemented anyway.

**Mr S Wilson:** There could be a problem with recording incidents, as some schools may record cross words between two pupils as bullying; others may wait until someone has been hit before it is regarded as bullying. There is a problem in getting meaningful figures. We must also bear in mind what schools must go through to obtain those records.

**The Chairperson:** Clause 23 deals with appeals against expulsion and tribunal procedures.

**Mr Smyth:** Clause 23 does not introduce anything new. It makes it clear that article 49(10) of the 1986 Education and Libraries (Northern Ireland) Order allows the Department to specify in Regulations the matters that may be taken into account by members of an expulsion and appeals tribunal in reaching their decision.

One of the roles of the Examiner of Statutory Rules is to examine Regulations that Departments make to consider whether they have the power in the primary legislation to make them. If they have that power, he considers whether there is sufficient provision in the primary legislation to specify what may go into the Regulations. The Examiner told the Department in his forty-fourth report that there was some doubt as to whether it had the power in primary legislation to make such Regulations. Essentially, we are taking the power in this Bill to make it absolutely clear that there is primary legislation cover for the Regulations.

**Mrs E Bell:** The Committee received submissions about the make up of tribunals and about children having sufficient understanding. Do you have those submissions, and will you be examining them?

**Mr Smyth:** In this context?

**Mrs E Bell:** Yes. The National Association of Schoolmasters and Union of Women Teachers (NASUWT) submission wants the constitution of appeals tribunals to be examined: its membership, the guidance that would be provided to it and its accountability. Are those matters being examined?

**Mr Smyth:** Some of those comments would require statutory cover; others would not. It would be more a matter of administration than practice.



**Mrs E Bell:** I am thinking of the child's experience. Expulsion is traumatic, and it must be clear that it is being dealt with fairly.

**Mr K Robinson:** NASUWT is talking about the constitution of the appeals panels and guidance given to it. There is nothing more devastating for a school than to take steps to prevent bullying by expelling a child, only to find that child back in school after a ruling by an appeals panel.

**Mrs E Bell:** That is why I asked whether it is being considered.

**Mr K Robinson:** It could be self-defeating. It is a serious issue.

**Mr S Wilson:** I was going to make the same point. There is a great deal of dissatisfaction with the present appeals panels. They undermine any attempts that schools make to discipline youngsters. Appeals panels overturn almost half the expulsions. Youngsters simply laugh at schools that expel them. I am not a great fan of NASUWT; however, its request is reasonable because there should be greater transparency. Schools should be aware of who makes decisions and why, with clear guidelines so that arbitrary decisions by appeals panels cannot undermine discipline in schools. I do not know what statutory measures that requires. However, it would be useful if you let the Committee know what would be required in the legislation to meet our requests.

**The Chairperson:** A series of amendments would be required.

**Mr Smyth:** The Department is carrying out a review of suspension and expulsion procedures, which it hopes will be completed by early 2003; although I am not as close as I should be to the work of that review. I will check that the review is examining those issues and how it might address your concerns. Statutory changes might be required to deal with some of them; others will require changes in guidance, practice or procedures.

**The Chairperson:** Can you clarify what would require statutory changes?

**Mr Smyth:** I refer to what NASUWT said about statutory provision on the constitution of appeals panels; however, it also talked about the guidance given to panels. Obviously, the content of their guidance would not be included in legislation; it would be drawn up. NASUWT also talked about examining the effect of panels' work on educational provision and management in schools. That tallies with Mr Wilson's point. There should be an appeals panel because human rights legislation requires that there be an appeal against expulsion. As NASUWT suggested, any review by the Department should consider how panels affect schools' management. They might be undermining schools' best efforts to maintain discipline. That should be examined.

**Mr A Maginness:** Does the Committee have a list of results from panels in this jurisdiction? It might be interesting.

**Mr S Wilson:** Fifty per cent were returned.

**Mr A Maginness:** Obviously, a panel is needed. One cannot direct a panel to find that every expulsion should be upheld. However, the practical consequences of overturning a school's decision must be examined.

**The Chairperson:** Does Clause 23 mean that tribunals will sit in private, except in circumstances specified in the Regulations? Will the Regulations be led in the Assembly? Will they be provided in draft form to the Committee for scrutiny?

**Mr Smyth:** Clause 23 gives the Department the power to make Regulations that will in turn specify the circumstances under which tribunals may sit in private. I understand that Regulations clarifying the law are already in place. There is enough in the primary legislation to enable the Department to make Regulations that cover such matters.

**The Chairperson:** Will they be scrutinised by the Assembly?

**Mr Smyth:** Yes, if that is the procedure for subordinate legislation.

**The Chairperson:** Is it the procedure?

**Mr Smyth:** I am not an expert on Assembly procedure.

**The Chairperson:** Normally, it would come through statutory rules. However, it would be worthwhile to clarify that as soon as possible. We shall move on to clause 32, which deals with the provision of secondary education for pupils by institutions of further education.

**Mr Smyth:** The provision in the Education Order 1998 allows education and library boards to make arrangements on behalf of the Board of Governors of a school for young people aged between 14 and 16 — Key Stage 4 — to receive secondary education in an institution of further education. Its purpose is to provide link courses; these are work-related courses not available in school. Apart from that, further education institutions are not empowered to provide education for young people of school age. The provision assumes that the young person is still enrolled in the school, although some elements of his or her secondary education may be provided in an institution of further education. The law allows that at present.

The proposed change will allow the education and library boards to make arrangements for young people of school age who are not on the roll of a school, such as pupils who have been excluded or expelled, to attend further education colleges. If a board feels that a young person who has been expelled from school will benefit



from completing Key Stage 4 in an institution of further education and if the institution agrees that that would be the best provision for that young person, the change will make it legal for the further education college to provide that education.

**Mr S Wilson:** Is such provision not already in place? Many further education colleges, for example Castlereagh College of Further and Higher Education, provide education other than at school (EOTAS) courses. Are they doing that illegally?

**Mr Smyth:** I wish that you had not asked that question. Much of what goes on has been cobbled together because it works; we are not sure that there is statutory cover for it.

**Mr S Wilson:** This Bill will definitely provide statutory cover.

**The Chairperson:** I look forward to seeing that admission in print. It is an honest observation, and doubtless correct. Does the clause give formal recognition to education other than at school?

**Mr Smyth:** The Education and Libraries (Northern Ireland) Order 1986 gives education and library boards the power to make arrangements for the education of children other than at school. It is therefore possible under the present law. However, the law does not allow those children to be formally enrolled in an institution of further education and to receive their secondary education in that institution.

**Mr S Wilson:** That is up to the board to arrange. Secondary schools may be concerned that colleges of further education will use this legislation to poach youngsters from secondary schools to fill courses or that a board may simply take 14-year-olds because it wishes to ensure that further education courses are viable. A 14-year-old may find a college of further education more attractive than school.

**Mr Smyth:** The legislation will not enable that situation to arise; it makes it clear that the board must do this. A further education college could not poach pupils from the local secondary school without reference to the board. The arrangements must have the blessing of the board and the college and can only be made under the aegis of the board. It will not, therefore, be possible for further education colleges to poach pupils from schools. A college would be acting illegally if it made secondary education available to youngsters of 14 or 15 outside arrangements made by the board.

**The Chairperson:** We move on to clause 34, which deals with the abolition of corporal punishment.

**Mr Smyth:** Essentially, this is a matter over which we have no discretion. The proposed legislative changes are necessary to comply with the judgement made against the United Kingdom in 1993 by the European Court of Human Rights. It will bring the legislative

provisions in Northern Ireland into line with those that have existed in Great Britain for some time. The Committee may question why this has not been done before, since the judgement was made in 1993, but this is the first opportunity we have had to introduce the required primary legislation.

Rather than amend the legislation, we are repealing it. The legislation outlaws corporal punishment in grant-aided schools and replaces it with a new provision that outlaws it in all schools, including independent schools, and in education other than at school settings, where education is provided through arrangements with an education and library board.

The legislation outlawing corporal punishment in grant-aided schools was introduced here in 1987, so it has existed for a long time. It also applies to further education colleges. Young people are defined as pupils until the age of 18, because those over 18 are defined as adults who are capable of taking litigation for assault; they are not covered by law. The new legislation will bring Northern Ireland into line with the rest of the United Kingdom.

**Mr K Robinson:** Paragraph two of the North Eastern Board's submission says that the Department should include clear guidance about action that can be taken to restrain a child. That is a concern.

**Mr Smyth:** I am surprised that the board said that, because the Department has issued a circular — number 199/9, 'Pastoral Care: Guidance on the Use of Reasonable Force to Restrain or Control Pupils'.

**Mr K Robinson:** Do you feel that that is clear, despite what the North Eastern Board said?

**Mr Smyth:** Yes. If the board has a problem with the guidance and wants clarification, the Department will be glad to address its concerns.

**Mr McLoughlin:** Does Mr Smyth have any views on the evidence from the Children's Law Centre and Save the Children about clause 34(4)?

**Mr Smyth:** Their view was that clause 34(4) should correspond with article 4 of the 1998 Order. It struck me as strange that there were differences; I will take that matter up with the draftsmen.

**The Chairperson:** We shall move on to clause 35, which deals with reports and returns.

**Mr Smyth:** There are three Departments — Education, Employment and Learning and Culture, Arts and Leisure where there used to be one — that can receive reports, returns and information from various bodies. However, they can do that only for the functions that they have under the Education Orders. Similar provision is made for education and library boards receiving reports and returns from schools. However, boards and Departments have

been given additional functions, for example, under the equality provisions of the Northern Ireland Act 1998.

The new provision ensures that Departments and boards can obtain reports, returns and information that relate to any of their statutory functions, not just their functions under the Education Orders. If they have statutory functions under other legislation that require information, this provision will give them the right to receive it. Clause 35 tidies up the legislation and takes account of recent developments where the three Departments have been given additional statutory duties for which they may require information from boards and schools.

**The Chairperson:** Is there a need to add the Northern Ireland Council for Integrated Education (NICIE) and the Council for Irish-medium Education to the list of bodies?

**Mr Smyth:** I intend to take that up with the draftsmen, because the Bill covers only statutory bodies. I am not sure about the extent to which the legislation can require non-statutory bodies such as NICIE to provide information.

I am not aware that there were problems in the past. There have been one or two problems with some schools providing information about community background, but that is not widespread. I do not anticipate that the changes will make much difference in practice.

**Mr S Wilson:** Is the proprietor of an independent school a statutory body?

**Mr Smyth:** No. However, it is a school, and the Departments might seek information from schools. Schools form one category. Information might be sought from other bodies, but they are all statutory bodies. I will take the issue to the draftsmen.

**The Chairperson:** That completes our consideration of the clauses today. Mr Smyth, on behalf of the Committee I thank you for your detailed responses. Presumably when you reflect on the queries and the points that we have raised, you will appear before the Committee again.

**Mr Smyth:** I will do that if the Committee wishes. We will consider the points — some will be fine; others I am not so sure about, and some will require advice from the draftsman. We need advice on what is required, especially regarding best interest and on whether clarification on preventing bullying is necessary to ensure that the provision is not rendered impractical. It may be necessary to qualify it in some way. It is a question of taking measures to prevent rather than absolute prevention. Those are the issues that we must consult on.

**Mr S Wilson:** Some people obviously think that you do not know how to draft Bills. A 5,000-page Bill would have been written if those who had written the submissions had been let loose on it.

**Mr Smyth:** Some of those who wrote the submissions would never make parliamentary draftsmen.

**The Chairperson:** We are still on record.

**Mr Smyth:** I assure the Committee that the individuals concerned are — I hope — friends and colleagues of mine.

**Mr S Wilson:** Not after that remark.

**The Chairperson:** Thank you very much indeed. I suggest that we ask the Assembly legal adviser to consider the wording of some of the clauses.

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## NORTHERN IRELAND ASSEMBLY

*This report was not approved formally by the Committee prior to the suspension of the Assembly on 14 October 2002, but is published by order of the Speaker.*

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### COMMITTEE FOR SOCIAL DEVELOPMENT

Thursday 19 September 2002

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### HOUSING BILL (NIA 24/01)

#### Members present:

Mr Cobain (Chairperson)  
Mr G Kelly (Deputy Chairperson)  
Mr Hamilton  
Mr B Hutchinson  
Mrs Nelis  
Mr M Robinson  
Mr S Wilson

#### Witnesses:

Mr G Davidson	) Department
Mr S Carson	) for Social
Mr M O'Connor	) Development
Ms A Montgomery	) Assembly Research and Library Services

**The Chairperson:** The Committee welcomes Mr George Davidson, Mr Scott Carson and Mr Michael O'Connor from the Department for Social Development. The purpose of this meeting is to continue the detailed clause-by-clause scrutiny of the Housing Bill. Members should read the relevant clauses and paragraphs in the Bill in association with the related commentary in the explanatory and financial memorandum and other supporting papers.

Where it is evident that we must explore a clause in detail because of our concerns, or suggested amendments, we will not dwell on it today but return to it in due course. The Committee will have two options: to agree that it is content with the clause as drafted or to defer a decision. Before making such decisions, Members may also wish to seek clarification about a clause by speaking through me. I will then invite the officials to comment.

**Mr B Hutchinson:** Before we start our discussions I would like to make a general point. Earlier this week, I said that in Britain this matter was subject to consultation, because the legislation did not work. I was told that it was

in order and have since found out that it is not. Housing legislation was introduced that definitely did not work.

We are dealing with legislation from 1996. It will be 2004 or 2005 before the Bill comes into force, by which time the legislation will be at least 10 years old. Legislation that is a decade old is of no use to us, and we must think about doing things differently. I would like the matter clarified before we get into discussions on the clauses. I was told that the anti-social behaviour orders did not work. I checked this out and have been assured by Labour MPs that the orders applied to people who misbehaved in the streets and town centres. The legislation related to housing, but it does not work, and these orders have now gone out to consultation. I would like a comment on that.

**Mr Davidson:** Earlier this week it was suggested that anti-social behaviour orders, which operate in local authority areas in England, may be an issue here. It is recognised that several areas of that legislation do not work as well as anticipated. For example, injunctions that stop people engaging in certain activities are a torturous route, but they are a well-tried instrument for preventing some sorts of behaviour. These are not legislative orders, but orders to prevent anti-social behaviour. We could have included them in the Housing Bill but have not yet done so. It is correct to say that in the rest of the United Kingdom they have not been as successful or as widely used as they might have been. We do not intend to introduce anti-social behaviour orders here; rather we mean to extend the conditions under which injunctions may be sought.

**Mr B Hutchinson:** My understanding is that the Bill contains legislation that was lifted directly from the Housing Act 1996. Furthermore, the British Government have now commissioned further consultation, because that legislation did not work. Is that correct?

**Ms Montgomery:** Mr Hutchinson may be referring to the consultation paper on tackling anti-social tenants, which was released in April 2002. The consultation seeks to review provisions in the Housing Act 1996. The information that the Assembly Research and Library service has gleaned suggests that the British Government want to review the proposals that came into operation. They are considering mediation services and widening their approach to anti-social behaviour. They are reviewing the legislation because many of the issues have not been resolved.

**Mr Davidson:** That is possible, but we do not know what the outcome of the consultation will be. It may be so radically different from the Housing Bill that we must change the Bill. It is only at consultation in England at present.

**Ms Montgomery:** If the legislation is working effectively there would be no need for further consultation

**The Chairperson:** We can return to this matter when we reach the relevant clauses. The Committee would like the researchers to give us some additional information.

**Clause 22 (Meaning of “harm”)**

**The Chairperson:** The Equality Commission suggested two amendments to make it clear that racial harassment or abuse constitutes ill treatment. It takes account of the definition of racial incidents contained in the MacPherson report. Is the Committee happy with that?

**Mr G Kelly:** Is it correct that we will defer any clause to which an amendment has been tabled?

**Mr B Hutchinson:** Can we try to agree on it?

**Mr S Wilson:** The Bill starts to elaborate on what is meant by the word “harm”. I could be wrong, but my understanding is that language in a Bill is meant to be as embracing as possible. If one definition of “harm” or “ill-treatment” is specified, must all the other definitions be similarly specified? Does the language used in the Bill not encompass all those things?

**The Chairperson:** Rather than discuss the amendments to clauses, we will go through the Bill, mark off the clauses to which no amendments have been tabled and then return to the amendments.

**Mr S Wilson:** My question was directed at the departmental officials. You asked for our views, and I wish to know whether the language in the Bill was meant to be all-embracing.

**The Chairperson:** We shall return to that. We will go through the Bill, put to the side the clauses that are non-contentious, and return to those that are.

*Clause 22 referred for further consideration.*

*Clause 23 referred for further consideration.*

*Clause 24 agreed to.*

**The Chairperson:** We now move to the section of the Bill dealing with grants, clauses 25 to 79. The Committee’s position on moving from mandatory to discretionary grants for more effective targeting is on record and is contained in the Committee’s first report into housing published in October 2001. It would be helpful if officials could outline precisely which grants fall into that category. For example, are renovation grants and replacement grants included in this clause?

**Mr Davidson:** The following grants are covered by this clause — renovation grant, disabled facilities grant, grant for houses in multiple occupation, common parts grant, group repair grant and home repair assistance, which will replace the present minor works assistance grant. The replacement grant is affected by this clause, but it is not replicated in the Bill because that would have duplicated many of the clauses that already apply to renovation grants. A replacement grant is simply one

of the options available if a renovation grant is not feasible — for example, if the house were likely to fall down during renovations. That is the only reason that it is not in the Bill.

**Mr G Kelly:** Are you statutorily required to explain each clause?

**The Chairperson:** The proceedings are being recorded in Hansard for public record, so the Bill must be explained clause by clause. It would be easier for me not to do it, but the Committee Clerk is punishing us for whatever we have done to him over the past four years.

**The Committee Clerk:** An organisation may propose one or more amendments to a clause.

**Mr G Kelly:** To clauses that deal with grants?

**The Committee Clerk:** Yes; to mandatory grants.

**The Chairperson:** A long list of amendments has been drawn up for almost every clause, and the Department is aware of them.

**Mr Carson:** The Department has received no amendments to many of those clauses other than a very general one; say, for example, if someone disagreed with a mandatory scheme. That could be applied to most clauses.

**The Committee Clerk:** Most clauses, but not all of them. Amendments have been suggested to some of the clauses.

**Mr Carson:** Other amendments have been suggested to a few clauses. We are prepared to discuss those with you.

**The Chairperson:** We have several amendments in addition to those dealing with mandatory grants.

**The Committee Clerk:** The amendments are mostly to clauses up to the mid-30s. There is the occasional amendment beyond that, and one has been shared with the Department. It would help the Committee if the Department said to what extent it could accommodate some of the amendments. The Department could also speak about the mandatory one, if only to say that it is not prepared to return to it. That may be a solution for the grants section.

**Mr Carson:** Do you want us to respond to that now?

**Mr B Hutchinson:** A response from the officials might help us to decide what to do.

**The Chairperson:** Do you want a written response, Mr Hutchinson?

**Mr B Hutchinson:** I want to hear what Mr Davidson has to say.

**Mr Davidson:** Most correspondents and the Committee favour a discretionary grant scheme, as does the Housing Executive, which would administer the scheme. The Housing Executive thinks that a discretionary scheme



would allow it more flexibility when targeting resources. The Department favours a discretionary scheme with a mandatory disabled facilities grant, which is included in the Bill.

**The Chairperson:** Will the Department provide written responses to some of the other amendments to the first 30 clauses?

**The Committee Clerk:** To the first 10 clauses of the grants section.

**The Chairperson:** Do the officials have them?

**Mr Davidson:** The Department has the responses from the consultation. They have been analysed, and the Department will describe its position on them.

**The Chairperson:** Will the Department write to the Committee about the responses?

**Mr Davidson:** If the Committee sends the Department the articles on which it wants a response, apart from the all-embracing discretionary/mandatory matter, we will give our response.

**The Chairperson:** Thank you.

**Mr B Hutchinson:** I am a little confused by that point. My understanding is that Mr Davidson already has some responses. Can we not sort out the first 10 clauses now?

**The Chairperson:** The Committee can return to the issue, because there are only six minutes left of this meeting.

**Mr S Wilson:** Will the Chairperson clarify how the Committee is dealing with the matter? Are the departmental officials here to hear the Committee agree the clauses?

**The Chairperson:** No. The officials came to supply information. However, the structure of the meetings was agreed. If there are any amendments, the Committee will refer them for further consideration.

**Mr S Wilson:** If the officials write to say that the Department disagrees with an amendment, will the Committee have an opportunity to question them about their decision?

**The Chairperson:** The information must be in writing so that the Committee can read why the Department disagrees and has time to absorb the information. What can we achieve in the remaining five minutes? Mr Davidson would only be introducing an issue when we would have to call it quits. The meeting is time-restricted. It was supposed to start at 2.00 pm, but it did not start until 2.30 pm. It is due to finish at 3.15 pm, and it is now 3.10 pm.

**The Committee Clerk:** May I remind the Committee of the procedure that it agreed. It was to discuss clauses 1 to 150 to identify those that presented no difficulties so that it could return to the contentious clauses, particularly

if there were amendments. The examination of the more difficult clauses will start the week after next, once the Committee has completed its first read through of the Bill. Officials will be present to inform the Committee of the Department's position and to clarify certain points; they will help the Committee to make decisions about whether it agrees with the Department's position or wants to go in a different direction.

**Mr Davidson:** The Department will not say that it disagrees with an amendment. It will state its position in view of what some of the consultees said. In some cases, the Department will not disagree with what the consultees want; it may merely be a case of pointing out that some of the provisions that they requested may already be in the legislation.

**Mrs Nelis:** Many of the clauses were deferred today because of the mandatory/discretionary issue. There are so many amendments stating that grants should be mandatory because discretionary grants are problematic in that they do not confer people's rights to a grant. That raises the issue of people's rightful entitlement.

**The Chairperson:** The Committee has already decided that it will support discretionary grants. We have had that debate.

**Mr B Hutchinson:** I would like some clarification. My understanding was that we would deal with the Housing Bill in the same way that we dealt with the Street Trading Bill. I assume that we will get to that stage, but at a later date.

**The Committee Clerk:** Absolutely. It will probably be the week after next. The Committee will have two opportunities next week to scrutinise clause 80 through to the schedules, and then we will return to the Bill in more detail.

**Mr B Hutchinson:** I was concerned that we would do this with pieces of paper rather than argue the case across the table.

**The Chairperson:** It is important that we have explanations. It is important that the Department write to us about what we have agreed and the reasons for doing so.

**Mr B Hutchinson:** My concern was that there would be no interaction between the Committee and the Department.

**The Chairperson:** It is important that we have the Department's views in writing; the Committee can then discuss them before making its decisions. It is important that we have as much information as possible.

**Mr Carson:** It would have been useful to have discussed the mandatory/discretionary issue at the beginning. It might have enabled the Committee to get rid of most —

**The Chairperson:** The Committee has already decided in favour of discretionary grants.

**Mr Carson:** It would have saved referring all the clauses for further consideration, and the Committee would not have to revisit them all again.

**The Chairperson:** I know. However, the Committee agreed a structure. As I said at the start, some Committee members may be opposed to discretionary grants, and they must be allowed to make their point. However, the Committee's overall view is in our report — it is in favour of discretionary grants. Mrs Nelis may have difficulty with that, and she may wish to speak on that issue. That is better than killing it off. Once we have decided on a structure we should stick with it, otherwise we get into all sorts of problems.

**Mr Davidson:** Officials should agree with Stephen Graham the clauses that have been deferred because of

the discretionary/mandatory issue. We can set those aside and agree the clauses on which you would like further information from the Department. How soon do you wish to go over those?

**The Chairperson:** We will go back over them in about a fortnight. We are meeting on Tuesday and Thursday of next week, so perhaps the week after next will suit us.

**The Committee Clerk:** I can send a letter to the Department listing the clauses that were deferred for reasons other than the discretionary/mandatory issue.

**The Chairperson:** Thank you for your attendance and for your help.

*Clauses 25 to 79 referred for further consideration.*

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**NORTHERN IRELAND  
ASSEMBLY**

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**COMMITTEE FOR THE ENVIRONMENT**

Thursday 19 September 2002

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**LOCAL GOVERNMENT  
(MISCELLANEOUS PROVISIONS) BILL  
(NIA 7/01)**

**Members present:**

Rev Dr William McCrea (Chairperson)

Ms Lewsley (Deputy Chairperson)

Mr Coyle

Mr Ford

Mrs Nelis

Mr Watson

**Witnesses:**

Mr J McConnell )

Ms M Finnegan ) Department of

Mr D Barr ) the Environment

Dr T Power )

**The Chairperson:** Before we start discussing the Local Government (Miscellaneous Provisions) Bill, members, if appropriate, should declare an interest.

*Various members declared an interest.*

**The Chairperson:** Members have been provided with an updated working draft version of the Bill.

I welcome Mr John McConnell, Ms Marie Finnegan, Mr David Barr and Dr Tracy Power from the Department of the Environment. They are here for any points of clarification rather than any further statements. Before we proceed to the clause-by-clause reading of the Local Government (Miscellaneous Provisions) Bill, there are some matters that I have to draw to the Committee's attention.

I wish to put on record a summary of the Committee's deliberations on the Bill to date. The Bill was referred to the Committee for consideration on completion of its Second Stage on 20 May 2002. On 25 June 2002, at the Committee's request, the Assembly agreed to extend the Committee Stage of the Bill to 17 October 2002.

To date, the Committee has considered the Bill at 15 meetings. Members will recall that at several of those meetings, the Committee scrutinised, with the co-operation of the Minister and officials, a draft of the Bill and the explanatory and financial memorandum. Such pre-introduction consideration greatly assisted the Committee's later

formal scrutiny of the Bill. Some of the initial meetings addressed a consultation paper on detailed proposals for a new formula for the distribution of the resources element of the general exchequer grant to district councils.

Clause 2 of the Bill introduces powers for the determination of this element of the grant through the use of a formula in accordance with Regulations. Those draft Regulations have been provided to the Committee today and will be considered at a future meeting of the Committee.

The Committee wrote to all district councils, to the Society of Local Authority Chief Executives (SOLACE) and to the Northern Ireland Local Government Association (NILGA) on the specific terms of the Bill. The Committee received 17 written responses, and it took oral evidence from representatives of Belfast City Council and Craigavon Borough Council. The Committee received detailed written and oral evidence from departmental officials on several occasions.

I wish to put on record the Committee's thanks to those officials for the helpful and timely manner in which they responded to the Committee's numerous enquiries about the Bill. The Committee also received helpful written and oral evidence from Northern Ireland Office (NIO) officials on the issues surrounding community safety partnerships. All the evidence will be available to Members of the Assembly in the Committee's forthcoming report on the Bill.

The results of the Committee's extensive consideration of the specific terms of the clauses in the Bill culminated in a letter from the Minister of the Environment, dated 2 July 2002, stating that he had agreed to move amendments to clauses 2, 4, 6 and 7 at the forthcoming Consideration Stage of the Bill. That letter, which I will be referring to on several occasions during the formal clause-by-clause consideration of the Bill, provides the wording of each proposed amendment.

A copy of the letter, which the Committee considered on 4 July 2002, has been included in members' papers today, together with an illustrated revision of the Bill, highlighting the proposed amendments in red. Members will recall that the proposed amendments are extensive; however, they are necessary and will result in better legislation for all concerned.

At the meeting of 4 July 2002 the Committee agreed to give formal clause-by-clause consideration to the Bill in September 2002, and that is the purpose of today's meeting. Members will note that departmental officials are available to answer any questions or points of clarification. If members are content, we shall move to the clause-by-clause consideration without delay.

*Clause 1 agreed to.*

**Clause 2 (Determination of the resources element)**

**The Chairperson:** The proposal is that the Committee is content that clause 2 be amended as proposed by the Minister in his letter to the Committee dated 2 July 2002.

*Question,* That the Committee is content with the clause, as amended, *put and agreed to.*

*Clause 3 agreed to.*

#### **Clause 4 (Reductions in general grant)**

**The Chairperson:** The proposal is that the Committee is content that clause 4 be amended as proposed by the Minister in his letter to the Committee dated 2 July 2002.

*Question,* That the Committee is content with the clause, as amended, *put and agreed to.*

*Clause 5 agreed to.*

#### **Clause 6 (Powers of district councils in relation to economic development)**

**The Chairperson:** The proposal is that the Committee is content that clause 6 be amended as proposed by the Minister in his letter to the Committee dated 2 July 2002.

*Question,* That the Committee is content with the clause, as amended, *put and agreed to.*

#### **Clause 7 (Powers of district councils in relation to community safety)**

**The Chairperson:** The proposal is that the Committee is content that clause 7 be amended as proposed by the Minister in his letter to the Committee dated 2 July 2002.

**Mrs Nelis:** You will have to bear with me because I did not have the benefit of going through all this with the Committee earlier. I have given some consideration to this clause. It seems that this element of the Bill is a duplication of resources. Tell me if I am out of order, but there seems to be duplication between community safety partnerships (CSPs) and district policing partnerships (DPPs). In the interests of resources, I wonder if it would be possible for a clause to be inserted to make CSPs a subsection of DPPs.

**The Chairperson:** We had a long discussion about that. Officials were brought before us several times. Members were concerned about duplication.

Some Committee members have spoken to different councils to find out if they had any concerns. Those councils that I have spoken to have assured me that there is not over duplication and that there is a position for both groupings.

Because of our concerns, we took evidence from NIO officials. The Committee questioned those officials in depth, as some were against, rather than supported, the community safety activity of councils. The officials pointed out that this is a power enabling, not forcing, a district council. However, many district councils are currently carrying out that function. The NIO believed that it was vital that

there be a difference between the DPPs and the CSPs, and it was using this legislation, rather than the Justice (Northern Ireland) Bill, to bring it through. However, Committee members had to be convinced of that fact. Mr Barr, could you clarify the position?

**Mr Barr:** I agree with what the Chairperson has said. District councils have expressed an interest in engaging in community safety, particularly through the partnerships. The latest figures from the NIO suggest that 21 of the 26 councils have shown a deep interest in that, and 12 of them have now decided to take the lead in those community safety partnerships, with the seven other partnerships being established where the lead is being taken by other organisations.

I understand that the Policing Board has accepted that separate management structures should exist for DPPs and CSPs, and that was discussed frequently between the NIO, DPPs and others. I understand from the NIO that the Policing Board now accepts that DPPs and CSPs can coexist.

The NIO has assured us that there has been some movement in relation to the potential duplication of services. We understand that the Northern Ireland Local Government Association has been in close contact with the NIO and that, together with SOLACE and the Policing Board, it hopes to work to see if there can be some dual servicing of DPPs and CSPs so that there will not be substantial duplication or any real cost to district councils. It is hoped that that can be resolved on a local basis between councils and their local DPPs.

The NIO has taken the lead in the community safety strategy. Our legislation is to enable district councils to engage in CSPs if they so wish. Councils are not forced to do so, but it gives them the freedom of choice to engage in CSPs at their discretion. The evidence produced so far suggests that the vast majority of councils are interested in engaging in CSPs.

I was talking to a chief executive recently who was concerned that district councils would be put in an awkward situation if the legislation did not go through. Those already engaging in CSPs would be afraid that they would be doing so without the statutory cover. He was keen that we should proceed with the Bill to enable them to proceed with CSPs on a statutory footing.

**Mrs Nelis:** I appreciate your response and your clarification. I also appreciate the Chairperson's comments that there has been a great deal of discussion about the subject. As you say, my concerns are legitimate, because although the budget is going to be covered by the NIO for the next three to five years, the long-term budget will have to be met out of the rates. Therefore, it is our duty to avoid any duplication that would, in the long term, be a waste of resources. Is the power granted to councils statutory or discretionary?



**Mr Barr:** It is an enabling power.

**Mrs Nelis:** Councils might see DPPs and CSPs doing the same job. I have read the document, and I thought that a way to address the potential waste of resources might be to establish CSPs as subcommittees of DPPs.

**Mr Ford:** Mr Barr's response was extremely helpful. The function of a DPP is not the same as that of a CSP. My concern was that they were so closely aligned and that the personnel involved were likely to be so similar that we might encounter major problems in administering two different organisations in small district councils. Pooling resources appears to be the practical way forward. It does not affect the substance of the Bill, and it at least indicates that we can look forward with confidence to the Bill achieving its objectives. I am happy to proceed as outlined.

**The Chairperson:** Members must decide whether or not they are content that clause 7 be amended as proposed in the Minister's letter.

**Ms Lewsley:** Mr Ford was proposing that it should proceed.

**The Chairperson:** In the light of what has just been discussed, we have to decide whether to proceed as proposed in the Minister's letter to the Committee dated 2 July 2002. We should take a vote to make things clear.

**Mrs Nelis:** Can a member abstain?

**The Chairperson:** Yes, members can abstain.

**Ms Lewsley:** May I have clarification? It is my understanding that we are voting to proceed with the clause with the amendment as agreed by the Minister.

**The Chairperson:** That is correct. The proposal is that we are content with the clause, subject to the amendment proposed by the Minister in his letter of 2 July 2002.

**Mrs Nelis:** I will abstain.

*Question put,* That the Committee is content with the clause, as amended.

*The Committee divided:* Ayes 5; Noes 0.

AYES

*Michael Coyle, David Ford, Patricia Lewsley, William McCrea, Denis Watson.*

*Question accordingly agreed to.*

*Clauses 8 to 11 agreed to.*

**The Chairperson:** That concludes the Committee's consideration of the Bill. A draft of the Committee's report on the Bill will be provided to members shortly, and it will be considered for final approval at a Committee meeting in the near future. The Regulations are tabled today and will be considered at a future meeting.

**Mr McConnell:** I thank the Committee members; matters have worked out very well. The Bill is a much better Bill than it was to start with. I also thank the Committee Clerk and his team. This has worked out well for all of us.

**The Chairperson:** The Committee greatly appreciated the Department's listening ear. The responses from the Department were very helpful, and I thank you and your colleagues for that. We got into deep discussions on some occasions, especially with Mr Barr, but I trust that we have arrived at a Bill that is at least helpful for local government. Thank you very much indeed.



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**NORTHERN IRELAND  
ASSEMBLY**

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**COMMITTEE FOR THE ENVIRONMENT**

Thursday 19 September 2002

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**PLANNING (AMENDMENT) BILL  
(NIA 12/01)**

**Members present:**

Rev Dr William McCrea (Chairperson)

Ms Lewsley (Deputy Chairperson)

Mr Coyle

Mr Ford

Ms Nelis

Mr Poots

Mr Watson

**Witnesses:**

Mr I Maye )

Mr J Lambe ) Department of the Environment

Mr D Small )

**The Chairperson:** I welcome Mr Ian Maye, Mr Jackie Lambe and Mr David Small from the Department of the Environment. Thank you very much indeed for coming. We will continue our consultation process. I would ask you to make your opening remarks, and members can then ask questions.

**Mr Maye:** Before I pass over to the experts on these issues, the Committee raised several issues when we appeared here about two weeks ago. We are just about to put a submission to the Minister with our recommendations on them, and, once agreed, we will put a paper to the Executive Committee. Some issues, for example increased fines and penalties, have to go to the Executive Committee for approval and, in turn, to the Secretary of State as they are reserved matters. However, we will share those papers with the Committee as soon as we send them to the Executive Committee. We had hoped to be in a position to let you know today, but we should know the Minister's view before the end of the weekend, and we should be in a position to tell you then.

**The Chairperson:** That is about the level of fines and the stop notices.

**Mr Small:** Before we continue with the clause-by-clause consideration, a point was raised last week about on whom a stop notice can be served quite apart from the question of how quickly it takes effect. Article 73(5) of the Planning (Northern Ireland) Order 1991 allows us to serve a stop notice on any person who appears to us to

have an estate in the land or to be engaged in any activity prohibited by the notice. The powers are wide ranging and give us broad scope with whom we wish to serve the notice on. You expressed concerns about a particular case, and we fail to see why there was such difficulty in serving the stop or enforcement notice in that case. However, we can look at it in more detail, if you give us more information about it.

**Mrs Nelis:** I would be happy to do that, and I am glad to hear that you have such widespread powers. However, the problem is using those powers. It is not just that case — I could cite several cases of developers putting a horse and cart through planning permission with conditions, and no attempt was even made to enforce them. When there was enforcement, notice was served on the developers, for whatever reason. That is what planners have been telling councils, and every member of the Committee has had similar experiences.

**Mr Small:** We accept that enforcement has probably not been as robust as we would like. However, we have made a commitment to changing that. I see no reason for any difficulty in serving a stop or enforcement notice. If we have to be more robust, we will be.

**Mrs Nelis:** This may come up during consideration of the clauses: you cannot enforce anything after someone chops down a dozen trees. How do you cross that Rubicon?

**Mr Small:** In certain circumstances we can take enforcement action, and the Bill will give us new powers. Our powers are significantly strengthened when trees are protected by a tree preservation order. There is the level of fine that we can impose and the new powers that the Bill gives us to require the trees to be replaced. That has the effect of removing the development opportunity.

In response to the consultation exercise, Down District Council suggested that the maximum fine that could be imposed by a court in cases where false or misleading statements were made must be made clearer. The Bill states that the level of fine to be imposed will be the statutory maximum. That refers to the standard scale and, although the amount is not stated, the statutory maximum is £5,000, so the level of fine is clear.

With regard to article 83(f) of the Order, the Planning Appeals Commission suggested that the wording should be amended to make it clear that only a Planning Appeals Commissioner can hear an appeal. The difficulty is that the wording used in one or two parts of the Bill suggests that the Planning Appeals Commission may appoint a person to hear an appeal. That is incorrect, and we will make the necessary amendment to make it clear that the Planning Appeals Commission will hear the appeal. We will share that amendment with the Committee when it is drafted.

Coleraine Borough Council suggested that the fine for wilful obstruction is inadequate, one of the issues raised

by the Committee that we are considering. We hope to respond next week.

**The Chairperson:** We hope that the levels are consistent.

**Mr Small:** Many comments were made about clause 12. Down District Council welcomed the changes but suggested that powers were needed for reinstating a building, or other construction, when unauthorised demolition had taken place. We already have that power under article 77 of the Planning (Northern Ireland) Order 1991.

The Hearth Revolving Fund referred to the need for higher fines to reflect the financial benefit to the developer. As you know, such increased maximum levels are now proposed in the Bill. The Hearth Revolving Fund also suggested that fines should be imposed per property rather than per case. We can do that already. That concern goes back to a case where a judgement was made on legal advice to pursue a case for demolition as a whole rather than per property.

The Historic Buildings Council also suggested that the maximum level of fine in a Magistrates Court should be £1 million. We have already had a lengthy discussion with you about the maximum level of fine in the Magistrates Court and the unlimited fines in the Crown Court.

The Ulster Architectural Heritage Society said that the loss of historic buildings in conservation areas was not addressed separately. The listed building provisions in the principal Order and the Planning (Amendment) Bill are applied to buildings in conservation areas. The Bill deals with that but in a less explicit way than the Ulster Architectural Heritage Society would like. Its other point concerned the maximum level of fine, and that has been dealt with.

**The Chairperson:** There is a deep concern about losing historic buildings. The situation is becoming quite horrible. In clause 12, which replaces article 44(6) of the Planning (Northern Ireland) Order 1991, the proposed new paragraph 6(b) says that a person guilty of an offence shall be liable

“on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine or both”.

Can you describe a situation in which that would be imposed?

**Mr Small:** The penalties have been increased for a developer who fails to comply with a listed building enforcement notice. Fines have been increased to a maximum of £30,000 in the Magistrates Court and to an unlimited amount in the Crown Court. Furthermore, custodial sentences have been introduced. The courts will determine the penalty, but the new legislation offers a better range.

The effect of clause 13 is to introduce higher levels of fines and penalties for contravention of hazardous substances notices. Coleraine Borough Council said that the

maximum level of fines should be higher. That matter has been addressed separately.

With regard to clause 14, Coleraine Borough Council was concerned about the grounds for appeal, as set out in the proposed new article 82(a) of the Bill. It suggests that they may be misused. We do not accept the council's concerns. The grounds for appeal are standard and reasonable and, as with all appeals, the Planning Appeals Commission will determine whether they are valid.

The Royal Society for the Protection of Birds was concerned that not enough tree preservation orders (TPOs) were being imposed. We acknowledge those concerns and are committed to using tree preservation orders more robustly and proactively than in the past.

With regard to clause 15, many comments were made about our use of the new powers and how far they will be extended. We intend to extend the new control over the demolition of buildings in areas of townscape character (ATCs) that are identified in a development plan. The number of ATCs in place now is expected to grow considerably, so that a significant number will be in place offering that new control over demolition. Should the need arise, we will have discretion under the provisions of the Bill to extend that control of demolition to other classes of buildings.

No specific comments were made about clause 16.

**The Chairperson:** We will stop there to allow members to raise questions.

**Mr Ford:** I am perturbed by your response to suggestions on clause 14 to the effect that it is not the Department's function to protect trees. I know what you mean, but the phraseology is unfortunate. There is a suggestion that you only have discretion to allow tree preservation orders for trees on land considered to be under threat of development. What does “under threat of development mean”? Trees are under threat in every suburb of Belfast and on the fringes of every small town in Northern Ireland, so they all appear to meet your criteria for TPOs.

**Mr Small:** In those circumstances you are right. I refer back to our intention to be more proactive in how and where we serve TPOs. In the past there was a tendency to apply a TPO where development was proposed and the threat was very real. We could look at extending that approach.

**Mr Ford:** Do you not think that the first sentence at that bullet point — that it is not the Department's function to protect trees — is perhaps more than unfortunate?

**Mr Small:** Yes. The intention was to acknowledge our function to protect trees in specified circumstances.

**Mrs Nelis:** What does specified criteria mean in relation to clause 14?



**Mr Small:** That was a point made by the Royal Society for the Protection of Birds. It felt that the circumstances in which we would contemplate imposing a TPO needed more specific criteria. I am not clear what is intended by that, but the danger is that it might limit our discretion when making a tree preservation order, and we must maintain as much discretion as we can.

**The Chairperson:** If the removal of a building is part of a development, could it not be that the removal of trees is part of a development and that the purpose of removing trees is development? Coleraine Borough Council raised that point in the discussion about demolition.

**Mr Lambe:** The answer is yes. Where there is a current development proposal, it could be argued that the removal of trees is part of that proposal. It is more difficult to see that argument when someone decides to remove trees because he does want them there but has not yet decided what to do with the site, to use it for development or for some other purpose.

Linking the removal of trees to some future development proposal might be difficult to justify and argue in all circumstances. It would depend on exactly when the trees were removed and on whether a development proposal was with the Department or being contemplated by the landowner or developer. People often remove trees simply to reserve their options for the future should they wish to develop a site. Linking the two might be difficult to prove at some future enforcement or court case. I do not know how a court would view that.

There is a strong argument for linking the removal of trees when a firm development proposal is before the Department. A developer might get round that by persuading a landowner to remove trees in anticipation of his disposing of the site, so the developer could not be held responsible for their removal. The Department cannot penalise the developer, who is now the landowner, for removing trees at a time when he had no responsibility for the land.

**Mr Small:** There would have been no firm development proposals.

**The Chairperson:** Can any protection be given in law to deal with that problem?

**Mr Small:** We have debated that with you before, and it was considered that the kind of protection desired would probably require blanket protection against all removing or cutting down of trees. The implications of that for private house owners who simply wanted to remove trees from their private gardens would be considerable. The resource implications for the Department and the costs for individuals would be significant if every individual were required to seek planning permission to do that. We have looked at that and have serious concerns about how it would operate.

**Mrs Nelis:** The Bill must address the current situation. Developers move in on a Saturday morning and cut down the trees, and nothing can be done then. They then apply for planning permission and give an assurance that they will replace the trees. However, history has shown that they do not replace them. Mr Ford has said that the fauna and flora of the countryside are being eroded by development, and I am concerned that there is a weakness in legislation on this.

**Mr Maye:** The weakness is more a practical than a legislative one. We should really survey the whole of Northern Ireland, identify trees which should be protected and impose a TPO. That is happening.

**The Chairperson:** Most of the developers will have the trees cut down by the time that is completed.

**Ms Lewsley:** Particularly if they hear what the Department is doing.

**Mr Maye:** If we impose blanket protection on all trees, every householder and farmer in Northern Ireland will have to apply to the Department before he or she can touch any tree anywhere.

**The Chairperson:** The Committee is asking the Department to see if there is a way to deal with this. It is not going into the situation referred to: that is not the purpose of the Bill. The Committee wants people in councils who can draw up legislation to see whether it is possible. It has been suggested that a new paragraph (e) could be added to the list in clause 15(1). Perhaps that could be looked at.

**Mr Small:** Clause 17 gives the Department power to decline to determine a repeat application, which is one that is similar to an earlier application that the Department refused. That provision was proposed in the Department's recent consultation paper 'Modernising Planning Processes'. In fact, the proposal was made during consultation on the Planning Bill in 1999, so its inclusion in that paper was unnecessary. We are content that the clause should remain part of the Bill.

Clause 18 gives the Department primary legislative powers to introduce more environmental measures linked to environmental impact assessment requirements. The Regulations to implement the EC Directive on environmental assessment were implemented under the European Communities Act 1972, which meant that our legislative provision had to be in keeping with the basic requirements of the Directive. The provision in the clause simply gives us a little more discretion and scope.

Clause 19 gives the Planning Appeals Commission (PAC) the power to dismiss appeals in cases of undue delay. Since the Committee consulted with the PAC on the provisions of the Bill, the chief commissioner has told us that he does not have a problem with undue delays and sees no need for such provision. We considered the

power to be permissive — the Commission would use it if, and when, it determined it was required. However, given the chief commissioner's views, we have reviewed this. It may be wrong to include that power when the chief commissioner has said that he does not need it, so we propose to withdraw that clause if the Committee is content.

**The Chairperson:** Given that the PAC has said that, agreeing to the clause's removal should not be a problem.

**Mr Small:** We will also listen to the views of OFMDFM, which sponsors the PAC.

**Mr Ford:** Why did you introduce the clause if the PAC said that it has no problem with undue delays? The fact that there is no problem now is not necessarily a reason for not introducing it. There might be a problem in five years' time, and there will not be another Planning Bill for years.

**Mr Lambe:** The Planning Inspectorate in England was granted the power to dismiss appeals in case of undue delay under the Planning and Compensation Act 1991. When the consultation paper was being produced, the Department gave a commitment to include a range of new enforcement measures in the Bill. One such measure was the power to dismiss appeals in cases of undue delay that was outlined in the 1991 Act. At the time, no one expressed any concern about the power. Thus, we drew up the draft instructions to have it included in the Bill. It is only now, at this late stage, that the Planning Appeals Commission has told us that it does not feel that it needs the power.

**Mr Ford:** It would be interesting to know about the experiences of the other three jurisdictions, given that they have had the power for 10 years.

**Mr Maye:** We can find out more about that.

**Mr Ford:** When I first read clause 17, I did not study article 25(a)(1)(a)(i) very closely. Why does it specifically refer to article 31 alone? Should not repeat planning applications that might adversely affect small neighbourhoods be subject to dismissal as happens with repeat applications that affect large neighbourhoods that were refused under article 31? Are the problems not the same?

**Mr Small:** Article 31 cases are resource-intensive. The intention was to free the resources that are wasted on processing repeat applications so that other issues can be dealt with.

**Mr Maye:** We canvassed views on that in the consultation on 'Modernising Planning Processes'. The majority of respondents said that we should extend the provision to all cases, so that, when repeat applications without material changes are made, the Department need simply not consider them.

**Mr Ford:** I suspect that those consultees did not include the small group of residents in a particular street who happen to be affected by one issue. If you examine the public concern, as well as the Department's resource issues, you would find a wider case for extending the provision.

**Mr Small:** With regard to clause 20 the Housing Executive asked why planning obligations, which would have a wider scope, were not introduced. The Bill's provisions do that but keep the local term "planning agreements", so what the Housing Executive suggested has already been incorporated in the Bill.

We did not take on board the unilateral aspect of planning obligations. That provision dealt with a specific problem that occurred in England, when a local authority demanded too high a contribution from the developer. They failed to reach an agreement, and the case went to the Secretary of State on appeal. In those circumstances, the unilateral aspect of the provision, which was enacted in England, gave the Secretary of State a unilateral power to agree an appropriate contribution from the developer. In Northern Ireland that power would be given to the Planning Appeals Commission. Given the different legislative and planning arrangements here, where the Department of the Environment is the planning authority, it was felt that the sort of difficulties that led to that provision's being included in English legislation were unlikely to arise here and that the unilateral aspect was, therefore, unnecessary.

Lisburn Borough Council referred to article 40(A) and suggested that it should be amended to reflect consultation with district councils. We have no plans to change the Bill to include consultation with district councils on a matter that deals with modification to a planning agreement where agreement has been reached between a developer and the Department. There was no widespread comment on, or support for, Lisburn's proposal. Consultation with district —

**The Chairperson:** Would that be viewed as too democratic?

**Mr Small:** No. That was not our thinking. This is part of the process through which a developer and the Department reaches agreement on contribution, and the extra step of consulting district councils would simply delay the process further. Agreeing the terms of a planning agreement can be a long, drawn-out process as it is. We viewed the proposal as another hurdle which would cause further delay. Given that it had no other support, we were content with the Bill's provisions.

**The Chairperson:** Giving the impression that the proposal had no other support would be wrong. Perhaps no one else saw the flaw. It was not the case that a proposal to consult with district councils was put to consultees and received no support. That is a completely different view.

**Mr Small:** I take your point, but not all consultees agreed.

**Mr Lambe:** Lisburn Borough Council suggested that councils should be consulted when the Department proposes to amend article 40 agreements. It did not suggest that councils need to be consulted when article 40 agreements are originally drawn up. There does not seem to be logic in consulting councils on proposed amendments to agreements and not consulting them when those agreements are first drawn up.

**The Chairperson:** Are you suggesting that to be consistent?

**Mr Lambe:** We were not told that district councils should be consulted when planning agreements are first drawn up.

**Mr Small:** We would need to consider that in a broader sense rather than just on modification purposes.

**Mr Ford:** The Committee might suggest that.

**The Chairperson:** It might. It is an important point worth considering. Consistency is also important.

**Mr Maye:** It fits into the context of councils' earlier engagement with the Department when the principle elements to be included in planning applications are thrashed out. Article 40 agreements put flesh on the bones. Modifications happen at the detailed stage rather than at the principle stage.

**The Chairperson:** Councils are usually consulted at two stages when a planning application is being considered: the principle stage and the full stage, so it is surely appropriate to suggest that, if they are consulted at the principle stage, they should also be consulted on detailed amendments.

**Mr Ford:** I agree. Many site meetings end up haggling over details rather than discussing the principles of an application. It seems entirely consistent that councils should be involved at both stages.

**The Chairperson:** Yes. Will you take the Committee's view on board?

**Mr Small:** The Planning Appeals Commission also raised a point on clause 20, repeating its concern about the wording used when a case is referred to appeal, which we dealt with earlier. It should clearly be an appeal by the Planning Appeals Commission.

The Royal Society for the Protection of Birds said that planning agreements should be secured within a clear strategic planning framework including development plans. Our view is that planning decisions are made in accordance with prevailing planning policies, including the development plan, and reflect that planning framework.

The purpose of clause 21 is to broaden the scope of the definition of advertisements. Two consultees commented

on the definition of advertising and specific types of advertising. We are reviewing the enforcement of advertising controls and considering a range of matters. There are no firm conclusions as yet, but there could be a change to the primary or subordinate legislation or to the enforcement procedure. We cannot make progress until that work is concluded.

**The Chairperson:** I mind your leaving that to be dealt with by another Bill. When will that be? This will go on the long finger with a lack of control in the meantime. I am sure that members have views on that.

**Mr Small:** We know that, which is partly why the work has been initiated. Any change is more likely to be a change to subordinate legislation on advertising regulations rather than to primary legislation. We are not clear about what form of legislative change will be appropriate, and that is why we are unable to develop proposals.

**The Chairperson:** We will have to return to that point.

**Mr Small:** However, we are considering that seriously.

**The Chairperson:** I spoke to the authorities several times about a hole in a road in my constituency and was assured that men were looking into it. I went to the site and found four men looking into it. It would have been better if one of them had been looking into the hole and the other three were doing something about it. Just because you are looking at something does not mean that you will move on it. However, I am happy to be surprised.

**Mr Small:** Clause 22 deals with building preservation notices and the Department's new power to impose such a notice to achieve immediate listing. Down District Council welcomed the new power and said that it should come into force as soon as possible. Such building preservation notices will become effective as soon as they are served. The arrangements for that are set out in clause 22 article 42(a). In urgent cases, the Department has the power to serve a building preservation notice simply by placing a notice on the building, so it can take immediate effect.

The Hearth Revolving Fund asked if building preservation notices can be invoked as a precaution. They can, but there will be compensation provisions in the Bill for circumstances in which the Department imposes a notice but fails to confirm the listing within six months. In such circumstances, any loss suffered during that time may be subject to compensation payment.

Many comments were made about clause 23. The Construction Employers' Federation referred to the need for consultation with builders and developers. Landowners and those with an interest in land will be consulted prior to the imposition of a tree preservation order.

The RSPB had reservations, of which we are aware, that not enough tree preservation orders were being imposed and referred to the need for specific criterion.



The Ulster Architectural Heritage Society suggested that trees within the curtilage of a listed building should automatically be protected by tree preservation orders in the same way as that power is applied in conservation areas. There is nothing to prevent us from serving a TPO on trees that are in the curtilage of a listed building, but we are concerned about giving automatic protection because of the legal difficulties involved in defining the curtilage of a listed building. Linking automatic protection to those makes the suggested provision difficult.

**The Chairperson:** Will you ask your legal experts to explain the difficulties? Our legal department has helped us with such difficulties, some of which were not as complicated as they seemed.

**Mr Small:** We will look at that.

**The Chairperson:** How is the compensation that clause 22 deals with determined? Will the Department be liable for compensation if notice is not confirmed within six months.

**Mr Small:** I may have to come back to you on that. I suspect that it will be based on a case in court.

**Mrs Nelis:** If the owner of a building who is served with a preservation notice says that the building is structurally unsound and therefore unsafe, how will the Bill address the owner's responsibilities and those of the Department to preserve a building which is not structurally sound?

**Mr Small:** The effect of the building preservation notice will be to give that building the same protection as that given by listing. The existing listing powers in the Planning (Northern Ireland) Order 1991 will apply immediately. That also addresses circumstances in which there is deemed to be a risk.

**Mrs Nelis:** Is the developer responsible?

**Mr Maye:** In such circumstances the builder can be served notice to ensure that any remedial work is carried out to return the building to a good condition. There are difficulties with that and with the burden of proof if the builder or the owner presents a report by his independent expert. Sometimes that must be challenged, and there are difficulties in practice. We are satisfied that the legislative provisions give us the necessary powers, but it can be difficult to put them into practice.

**The Chairperson:** Perhaps it might be best to check to be sure that the guidance is clear.

**Mr Small:** We shall come back on that. The Planning (Northern Ireland) Order 1991 sets out clearly that the need to do that must be demonstrated.

**Mrs Nelis:** We want to preserve our lovely buildings, but some are in such a state of disrepair that they constitute a risk.

**Mr Ford:** With regard to clause 23, the Woodland Trust and compensation payments, what is the position regarding compensation payments for TPOs? How many are there, and what is their sum?

**Mr Maye:** There are several types of compensation. In two particular cases we are in dispute with the landowner, who has applied for compensation for loss of development value. Those cases are with the Lands Tribunal, but no decisions have been made. There are several other types of compensation. In practice, the landowner requests a valuer to value the compensation payable. We cross-check that with the Valuation and Lands Agency and senior counsel and haggle until an agreed figure is reached. We can come back to you with details of particular types.

**Mr Small:** The Bill makes provisions to enable the Department to state clearly the compensation allowed. For example, we will be able to make it clear that the development value associated with a site will not be included in any compensation payment. That is really where the difficulty arises.

**Mr Ford:** That meets the Woodland Trust's point.

**The Chairperson:** You will come back on that. That is fine. Let us move on to clause 24.

**Mr Small:** The explanatory and financial memorandum says that clause 24 means that development plans will have prime importance when planning applications are being decided. Several comments were made, and the general concern was that such provision should be introduced in the absence of up-to-date development plan coverage. We are considering when the new measure will take effect, and we are conscious of linking that to our current development plan programme, which is aiming for full, up-to-date coverage as quickly as possible.

**The Chairperson:** There is genuine concern because many areas do not have up-to-date development plans.

**Mr Small:** Clause 25 deals with a range of provisions relating to the Planning Appeals Commission (PAC). The key point raised by the PAC during consultation was that the chief commissioner should be allowed to allocate decision-making on individual appeals to individual commissioners to get greater flexibility in the operational handling of appeals. Our view is that in the Planning Service decisions are made by a minimum of three senior planners. The Department and the Minister are opposed to allowing individual commissioners to determine appeals partly to maintain confidence in the process and partly to protect individual commissioners. We still wish to resist that proposal.

Clause 26 sets out the circumstances in which grants will be payable. There were no specific comments on that.

With regard to clause 27, Coleraine Borough Council suggested that the provision in the Bill should contain examples of bodies and that it should be extended to



include grants to Planning Aid and others. Our view is that it is a discretionary power and that each case will be determined on its merits. We would be reluctant to limit our discretion to offer grants by listing specifically the bodies to which we want the new grant-making power to apply.

Clause 28 deals with the circumstances and papers that must be placed on the planning register.

Clause 29 is a provision to put right something that was missed in legislative change in 1992. It is a minor technical amendment, and no specific comments were made.

Clause 30 sets out the minor consequential amendments and repeals that will be necessary because of the main provisions. No comments were made on this.

No comments were made about clause 31.

No specific comments were made about clause 32.

In relation to schedule 1, paragraph 5, representatives of the PAC suggested that article 32(6) should be amended. They suggested that the reference in article 32(6) of the Planning (Northern Ireland) Order 1991 to applying earlier articles 23 and 24 should be removed. We accept that. Article 32(6) should not refer to the application of articles 23 and 24 because they are not relevant. We propose to make that amendment, which we will share with the Committee.

**The Chairperson:** In response to Coleraine Borough Council, you said that you were not minded to include any list. Can you give examples of the bodies?

**Mr Maye:** They would include Planning Aid, Community Technical Aid and several other bodies. Our main point is that we want to retain the discretion so that when new bodies come along, just as Planning Aid has come along in the past 18 months, we can consider them seriously.

**Mr Small:** We pay a grant to building preservation trusts on an extra-statutory basis because of what the current legislation says. This provision will allow us to give it statutory cover.

**Mrs Nelis:** I support Coleraine Council's view that statutory cover should also be given to Planning Aid.

**Mr Maye:** This will allow us to give that cover.

**Mr Ford:** I am surprised that the wording of clause 27 includes Planning Aid and Community Technical

Aid. It does not appear that they will be entirely covered, and slightly different wording might make it absolutely explicit that they were suitable. I am not suggesting the wording, but no doubt it will take the lawyers several weeks to think it up. The issue is about providing full cover for groups like Community Technical Aid that do not seem to have their principal objectives listed, groups which are there to assist those commenting on such matters.

**Mr Maye:** We will double-check that.

**Mr Small:** We will check that. However, it may be covered in some of our existing provisions.

**Mr Ford:** Clause 25 refers to the PAC delegation. Is the Committee to take it that there was strong representation from the chief commissioner that this should be allowed but that at the moment the Minister does not agree? We had a suggested clause on a previous matter that the chief commissioner said was not needed, and the Minister followed his advice then.

**Mr Maye:** Our Minister, and OFMDFM Ministers, are involved in that, and they also oppose the changes suggested by the PAC. They see value in continuing corporate decision-making in the PAC to ensure consistence and quality.

**Mr Small:** The earlier provision relating to dismissal of appeals was a permissive power that we had contemplated giving to the PAC. However, it said that it did not need it.

**Mr Ford:** I accept that the situation is not entirely analogous.

**Mr Small:** In this situation it is suggesting a complete departure from the way things operate at present.

**The Chairperson:** You will be coming back to us again on certain matters. Members will read through the suggestions and concerns in the last part of the Bill, and that will be dealt with next week. We have moved on substantially today.

The Clerk has reminded me about the Minister's request. It will be dealt with as fast as the Minister's Department gets answers. Thank you.

**Mr Maye:** Thank you.



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**NORTHERN IRELAND  
ASSEMBLY**

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**COMMITTEE FOR THE ENVIRONMENT**

Thursday 19 September 2002

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**POLLUTION PREVENTION AND  
CONTROL BILL  
(NIA 19/01)**

**Members present:**

Rev Dr William McCrea (Chairperson)  
Ms Lewsley (Deputy Chairperson)  
Mr Coyle  
Mr Ford  
Mrs Nelis  
Mr Watson

**Witnesses:**

Mr D Bell                    ) Department of  
Mr N Simmons            ) the Environment  
Mrs E Harkness          )

**The Chairperson:** I welcome Mr David Bell, Mr Norman Simmons and Mrs Ethne Harkness from the Department of the Environment.

Mr Simmons, we are told that some of our progress has been halted. We have not received the proposed amendments or the necessary approval from the Minister that would allow us to carry out the clause-by-clause reading. We promised to be as helpful as possible, and we are trying to do that. We do not want any undue delay.

**Mr Simmons:** I shall begin by clarifying the current position. You will recall that in the letters sent by the Department to the Committee on 28 August and 18 September we indicated that the Minister had approved the tabling of six amendments at Consideration Stage. Those are the six amendments that were discussed and agreed with the Committee on previous occasions. The reason that we cannot provide a ministerial letter to the Committee at this stage is that such a letter would also have to include the two further amendments, which have been discussed over the last few weeks.

Following last week's meeting, we worked on the Committee's suggestions and discussed them with legal advisers. On foot of that, we have put a package of proposals to the Minister. Until he gives us his decisions on it, we are not in a position to discuss the details of those amendments any further. However, we can again clarify for the Committee the thinking behind our rationale on those amendments. We hope to have that decision

shortly so that a full letter from the Minister can be sent to the Committee before next week's meeting.

**The Chairperson:** We want to make progress, and we want to assure the Department, the Minister and the Assembly that we do not wish to hinder the clause-by-clause reading of the Bill.

**Mr Simmons:** We are anxious for the Minister's letter to be comprehensive and to deal with all the issues. We hope that it will be available in advance of the Committee's meeting next week.

**The Chairperson:** What do you intend to deal with this morning then?

**Mr Simmons:** We do not have much to deal with, but we are happy again to provide the Committee with clarification on our thinking behind the two amendments, if that would be helpful.

**The Chairperson:** What do you mean by "our thinking behind the two amendments"?

**Mr Simmons:** It is our thinking behind our conclusions on the two amendments — much the same as we discussed last week with the Committee.

**The Chairperson:** Is there anything else to add to what was said last week?

**Mr Simmons:** No, there is nothing.

**Mr Ford:** I assume that the officials are not stating that they are now prepared to tell us that they have recommended to the Minister that he should accept everything said by the Committee.

Quite properly, officials are there to advise the Minister and not to advise the Committee. I take the point that there does not seem to be much more progress that the Committee can make, despite all the Committee's efforts to comply with the timetable that we agreed. The ball does seem to rest in the Department's court and not ours at the moment.

**Mr Simmons:** Yes, I accept that. The letter from the Minister will be comprehensive, and it will deal with all the amendments, not just the six already agreed.

**Mrs Nelis:** This seems to be a considerable waste of your time, and certainly a considerable waste of Committee time. We hoped to conclude the clause-by-clause reading today, as we had considerable discussion on these two amendments last week. We hoped that the Minister would take forward your recommendations and provide us with a letter allowing us to proceed with the clause-by-clause reading. There is a timescale to this, apart from the time wastage. I find it disappointing that the Minister has not done this.

**Mr Simmons:** It is to be hoped that the Minister will respond quickly on these matters, and we can then provide the Committee with a full letter on all the amendments.

To have simply provided a letter on the six amendments would probably not have progressed matters much further either. The letter from the Minister will be comprehensive, and it will deal with all eight amendments.

**Mr Ford:** The position is quite clear. The Committee has stuck to its undertaking; we have given this Bill the maximum possible priority. It appears to me that the Minister is not giving the same priority to the Bill, which he regarded as so important and urgent, as this Committee has given. I shall refrain from making any comments about what I think are the Minister's priorities.

**The Chairperson:** We have genuinely tried to be helpful in this matter from the very beginning. The urgency was expressed to us, as was the timetable. You

are saying that inside the next week we will have a definitive letter from the Minister on all the issues, including the two additional amendments. Is that right?

**Mr Simmons:** Yes.

**The Chairperson:** That will then enable us to do a clause-by-clause reading and move matters along quickly. Just to prove our good faith in this matter, we are issuing to Committee members the report that has been drawn up on the issue. Rather than waiting, we are trying to move that ahead and to process the matter quickly. The Committee has made its views clear this morning, and we are sorry that there is nothing further that we can do. Thank you.



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## NORTHERN IRELAND ASSEMBLY

*This report was not approved formally by the Committee prior to the suspension of the Assembly on 14 October 2002, but is published by order of the Speaker.*

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### COMMITTEE FOR SOCIAL DEVELOPMENT

Tuesday 24 September 2002

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### HOUSING BILL (NIA 24/01)

#### Members present:

Mr Cobain (Chairperson)  
Sir John Gorman  
Mr B Hutchinson  
Mr O'Neill  
Mr M Robinson

#### Witnesses:

Mr S Carson ) Department  
Mr J Burns ) for  
Mr G Davidson ) Social Development

**The Chairperson:** Welcome Mr Davidson, Mr Carson and Mr Burns from the Department for Social Development. The Committee is continuing its clause-by-clause scrutiny of the Housing Bill.

*Clause 80 agreed to.*

*Clause 81 referred for further consideration.*

*Clauses 82 to 88 agree to.*

#### **Clause 89 (Conditions of participation: general)**

**Mr Carson:** The Department may introduce an amendment to the clause subject to approval by the Minister.

*Clause referred for further consideration.*

*Clause 90 referred for further consideration.*

*Clauses 91 to 97 agreed to.*

#### **Clause 98 (Assistance in respect of mobile homes)**

**The Chairperson:** Does the clause cover caravans?

**Mr Davidson:** It covers mobile homes, which is a contradiction in terms because it covers mobile homes that are static.

**The Chairperson:** Does the clause cover caravan sites?

**Mr Davidson:** It covers mobile homes on such sites. It includes the type of mobile home that would be on

blocks. Such a mobile home would probably have been there for some time and would clearly be the place in which people are living: it would be their principal home.

**The Chairperson:** Therefore, the home would be on a caravan site.

**Mr Davidson:** Yes. However, the mobile home may not always be on a caravan site: it could be sited anywhere.

**The Chairperson:** However, caravan sites are covered. Is that correct?

**Mr Davidson:** Yes, but only if people living in caravans on those sites are using them as their principal homes.

**The Chairperson:** Would the clause cover people who live in caravans on caravan sites for six months at a time?

**Mr Davidson:** No.

**Mr O'Neill:** When the Department receives a comment of concern from the Equality Commission or similar Government body, are you obliged to pay attention to the advice given?

**Mr Davidson:** The advice that we have received via consultation is that the clause may contravene the Race Relations Order. Are you talking in general terms?

**Mr O'Neill:** I do not want to get into particular arguments. Would you normally take such advice on board?

**Mr Carson:** It is not necessary for us to take on board all the comments made by the bodies concerned. In fact, many of the comments are made on the basis of a misunderstanding. When we come to discussing the clauses in detail, we will explain the position.

**The Chairperson:** Are Bills human-rights proofed before they come before the Committee?

**Mr Carson:** Yes.

**The Chairperson:** Can I assume that when this Bill is finally passed, it will be human-rights proofed?

**Mr Carson:** Yes. When Bills are introduced, the Speaker's Office sends a copy to the appropriate bodies.

*Clause referred for further consideration.*

*Clauses 99 to 114 agreed to.*

*Clauses 115 to 116 referred for further consideration.*

*Clause 117 agreed to.*

*Clauses 118 to 123 referred for further consideration.*

*Clause 124 agreed to.*

**Clause 125 (Disposal of houses let by the Executive to secure tenants)**

**The Chairperson:** Does this provision depend on how many houses are involved? Would it involve a large housing estate?

**Mr Davidson:** Yes. It could also be a street in a housing estate. It would be for the landlord to decide the area to be tested.

**The Chairperson:** Could it also be the Housing Executive or housing associations?

**Mr Davidson:** Yes. Generally, housing associations do not have the size of properties that would make this feasible.

**The Chairperson:** Is this clause being included so that the Housing Executive may have the power to do so?

**Mr Davidson:** Yes.

*Clause referred for further consideration.*

*Clause 126 agreed to.*

*Clauses 127 to 132 referred for further consideration.*

**Mr M Robinson:** I need to be excused for a few minutes, which will leave the Committee inquorate.

*The Committee suspended from 2.18 pm to 2.23 pm.*

*Clauses 133 to 135 referred for further consideration.*

**Clause 136 (Realisation of value of Department's loans portfolio)**

**Sir John Gorman:** We should defer this clause because it provides a privilege that is not available to the Housing Executive.

**Mr O'Neill:** On principle, where people have consulted with us and have proposed alternatives, we should give them the opportunity to discuss the matter with us.

*Clause referred for further consideration.*

*Clauses 137 to 144 referred for further consideration.*

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**NORTHERN IRELAND  
ASSEMBLY**

*This report was not approved formally by the  
Committee prior to the suspension of the Assembly on  
14 October 2002, but is published by order of the Speaker.*

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**COMMITTEE FOR FINANCE  
AND PERSONNEL**

Tuesday 24 September 2002

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**MARRIAGE BILL  
(NIA 18/01)**

**Members present:**

Mr Molloy (Chairperson)  
Mr Beggs (Deputy Chairperson)  
Mr B Bell  
Mr Close  
Mr Hussey  
Mr R Hutchinson  
Ms Lewsley  
Mr Morrow  
Mr Weir

**Witnesses:**

Mr M Foster            )  
Mr G King             ) Office of Law Reform  
Mr G Johnston         )

**The Chairperson:** You are very welcome here today.

**Mr Foster:** The Office of Law Reform received a letter from the Committee yesterday, and we have provided our draft reply. If it is appropriate, I am happy to take questions on the points that you have raised.

**The Chairperson:** We will listen to your presentation first and then ask questions arising out of that.

**Mr Foster:** In order to strengthen the law on marriage, the Committee requested that the interpretation section blends in a reference to the current definition of marriage from the Matrimonial Causes (Northern Ireland) Order 1978.

Section 13 of that Order states that a marriage will be void if the parties are not respectively male and female. The commonly held definition, which has been referred to several times previously by the Committee, is that marriage is a voluntary union between one man and one woman to the exclusion of all others. That has its basis in common law, and it is also strengthened by the 1978 Order. We have not had the opportunity to think it through to its final conclusion. However, our initial view is that a

reference in the interpretation clause, which refers only to the Matrimonial Causes (Northern Ireland) Order 1978, would not take things much further with regard to what the Committee is trying to achieve — to get a commonly held definition of marriage into the Bill.

As I have stated before, the process has been based on the fact that the scope of the Bill is focused on the formalities and preliminaries for marriage. However, it does not deal with the concept of marriage. I asked the draftsman of the Bill for his views on that. He suggested that, given the scope of the Bill as it stands, an interpretation of marriage would have to be a reference to the marriage ceremony as opposed to the concept and longer-term effects of that relationship.

If the Committee is seeking for the law to have a clearer definition of marriage — that already exists — and it is implicitly catered for in the current draft of the Bill. There are several references in the Bill to the declaration that each party accepts each other as husband and wife for example. That is stated in the Bill several times. The primary consideration is that you are dealing with a definition of the concept of marriage, even interpretively, without having gone through the process of consultation. I have particular concerns about the equality side under section 75 of the Northern Ireland Act 1998, and we are still wary of adopting that stance. However, I am happy to answer questions on those points.

**Mr Morrow:** Clause 1(1) of the Marriage Bill states:

“Each of the parties to a marriage intended to be solemnised in Northern Ireland shall give the registrar a notice of intention to marry.”

It then states that a marriage notice is a notice of intention to marry. At the beginning of the Bill, marriage is expressed, but the definition of marriage is not, and that is a contradiction.

You said that you were concerned about section 75. In that respect I am also concerned. If section 75 protects a section of people, is there legislation to protect people who think that marriage should be clearly defined? If we do not kick off the Bill with a definition of marriage, then it is downhill from here on in. It will get complicated and disorientated. Will marriage be defined at the beginning of the Bill? It will become difficult if it is not.

**Mr Weir:** I was not going to raise the definition of marriage directly, at this stage, because we will not have a meeting of minds. However, it is clear that an amendment will be drafted with regard to that issue.

Two items were not dealt with directly because they were not included in the paper. Is now an appropriate time to deal with them?

**The Chairperson:** Do you want to deal with Mr Morrow's point first?

**Mr Foster:** I understand Mr Morrow's point. I refer him to the long title of the Bill, which outlines its provisions to

deal with the formalities for marriage and the solemnisation and registration of marriages. The Office of Law Reform has been open with consultees and told them that the Bill does not deal with the concept of marriage. At this stage, the debate does not relate to man and woman but to current law. The Bill changes the formalities that must be undertaken before marriage can take place. It is straightforward, and marriage law is strict and narrow. The Bill deals only with the procedure that must be adhered to before a couple walk up the aisle. Its remit ends as soon as the couple exchange vows. However, in dealing with the concept of marriage, the more long-term effects must be considered. Various aspects of marriage law have knock-on effects if the marriage dissolves and there are children involved. It has always been the Office of Law Reform's view that the Bill should deal with formalities and preliminaries; it should not deal with the concept of marriage, and we consulted on that basis.

**Ms Lewsley:** Marriage is defined in existing legislation, and the Bill is an appendix to the main legislation. Like Mr Foster, I am concerned. Some people have told me that when they submitted their response to the consultation paper, they did so without knowing the agreed definition of marriage, which opens debate on a separate issue. I, therefore, have reservations, and, although the Committee is to table an amendment, I do not agree with it.

**Mr Weir:** I have read the responses to the consultation document, which satisfy most of my queries. Two areas, however, have not been dealt with adequately. First, the Religious Society of Friends is concerned about the use of the term "registering officer", whereas all other denominations and religious bodies are content to tolerate the phrase "officiant".

**Mr Foster:** People did not leap out to tell us to use the term "officiant". Several of the bigger Churches suggested it as an adequate term. Several groups did not like the term "celebrant", which is used in Scotland. Several groups queried the term "officiant", but we referred them to clause 39(2) of the Bill, which basically states that Regulations will outline what "officiant" can mean.

It has always been the Office of Law Reform's intention to include "registering officer" and, perhaps, several other terms. The advantage of having the term in the Regulations, as opposed to having it on the face of the Bill is, if, five years down the line, a group registers as a religious body and is not overly content with the use of the term "officiants", it can add its preferred term to the list in the Regulations without the need to amend the primary legislation. The Office of Law Reform believes that it would be advantageous to include the term "officiant and/or registering officer" in the interpretation section or anywhere else in the Bill where the term "officiant" is used. Perhaps advantageous is not the right word but, just because the Religious Society of Friends was the only body to object to the term "officiant" does not mean that all other groups were satisfied with its inclusion in the Regulations.

**Mr Weir:** It is not a question of that. As far as I am aware, they were the only group that objected to the term "officiant". All of the others were prepared, either by silence or support, to tolerate that term. The Society of Friends has a problem with it because no-one officiates at their marriages. They are clearly unhappy with the terminology. I intend to put down an amendment that the wording is changed to "officiant or registering officer" and that same definition be given to each in clause 39(2).

**Mr Foster:** The Society of Friends is one of over 100 religious groups. I accept that some groups are happy with the term "officiant" and that others can tolerate it. The Society of Friends does not like it; however, the Friends do not have to call themselves "officiants".

**Mr Weir:** That is not the point.

**The Chairperson:** Is it acceptable that different bodies, such as the Friends, use whatever term they wish?

**Mr Foster:** Absolutely. Our response to the Committee Clerk's letter mentioned that there will be consultation on the Regulations in clause 39(2). The Regulations will set out references to the use of the word "officiant" in the legislation. For example, "registering officer" could be one of several definitions in that section. It provides the scope for others to be added without the need to amend primary legislation.

**Mr Weir:** Several groups, particularly the Presbyterians, raised the point that, in exceptional circumstances or emergency situations, any registered person of that religious body can substitute for the named officiant.

**Mr Foster:** We are content with that policy, and Regulations will be an adequate vehicle for that provision. Mr King might wish to address that point from the operational angle. If, for whatever reason, there was a very late change of officiant it would be preferable if some effort was made by the religious organisation to contact the Registrar General before the ceremony; but it is appreciated that that might not be possible. A system will, however, be in place to enable that to be done in 99.99% of cases.

**Mr King:** The issue is the detail of how it operates. Our concern is that it is rigid if it appears in the Bill and may not necessarily meet all requirements on the ground. We speculate as to what type of emergency may crop up. The best vehicle to deal with the matter is a Regulation that would allow us to make an amendment at a later date, should there be a gap.

We deal with an officiant-based organisation; therefore we are keen that every effort should be made to contact the Registrar General, and arrangements are in place for him or her to be contacted outside hours. Only in exceptional circumstances will we be happy for an emergency facility to be put in place, and we would like to be reasonably assured that every effort has been made to contact the



registrar and to ensure that the right person will be carrying out the marriage. We hope to cater for that by Regulation.

**Mr Beggs:** If, for some reason, the registrar cannot be contacted for a change of officiant to be approved, do you accept that that the individuals concerned and their families will want to know whether they are definitely married? How can that be clear?

I am not clear about the matter, and I would not want anybody to be unsure about whether they were really married. How can you be certain that the provisions in the Bill would allow for a last minute change of officiant in exceptional circumstances?

**Mr King:** If a person is unable to contact a registrar at the last minute, it then becomes the responsibility of the named officiant to ensure that the replacement officiant is an approved person.

**Mr R Hutchinson:** I understand your argument and some of the other points that have been raised. However, this is an important, practical matter. I have been there, done that, worn the sweatshirt. It is a difficult time. If someone takes ill suddenly, panic sets in. For the sake of a few words, the Department is making this very awkward. The issue was raised not only by the Presbyterians, but by the Church of Ireland, the Methodists and many others. It was top of the agenda for many people, which shows how important it is. The Department is making this awkward; it must allow some leeway. Provision must be made for emergency situations. People's nerves are bad enough on a wedding people, without somebody dropping dead or having a heart attack. I have been there too often.

**Mr King:** If I have not explained myself, I apologise. We want that provision to be included in the Regulations, which would set out the necessary criteria.

**Mr R Hutchinson:** There are so many variables. How could the criteria be agreed? If somebody dies or has an angina attack, or a heart attack, would it be deemed OK to continue with the ceremony? What criteria would be set?

**Mr King:** The criteria would list the actions that must be taken to try to contact a registrar. If those attempts have failed, then an approved officiant may step in and perform the marriage. A facility would be in place.

**Mr R Hutchinson:** You said that the onus would be on the original named minister. What if he is the poor chap that has just dropped dead?

**Mr King:** That is the difficulty. How could we get round that without an approved officiant stepping in?

**Mr R Hutchinson:** It is quite easy to get round it. An approved minister who is on the list should be able to perform the ceremony. Keep it simple — that is the easiest way.

**The Committee Clerk:** There seems to be some confusion. Mr King, you appear to suggest that even if a

person has not made contact with the registrar, as long as he or she has attempted to do so, an approved officiant may step in.

**Mr R Hutchinson:** With all due respect, it is not up to the Clerk to argue against anybody.

**The Committee Clerk:** I am not; I am trying to clarify the matter.

**Mr Beggs:** I understand the argument, but those who have concerns about the matter would be reassured if a copy of the draft Regulations could be made available. Can we see them at this stage?

**Mr King:** I am sorry, but they are not available at the moment. They have not been prepared.

**Mr Beggs:** Your comments are on the record, and we appreciate them.

**Mr Foster:** I want to be clear about this: does the Committee propose that a clause should be inserted in the Bill that would allow a deputy named officiant to conduct the marriage if the named officiant takes ill?

**Mr Weir:** An amendment to clause 5 should perhaps be drafted. I would suggest that if in exceptional circumstances the named officiant of a registered body is unable to solemnise the ceremony, then any other person registered under section 9 may solemnise the ceremony.

**Mr Foster:** I think that we could give that consideration. Would the named deputy officiant have to be from the same religious body?

**Mr R Hutchinson:** He would have to be from the same denomination.

**Mr Foster:** What happens when a small religious organisation has only one named officiant on the list?

**Mr Weir:** That Church would have to decide who to nominate. It would be the same if the one named person falls ill and the Church has to find a substitute. That situation will arise whether or not it is provided for in the legislation.

**Mr Foster:** That can be given consideration. We would still want Regulations that would give detail to the procedures.

**Mr Weir:** That may be in opposition to clause 5(5). The amendment that I have suggested is that "Regulations may make further provision for any case".

**Mr Johnston:** I take the points about flexibility. However, we do not want to prescribe so much in the primary legislation only to find in six months' time that it is not working as we had intended.

**Mr Weir:** I appreciate that, but I do not think that it alters the clause that much.

**Mr Foster:** We can give it reasonable consideration.

**The Committee Clerk:** Can Mr Weir give me his exact wording?

**Mr Weir:** If, in exceptional circumstances, the named officiant is unable to solemnise the ceremony, then any other person registered under section 9 may solemnise the ceremony.

**The Committee Clerk:** You added another one —

**Mr Weir:** Clause 5(5) would become 5(6), or rather it would be inserted into 5(5). The new 5(6) would insert the word “further”.

**Mr Close:** I accept the concept of “in which for any reason” in clause 5(5). However, what would happen if the officiant discovered an impediment to the marriage that made him unable to solemnise it? He may be unable due to sickness or accident.

**Mr Weir:** The reference is “if in exceptional circumstances”. An impediment would override that.

**Mr Foster:** It takes care of itself. We would back that up with guidance that would list reasons such as sickness or delay.

**The Committee Clerk:** There are other points in the letter relating to officiants. Mr Weir has indicated that there is some substance to your response, Mr Foster.

**Mr Foster:** A couple of Churches raised the issue that officiants may only hear of an intended marriage at the last minute.

That will not happen because of the wording of the Regulations and the fact that the prescribed notice forms will have a section where the officiant must declare that he or she has agreed to solemnise the marriage between the parties on the stated day and at the stated venue. The marriage will not take place without that declaration; therefore the concerns rightly raised by some of the religious organisations will be catered for in the notice, as prescribed in the Regulations. Therefore we consider that it is not necessary to make an amendment to primary legislation to take account of that issue.

**The Chairperson:** If everyone is content with that explanation, we will move on.

**Mr Foster:** The Committee raised the issue of the inclusion in the records of the denomination of the parties. The present procedure is that the General Register Office (GRO) registers the name of the groom and bride, but the denomination is not recorded.

Mr King will explain, from the operational point of view, how GRO intends to do that.

**Mr King:** The marriage notice will include details of the officiant, the church, and the denomination. That information will be recorded electronically and means that the record of marriages for a particular denomination will be available if called upon.

**Mr R Hutchinson:** The difficulty is that the bride and groom like the book they fill in.

**Mr Foster:** There is absolutely nothing to stop — *[Interruption]*

**Mr R Hutchinson:** I would like to keep the Church at the top of it and the minister signs it. The bride and groom receive a copy, and a copy is left for their personal records.

**Mr Foster:** There is no problem with that at all.

**The Chairperson:** We will move on if everyone is happy with that.

**Mr Foster:** The Committee’s next point was on consultation and the Regulations. Our proposal is to consult directly with those parties who gave evidence to the Committee. When they are ready, we will publish the draft Regulations on the GRO website, and will issue a circular to notify bodies of the availability of the Regulations, and those bodies will be invited to forward their comments to the GRO.

The Committee’s final point of concern relates to education and training. If the Bill becomes law, a reasonable amount of time will elapse before the Act goes on to the statute book. During that time officials intend to provide help and guidance to officiants on the understanding of the legislation and its implications for them. It is GRO’s intention to have a telephone helpline, handouts, press announcements, and a guide to the conduct of the marriage ceremony under the new law. Seminars will be offered to officiants who wish to further understand the system.

The key is that much of the administration procedure is being taken away from officiants and placed centrally. It is hoped that once officiants are aware of the new system and its operation, they will be able to get into the swing of things. The Scottish experience of similar legislation has been going for 25 years without any reported difficulties, and we should base our legislation on that. The Scottish clergy took to the situation like a proverbial duck to water.

**The Committee Clerk:** As we go into a clause-by-clause consideration of the Bill, it would be helpful if officials would stay at the table to answer any points as they arise.

Another issue that should be placed on the record is included on page 2 of the brief. Does the Committee agree with the Assembly’s legal advisor that the concern on legislative competence raised by the Northern Ireland Human Rights Committee, with reference to transsexuals and the Goodwin case, was not substantiated?

Further, does the Committee agree that the Bill does not deal with the nature of marriage and that it would be outside the scope of the Bill to include a provision on same sex marriage, as recommended by the Northern Ireland Human Rights Commission?

**The Committee Clerk:** The scope of the Bill allows it to ratify the definition of marriage as well, so you may not be able to have it both ways.

**Clause 1 (Notice of intention to marry)**

**The Committee Clerk:** No substantial concerns have been raised about the clause, and the Committee may wish to put it to a vote.

**Mr Weir:** Some of us have suggested marriage be defined on the face of the Bill. That would be the best place to do so given that “marriage notice” and “registrar” are defined in the Bill. I know that there is a definition clause at the end of the Bill, but we feel that it should be on the face of the Bill. We would suggest that clause 1(2) be amended to include the following: “Marriage means the voluntary union for life of one man and one woman to the exclusion of all others.”

That is exactly how marriage was defined in the case of *Hyde v Hyde*.

**Mr Foster:** If you include the words “the voluntary union for life”, you are effectively making divorce illegal.

**Mr Weir:** Are the words “marriage means” not also those from *Hyde v Hyde*?

**Mr Foster:** In the case of *Hyde v Hyde*, the commonly held definition of marriage was quoted from one of the judges in the case. It was not what was, in legal terms, the ratio decidendi: it was said in obiter dictum, which is another legal phrase that means that the ratio decidendi of the case can be relied on in court for those type of purposes; but the obiter dictum of the case is there to add the weight to it. If you want to put an amendment down on that it might be better to say “intended for life”.

**Mr Weir:** We can agree on that if we change it to: “the voluntary union intended for life of one man and one woman to the exclusion of all others.”

**Mr Morrow:** Why do we need the word “intended”? Can we not remove that completely?

**The Committee Clerk:** Does that imply lesser competence under the European Convention on Human Rights?

**Mr Foster:** I do not think that we would advise the Minister to support that.

**Mr Weir:** I appreciate that the word “intended” slightly weakens the intention, but it gets over cutting out divorce and states that the key principle is intention for life.

**The Chairperson:** OK.

**The Committee Clerk:** The Committee clearly intends to debate that at Consideration Stage. If the advice that we have received from the Bill Office and the Department is correct, then it would be outside the scope for debate

and may not get selected. The alternative version in the letter of 23 September was a means around that at least to allow it to be considered to be within the scope to allow the Committee to raise it in debate at Consideration Stage. Therefore there is a risk —

**Mr Weir:** I would be keen to press ahead with an amendment on clause 1, irrespective of whether it is allowed. In addition to tabling the amendment, it is possible that the Committee could recommend that marriage should be defined as “the voluntary union intended for life of one man and one woman”, and that that is part of the Committee’s report. It should be on record that the majority of the Committee members wanted the amendment, and that we go for both routes, even though the legislative amendments could be knocked out.

**The Chairperson:** Will we do that instead?

**Mr Weir:** No. I am putting an amendment down, and I am also suggesting that the Committee make a recommendation in its report about the members’ definition of marriage.

**The Chairperson:** Is the Committee agreed?

**Ms Lewsley:** No, I do not agree.

**Mr Weir:** I beg to move

That the Committee recommend to the Assembly that the clause be amended as follows: in clause 1(2) add

“Marriage means the voluntary union, intended for life, of one man and one woman to the exclusion of all others.”

*The Committee divided: Ayes 5; Noes 2.*

*Question,* That the Committee recommend to the Assembly that the clause be amended, *put and agreed to.*

**Mr Close:** Do any of the repeals consequent on this Bill contain a definition of marriage? There is a list in the schedule.

**Mr Foster:** I am not aware of any. That is based on the fact that the legal definitions are in the Matrimonial Causes (Northern Ireland) Order 1978, and that has not been repealed.

**The Committee Clerk:** Is there a potential or a required consequential on that amendment to be tabled in respect of the Matrimonial Causes (Northern Ireland) Order 1978?

**Mr Foster:** I do not think so as it would stand alone. Article 13.1 of that Order states that a marriage would be void if the parties are not respectively male and female. That does not sit at odds with the definition that the Committee is proposing.

*Question,* That the Committee is content with the clause, subject to the Committee’s proposed amendment, *put and agreed to.*

*Clauses 2 and 3 agreed to.*



**Clause 4 (Objections)**

**Mr Weir:** This is the first time “officiant” is used.

This issue has been raised before. However, I suggest that each reference to officiant in the Bill should be substituted with the words “officiant or registering officer” to take account of the problem raised by the Religious Society of Friends. Every other religious body is happy with the word “officiant”, but it does not take into account the way in which the Religious Society of Friends conducts wedding ceremonies. I think that clause 4 contains the first reference to officiant, but it is also referred to in other clauses. If the general concept were accepted, consequential amendments would be necessary. I am not sure whether we need to deal with those consequential amendments individually.

**The Chairperson:** Presumably, that amendment would apply to the rest of the Bill.

**Mr Weir:** If the amendment were accepted, would the Committee have formally to amend each individual reference to “officiant”?

**The Committee Clerk:** If an amendment were agreed to that would lead to consequential amendments to other parts of the Bill, and those amendments would also have to be tabled. If it were felt that changing all references to “officiant” to “officiant or registering officer” would do no harm, would the Department be happy to accept the amendments? That seems to be the question that the Committee is asking the Department.

**Mr Foster:** The matter will be adequately catered for in Regulations. The Bill would look extremely untidy if every reference to “officiant” were suffixed by the words “or registering officer”. If the Committee is not content to extend the definition of the word “officiant” to include “registering officer” in Regulations, it may wish to consider extending the definition of “officiant” in the clause as it stands.

**The Chairperson:** What about using the words “registering officiant”?

**Mr Weir:** The Religious Society of Friends made it clear when giving evidence that it objects to the use of the word “officiant” full stop. To use the words “registering officiant” would be to reach a compromise that would not suit anybody. It will not address the concerns of the Religious Society of Friends, while other religious groups may have problems with the use of the words “registering officiant” instead of simply “officiant”.

**Mr Johnston:** During consideration of the Bill, Mr Roger Hutchinson, among others, mentioned the position of some of the smaller denominations. Because of their nature, smaller denominations may not have been as aware of the proposals in the Bill as larger denominations were. The Religious Society of Friends is not necessarily the only denomination that deals with marriage on a congregational basis. I recognise the point that Mr Weir makes,

and would like the concerns of the Religious Society of Friends to be accommodated in Regulations. However, it would be unfair to accommodate those concerns in primary legislation because similar concerns raised by other bodies would have to be dealt with in Regulations.

**Mr Weir:** It is possible that other religious bodies are not keen on that term — we do not know. We can only go by the evidence that we have. No religious body, other than the Religious Society of Friends, has said that it has a problem with that wording. As regards equality, to use a term which seems to be acceptable to most religious bodies but which goes against the grain of one is to discriminate against that body and to fail to take account of its beliefs. I propose that an amendment to clause 4(3)(c)(i) and clause 4(3)(c) (ii) be made to add the words “or registering officer” to the word “officiant”.

**Mr Foster:** We were aware of the concerns of the Religious Society of Friends during the drafting of the Bill. That organisation made its concerns very clear to us perhaps three, four or five times. Just because it has shouted loud enough does not mean that it should automatically get special dispensation in primary legislation.

In many ways there is some compromise in the Bill. We accept the society’s point that the phrase “registering officer” is special to it. We are happy to cater for that by inserting Regulations that say that an officiant can mean A, B, C or D. In that way, other groups that did not have such strong feelings and did not shout as loudly as the Society of Friends can then say that because the Society of Friends accepted “registering officer”, they will accept “authorised person”, “celebrant” or something else. That way those other groups are catered for more neatly without the need to change the primary legislation constantly. If groups see that the Society of Friends has succeeded in getting its particular phraseology inserted in the Bill by way of amendment, they will say that they should have done likewise.

**Mr Morrow:** Are you satisfied that the Society of Friends, which raised equality, is adequately catered for in that respect?

**Mr Foster:** Yes.

**Mr Beggs:** Could the terminology be dealt with in clause 39, which deals with interpretation?

**Mr Foster:** For the sake of neatness, if the Committee wished to follow Mr Weir’s thinking on that, yes, it could. However, it still creates a special case for the Society of Friends, but we will be able to deal with that. In a year or two’s time, will it really matter to the Society of Friends whether the phrase “registering officer” is on the face of the Bill for its benefit, or whether it is in Regulations? That is how those people will be known.

**Mr Weir:** I appreciate that, but that matters to the Society. It may be worth suggesting an amendment and determining how much support it gets.



**Mr Close:** Have all other possible words been thought about and discarded?

**Mr Foster:** “Officiant” was one word that the Law Reform Advisory Committee proposed. The first word that it proposed was “celebrant”, following the model in Scotland. Several organisations were unhappy with that phrase, but my recollection is that a couple of the main Churches suggested using a neutral phrase such as “officiant”. However, I am not sure; I would need to check the consultation files from a couple of years ago. That neutral phrase could cater for everybody, and would not demand the use of the words “clergyman”, “priest”, “pastor”, “registering officer”, or whatever phrase that you can ever think of to describe somebody who is solemnising a marriage.

**Mr R Hutchinson:** Those people do not solemnise it.

**Mr Foster:** I accept that, but the Society of Friends is not the only organisation that believes that.

**Mr R Hutchinson:** Absolutely, and I argued that.

Are you clearly stating that they will be allowed to use the term “registering officer”?

**Mr Foster:** Absolutely.

**Mr Johnston:** That is just one example of the freedoms that religious denominations have.

**The Chairperson:** The term “officiant”, which covers everything and which is not a very solemn word, could be open to interpretation. It is probably a more open and equal term. Some people may use “clergy”, some may use “celebrant”, some may use —

**Mr Weir:** I am not suggesting that “officiant” be replaced; I am simply saying that it be considered as an alternative to take into account the religious persuasion of the Society of Friends.

**The Chairperson:** If you accepted that, you could say that Catholic priests would want to see “priest” in the Bill, or somebody else would want to see “clergyman”, or whatever else.

**Mr Close:** I should not like to think that we are effectively being told that the Society of Friends will accept only their words, because therein lies a problem, and you do not get over that by tagging it on beside “officiant”.

**Mr Weir:** It is not a question of the Society accepting only its words; it is the fact that “officiant” does not describe what happens in a Society of Friends’ ceremony.

It is outside the remit, because no one officiates at that ceremony. The couple marry themselves.

**Mr Close:** Yes. However, it is in the Regulations.

**Mr Weir:** There is a slight lack of neatness. Perhaps the law already covers the issue that concerns the Society of Friends. However, the amendment is worthwhile, if it

is necessary to make them feel that they are not discriminated against. It is a small concession.

**The Chairperson:** What do you propose?

**Mr Weir:** I beg to move

That the Committee recommend to the Assembly that the clause be amended as follows: in 4(3)(c)(i) and 4(3)(c)(ii), following the word “officiant”, add the words “or registering officer”.

*Question put.*

*The Committee divided: Ayes 3; Noes 3.*

*AYES*

*Francie Molloy, Roy Beggs, Séamus Close*

*NOES*

*Peter Weir, Roger Hutchinson, Maurice Morrow*

*Question accordingly negated.*

*Question, That the Committee is content with the clause, put and agreed to.*

### **Clause 5 (Marriage Schedule)**

**The Committee Clerk:** In previous discussions an amendment was proposed to clause 5. A new subsection (5) was proposed that in exceptional circumstances if a named officiant is unable to solemnise the ceremony, any other person registered under section 9 may solemnise the ceremony. Consequential to that, a new subsection (6) would state that Regulations make further provisions on which substitution would be appropriate. Is that the Committee’s view?

**Mr Weir:** It is close. The wording is:

“If in exceptional circumstances the named officiant is unable to solemnise the ceremony then any other person registered under section 9 may solemnise the ceremony”.

**The Committee Clerk:** What about the wording of the other subsection?

**Mr Weir:** It is the addition of the word “further”.

**The Chairperson:** The phrase “any other” seems to be extremely open. Can we make the wording more precise?

**The Committee Clerk:** The words “any other authorised person” might be more appropriate.

**Mr Weir:** Yes. Although, the person would have to be authorised to be included in section 9. I am not worried about whether the word “authorised” is included, but it must specify section 9.

**The Chairperson:** Do you want to comment, Mr Foster?

**Mr Foster:** No.

**The Chairperson:** I beg to move

That the Committee recommend to the Assembly that the clause be amended as follows: in 5(5) add the words

“If in exceptional circumstances the named officiant is unable to solemnise the ceremony then any other person registered under section 9 may solemnise the ceremony.”

*Question put and agreed to.*

**The Chairperson:** What about the second amendment?

**Mr Weir:** No. That was only about the addition of the word “further”.

**The Chairperson:** So we vote on clause 5 as amended?

**Mr Close:** What if the Office of Law Reform says that it accepts the concept but not the wording? Has the Committee committed itself to the wording?

**The Chairperson:** There would be consultation with the Department.

**Mr Weir:** If the concept is accepted, the wording could be tweaked. There will be opportunities to vote on it even in the House. It will not be a problem.

*Question, That the Committee is content with the clause, subject to the Committee’s proposed amendment, put and agreed to.*

*Clauses 6 and 7 agreed to.*

**Clause 8 (Application by religious bodies for registration of member to solemnise marriages)**

**The Committee Clerk:** There were concerns about the perceived administrative burden that registration would create, particularly from the larger, more established Churches. Some Churches expressed a preference for the Scottish three-tier system of registering the religious body, rather than individual officiants. Officials explained that that procedure had operated in Scotland for 25 years, and that it was also intended for England and Wales. The use of electronic registration and amendment procedures would provide a significantly reduced administration problem.

The Committee will wish to consider the merit of the evidence from officials and Churches, and whether it is content to accept the need for individual registration of officiants on equality grounds. The Committee is convinced that the registration procedure will not be onerous. I feel that the Committee is in favour of retaining the provisions as drafted.

**Mr R Hutchinson:** We took on board the objections that were raised, which were mostly from the Church of Ireland with regard to an issue that the Church named, rather than the individuals. We came to the conclusion that it is a fair way to proceed.

**Mr Close:** What would be the effect of allowing the Church or religious body to marry without the use of registration?

**Mr Foster:** It is simpler, but it is arbitrary. For example, the Church of Scotland is the established Church in Scotland, and it sits by itself on the first of the three tiers. We do not have an established church in Northern Ireland, so that point does not apply to us. The second tier is a group of approximately 11 or 12 Churches and religious bodies, which are determined through their ministers or registry office. Those bodies can conduct marriages without having to send in a list to the Registrar, because they are named in the Regulations as being a member of the Presbyterian Church or the Roman Catholic Church.

In 1977, the Government decided that 11 bodies were enough and they drew a line. At that stage, the eleventh body had approximately 300 members, and the twelfth body had 200 members.

**Mr Morrow:** They were below the line.

**Mr Foster:** The body with 200 members had to do the same as the other smaller religious organisations; it had to send in a list of all its officiants every three years.

**Mr R Hutchinson:** In a sense, the twelfth body was in division one and not the premier league.

**Mr Foster:** Exactly. However, in 2002 they have the odd scenario where the group with 200 people now has 10,000 people and the group with 300 people now has 10. Yet it still has to send in a list of its officiants. Officials in Scotland have said that if they have to do it again, they would probably adopt the system that we are using.

**The Chairperson:** How do you have that control over who is a registered officiant?

**Mr Foster:** In Scotland, they decided that bigger Churches policed themselves. However, under section 75 of the Northern Ireland Act 1998, our advice is that there is no way to go through a list and suddenly have a cut-off point. We cannot treat a slightly smaller group differently.

*Question, That the Committee is content with the clause, put and agreed to.*

*Clauses 9 to 15 agreed to.*

**Clause 16 (Places at which civil marriages may be solemnised)**

**The Committee Clerk:** The clause provides another major reform by allowing for approved places for civil marriages. Some of the correspondence and evidence indicated a preference for the legislation to specify that it is a matter for religious bodies, particularly the established Church, to determine an approved place. It was made clear by officials that Churches and religious bodies have absolute discretion on where they are prepared to conduct a marriage ceremony.

If the Committee is content with that explanation, then it can accept clause 16 as drafted.

**Mr Close:** May I have clarification about the Regulations that will govern local authorities? How wide or how narrow will those Regulations be?

**Mr Foster:** We have not got into their exact detail, but we envisage following the system that has begun to operate in Scotland. You will have the opportunity to examine those Regulations in due course and offer any changes that you wish to make. We hope to give local councils the discretion to license various venues in their areas. There would be two types of licensing: the first would be on a periodic basis. There are some venues that would be frequently used for weddings. Equally, there might be individual applications from people asking if they can license their back garden for the use of a marquee. The council would deal with those on a case-by-case basis.

**The Chairperson:** Some of the Churches raised the issue of the authority to say where a ceremony could take place.

**Mr Foster:** Any religious body registered under this legislation can conduct a marriage anywhere it wants.

**The Chairperson:** Or can refuse to.

**Mr Johnston:** They can restrict the range of places that are acceptable.

**Mr R Hutchinson:** They can set their own frameworks.

**Mr Foster:** Absolutely. In practice, there will not be any change to where religious marriages take place in the vast majority of cases. However, it will give some of the religious organisations the opportunity to have more discretion as to where they marry a couple.

**Mr Close:** My concern would be that a local authority in Northern Ireland would allow all kinds of strange places to be used.

**Mr Foster:** Parameters will be set. The Registrar General will give guidance to local councils.

*Question, That the Committee is content with the clause, put and agreed to.*

*Clauses 17 to 19 agreed to.*

**The Committee Clerk:** Clauses 20 to 22 deal with various consents. One of the correspondents suggested that in clause 20 the phrase “informed consent” should be used. The advice of the officials was that the word “consent” was sufficient, and that the use of the word “informed” was unnecessary in legislation.

*Clauses 20 to 22 agreed to.*

**The Committee Clerk:** The Society of Friends explained that they considered a couple to be married on foot of their own declaration rather than on the pronouncement of an officiant or registering officer. The Committee may wish to consider whether that matter is covered by clause 23, which says that

“The parties to a marriage solemnised in accordance with this Act shall be taken to be married to each other when both of them have made a declaration in the presence of each other, the person solemnising the marriage and two witnesses that they accept each other as husband and wife.”

*Clauses 23 to 27 agreed to.*

**The Committee Clerk:** No concern was expressed about clauses 28 and 29.

*Clauses 28 and 29 agreed to.*

#### **Clause 30 (Registrars' offices)**

**The Committee Clerk:** Clause 30 concerns registrars' offices. Is the Committee content to suggest that it wants larger groups for the denomination of a couple? That issue was dealt with earlier, with regard to the pro forma and the electronic copy, which would include the denomination. Records could be provided on request.

*Question, That the Committee is content with the clause, put and agreed to.*

**The Committee Clerk:** No concerns were raised about clauses 31 to 36, which deal with the requisite documents to be sent to the Registrar General, such as report searches and proof of managed fees and offences.

*Clauses 31 to 36 agreed to.*

#### **Clause 37 (Regulations)**

**The Committee Clerk:** No concerns were raised about the drafting of clause 37, although several groups made the point that adequate consultation was required on the proposed Regulations. The Committee has sought and received assurance from officials that consultation will take place with the groups that sent evidence to the Committee.

**Mr Weir:** There would be no legislative change, but it would be useful for the Committee to make recommendations. I appreciate that there will be consultation — there is no doubt about that. However, it is important that the Committee recommend clear consultation on the Regulations with the relevant bodies. With regard to the evidence given, it struck me that a great deal was misunderstood, and that some parts needed to be clarified by various bodies. The consultation did not seem to communicate some of the messages effectively. That is not a criticism of anybody — it is just the way that it happened. We need to make a recommendation that clear consultation takes place, rather than make any change to the wording. I know that the Department will recommend that anyway.

**The Committee Clerk:** The Committee has clearly made that recommendation, and I plan to put it in the draft report.

**Mr Weir:** I appreciate that a recommendation was made in relation to the Quakers' situation. A specific recommendation should be made that the Regulations are drafted to cover a broad definition of the term

“officiant”, in consultation with religious groups. This would ensure that acceptable terminology is used to accommodate religious bodies.

**The Chairperson:** The definition should be flexible to take the various religious groups into account.

**Mr Weir:** I have a third point of a general nature. Shall I leave that until we have dealt with the other clauses?

**The Chairperson:** Yes, we will deal with the other clauses, and then come back to your point.

*Question, That the Committee is content with the clause, put and agreed to.*

*Clause 38 agreed to.*

### **Clause 39 (Interpretation)**

**The Chairperson:** The Committee dealt with clause 39 when it discussed the proposed definition of marriage. The suggestion in the brief was that the definition of marriage from the Matrimonial Causes (Northern Ireland) Order 1978 would be included. However, the Committee agreed to table an amendment to clause 1, so that is no longer an issue.

**Mr Beggs:** This is a neater way to deal with the definition of officiants and registering officers. I would prefer this to be on the face of the Bill so that the Quakers would not be referred to only in the Regulations.

**Mr Weir:** An amendment could be made to the definition of “officiant” so that it meant such officiant or registering officer as defined in clause 7(1)(a). That would make the point that it is on the face of the Bill.

**Mr Beggs:** It will be easier for minority groups to accept that their views have been taken into account.

**Mr Weir:** The word “officiant” will mean such officiant or registering officer as —

**Mr Morrow:** How can the word “officiant” be explained by the word “officiant”? It is the same word.

**The Committee Clerk:** The point that was made by Mr Foster was that they might consider changing “officiant” to a definition of officiant and registering officer.

**Mr Foster:** I have difficulty understanding that by dealing with that in the Regulations, we are somehow not catering for the Society of Friends.

**Mr Weir:** Going back to Mr Beggs’s point, there would be a degree of comfort if, somewhere on the face of the Bill, reference was made to “registering officer” or “officiant” meaning such officiant or registering officer as mentioned in clause 7(1)(a). It is not ideal, but it would go a long way to covering their point.

**The Chairperson:** Are we agreed on that amendment?

**Mr R Hutchinson:** Are you saying “officiant” or “registering officer”?

**Mr Weir:** “Officiant” means such officiant or registering officer as mentioned.

**Mr Foster:** “Registering officer” is not mentioned anywhere.

**Mr Beggs:** I think he means “officiant” means officiant or registering officer.

**Mr Weir:** “Registering officer” is not in inverted commas.

**Mr Foster:** I will stick to my guns; the Regulations will be adequate.

**The Chairperson:** Maybe we could say that “officiant” means a person mentioned in clause 7(1)(a) and registering officer.

**Mr Weir:** Yes, but then there is a question of whether the registering officer refers to clause 7(1)(a).

**Mr Beggs:** The registering officer will be referred to in the Regulations. Is there a problem putting in a definition of Regulation in the primary legislation? Registering officer could also mean a person mentioned in section 7(1)(a).

**Mr Foster:** That would obviate the need for a Regulation to cover that.

**The Committee Clerk:** You would be defining something that is not in the Bill.

**Mr R Hutchinson:** Ministers would be likely to refer to it as “registering officers”.

**Mr Weir:** The amendment would cover it to some extent.

**The Committee Clerk:** There is a difficulty with the amendment, with regard to competence. “Registering officer” is not defined anywhere in the Bill — you would be introducing the term.

**Mr Weir:** Strictly speaking, there is no definition of the word “person” anywhere in the Bill. There are several things in the Bill that are not defined at any stage.

**Mr Foster:** It can be adequately dealt with in the Regulations. There is a reference to registration and registering in the Bill. I am worried that if we add “registering officer”, some people might misinterpret it.

**Mr Weir:** Anything can be deliberately misinterpreted if someone intends to. However, at least it gives them a degree of provision.

**The Chairperson:** My only concern is that it may be interpreted as the Registrar General.

**Mr Foster:** That is not our main concern; however, it is a side concern.

*Question, That the Committee is content with the clause, subject to the Committee’s proposed amendment, put and agreed to.*



*Clauses 40 and 41 agreed to.*

**Mr Weir:** I would like to make a recommendation that does not involve legislative changes. Several groups, including CARE, mentioned marriage support services. It would be appropriate for the Committee to make a recommendation that the Department should look at giving greater support to marriage support services.

**The Chairperson:** We agree on that.

**The Committee Clerk:** The question before the Committee is that the Committee's report should include a recommendation, but not an amendment, that the Department needs to look at provision for supporting marriage.

*Members indicated assent.*

That concludes the clause-by-clause consideration of the Bill. There is a short title and a schedule. Some issues were raised about the title of the Bill, but nothing that would require an amendment.

*Schedule agreed to.*

*Long title agreed to*

**The Committee Clerk:** I will endeavour to have a draft report that includes all those amendments for the Committee by next Tuesday.



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## NORTHERN IRELAND ASSEMBLY

*This report was not approved formally by the Committee prior to the suspension of the Assembly on 14 October 2002, but is published by order of the Speaker.*

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### COMMITTEE OF THE CENTRE

Wednesday 25 September 2002

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### COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE BILL (NIA 20/01)

#### Members present:

Mr Poots (Chairperson)  
Mr Gibson (Deputy Chairperson)  
Mr Beggs  
Mrs E Bell  
Dr Birnie  
Ms Lewsley  
Dr McDonnell  
Mr McMenamin  
Mr McNamee  
Mr K Robinson

#### Witnesses:

Mrs H Stevens ) Office of the First Minister  
Mr C Stewart ) and the Deputy First Minister

**The Deputy Chairperson:** This afternoon the Committee starts its clause-by-clause consideration of the Commissioner for Children and Young People Bill. I should like to welcome Mr Chris Stewart, head of community relations and rights in the Victims Unit, and Mrs Heather Stevens, head of the Children and Young People Unit, both of the Office of the First Minister and the Deputy First Minister (OFMDFM).

The Committee invited written submissions on the provisions of the Bill, and members have considered those. Over the past three weeks the Committee has listened to oral evidence on various aspects of the Bill from a range of organisations. Although the general provisions of the Bill have been overwhelmingly welcomed, several concerns have been raised about specific provisions, and amendments have been proposed to the Committee to improve the legislation. We discussed those concerns with OFMDFM officials at last week's meeting, and they agreed to look at some of them.

A major area of concern relates to the commissioner's ability to deal with complaints from children in the juvenile justice system. We have invited the NIO to give evidence

to the Committee on that aspect of the Bill, and Committee staff are still pursuing that with NIO officials.

As we proceed through the clause-by-clause consideration, members will have the opportunity to raise concerns about the provisions or suggest amendments. They should read the relevant clause of the Bill with the related commentary that is in the explanatory and financial memorandum.

The Committee will have two options with regard to each clause: members can agree that the Committee is content with the clause as drafted or agree that the Committee recommends to the Assembly that the clause be amended.

If members feel that an amendment is required we can ask OFMDFM to reconsider the issue and return to it later. I shall ask Mr Stewart and Mrs Stevens to outline the provisions of each clause as we come to them, and members can seek clarification or propose amendments.

If the Committee cannot reach agreement on a particular clause or amendment, I suggest that those clauses or amendments be deferred for consideration.

*Long title agreed to.*

**Mr Stewart:** With your permission, Mr Chairman, we will alternate our discussion of the clauses.

We welcome the opportunity to work with the Committee in its detailed consideration of the Bill, and we hope that we will be able to agree on a series of amendments with the Committee. That being the case, OFMDFM will be happy to take those amendments forward through the Office of the Legislative Counsel. There may, of course, be other areas about which Ministers are unable to agree with the Committee, but, where possible, we would like to try to achieve consensus.

#### ***Clause 1 (The Commissioner for Children and Young People for Northern Ireland)***

**Mr Stewart:** Clause 1 will establish the office of commissioner for children and young people in Northern Ireland. It activates, and must be read in conjunction with, the provisions in schedule 1 that deal with, for instance, the powers of the commissioner, financial matters, staffing matters and lines of accountability. Those provisions are relatively straightforward and standard in their application. However, I understand that the Committee has a number of concerns about the appointment process.

**The Deputy Chairperson:** The Committee had said that the recruitment process should be open, independent and transparent. Are you happy that those requirements are fully embodied in the Commissioner for Children Young People Bill?

**Mr Stewart:** I agree with the Committee's intentions regarding the recruitment process, and I know that some non-governmental organisations (NGOs) suggested that

a form of words including “open” and “transparent” be included in the clause. The Office of the First Minister and the Deputy First Minister has a number of difficulties with that amendment. Ministers are determined and committed that the appointment process will be entirely open, transparent and robust, but the insertion of those words into legislation would be unusual and highly novel. Legislative Counsel would have great difficulty putting in terms that are so ill-defined.

If it would be helpful, however, Ministers are prepared to write to the Committee setting out details of the intended appointment process. That will include the Office of the First Minister and the Deputy First Minister’s commitment to apply the standards relating to public appointments, the use of an independent external member in the appointment process and the role of children and young people in that process. The preferred approach would be for Ministers to write and seek the Committee’s views on its process, rather than to try to capture it in detail in the legislation because they may wish to consider making an appointment in shadow form before the legislation has completed its passage through the Assembly. There may be difficulties with that, and a balance must be struck between getting an appointment made early and not anticipating the will of the Assembly and the Committee in shaping the Bill. However, if the Bill were to specify in detail the appointment process, that possibility would be removed, and that would concern the Ministers.

**Mr Beggs:** The Committee should delay a decision on clause 1 until it receives that information from the Office of the First Minister and the Deputy First Minister.

**The Deputy Chairperson:** In other words, we park clause 1 to make sure that everyone is content with the letter from the Office of the First Minister and the Deputy First Minister with regard to the explanation and the methodology of appointment.

**Mrs E Bell:** I am heartened by Mr Stewart’s comments, because if the Committee does not get this right the rest of the legislation may not be so well received, or even implemented.

*Clause 1 referred for further consideration.*

**The Deputy Chairperson:** Before proceeding, I would like some guidance on definitions. Clause 24 contains the phrase “child or young person”, clause 25 contains the term “relevant authority” and clause 26 refers to “general” terms. The same words are not always used. Is “child or young person” the term that will be repeated throughout the Bill? The term “relevant authority” needs to be more specific. I should like to hear your comments on that.

**Mr Stewart:** It is clear from the evidence that the Committee has received that it will seek several changes to the definitions, and we will be willing to consider those. From our own consideration of the Bill we feel that

at least one or two definitions must be altered to ensure that we fully capture the policy intention behind the Bill.

If other issues arise during the discussion that make it clear that there are inexplicable variations in the language that is used, we will be more than happy to smooth those out. There is no hidden policy intention behind that. In some cases, differences reflect the advice of the Office of the Legislative Counsel, the role of which is to structure provisions properly. The differences might be accidental in other areas, and we would be happy to rectify that to avoid confusion and misunderstanding.

**The Deputy Chairperson:** Will the term “child or young person” be defined? It is defined in another piece of legislation.

**Mrs Stevens:** That definition is in clause 24.

**The Deputy Chairperson:** Is it set out in that clause?

**Mrs Stevens:** Yes.

**Mr Stewart:** There is a definition, and I am sure that members will want to raise specific points about that as we go through the clauses.

**Ms Lewsley:** I should like young people with disabilities aged up to 21 to be included.

**Mr Stewart:** The definition as it stands is, by and large, that of the UN Convention on the Rights of the Child, which defines a child or young person as someone up to the age of 18. There is an addition to that, which is already in the Bill, to include children leaving care up to the age of 21.

At this stage, Ministers will be likely to resist the member’s suggestion for that further addition. We recognise that young people in their early 20s with disabilities have unique and special needs, as do those in their early 20s who have left the care system. The difference is that young people from the care system have specific needs arising from the nature of their childhood. They especially need additional assistance and coverage as they move from childhood to maturity.

By contrast, young people with disabilities have special needs that arise, by and large, from their disability, which will, unfortunately, be with them for life. They too need special assistance and greater recognition. However, that requires a different set of skills and competences that we have not planned to include in the commissioner for children and young people’s remit. That sits more naturally with the Northern Ireland Human Rights Commission and with health and social services organisations. Including that suggestion, thereby asking the commissioner for children and young people to accept that responsibility, would run the risk of overloading what is already a complex and heavily loaded set of powers and functions.



Ministers will want to consider closely the Committee's views, but they would not be disposed to accepting that amendment.

**Ms Lewsley:** Key issues have been raised, particularly in the Assembly, about the difficulties involved with placing those leaving education at the age of 19 either into day care or into employment and learning. Therefore the problem lies not with the disability but with the provisions that are offered. The situation is exactly the same for any young person who comes out of care. There is an argument for both sides.

**Mr Stewart:** I accept the validity of your point. Nevertheless, while some of the core issues are the same for both groups of young people, the skills and competences that are required and the understanding of the issues are different for each group. The commissioner for children and young people would need further skills and competences to deal with that problem. Therefore there is a danger of overloading the role.

**The Deputy Chairperson:** Are you content with that?

**Ms Lewsley:** It does not stop me putting down an amendment.

**The Deputy Chairperson:** It does not arise until clause 24, and we have a great deal of work to do before that.

The term "relative authority" is referred to in clause 25. I am highlighting these terms so that as we go through the Bill and those terms come up, we will know what we are talking about.

**Mrs Stewart:** The term "relative authority" is one of the key definitions because it unlocks the powers of the commissioner with regard to how his or her investigation and complaints handling functions will work in practice.

There are three main limbs to the definition of "relative authority". We began by conceiving "relative authority" within the definition of section 75 of the Northern Ireland Act 1998. However, during our negotiations with the Office of the Legislative Counsel we were advised that a better way to move forward would be to break that down and to spell out the different limbs. There are all the bodies listed in schedule 2 to the Commissioner for Complaints legislation, and that deals with bodies such as district councils and the various non-departmental public bodies (NDPBs) that people can complain about to the Commissioner for Complaints. It also refers to the bodies listed in schedule 2 of the Ombudsman (Northern Ireland) Order 1996, and that encapsulates all of the Northern Ireland Departments.

Then there are the bodies and people specifically listed in schedule 3 to this legislation. That includes bodies or individuals who would come within the definition of section 75 of the Northern Ireland Act 1998 by virtue of designation orders that have been made by the Secretary

of State. They are broken down into two sections. Part I of schedule 3 lists the organisations in the health and social services and education fields that are the responsibility of the devolved Administration. Part II deals with bodies in justice and policing and other areas that remain the responsibility of the Northern Ireland Office. Depending on which provision of the Bill is referred to — for example, in relation to formal investigations — some of the powers are available in relation to all the relevant authorities listed, and some are available in a more limited capacity in relation to those bodies that are listed in part II of schedule 3 to this Bill.

That is not the only opportunity to catch bodies or authorities that we want to bring within the commissioner's purview. Clause 25 provides that OFMDFM can, by subordinate legislation, amend the schedule to move bodies between parts, to remove bodies or to add bodies if necessary.

**The Deputy Chairperson:** The terms referred to in clause 26 such as "advocacy arrangements" and "complaint arrangements" are the normal list of terms legally used, and they contain nothing new or obscure.

**Mrs Stewart:** I would draw the Committee's attention to a few terms. For example, "action" includes failure to act. When the provisions of the Bill are read it should be borne in mind that failure to act is already included in the legislation. Also, we are minded to make amendments to the definition of "independent provider" as that may not go wide enough as it is under the Bill, and we would like to widen the definition of "parent" to include, in addition to guardians, anyone with parental responsibility for a child.

**The Deputy Chairperson:** Does it already include guardians?

**Mrs Stewart:** Yes, guardians are already included.

**Mr K Robinson:** On the topic of parental responsibilities, how definitive is that? Does it include the rights of grandparents when they are acting, for whatever reason, in the place of a parent either temporarily or more permanently?

**Mrs Stevens:** There is a definition of parental responsibility in the Children (Northern Ireland) Order 1995. We would propose to adopt that legal definition.

**Mrs E Bell:** That still pertains in this case?

**Mrs Stevens:** Yes.

**Mr Stewart:** I want to draw to the Committee's attention the definition of advocacy arrangements in clause 26 and the items that follow. The Department may want to reconsider the inclusion of inspection arrangements. Colleagues in the Department of Education and the Department of Health, Social Services and Public Safety drew to our attention some unintentional effects of the

clause in which the definition appears. We may have to consider that again. We have not reached a definitive view, but it would be unfair not to advise the Committee at this stage that we may want to recast that particular clause.

**Mrs E Bell:** What were you referring to, Mr Stewart?

**Mr Stewart:** It is inspection arrangements, which are included here. The definition is in clause 26. Inspection arrangements are presently included in clauses 5 and 6. It is a fundamental difficulty that we have come up with, and we may need to rethink whether that should continue to be included in clauses 5 and 6. As currently drafted, those clauses would give the commissioner unintended overlap with the Social Services Inspectorate and the Education and Training Inspectorate. We must reconsider that.

**Mrs E Bell:** We want clarity to ensure that whoever is using the legislation is clear what is happening. That would be useful.

**The Deputy Chairperson:** Mr Stewart, will you come back to us if there is a proposed change?

**Mr Stewart:** We will.

**The Deputy Chairperson:** We are content to leave those general terms. We have the right idea now. We will now continue the clause-by-clause scrutiny.

#### *Clause 2 (Principal aim of the Commissioner)*

**Mrs Stevens:** Clause 2 is also an important provision at the beginning of the Bill because it sets out the commissioner's aims from the outset. It sets out the main aim as:

"to safeguard and promote the rights and best interests of children and young persons."

The term "rights" has deliberately not been defined in the Bill because that will allow, for example, if rights are enshrined in a bill of rights, for that to be automatically brought within the definition without further amendment having to be made to the legislation. However, without definition, the term "rights" means all those rights that are recognised within the domestic law of Northern Ireland.

The clause then sets out several guiding principles for the commissioner to follow. For example, it makes clear that in deciding whether, or how, to act in respect of a particular child, the best interests of that child are to be the commissioner's main consideration. It also provides that the commissioner must have regard to the child's views and give them weight depending on the child's age and understanding. It requires the commissioner to have regard to the role of parents in the exercise of his function. It also provides that the commissioner must specifically take into account the rights that are enshrined in the UN Convention on the Rights of the Child.

**The Deputy Chairperson:** We originally raised several issues, including the word "principal" in subsection 1 and the use of "rights" rather than "rights and best interests".

**Mrs Stevens:** The word "principal" in this context is recognition of the fact that the commissioner will have other aims. For example, he will aim to comply with other international standards, to raise awareness of himself and to comply with the various other statutory duties that a public office holder will have. It is simply a recognition that there may be other aims, but that this is the commissioner's principal or main aim.

**Mr K Robinson:** Before we consider subsection 2, is it possible now to investigate the substitution or addition of the words "responsibilities" and "welfare" of the child, which seem to encompass more than simply "rights" and "best interests"?

**Mrs Stevens:** The term "best interests" would be considered to be inclusive of such terms as welfare, because it is a broad phrase. The concept of children having responsibility would have to be considered.

**Mr K Robinson:** Is it not the case that after a certain age, children have responsibilities in law?

**Mrs Stevens:** That is the case.

**Mr K Robinson:** Has that been taken into account?

**The Deputy Chairperson:** Our suggestion was that we should incorporate the phrase "rights and best interests".

**Mr Stewart:** As the clause is currently drafted, it would be technically difficult to include the word "responsibilities". The Bill states that the commissioner's function is

"to safeguard and promote the rights and best interests of children and young persons."

It would be hard to envisage the commissioner having a function to safeguard and promote responsibilities of children and young persons. That would be a difficult concept.

**Mr K Robinson:** We are considering the child to be a live, whole person who is not just the recipient of protection issues, but who also has responsibility in the implementation of protection issues. That aspect does not seem to be covered.

**Mr Stewart:** I appreciate the thrust of your suggestion. However, is clause 2 the right one to accommodate it? Throughout clause 2 there is recognition that the commissioner must take account of a number of things — for example, the UN Convention on the Rights of the Child and the importance of the role of parents. It might be easier technically to include the commissioner's recognition of the child's responsibilities in another part of the clause.

**Mr Beggs:** I support Mr Robinson's suggestion. In order to achieve a better society, we have to teach both adults and children that with rights go responsibilities. I am content to move on, but reserve the right to come back to this subject, if a suitable point for inserting it elsewhere is not found.

**The Deputy Chairperson:** We will come back to that issue.

**Ms Lewsley:** I assumed that today's hearing was for the Committee to raise some of its concerns to the Department and for the Department then to consider what it can do. Mr Beggs and others raised the question of inserting a clause into the Bill on the issue of responsibilities. If the Department cannot comply with that request, we have to decide what our course of action is. The first step is to see what the Department's view is on the matter.

**Mrs E Bell:** Will we find as we go through the clauses that there will be a more appropriate place for insertion of such a phrase?

**Mr Stewart:** That may be. However, one place for such an insertion that suggests itself to me is clause 2(3) rather than clause 2(2). I say that without prejudice, as it may be technically difficult to insert it there. The Minister may have views on the matter. We will be happy to take the matter back to the Department for consideration and come back to the Committee.

**The Deputy Chairperson:** That is fine. There are also issues in that clause that we raised with the NIO. It is dealing with the international human rights standards and the role of parents.

**The Committee Clerk:** We are dealing with those issues today.

**The Deputy Chairperson:** Clause 2(3) states that

"In determining whether and, if so, how to exercise his functions under this Act, the Commissioner shall have regard to — (a) the importance of the role of parents in the upbringing and development of their children; and (b) any relevant provisions of the United Nations Convention on the Rights of the Child."

We have raised issues about that clause with the NIO.

**Dr Birnie:** I favour amending clause 2(3)(a) so that "the importance of the role of parents" is changed to "the importance of the rights, responsibilities and role of parents".

**The Deputy Chairperson:** You suggest combining rights, responsibilities and role?

**Dr Birnie:** Yes.

**Mrs Stevens:** The Department will consider that amendment. Will the Committee clarify the member's point about "best interests"? Is the Committee satisfied that "best interests" encompasses welfare for the purpose of the provision?

**The Deputy Chairperson:** If I remember correctly, it was agreed that welfare is well embodied in "best interests".

**Dr Birnie:** I am not convinced about that. I see no harm in including "welfare" in addition to "best interests". I understand that "welfare" is used in legislation in the Republic of Ireland. Is that correct?

**Mrs Stevens:** It is used instead of "best interests".

**Dr Birnie:** Why? Is the reason significant to us?

**The Deputy Chairperson:** Is there a difference in the legal stance?

**Mrs Stevens:** The term "welfare" is the one most commonly used in statute law. That is the draftsman's view, because "welfare" is understood in statute law. Using "best interests" is a new departure.

**Mr Stewart:** The potential danger of including both terms is that, in the future, a court may have cause to wonder what the difference between them might be. Last week the UK delegation to the UN Committee on the Rights of the Child made it clear that Westminster considers the meanings of the two terms to be inseparable. The Department has not taken that view. It agreed with the Committee that the term "best interests" is broader and includes welfare.

**The Deputy Chairperson:** Are there any other questions about that definition?

**Dr Birnie:** That information raises more questions. If the term "welfare" is generally used, and is better understood by the draftsmen, I am not happy about using a new term.

**The Deputy Chairperson:** If statutory legislation uses "welfare", why did the Department make that change?

**Mrs Stevens:** It is true that most established legislation uses the term "welfare", but "best interests" is not unheard of in domestic law. It features, albeit in a minor way, in the Children (Northern Ireland) Order 1995. The Department adopted it for this legislation because it reflects the fact that the Bill is a rights-driven policy initiative. Ministers thought it appropriate to reflect, wherever possible, the language that is used in the most relevant international statute, the UN Convention on the Rights of the Child, which refers to "best interests" throughout. The exceptions to that, particularly clauses 10 and 11, give the commissioner a role in relation to the existing body of statute law. Therefore, those clauses refer to "welfare" rather than "best interests". In other instances the term "interest" is used rather than "best interests", for grammatical reasons and on technical advice from the Office of the Legislative Counsel.

**The Deputy Chairperson:** Is the member content?



**Dr Birnie:** No. I want to maintain my position on that issue.

**Mrs E Bell:** No matter how clause 2(3)(a) is worded, is the Committee content that the importance of the role of parents does not conflict with the development of the child's rights. Is it clear that the parents' role does not undermine the rights of the child in any way?

**Mrs Stevens:** The provision in clause 2(2)(a) ensures that the rights of children will not be undermined. The commissioner's main consideration will always be the child.

**Mrs E Bell:** I understand that, but I am worried about the role of parents. Clause 2(3)(a) states that the commissioner shall have regard to

"the importance of the role of parents in the upbringing and development of their children".

Are you happy that it is clear that the rights of the child must still be taken into account, even if they differ from the rights of parents?

**Mr Stewart:** Yes. I emphasise that we do not see the commissioner's role as changing the legal rights or responsibilities of parents. This provision was inserted to make it absolutely clear that, in discharging his or her functions, the commissioner cannot, and must not, ignore the role of parents in raising their children.

**Mr McMenamin:** The issue of welfare can be a minefield. Subsection (3)(a) deals with the importance of the role of parents in the upbringing and development of their children. How is the word "welfare" defined? Some families are living on the breadline. Other families are wealthy and can provide adequately for their children. Does the word "welfare" have the same meaning with regard to both families? Does that consideration have to be brought into the equation?

**Mr Stewart:** The terms "best interests" and "welfare" are intrinsically broad. My understanding of the term "welfare", which is defined by statute and by a body of case law built up over years, is that it encompasses more than the physical safety and health of a child. The definition would include factors such as the standard of living.

**The Deputy Chairperson:** The Committee will wait to hear from officials on several matters with regard to this clause, so we will return to it at a later date.

*Clause 2 referred for further consideration.*

### **Clause 3 (Duties of the Commissioner)**

**Mr Stewart:** Clause 2 set out what might best be described as the operating principles for the commissioner. Clause 3 sets out in detail some of the commissioner's functions, including the commissioner's five principal duties. These focus on promoting and understanding awareness of the rights and best interests of children; reviewing the adequacy and effectiveness of law and practice;

reviewing the adequacy and effectiveness of services; providing advice on a range of matters; and ensuring that children and young people are aware of the commissioner's functions, and can access and contact him or her. The commissioner must also communicate effectively with children.

This is an important clause. It is wide-ranging, and one of its most significant features is that, as these functions are considered to be very important, the responsibilities are expressed as duties of the commissioner, and not merely as powers. The commissioner will be required to carry out these functions — they are not optional extras.

**The Deputy Chairperson:** Will Members keep their questions brief, or we will never get through the Bill.

**Ms Lewsley:** I know that, to an extent, section 75 of the Northern Ireland Act 1998 provides for child-proofing, but is it possible to include that in clause 3 or clause 4?

**Mr Stewart:** It would be possible. Several non-governmental organisations suggested specific amendments, such as imposing a duty on Departments, and possibly other authorities, to refer legislation to the commissioner in draft form.

Our Ministers believe that it is important to child-proof legislation. However, they would prefer to see it done within the context of section 75 of the Northern Ireland Act 1998 rather than introducing another specific duty in the Bill, as has been suggested. Ministers will no doubt want to consider the views of the Committee on that point.

**Mr Beggs:** I do not exactly know what is meant by child-proofing. However, I note that clause 3(4) says that

"The Commissioner shall advise the Secretary of State, the Executive Committee of the Assembly and a relevant authority on matters concerning the rights or best interests of children and young persons —

as soon as reasonably practicable after receipt of a request for advice: and

on such other occasions as the Commissioner thinks appropriate."

Can the commissioner make comment to the Executive or the Secretary of State on any aspect of new legislation where appropriate? My mind goes back to comments made by the Welsh Commissioner. He did not seek that power, because he felt that he needed to be flexible in determining what percentage of his budget would be used on examining legislation and how much would be used on other matters. We will be allocating a limited budget of £2 million, which is significantly more than is allocated in Wales. I am concerned that it will be used to employ people to study a range of legislation that may not be significant. I am opposed to the suggestion.

*(The Chairperson in the Chair)*

**Mr Stewart:** We agree with Mr Beggs about the importance of flexibility. We had intended to embody



flexibility in that particular provision, both to allow the commissioner to offer advice, unbidden or not, and to allow the Executive to seek advice from the commissioner when appropriate. That is something, if the Assembly were so minded, that could be addressed in Standing Orders. The Assembly could decide on a particular procedure to allow it, or a Committee scrutinising legislation, to seek advice from the commissioner in specific circumstances.

**Mr Beggs:** Does the Bill allow the commissioner to comment on any proposed legislation?

**Mr Stewart:** Yes.

**Mrs E Bell:** There is nothing in clause 3(4) that says what happens to the commissioner's advice in the Assembly. Are you happy that regard would be taken of that advice? There is no intent to instruct the Assembly to act on that advice. It all sounds wonderful, but what will the Assembly do with that advice?

**Mr Stewart:** We are content with that as it stands. I understand the point that you are making. The intention is that the commissioner's office will be a high-profile body. If the commissioner were successful in establishing his credibility and reputation for offering sound advice, it would be a brave public authority that would dismiss those lightly. In relation to the Assembly, it would be an unusual provision in which the Assembly sought to bind itself to take unspecified action on recommendations. The Assembly might have concerns about that.

**Mrs E Bell:** I would not suggest that. However, if the commissioner feels that the Assembly must be informed, I would like to think that he would be confident of being listened to.

**The Chairperson:** Do members have any comments on the proposal to insert the word "adults" into clause 3(5)(a)?

**Mrs Stevens:** That particular provision contains specific duties that relate purely to the commissioner's interaction with children and young people. If we are to extend that duty to adults, it should be done in a different place in the legislation and retain the emphasis in clause 3 on the commissioner's interaction with children and young people.

**The Chairperson:** Previously, there was a concern that adults could not lodge complaints with the children's commissioner. However, that was clarified and cleared up. Nevertheless, we want adults to be as aware of the role of the commissioner as children and young people. In some instances adults who feel it is appropriate to act on behalf of a child or give advice to a child or young person should use the commissioner's office as required.

**Mr K Robinson:** Would it be possible to incorporate another subsection later in the legislation, so that there is parental input with regard to the exercise of the commissioner's functions? The child is the centre of the

issue; however, I am concerned that the parent or guardian is being pushed further to the periphery at a vital point in a child's life.

**Mr Stewart:** Those are two distinct points, and the first is easier to answer.

First, we would be prepared to consider the scope for including a provision in the Bill to ensure that the commissioner's activities are publicised to adults, especially parents, as well as children. That will not be problematic.

Secondly, we have sought to address the concerns raised by the member with the provisions in clause 2(3)(a) about the commissioner having due regard to

"the importance of the role of parents".

However, to go beyond that, and introduce a right for parents to be consulted, or perhaps give parents some sort of veto over the commissioner's exercise of a function would detract from the thrust of the policy proposal, which is to establish a powerful, independent advocate responding directly to concerns raised by children or adults on their behalf. That is something Ministers would have difficulty with.

**Mr K Robinson:** I would not like to go down that road. However, I do not want to see the role of parents marginalised, so that they are not able to make a prescriptive, positive input into the proceedings.

**Ms Lewsley:** I understand Mr Robinson's point. However, the Bill is about children, and if we decide that it is more about parents, then we need to start over. I remember from the evidence sessions, particularly from the Parents Advice Centre and the Children's Commissioner for Wales, it was said that conflict was rare with regard to parents and their input into investigations.

**The Chairperson:** A lot depends on who takes up the office. If it is someone who is controversial, then we may run into difficulties. How do you intend to get the views of children and young people?

**Mrs Stevens:** It is at the commissioner's discretion to put mechanisms in place to ensure that he fulfils the duties that we propose.

**The Chairperson:** Do you not see parents as key players? The commissioner should take on board their views. We do not want to shackle the commissioner or make the job difficult. Nonetheless, parents have an essential contribution to the welfare of their children. Some 95% of parents make a valuable contribution to the welfare of their children and ensure that their best interests are looked after. It would be wrong to leave the Bill in such a way that we cannot take any account of parents' views. Some cognisance should be taken of their opinions.

**Mr Beggs:** The thrust of the Bill is about the best interests and protection of the young person. However,

would it be a problem to insert a clause that allows us to take the views of parents concerning the exercise of the commissioner's functions?

**Mrs Stevens:** Do you envisage that there will be a power or a duty on the commissioner to do that?

**Mr Beggs:** Subsection (5) would, therefore, state that the commissioner should take reasonable steps to ensure that the views of parents are sought concerning the exercise by the commissioner of his functions.

**Mrs Stevens:** That is a duty.

**The Chairperson:** It could easily be changed by inserting the words, "children, young persons and parents" in subsection (5)(d).

**Mr Stewart:** That would be a crucial distinction. Does the member refer to the exercise of general functions or those regarding specific children?

**The Chairperson:** The member refers to general functions.

**Mr Stewart:** The matter of specific children would be much more problematic.

**Mr Beggs:** I refer to a means of getting feedback generally from parents on the commissioner's exercise of his functions, on whether adults are content that things are going well and that children are being protected, or on whether there is concern about the way that the commissioner is developing his role.

**Mrs E Bell:** My concern is that the parents may be part of their problem — for example, a child may go to the commissioner concerning a problem in the home. Parents should have general involvement. I have no problem with that. However, I am wary of making it the commissioner's duty to inform parents. There is a problem with that because it might militate against what the child needs.

**Mrs Stevens:** Perhaps a discretionary power would be better than a duty.

**Mrs E Bell:** A discretionary power would be better because the commissioner would therefore decide whether certain cases warranted contact or dealings with parents, and only then would he choose to inform them. Initially, however, parents could harm a situation. That is why I believe that although parents should be involved, that involvement should be general.

**Mr McMenamin:** There could also be a scenario where there are two children in one household.

**Mrs E Bell:** Yes, there is that too. If a child's problem comes from within the home, I would be concerned about there being a duty to let parents know.

**The Chairperson:** We are not referring to specific cases.

**Mr K Robinson:** If a parent is seen and heard by the commissioner, he can very quickly form a view of the positive or negative role that that parent plays.

**Mr Stewart:** Often, in individual cases, the parent might come forward on the child's behalf.

**The Chairperson:** Absolutely.

**Mr Stewart:** In any individual case that the commissioner deals with he must make a judgement quickly as to whether to involve the parents. Provided that we do not do down the road of a veto, as Mr Robinson has assured me he will not, then the general point that Mr Beggs made about a provision to ensure that parents, who are an important constituency in society and the people who have most involvement in protecting children's rights, have their views sought by the Commissioner is a perfectly reasonable aspiration. We will consider whether that can be incorporated.

**The Chairperson:** Would it be appropriate to incorporate that here as a duty of the commissioner, or would it be more appropriately placed somewhere else?

**Mrs Stevens:** It would be appropriate to insert that if it is a general matter. It would probably need a separate provision. I do not believe that it sits neatly with subsection (5)(d), because that refers to children and young people.

**Mr Beggs:** I would prefer a separate provision, so that there would be a clear distinction between the two areas and no confusion.

**The Chairperson:** Are there any further comments, because clause 3 must be considered further when the Department comes back with the form of words we discussed?

**Dr Birnie:** To repeat what was said with regard to clause 2, some members would like consideration to be given to adding "responsibilities, best interests and welfare" where "right and best interests", or, indeed, "rights and welfare" appear. I accept the point about the particular cases of children and parents, some of which is covered in clause 17, which refers to circumstances in which the commissioner felt it would not be appropriate to inform parents.

**Mr Stewart:** Clause 17 deals specifically with powers of entry.

**The Chairperson:** What is your viewpoint on the word "responsibilities"? I know that the NIO has specific problems with regard to the word "rights".

**Mr Stewart:** We need to seek detailed advice and come back to the Committee on that matter. It raises several issues, not least the technical drafting that would be needed to incorporate that in the Bill.

*Clause 3 referred for further consideration.*

**Clause 4 (General powers of the Commissioner)**

**Mrs Stevens:** While clause 3 deals with mandatory duties, clause 4 is more permissive and sets out the general powers that the commissioner may use. It lists six different areas in which the commissioner could take action — for example, the commissioner could undertake or commission research or educational activities concerning the rights or best interests of children and issue guidance on best practice in relation to matters concerning the rights and best interests of children and young persons. It would also allow the commissioner to conduct a general informal investigation in relation to any of the commissioner's functions. There would be no associated procedures or set formal powers in connection with such an investigation.

The provision would also give the commissioner the power to conduct investigations into the adequacy and effectiveness of law policy and practice in relation to the rights and welfare of children and the services provided by relevant authorities. The procedures for that type of investigation are specified in schedule 2 of the Bill, but there would be no associated formal powers of entry or compulsion of evidence. The provision would also give the commissioner the power to compile and publish information on matters involving children and to make representations or recommendations to anybody about the rights or best interests of children and young persons. For example, the commissioner could make representations to a private company or business or any organisation that is not defined as a relevant authority, but he would have no associated formal powers of entry or compulsion of evidence.

**The Chairperson:** The Committee made a couple of suggestions during earlier meetings, one being that subsection (1) should include a provision that relates to consultation and promotional activities.

**Mrs Stevens:** We have no difficulty with extending that subsection to include that. The provision in the Bill reflects the provision in the Northern Ireland Act 1998 that refers to the powers of the Northern Ireland Human Rights Commission.

**The Chairperson:** It was also suggested that the wording in subsection (2) is too broad and should be tightened up.

**Mrs Stevens:** I welcome any suggestions from Members on how that could be achieved. Subsection (2) would allow the commissioner to issue guidance, but only after consultation with other bodies that may be well placed to give advice — thus, the guidance would be the best available. The provision would not prevent another body issuing guidance, if it felt that that was appropriate.

**The Chairperson:** One of the submissions suggested that the onus should be on the bodies that issue guidance to consult the commissioner and that provision should be made for that in the Bill. Perhaps we could leave that with you, and you could get back to us on the matter.

**Mr Stewart:** That would be a fairly heavyweight provision. It would impose a specific duty on all public authorities, and I think that Ministers would resist that. Although they recognise the importance of child-proofing, they would prefer it to be dealt with through existing statutory provisions rather than introduce further statutory duties, such as the one that has been suggested.

**The Chairperson:** The words “responsibility”, “rights” and so on would probably have come up in previous issues, so when that has been dealt with fully, we can deal with the clause.

**Mrs E Bell:** The commissioner will issue guidelines on best practice. He will do that following consultation that will enable him to have the best expertise and knowledge available to issue best practice. The commissioner should have the benefit and use of civil society organisations, et cetera.

**Mr Stewart:** That is exactly the intention — to ensure that the commissioner does not unnecessarily duplicate or issue guidance which is not informed by best practice that may be developed elsewhere.

**Mrs E Bell:** The commissioner will also help to form partnerships.

**Mr Stewart:** Yes, very much so.

*Clause 4 referred for further consideration.*

#### ***Clause 5 (General review of advocacy, complaint, inspection and whistle-blowing arrangements of relevant authorities)***

**Mr Stewart:** The bad news is that we have reached the last of the easy clauses, and now we are moving into the more difficult ones. This is possibly the most technically difficult and complex clause in the Bill, but it is also one of the most important. It needs to be considered along with clause 6 and, to a lesser extent, clauses 7 and 8. Clauses 5 and 6 constitute the core of the ombudsman functions that are proposed for the commissioner. Clause 5 deals with general reviews of different types of arrangements, such as advocacy, complaint, inspection and whistle-blowing arrangements. However, clause 6 focuses on the application of those arrangements in individual cases.

The purpose of reviews or monitoring is to enable the commissioner to determine whether and to what extent arrangements have been effective in promoting and safeguarding the rights and best interests of children. However, OFMDFM felt that it was important that a reasonable grounds test be introduced to the provisions that must be satisfied before the commissioner can act. That means that the commissioner cannot engage in fishing expeditions without satisfying a reasonable grounds test and without the commissioner feeling that he needs to act.

The remainder of the clause and associated definitions deal with the application of those provisions. The term



“relevant authority” is defined in clause 25. Schedule 3 is significant because the clause is applicable in different ways depending on whether the body in question is within the transferred field or the reserved field. A different type of investigation could be used in those two cases. Mrs Stevens outlined the different types of investigations and described the previous clause briefly for those bodies that are within the transferred field. The full range of the commissioner’s powers in relation to formal investigations could be used, but, for those bodies that are still in the reserved or accepted field, the intermediate form of formal investigation with fewer formal powers could be used. That compromise came about as a result of negotiations with the Northern Ireland Office.

**The Chairperson:** One of the issues that was raised was the definition of relevant authority in clause 25(1). How do you define that?

**Mr Stewart:** This was touched on briefly in previous discussions on the definition in that clause, and we have agreed to examine that again. Our intention was that the definition of the term “relevant authority” should be as broad and all encompassing as possible, and, where gaps have been identified, some suggestions have been made.

**Ms Lewsley:** If the commissioner were carrying out an investigation, would the anonymity of the child be protected?

**Mr Stewart:** There are two points here which run into each other. Some non-governmental organisations have raised questions of terminology about whether references should be to “child” or to “a group of children” at various places throughout the Bill. Our interpretation of the advice from the Office of the Legislative Counsel is that the Bill is at present correctly worded to allow the commissioner to act for a child or for a number of children who may come to him.

The separate but related issue of what the commissioner can do for children who might wish to remain anonymous is difficult. The commissioner could certainly provide advice, guidance, help and assistance in an informal way to children who wish to remain anonymous. However, it would be extremely difficult to allow the commissioner to act using his formal powers in relation to anonymous children. We have not reached clauses 10 and 11, but if the commissioner were to attempt to initiate legal proceedings regarding something alleged to have happened to a child who was not to be identified, we could fall foul of court procedures. Indeed, the European Convention on Human Rights might be called into play in such a case.

We see that as a difficulty, and we are minded to resist suggestions from some non-governmental organisations that class actions be allowed in relation to anonymous groups of children. That would raise considerable legal difficulties.

**Mrs Stevens:** In relation to anonymous tip-offs, that could be enough to satisfy the “reasonable grounds” test under clause 5(3). That gives the commissioner a sense that something is happening in an organisation of which he would want to conduct a general review. The implication of that is that the commissioner has full powers of investigation in relation to those authorities that operate in the transferred field. He could use powers of entry in relation to social services, for example. However, if the case related to juvenile justice, the commissioner could not use formal powers, though he could still conduct a general review of arrangements on the basis of an anonymous tip-off, for want of a better word.

**Mr Stewart:** That is an important point. The “reasonable grounds” test is not uncommon in legislation. It is not precisely defined; it would, in effect, be defined by case law or, indeed, by the courts in specific cases. We have chosen it since it does not represent an unreasonable barrier to be overcome. As Mrs Stevens said, if the commissioner received a serious, albeit anonymous complaint, he or she would be duty-bound to take any action possible.

**The Chairperson:** There is an issue about inserting the word “rights” into clause 5(1)(a)(i) so that it would read “to represent the views, wishes, needs, rights and interests of children or young persons”. I am not sure whether the Northern Ireland Office has any objections to that. It is slightly different from the debate over “best interests” and “welfare”.

**Mr Stewart:** We could consider that one, subject to advice from the Office of the Legislative Counsel about whether it would be grammatically correct to insert it into the clause in that way. We understand the thrust of the suggestion, and, if it is possible to do, so we shall accommodate that.

**The Chairperson:** In clause 5(1)(b) the words “or on behalf of” could be inserted between “by” and “children”.

**Mr Stewart:** We quite agree with that suggestion. We are grateful for its having been pointed out. That was an unintentional effect of the way that provision was drafted. We should be happy to correct that as suggested.

**The Chairperson:** Our concern with clause 5(1)(c)(iii) is about the interpretation of “other services”.

**Mrs Stevens:** That phrase gives maximum flexibility to the commissioner to examine any of the services provided by any of the relevant authorities. In some ways the definition of “other services” is contained by the definition of what is a relevant authority. It is, in effect, any service which can be provided by any of the bodies listed.

**The Chairperson:** So a local council providing a leisure centre service would fall under that.



**Mrs Stevens:** That is included because it comes under the Commissioner for Complaints (Northern Ireland) Order 1996.

**The Chairperson:** Some concern was expressed about the “reasonable grounds” test in subsection (3).

**Mr K Robinson:** Before moving on to that, clause 5(d)(iv) mentions the rights of any child. Can the magic words “responsibilities, best interests and welfare” be inserted after “rights”?

**Mr Stewart:** We must look carefully at that. The word “responsibilities” would not fit terribly neatly into that construction.

**Mr K Robinson:** Can you investigate the possibility of inserting the other words?

**Mr Stewart:** We will certainly investigate that. I could suggest inserting the words “best interests”, but the legislative counsel might argue that almost anything could be argued to be a potential infringement of a child’s best interests. Rights are much easier to interpret and the test is much easier to satisfy. We will consider the point about language, which has been raised on this clause and several others. However, we will want detailed advice from legislative counsel on that.

**Mr K Robinson:** “Welfare” would, presumably, fall into the second definition.

**Mr Stewart:** We said earlier that we saw welfare as being a component of best interests. Therefore, if the term “best interests” was included, it would follow that welfare was included. However, the inclusion of “best interests” may be problematic.

**The Chairperson:** Subsection 3 concerns the reasonable grounds test. Some concern has been expressed as to the meaning of “reasonable grounds”. Is it difficult to define?

**Mr Stewart:** Yes. Indeed, it is deliberately not defined. It is a phrase that is not uncommon in legislation. Courts are well used to, and familiar with, the whole concept of reasonableness. The reasonableness test is likely to be added to, or the interpretation changed, by case law, because courts are increasingly considering the jurisprudence from Strasbourg in relation to the European Convention on Human Rights and other international rights standards, where the concept of proportionality is also being introduced to augment the concept of reasonableness.

Our intention was to leave the subsection as flexible as possible to deal with, for example, a situation where the commissioner receives an anonymous complaint, as mentioned earlier. It would be difficult to come up with a precise legal definition, and it would be likely to involve a higher threshold than reasonableness. For example, some might argue that it might be necessary for the commissioner to have prima facie evidence that rights had been breached. That almost introduces a test

that would require the commissioner to carry out an investigation before he could be satisfied that it was proper to launch an investigation. Therefore, there would be a circular definition that would be very difficult to apply in practice. The current proposal is the correct one. It allows for a degree of flexibility but is not a term that the courts are unused to dealing with.

**The Chairperson:** Do members have any comments? The question of rights and responsibilities will arise again, so we will deal with it when we receive responses next week.

*Clause 5 referred for further consideration.*

**Clause 6 (Review of advocacy, complaint, inspection and whistle-blowing arrangements of relevant authorities in individual cases)**

**Mrs Stevens:** Clause 6 is a natural progression from clause 5. It relates to the commissioner’s power to review the arrangements that have been defined in clause 5, but in relation to individual cases. Again, a reasonable grounds test must be satisfied. The important point to emphasise is that the commissioner’s formal powers of investigation can apply regardless of which relevant authority is being reviewed.

**The Chairperson:** Do members have any issues to raise? We should clear them all next week when we receive responses on several of the issues, rather than just clearing one or two now.

**Dr Birnie:** Is this clause where the so-called class action comes up? Is there any further advice on that?

**Mr Stewart:** It would be relevant to this clause, as it was to clause 5. We see the suggestion made by some non-governmental organisations as problematic, especially in relation to this clause, where it would be important for the commissioner to be acting in relation to identifiable cases.

**Mr Beggs:** Does that relate to human rights law or European law? How have you arrived at that view?

**Mrs Stevens:** It relates to both. An individual case must be identified and the body must produce papers before there can be a review into the way it has been handled. I do not think it can be done.

**Mr Stewart:** If, at the conclusion of such an investigation, the commissioner found something that was sub-standard, a recommendation could be included that the authority concerned should reinvestigate any similar cases, or the application of arrangements could be looked at again. That would not require individual children to come forward.

*Clause 6 referred for further consideration.*

**Clause 7 (Assistance with complaints to relevant authorities)**

**Mr Stewart:** Clause 7 is an extremely important and significant clause and should be read in conjunction with clause 8. However, clause 7 is much more important. Clause 8 will rarely be used, if at all, and clause 7 will be part of the bread-and-butter of the commissioner's role. It sets out significant powers for the commissioner to assist the child in making a complaint against a relevant authority. That would include acting on behalf of the child in making a complaint and acting in any investigation or other proceedings conducted by that authority following the complaint. However, there is an important safeguard. The commissioner may only assist or act on behalf of the child if there is no other body or person likely to do so. That is to ensure that the commissioner does not duplicate the role of other authorities.

There are concerns about that part of the provision, and about the clause generally, and I will set out how we see that operating in practice.

Ministers have, from the outset, made clear their intention that the commissioner should not duplicate or overlap with other public authorities and in a few cases would be the complaints investigator of first resort. The commissioner's role would be to ensure that systems are in place and applied properly and to provide assistance to children availing of the systems in place. That is why the provision has been included. It has been described as a hand-holding function. The commissioner would not — as has been suggested — be at the end of a long queue and difficult for children to avail of, and children should not find themselves reluctant to come forward.

When the Norwegian children's commissioner spoke to the Committee he was proud of the fact that 95% — or a similarly high figure — of Norwegian children knew his name. We have a similar ambition for our commissioner. He or she should have a very high profile and be recognisable and identifiable by children and young people. Therefore, instead of being at the end of the queue, the commissioner would often be the first port of call for a child or young person who wished to make a complaint. However, in most of those cases the commissioner would not investigate the complaint himself or herself. Rather, he or she would assist the child or young person to have a complaint investigated by the appropriate authority.

**Ms Lewsley:** We are worried that the child would go to the commissioner in the first instance and that the commissioner would say that he or she could not take the case on because the child would have to go through the appropriate procedures. The young person or parent would then go away worried, get bogged down with bureaucracy and forget about the problem. That child's problem would not be addressed.

Is there any procedure in clauses 5 and 6 whereby the commissioner's office could say that a child has come to it and it could not deal with it? The Children's Commissioner for Wales said that he would not look at

such a case but would rather ensure that the young person or parent went through the correct procedure. Could we have someone in that office who would ensure that those people got the opportunity to go through the procedure and monitor them in case they dropped out for some reason, be that bureaucracy or red tape? They could then be brought back in. Could the commissioner intervene halfway through the procedure if a person thought that he or she was not getting fair treatment?

**Mr Stewart:** That is exactly how we see clause 7 operating. The commissioner will not be able to receive a complaint and then say that it is for someone else to deal with. It is expected that the commissioner will provide advice, assistance and guidance and will continue to monitor the investigation of a complaint or the operation of other arrangements as they progress. If, subsequently, the child or young person feels that the complaint has not been properly investigated, clause 6 comes into play, and the commissioner can carry out a review of how the complaint was investigated.

**Mr Beggs:** It does not appear to me that clause 7(3) will deliver what you are talking about. It says that

"The commissioner shall not provide any assistance to a child or young person under subsection (1) unless it appears to the commissioner that there is no other person or body likely to provide such assistance."

Why can we not have something that will stipulate, not that he is carrying out an investigation, but simply that he is providing advice to fill in a formal complaint form, and, subsequently, if necessary, shadowing it? I agree with the concept of avoiding duplication, but I am concerned that the wording will mean that it will not work in practice. Have I interpreted that incorrectly? As Ms Lewsley said, a child might have agonised over a complaint, eventually found the right telephone number and then been told to call another number. Children might not follow the signposts. Why can some advice not be given? I am concerned that it will not work in practice.

**Mr Stewart:** I appreciate your concern. We could put that beyond doubt by inserting additional wording such as "unless it would be unreasonable to do so". It would have to be something that ensured that the commissioner did not unreasonably refuse to provide the basic type of assistance that you are talking about.

**The Chairperson:** Would the wording "better placed to provide" instead of the words "likely to provide" be more suitable?

**Mr Stewart:** We have heard that suggestion from several non-governmental organisations. Unfortunately, my interpretation of it is that the effect would be the opposite of what was intended. To replace "likely" with "better placed" could lead to a situation where public authorities argued amongst themselves as to which was better placed to provide assistance. The "likely" test is much

more straightforward. If no one is likely or prepared to come forward and act, then the commissioner will do so.

**The Chairperson:** There is a concern that the commissioner will be the last resort for young people who have a problem. Could the phrase “no other person” include parents?

**Mr Stewart:** Yes.

**Dr Birnie:** I wish to make a drafting point about subsections 7(3) and 7(4). As they stand, you are placing the burden of proof on the commissioner to demonstrate that no other person or body is likely to provide such assistance. Would there not be a case for reversing the burden of proof, so that the clause read:

“The commissioner shall provide any assistance ...unless it appears that there is no other person or body likely to provide such assistance.”

**Mr Stewart:** There would be no policy objection to that, subject to advice from the legislative counsel. We can consider that. I am not certain that it would have any practical effect. It might, nevertheless, send an important signal, and it is something that we can examine.

**The Chairperson:** It would be positive rather than negative.

**Ms Lewsley:** I am not sure if it is clause 7 or clause 8 that deals with whether the commissioner will say that it is another statutory agency’s job to investigate something before he or she will intervene. What happens with regard to access to statutory complaints systems? For example, an education and library board may be denied the opportunity to request papers. In such circumstances, can a commissioner be brought in to use his or her powers to access those papers?

**Mr Stewart:** The provisions could not be operated in that way. A complaint must be investigated through the relevant statutory complaints system. If the public authority felt that it was being obstructed in some way, it could use its own powers, whatever those might be, to obtain the papers.

**Ms Lewsley:** What happens if it did not have those powers?

**Mr Stewart:** The commissioner would make recommendations to improve a complaints system if he felt that an organisation was being hampered by a lack of sufficient powers. The commissioner might then wish to recommend changes to the legislation to the appropriate Department. The powers that the Bill will confer on the commissioner mean that, where a complaint is concerned, he cannot act in default of an existing statutory authority.

**Mr K Robinson:** Why has the word “best” been omitted from clause 7(1)(b)? Is a particular point being made?

**Mr Stewart:** Yes. That very specific point was made on the advice of legislative counsel. His view was that

in that instance the idea of best interests would set a standard of perfection that was so high that it could not be reached. Alternatively, in this case the standard could be so low that it would always be reached, in that almost anything is arguably below a child’s very best interests. It is a technical and grammatical point; there is certainly no great policy intention behind it.

**Mr K Robinson:** Why has the word “or” been used as a conjunction between clause 7 (1)(a) and 7(1)(b)?

**Mrs Stevens:** To give an alternative. The commissioner can act if the child’s rights or interests have been infringed.

*Clause 7 referred for further consideration.*

### **Clause 8 (Investigation of complaints against relevant authorities)**

Clause 8 sets out the commissioner’s power to investigate complaints are made against relevant authorities. In that instance, he acts purely as an ombudsman. The commissioner can investigate a relevant authority in cases in which a child makes a complaint to the effect that his rights have been infringed or interests adversely affected. Again, the term “interests” has been used with the same technical care that was used in the writing of clause 7.

Clause 8(2) tightly circumscribes the commissioner’s power. The complaint must raise a question of principle, and it must fall outside existing statutory complaints systems. Ministers felt very strongly that to do otherwise would result in unnecessary duplication. The commissioner has to use his resources in the best way possible, and this clause will enable him to do that.

Subsection 3 defines exactly “statutory complaints system”. Subsection 4 allows the commissioner to let people know if he has decided not to conduct an investigation.

**The Chairperson:** Concerns have been raised in the Committee that clause 8(1) puts the onus on a child or young person to make a complaint. However, clause 24(3) enables a parent or any other person acting on behalf of the child to make a complaint. Indeed, section 37(2) of the Interpretation Act (Northern Ireland) 1954 enables words in the singular to be interpreted as including the plural. Therefore, under this clause, children or young people can make complaints.

**Mrs Stevens:** It is appropriate that the complainant should be the child or young person, or someone acting on his behalf. If the Norwegian experience is anything to go by, the parents or other people acting on the child’s behalf will mostly bring matters to the commissioner’s attention that cannot be dealt with in any other way or under any other system.

**The Chairperson:** Does that include any other person acting on his behalf?

**Mrs Stevens:** That is already included by virtue of the interpretation clause, clause 24.



**The Chairperson:** So we do not need to include it in clause 8?

**Mrs Stevens:** No, the draftsman would not advise including such matters or definitions twice.

**Mr McNamee:** It was suggested by two different bodies that both clause 8(2)(a) and clause 8(2)(b) should be deleted, not leaving any of clause 8(2) behind. The complaint about clause 8(2)(a) is on the issue of “principle”. It was pointed out that that could lead to potentially unnecessary argument about the definition of “principle”. How do you define whether something is “a question of principle”? The commissioner could be challenged on that issue when exercising his powers. It would not necessarily be effective in enabling the commissioner to exercise his powers.

It was also felt that clause 8(2)(b) restricted the opportunities that a commissioner would have to exercise his powers. If a complaint falls within a statutory complaints system, which has been utilised and has failed, does this clause then prevent the commissioner from taking any action on that complaint? Does the fact that the complaint brought to the commissioner falls within an existing statutory complaints system — although that statutory complaints system may have failed to resolve the issue — subsequently stop the commissioner exercising his powers?

**Mrs Stevens:** No, the commissioner can then act under clause 5, in that he can review how that complaints system works. If it did not serve the child or young person well, the commissioner can make recommendations to the body about that. As part of his recommendation, he can invite the authority to look at the particular complaint again and to consider it afresh. The commissioner cannot take upon himself the role of that authority and make the determination on the particular case. He must always refer it back to the original authority for a fresh determination.

**Mr Stewart:** Without that qualification, you could have two different bodies — the commissioner and another body — investigating the same matter. We are keen to avoid that.

**Ms Lewsley:** You spoke about that earlier in dealing with another clause, particularly with regard to social services and the Education and Training Inspectorate. I assume that those two Ministers were —

**Mrs Stevens:** Yes.

**Mr Stewart:** They made their views known. At the risk of repeating myself, I want to emphasise that clause 8 is only a “belt and braces” provision. It is there to take account of an as yet unforeseen situation where some matter arises that falls entirely outside existing complaints systems. We cannot presently think of a concrete example of that, so it is there for a purely hypothetical situation to

ensure that a child’s complaint is not left entirely uninvestigated.

**The Chairperson:** Do members have any further comments? There was a suggestion that under subsection 4, a copy of the statement should also be sent to the relevant authority. It talks about sending it to

“the complainant; and ... such other persons (if any) as the Commissioner considers appropriate.”

It has been suggested that relevant authorities should also be included.

**Mrs Stevens:** We can certainly consider that. Our reading of it is that the relevant authority would be included under clause 8(4)(b). However, we can bring that to the draftsman’s attention and take his advice.

*Clause 8 referred for further consideration.*

**Clause 9 (Actions which may be investigated: restrictions and exclusions)**

**Mr Stewart:** Clause 9 is a complex, technical clause. It brings together a range of safeguards, checks and balances on the carrying out of investigations by the commissioner. It provides that he shall not conduct an investigation into any matter where the complainant has or had a right of appeal, complaint, reference or review to a tribunal or court or remedy by way of court proceedings unless the commissioner is satisfied that it would not have been reasonable to expect the complainant to have resorted to that remedy. The point of the clause is to ensure that the commissioner does not become inappropriately involved in existing statutory proceedings. The provisions are very similar to those in the Commissioner for Complaints (Northern Ireland) Order 1996, and for the most part they are a direct lift from that legislation.

**The Chairperson:** There has been a lot of concern about subsections 1 and 2 of clause 9. It has been said that they are restrictive and that the exclusions in the clause are excessive, particularly in those subsections.

**Mr Stewart:** They are restrictive, but they are balanced by the provision that, if it is unreasonable to expect a complainant to avail of a particular alternative remedy, then the commissioner may, notwithstanding the existence of that alternative provision, carry out an investigation. We were mindful of the concern that the provision would otherwise be overly restrictive.

**Mr Beggs:** Although the commissioner would not be able to carry out an investigation if one was currently being carried out by a relevant authority under clause 7, would he be able to advise the young person on his complaint with the relevant authority?

**Mr Stewart:** Yes.

**Mr K Robinson:** Clause 9(3) mentions “local or public inquiry”. The term “public inquiry” is self-substantiating. What is the definition of “local inquiry”? Would it be an inquiry triggered by one of the statutory agencies?



**Mrs Stevens:** There is a definition for “local inquiry”.

*Clause 9 referred for further consideration.*

**Clause 10 (Power to bring, intervene in or assist in legal proceedings)**

**Clause 11 (Assistance in relation to legal proceedings)**

Clauses 10 and 11 relate to the commissioner’s powers in relation to legal proceedings. Clause 10 refers to the commissioner’s powers to bring, assist or intervene in legal proceedings. It also gives him power to bring civil proceedings in relation to law or practice relating to the rights or welfare of children. The term “welfare” has been used deliberately, because it refers to an existing body of law in this instance.

The commissioner, in order to exercise these powers, must be satisfied that the case is a question of principle or that there are special circumstances that make it appropriate for him to become involved. An example of that would be that there was nobody else who could do it.

The power is also subject to a general requirement enshrined in the Human Rights Act 1998 that, if legal proceedings are going to be brought against a public authority involving a breach of the European Convention on Human Rights, then there must be a victim — someone who has been affected and whose rights have been infringed. We cannot override the provisions of the Human Rights Act 1998, because it is an entrenched provision under the Northern Ireland Act 1998. For that reason, the commissioner will not be able to bring proceedings in hypothetical cases.

The clause also includes a provision to prevent the commissioner from exercising powers in relation to a matter that he has already formally investigated. This has been incorporated so that there is no conflict of interest between his acting as a partisan body on behalf of a child and as a neutral third-party ombudsman.

**The Chairperson:** It has been suggested that the word “other” be dropped from clause 10(3)(b).

**Mrs Stevens:** There is no important policy intention behind the word “other”. The word acknowledges the fact that a question of principle is a special circumstance that would warrant the commissioner’s involvement. We have no difficulty, if the Committee feels strongly that the word should be removed.

**The Chairperson:** I am not sure whether the Committee feels strongly about it, but the point has been raised and I just wanted to get some clarification.

**Mr Stewart:** It reflects the precision of our legislative counsel, rather than any policy intention.

**The Chairperson:** There have been references to potential conflict between the advocacy and ombudsman roles, and several groups have called for subsections 10(4) and 10(5) to be deleted. I understand that you are not in

a position to respond because it is a Northern Ireland Office matter.

**Mrs Stevens:** There is merit in ensuring that safeguards are in place to make sure that the commissioner does not act as ombudsman and advocate in the same case, as that would involve a conflict of interest. In any case, the NIO has said that it requires those provisions to be included.

**Ms Lewsley:** It is an NIO matter; however, its officials have not seen fit to grace us with their presence.

**Mr Beggs:** Yet.

**Ms Lewsley:** Would the Office of the First Minister and the Deputy First Minister be able to speak to them? For example, if the commissioner is involved in investigating an organisation, such as a children’s home, then he has no power to insist that that organisation do anything after the investigation, although he can make recommendations that they need to change x, y or z. If a child who has been in that home comes to him, why can the commissioner not act on behalf of that child? Part of that issue is that the commissioner could find evidence or information during the investigation. That would be controversial if he then acted on behalf of the child, because he would have got that information through the back door. However, is it not possible that he could go through the correct procedure of gleaning the same information if he acted on behalf of the child?

**Mrs Stevens:** That is correct, but it brings up a credibility issue for the commissioner. If he is to act as an ombudsman, the commissioner must be seen to be impartial. The relevant authorities will want to know that the commissioner will not use evidence, which he has obtained using his formal powers, against them in a different context.

**Mr Stewart:** That theme runs through several clauses of the Bill. In practice, it means that when confronted with a case, the commissioner must decide early whether to exercise his ombudsman functions or his advocacy functions. Difficulties would arise if an attempt were made to combine the two subsequently. We recognise the difficulties that that may cause in practice and the limitation that it imposes on the commissioner’s flexibility. Nevertheless, that has been drawn to our attention, initially by the NIO. On reflection, we recognised that the commissioner could run into difficulties with regard to natural justice and the application of the European Convention on Human Rights. For that reason, we thought it appropriate to include the provisions. Without them, the NIO would not have agreed to the inclusion of juvenile justice in the commissioner’s remit.

**The Chairperson:** What comments did the Northern Ireland Human Rights Commission make? Would it concur with your remarks?

**Mr Stewart:** I confess that, while I have received a copy of the Human Rights Commission's submission to the Committee, I have not yet had a chance to study it.

**Ms Lewsley:** What happens if the commissioner has investigated an authority, and a young person asks him to take a case on that relates to that authority? Does the commissioner say no, because the organisation has already been investigated? There is no other relevant authority for that young person to go through.

**Mr Stewart:** That sort of case highlights the importance of the commissioner considering carefully, at an early stage, what the available remedies and procedures are. For example, if the commissioner felt that it could be investigated using a procedure that he felt was robust and effective and would deliver an appropriate remedy at the end, then that is probably the line that the commissioner would take. He would exercise his advocacy role in assisting the child through that procedure. However, if the commissioner felt that the case was an area that was not well regulated or where complaints systems were not particularly robust, he might decide to take the formal investigation route, if that was deemed to be more effective. It emphasises the importance of the commissioner making that decision early and considering the potential consequences.

**Mrs Stevens:** The Bill also empowers the commissioner to conduct an informal investigation first; that would help to inform him as to which avenue he wanted to pursue. Following an informal investigation where the Commissioner is not using his big formal powers, he can decide whether the case warrants a formal investigation or if it would be better to help the child pursue the case through the courts.

**Mr Stewart:** That is an important point. The commissioner does not have to make that decision at the first phone call; he or she may carry out certain inquiries to determine the appropriate course of action.

**Mr Beggs:** Clause 10(4) states that

"The Commissioner shall not bring or apply to intervene in any proceedings".

Does "apply to intervene in any proceedings" apply when the commissioner is providing assistance with complaints on hand-holding, guidance on making children aware of their rights and responsibilities or legal aid? Will the commissioner be allowed to guide any such child through other courses of action?

**Mrs Stevens:** Yes.

**The Chairperson:** I am not suggesting that the Northern Ireland Human Rights Commission is right and you are wrong, but you said that the removal of subsections 10(4) and 10(5) would conflict with the European Convention on Human Rights. Our submission

from the Northern Ireland Human Rights Commission, dated 29 August 2002, states:

"We do not see any justification for the restrictions imposed by these sub-clauses on the powers of the Commissioner to bring proceedings or to apply to intervene in any proceedings. Just because the Commissioner may have already conducted an investigation into a case does not in any way mean that the Commissioner is an unsuitable person to take further steps. Indeed in many people's eyes these are exactly the further steps which the Commissioner would be expected to be able to take if his or her investigation revealed matters that needed to be addressed by a court. The NIHRC can certainly bring proceedings or apply to intervene in proceedings even though they relate to a matter already investigated by the Commission. Of course the NIHRC does not have the same powers to compel the production of information as the Commissioner for Children and Young People will have, and therefore it is not as likely that the NIHRC will seek to use such information at a later date for the purposes of legal proceedings. But in legal proceedings information can in any event usually be obtained through applications for discovery, so we see no undue advantage in the Commissioner having access to that information prior to the proceedings beginning. Given the watchdog role of the Commissioner, it is reasonable to allow him or her to make use of information compulsorily required in later legal proceedings if he or she deems that to be necessary to protect the rights or best interests of children or young people. This is precisely what other watchdogs or inspectorates (such as DTI Inspectors) can do in different contexts."

The Northern Ireland Human Rights Commission recommends that those two subsections be deleted.

**Mr Stewart:** The legal advice received by the Office of the First Minister and the Deputy First Minister and the NIO is different, so I disagree with the commission on that point.

**Mr Beggs:** Mr Chairman, did the Committee receive other advice that differed from the Human Rights Commission? I thought it was questioning whether the Bill was competent, but we have legal advice to say that it is competent. That is another point of diversity of opinion in the legal profession.

**Mr Stewart:** The Northern Ireland Human Rights Commission is also of the view that the draft Bill is in breach of the UN Convention, and that is another point on which we forcibly disagree.

**The Chairperson:** I have given you the views of those who are supposed to be experts on human rights.

**Mr Stewart:** The Office of the First Minister and the Deputy First Minister will carefully consider the Human Rights Commission's views.

**The Chairperson:** It has also been suggested that as there are no enforcement powers, there is no conflict between the advocacy and ombudsman roles.

**Mr Stewart:** It is true to say that there are no enforcement powers, but the difficulty centres round the potential application of article 6 of the European Convention on Human Rights, the right to a fair trial. While the commissioner does not have enforcement powers, he will have significant powers in relation to the

discovery of documents and information. I am concerned that that may call into question the application of article 6.

Clause 11 is similar in many ways to clause 10. Clause 11 contains similar provisions to clause 10 as regards assistance in legal proceedings. The checks, balances and qualifications included in the clause are very similar to those in clause 10. Again, there are provisions requiring the commissioner to act either as advocate or ombudsman.

**The Chairperson:** Many of the issues that we have just discussed under clause 10 apply here. Subsection 2 is unclear: perhaps it could be looked at again. The Committee is also concerned about the appropriateness of subsection 7, which deals with the recovery of legal expenses.

**Mr Stewart:** We will examine the wording of subsection 2 to see if it can be improved. Advice from legislative counsel is that the provisions in subsection 7 are not unusual. They are discretionary. The commissioner may decide to recover expenses but is not obliged to do so.

**The Chairperson:** The provision would not be unusual when dealing with adults, but would it not be unusual in dealing with children, who have no source of income?

**Mr Stewart:** In that sense, I agree. However, the provision allows for a situation in which sums of money from another source may become available. For example, there may be a subsequent legal claim from which a source of income would follow. The provision ensures that the public purse is not subsidising a case that could be paid for privately.

**Mr Beggs:** Will the expenses go back to the commissioner? If not, where will they go?

**Mr Stewart:** Initially, the expenses will go to the commissioner, but it is dealt with by a provision in schedule 1, paragraph 10.

**Mrs Stevens:** There is flexibility within the provision. Paragraph 10 deals with funding for the commissioner's office. Sub-paragraph 1 directs that the commissioner should pay any moneys received to the Office of the First Minister and the Deputy First Minister. Sub-paragraph 3 provides him with some discretion.

*Clauses 10 and 11 referred for further consideration*

### **Clause 12 (Formal investigations)**

Clause 12 provides for the formal investigations that can be carried out by the commissioner. It will be for the commissioner to decide which investigations he wants to pursue in this way. Under clause 5 there are four instances where a formal investigation can be instigated: they are in relation to general reviews of advocacy, complaint, inspection or whistle-blowing arrangements, and only in relation to those relevant authorities that are devolved.

The commissioner can use a formal investigation into reviews of arrangements where they relate to individual cases, no matter if the authority is devolved or reserved. It can be used in relation to the power to investigate a complaint under clause 8. The provision sets out the technical procedures that must be followed — the sending of notices, terms of reference and giving those involved an opportunity to comment.

**Mr K Robinson:** As regards sending a notice, would this Committee, for instance, or OFMDFM, be included under the term "relevant authority" as of right, or would we have to add ourselves to clause 12(3)(b)? I am wondering about the status of this Committee and OFMDFM in being centrally involved. Would we receive a notice?

**Mrs Stevens:** No. As the clause is drafted, neither the Committee nor the Department would be notified of an investigation. The procedures in clause 12 have largely replicated those of the Children's Commissioner for Wales, which do not provide for copies to be sent to the relevant Departments.

**Mr K Robinson:** Would there be any difficulty in notifying OFMDFM, or the Committee of the Centre, in such an instance, so that they also have a brief for overseeing the process?

**Mr Stewart:** There may be less difficulty in involving the Committee than OFMDFM. The latter might be seen to be compromising the commissioner's independence, but the Committee might not.

**Mr K Robinson:** Will the Department seek clarification on that matter?

**Mr Stewart:** It will consider it and convey the Committee's view to the Ministers.

**The Chairperson:** There was a concern that clause 12(1) excludes non-devolved bodies.

**Mrs Stevens:** The Department discussed that clause with the NIO, but it would not agree to general reviews being subject to formal investigations into authorities in the reserved fields.

**The Chairperson:** If someone in the juvenile justice system complains about problems there, the commissioner will not have the power to act on it?

**Mrs Stevens:** The commissioner will have the power to conduct an informal investigation under the procedures set out in schedule 2. The same terms of reference can be provided, notice can be given and recommendations can be made and recorded in the public register, but there are no powers of entry or compulsion of evidence.

**The Chairperson:** Therefore, it will be difficult for the commissioner to follow up a complaint, if there is a lack of corroboration.



**Mr Stewart:** That reflects a policy difference between OFMDFM and the NIO. The NIO felt that the proposed powers were disproportionate to the matters under consideration. The Department disagreed, and the clause is the result of a compromise.

**Mr Beggs:** The Committee wants to see an annual report from, and have a meeting with, the commissioner, so that such difficulties can be discussed. The Committee, in turn, might be able to take action on the need for greater powers of access. The Committee hopes that it will have the power to disclose that information and highlight the Bill's failings. It might be able to seek future amendments to the NIO's clause.

**Mr Stewart:** The Department envisages the Committee receiving annual reports from, and talking to, the commissioner about the exercise of his or her functions. OFMDFM would want to consult the Committee when it comes to review the Act and the commissioner's powers.

**The Chairperson:** Clause 12(3)(b) states that the commissioner shall

"send notice of the proposed investigation and a copy of the terms of reference to the relevant authority concerned;"

The Committee feels that "and the complainant" should be added after "concerned".

**Mrs Stevens:** The Department will take that good point on board.

**The Chairperson:** Concern has been expressed that, according to clause 12(5), all formal investigations must be in private.

**Mrs Stevens:** That reflects similar provisions in the Commissioner for Complaints (Northern Ireland) Order 1996. Since the commissioner will be discussing complaints with children, the Department felt that he will want investigations to be conducted in private.

**The Chairperson:** If a group of children made a complaint against an authority, would a private hearing be to their benefit? A public investigation might be more effective. The Committee is concerned that the subsection is restrictive in that all cases must be conducted in private, even when privacy may not be necessary.

**Mrs Stevens:** There is a difference between how the investigation is conducted and the outcome. There is provision in the Bill for the commissioner's report to be disseminated to whomever he or she thinks appropriate. It could be disseminated widely. However, the actual investigation might throw up issues that are private to the child, and it might not be in the child's interest to have that information made public.

**Mr Beggs:** Is there anything to stop the commissioner providing the press with a copy of the formal investigation?

**Mrs Stevens:** There is nothing to stop him, if he sees fit to do that.

**Mr K Robinson:** With regard to clause 12(5), why is it necessary for the commissioner to determine whether legal representation is allowed?

**Mrs Stevens:** It is to provide a measure of informality. As with industrial tribunals, if people come under investigation their automatic response might be to have legal representation and advice. It was felt that that would be inappropriate in some cases and that the commissioner would be the best person to decide if the involvement of lawyers was appropriate.

**Mr K Robinson:** Does it infringe human rights or any of the articles of the European Convention?

**Mrs Stevens:** No.

**Dr Birnie:** That is surprising.

**Mr Stewart:** We received that interpretation and advice. Article 6 of the European Convention is relevant and deals with the right to a fair trial. The threshold is that article 6 is called into play if the procedure in question determines someone's civil rights. This procedure of informal investigation, because it does not have a remedy or a power of compulsion at the end of it, does not determine someone's civil rights; therefore, article 6 does not come into play. That contrasts with, for example, the commissioner's involvement in legal proceedings, where there could be a remedy.

**Dr Birnie:** I understand.

**The Chairperson:** Let us move on to subsection 9 and the extent of the right of witnesses to cross-examine evidence. There is a suggestion that the same devices be given to the complainant.

**Mrs Stevens:** Subsection 10 gives the complainant that right. "Complainant" is defined in clause 26 as "the child or young person by whom the complaint was made".

**The Chairperson:** How far does that go in relation to cross-examination? Can solicitors cross-examine those who have made a complaint?

**Mrs Stevens:** The same opportunities are given, so the child will not be disadvantaged.

**The Chairperson:** Some children have already been cross-examined by barristers, who can, as we all know, twist things and confuse people who have their wits about them, never mind a child. There is concern that that might happen.

**Mrs Stevens:** In such a situation it will be for the commissioner to determine whether the child needs legal representation to redress the balance.

**Mr Stewart:** In general, it is preferable that such proceedings be conducted without extensive involvement of the legal profession. However, the provisions as drafted ensure that when the commissioner deems it appropriate for someone to be legally represented, the child



— or anyone acting on the child’s behalf — will not be disadvantaged. There is no inequality of representation.

**Mr Beggs:** In respect of not allowing undue pressure to affect a child during cross-examination, what degree of protection is built into subsection 9(b)? Will a very capable barrister be allowed to cross-examine a child? A degree of cross-examination is appropriate, but how can we be assured that the balance is guaranteed?

**Mrs Stevens:** The running of, and the procedure for, formal investigations will be entirely up to the commissioner, whose principal aim will be to safeguard and promote the best interests of children.

*Clause 12 referred for further consideration.*

**Clause 13 (Formal investigations: exclusions)**

**The Chairperson:** Clause 13 is an NIO clause.

**Mr Stewart:** Our colleagues in the NIO would not thank me if I allowed clause 13 to be described as an “NIO clause”. They might take issue with that. Clause 13 is the counterpart to the provisions in clauses 10 and 11 that require the commissioner to act either as ombudsman or advocate. It prevents the commissioner from carrying out a formal investigation into a matter in respect of which he or she has previously brought, intervened in or provided assistance with, legal proceedings. It ensures that there is no conflict between the exercise of the advocate and the ombudsman roles.

*Clause 13 referred for further consideration.*

**Clause 14 (Report on formal investigation)**

**Mrs Stevens:** Clause 14 specifies that, when the commissioner conducts a formal investigation, he shall distribute a report containing his recommendations to the relevant authorities and other appropriate organisations, which may include the press. A duty of confidentiality is included whereby the report must not identify a person by name or contain any details that would allow that to be done, unless the commissioner believes that it is necessary to do so. A duty is also imposed on the relevant authority to consider the commissioner’s recommendation and to determine what action, if any, it will take in response to that.

**Mr Beggs:** The commissioner’s report must ensure that lessons are learnt and it will create publicity, thus bringing about improvements and highlighting the commissioner’s role. However, if people are named in the report, its publication may be inhibited. Therefore, can the commissioner publish a briefer report that does not contain names, thus ensuring that lessons learnt by one organisation can be brought into the public domain? Although I respect the need for confidentiality, I am concerned that lessons learnt by one organisation might not become public because individuals had been named.

**Mrs Stevens:** The Bill contains nothing to prevent that.

**Mr Stewart:** The commissioner’s annual report may provide the vehicle for that suggestion.

**Mr K Robinson:** Clause 14(1)(a) refers to the “relevant authority”. Can we be assured that the Committee will be considered relevant? That crops up again on page 11.

**The Chairperson:** Clause 14(4) states that

“A report under this section may include recommendations as to action to be taken by a relevant authority mentioned in the report”.

It has been suggested that subsection 4 should end with the words: “and must state clearly the reasons for each recommendation.”

**Mr Stewart:** That suggestion is reasonable.

*Clause 14 referred for further consideration.*

**Clause 15 (Further action following report on formal investigation)**

**Mr Stewart:** Clause 15 has been described as the “naming and shaming” provision. In essence, clause 15 is a simplified version of similar provisions in legislation for the Children’s Commissioner in Wales. It involves the issuing of a notice requiring an authority to provide, within three months of the date of the notice, information that will enable the commissioner to determine whether the authority has complied, or intends to comply, with the commissioner’s recommendation. There is a follow-up procedure to allow a further notice to be issued. There are provisions to allow the commissioner to publish the response, or details of an inadequate response or failure to respond on the part of the relevant authority. There are provisions to ensure that a register is kept of recommendations made, and actions taken, by relevant authorities in response to that.

**The Chairperson:** Clause 15(5) states that the commissioner shall maintain a register of “recommendations contained in reports” and “the results of any such action.” If that is to be included in that clause, should it be added to others?

**Mr Stewart:** That seems reasonable for that provision.

*Clause 15 referred for further consideration.*

**Clause 16 (Evidence in formal investigations)**

**Mrs Stevens:** Clause 16 sets out the type of evidence or information to which the commissioner can have access for his formal investigation. The commissioner’s powers will be quite far-reaching. He will be able to require disclosure of any document and the attendance of witnesses at the High Court.

**The Chairperson:** A suggestion was made to the Committee that failure to provide information or documents should be considered a criminal offence.

**Mrs Stevens:** We consulted on whether obstruction of the commissioner should be considered to be a

criminal offence, or actionable as contempt of court. The weight of response indicated that it should be considered to be contempt of court, and the Minister has accepted that.

*Clause 16 referred for further consideration.*

**Clause 17 (Powers of entry and inspection for purposes of formal investigation)**

**Mr Stewart:** Clause 17 sets out the commissioner's powers of entry. This is a significant power to grant to any public authority, and, therefore, the clause makes clear provision for the circumstances in which it can be used. It can be used in relation to formal investigations only. The provisions make it clear that the power is in relation to clause 5, which concerns reviews of arrangements generally; clause 6, which concerns reviews of individual cases; and clause 8, which deals with the investigation of complaints.

The clause provides for the commissioner to examine premises, inspect records and interview employees or children on those premises. It contains the additional safeguard that the parent of a child or young person must be informed in each case of the commissioner's intention to interview a child. It gives parents the right to be present at such interviews, unless it would not be in the child's interests, would not be practicable or would be against the child's express wishes. In such circumstances, the commissioner must have regard to the child's age and understanding. This is a significant power, but it is appropriately balanced with checks and safeguards on its usage.

**Mr K Robinson:** With regard to those checks and safeguards, the clause states that the commissioner

"may, at any reasonable time, enter any premises".

Should that not be subject to subsection 7, which states that the commissioner

"shall, if so required, produce some duly authenticated document showing his authority to exercise the power."?

Does that need to be clarified?

**Mr Stewart:** Subsection 7 will be applicable to the clause in its entirety.

**The Chairperson:** With regard to subsection 7, where will the authenticated document come from? Normally, the power of entry would be authorised by a justice of the peace. In order to receive the document, would the commissioner have to indicate to a justice of the peace that he is conducting an investigation and that he has particular concerns and reasonable grounds for entry?

**Mr Stewart:** You are correct to say that, in many instances, such authorisation comes from a justice of the peace. That is the case where the enabling legislation specifically requires it. I will have to seek further legal advice on the matter and come back to the Committee.

**The Chairperson:** That would be appreciated, as the Bill is a bit woolly on the subject of powers that are being granted.

**Mr Stewart:** No doubt the Office of the Legislative Counsel had something in mind. Unfortunately, I am not aware of what it was.

**Mr Beggs:** In subsection 7, is the phrase "if so required" necessary? Should the evidence or information justifying the commissioner's right to enter the premises not be presented automatically?

**Mr Stewart:** That would certainly be good practice. We can consult legislative counsel as to whether that is a standard provision. I have reason to believe that it is and that that is why it is included. There was certainly no policy intent on our part.

**The Chairperson:** In clause 17(1)(c), does the interpretation of "other services" include foster homes?

**Mr Stewart:** No. The provision that would exclude foster homes is found at subsection 8:

"Nothing in this section authorises the Commissioner to enter any premises (or any part of any premises) used wholly or mainly as a private dwelling."

Therefore, foster homes will not be subject to the power of entry.

**Dr Birnie:** The interpretation of "other services" in that subsection was raised previously. Would or could that include leisure centres?

**Mr Stewart:** Yes.

**Mr K Robinson:** Is there a specific reason for the exclusion of foster homes — perhaps because of civil law?

**Mr Stewart:** The provision reflects a policy intention that the commissioner should only deal with relevant authorities and not become directly involved in family matters. A foster home is the child's natural home.

**The Chairperson:** Does paragraph 2(d) exclude interviews with employees not present at the time or with voluntary workers?

**Mr Stewart:** On the latter point, we will look at and be happy to amend the definition of "employee" or "employment" to ensure that voluntary workers are included, as that was within the scope of our policy intention. Workers who are absent will not be covered by that provision, but could be covered or asked to provide evidence under clause 15.

*Clause 17 referred for further consideration.*

**Clause 18 (Obstruction and contempt in relation to formal investigation)**

**Mrs Stevens:** Clause 18 provides a sanction for obstruction of the commissioner in relation to his formal investigations and provides for the sanction of contempt

of court, as opposed to a criminal offence, for the reasons outlined earlier.

**The Chairperson:** Have members any issues they wish to raise? There was a suggestion that these provisions should be extended to all investigations.

**Mrs Stevens:** That would be difficult, as the commissioner has no power to compel anyone to give him information during an informal investigation. Therefore, no sanction exists for non-compliance.

**Mr Stewart:** You could also run into European Convention difficulties there, as a court may regard that as disproportionate and an infringement of a number of rights.

*Clause 18 referred for further consideration.*

**The Chairperson:** I am conscious that we started at 11.00 am and that it is now 4.30 pm. We have reached the end of a group of clauses. If you want to start work on clause 19, I am happy to do so.

**Mr K Robinson:** I will have to withdraw shortly.

**The Chairperson:** If two or more Members are going to leave we should conclude now, rather than start a group and not be able to complete it.

**Mr Beggs:** The scrutiny of the Bill is very detailed, and we do not wish to miss anything. In this session alone we have been going since 2.00 pm, and I prefer to be fresh in dealing with a new group of clauses.

**The Chairperson:** We have made good progress, and I do not want to push things too far. We appreciate your help and will give you some breathing space.





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## NORTHERN IRELAND ASSEMBLY

*This report was not approved formally by the Committee prior to the suspension of the Assembly on 14 October 2002, but is published by order of the Speaker.*

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### COMMITTEE FOR REGIONAL DEVELOPMENT

Wednesday 25 September 2002

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### STRATEGIC PLANNING BILL (NIA 17/01)

#### Members present:

Mr McFarland (Deputy Chairperson)  
Mr Bradley  
Mr Ervine  
Mr R Hutchinson  
Mr Hay  
Mr McNamee  
Mr M Robinson  
Mr Savage

#### Witnesses:

Mr B Gamble ) Department  
Mr I Raphael ) for  
Ms S Mossman ) Regional Development

**The Deputy Chairperson:** Members have a letter to the Department for Regional Development from the Committee Clerk regarding the issues raised by the Planning Appeals Commission during the evidence session last week. Members should also have a copy of the Department's response.

Today we shall take evidence from the Department for Regional Development, and we have a short PowerPoint presentation. I welcome Billy Gamble, Ian Raphael and Sharon Mossman. Perhaps you might make a quick presentation; no doubt members will have questions for you afterwards.

**Mr Gamble:** Mr Raphael will make the presentation. We should like to capture the types of issues raised during the evidence session and in your letter. We shall clarify those points and any others you may have.

**Mr Raphael:** I want to address some points which emerged as a result of the evidence which the Committee received from the Royal Town Planning Institute and the Planning Appeals Commission on Wednesday 18 September. Two issues were raised at that Committee meeting. First, the Royal Town Planning Institute raised the question of the change of the wording in the Strategic

Planning Bill from "consistent with" to "in general conformity with" with regard to the regional development strategy. Secondly, the Planning Appeals Commission raised a point about fairness, particularly with regard to the statements, which are a feature of the Bill.

I want to outline why there was a need to change "consistent with" to "in general conformity with". It will allow the Department of the Environment the flexibility which it feels it needs to secure the ordinary and consistent development of land, which is its requirement under the legislation. It will allow a flexible response to unforeseen circumstances in the regional development strategy. We anticipate that the need for such flexibility will not occur frequently, as one hopes that the strategy has covered all the key themes and objectives which may emerge. However, we considered that point with regard to the change in the wording.

**Mr Ervine:** Can you give us an example of when such a situation has occurred?

**Mr Raphael:** I shall come back to that point, as it is interesting, and I can give you one or two examples.

The "consistent with" wording does not provide anything to deal with circumstances unforeseen in the regional development strategy. However, the Planning Appeals Commission mentioned that it recognises the real world which we live in. New issues can emerge over time, and the change of wording accommodates that possibility. It is important that the primacy of the regional development strategy be maintained, which is the point which the Committee kept in mind when debating the Bill.

The statement process will be in four stages. The first will be at the stage of the draft plan when the information is reviewed. The Planning Appeals Commission's report, following a public inquiry into the draft plan, will form the second stage. The third stage will be when the Department of the Environment makes a decision to adopt the development plan, and at the fourth stage the adoption order is published.

At the stage of the draft plan, the Department of the Environment will send the draft plan and any associated material to the Department for Regional Development, which then has 28 days to offer comments in writing. Those comments form the first statement, which can be of either conformity or non-conformity. For each of those two scenarios a strategy is in place. A statement of non-conformity means an objection by the Department for Regional Development to the draft plan, the implications of which I shall explain later.

The second stage of the process is the report of the public inquiry into the draft plan at which the issue of conformity or non-conformity is fully considered. That report will make recommendations in the light of submissions received from all participants in the inquiry. Objections may be raised at the public inquiry on the

issue of the plan's conformity or non-conformity with the strategy. If the Department of the Environment accepts an objection to the plan, the second statement may be one of non-conformity.

The Department of the Environment could call officials from the Department for Regional Development as witnesses at the public inquiry if the first statement were one of conformity with the regional development strategy. On the other hand, if our Department's statement is one of non-conformity, it is objecting to the plan and becomes "a party to the inquiry". I shall come back to that important point later.

At the stage of the draft adoption order, the Department of the Environment sends the Department for Regional Development copies of its draft adoption order and statement, and we have 28 days to comment. That order takes into account the whole question of conformity as considered by the Planning Appeals Commission at its public inquiry. The Department for Regional Development then issues the second statement, which the Department of the Environment is required by the Bill to consider. That statement is not an objection to the draft adoption order, nor is it determinative. That is fundamental in the light of the Planning Appeals Commission's point that the second statement gives the Department for Regional Development the opportunity for a second bite at the cherry as a party to the inquiry. That is not the case, as the second statement is neither an objection nor determinative. The Department for Regional Development is simply making a comment on the draft adoption order.

Importantly, we still come back to the point about the need to secure the overarching nature of the regional strategy — hence the so-called double locking mechanism, the statement on the first stage and the statement on the second stage, something which we feel is very important from the perspective of the regional development strategy.

The fourth stage is publication — the Department of the Environment will publish the adoption order. Significantly, at that stage — and I once again return to the point made by the Planning Appeals Commission about a party not having the right to comment or object at that stage — a party with legal standing dissatisfied with the published adoption statement supplied by the Department would be able to apply for leave to challenge the decision on the adoption order judicially.

**Mr Gamble:** Could you explain what the term "legal standing" means?

**Mr Raphael:** A party who had objected to the public inquiry would have legal standing to seek leave to challenge the Department of the Environment's decision on the adoption order judicially. That would give the opportunity to someone with legal standing to object to the adoption statement and adoption order effectively.

In conclusion, the Planning Appeals Commission view as expressed to the Committee rests on a number of assumptions. The first is that the Department of the Environment would be a party to the inquiry. The Department would only be a party to the inquiry if the first statement were of non-conformity. The Planning Appeals Commission is saying that the second statement would be a further submission by one of the parties to the inquiry and that the same opportunity should be given to others.

As I hope I have explained, the second statement is not an objection, and there is therefore no issue of fairness or unfairness; we are not being given the chance as an objector to make a comment outside the public inquiry process. It is a technical point, but I hope that members understand that the second statement from us is simply a means of our making a comment on the draft adoption order by the Department of the Environment. There is still a mechanism for a party with legal standing to object to the draft adoption statement and order.

The fourth stage makes it clear that the second statement has been made in respect of the draft adoption order. That order will already, among other things, have taken account of the report from the Planning Appeals Commission, and the report will include recommendations on the whole issue of conformity or non-conformity. The issue of fairness is wrapped up in the public inquiry procedure whereby parties have the right to object on the point of conformity or non-conformity.

**Mr Gamble:** I shall make two comments which may help. The integrity of the overarching nature of the regional development strategy is critical, hence the need for the two linked statementing procedures. The second statement, though not an objection to the plan, is extremely important, in that it is the final comment or opinion from the Department for Regional Development on the conformity of a plan before it is made. Given our experience, we can advise that the period from a draft plan to a finished plan can sometimes be extremely long. We should want the final comment before the Department of the Environment seeks to satisfy the law that the plan must be in conformity with the regional development strategy. We are suggesting nothing in the process that would support the argument that we should not make that second statement.

My final point is that the second statement should not be determinative for the Department of the Environment. The reason is clear, following advice from senior counsel that its being determinative in a planning sense would almost usurp the authority of the courts and potentially that of the Department of the Environment and its functions under the Departments (Transfer and Assignment of Functions) Order (Northern Ireland) 1999. It cannot therefore be determinative in planning; it can offer a

view and an opinion. It is an opinion in relation to how that plan conforms to the regional development strategy.

**The Deputy Chairperson:** Could you give examples of unforeseen circumstances?

**Mr Raphael:** It is hard to foresee unforeseen circumstances.

**Mr Ervine:** That is what you have listed.

**Mr Raphael:** It could be a significant commercial or economic development proposed in the greenbelt or in the countryside which could not have been anticipated because of changing economic or development circumstances. It could be something that was outside the policy considerations set out in the regional development strategy. In addition there could be major changes which dramatically threw considerations of the region's housing need requirements off course. Something of that sort could not possibly have been anticipated when we started to prepare and assess the whole question of demographic change three or four years ago. It would certainly have to be something of significance.

**Mr Ervine:** I am not sure that I got an example. There was something that might be an example, but I have nothing definitive. For instance, if some property developer came up with a grand scheme to build houses in the hills — and no doubt the whole of Northern Ireland would be quite interested in buying them despite the challenge to the environment — you are saying that we are leaving a door open for entrepreneurial attitudes. Could I have a more definitive example? I am not trying to be unreasonable; I just want to understand it.

**Mr Gamble:** We argued long with senior counsel about trying to reach consensus on the wording. We felt that there was a great deal of comfort in the regional development strategy in coping with the unexpected. An opposing view was put by counsel acting on behalf of the Department of the Environment that there was a rigidity in the term “consistent with” which would not allow practical decisions at ground level in the face of something unexpected and extremely significant or might rule out a consistent approach.

Rather than 100 pieces fitting together, one piece might not fit, and if we were to continue with the “consistent with” argument, that would mean that the whole plan was potentially out of kilter. We were saying that there is comfort in the regional development strategy: senior counsel advised that that the idea of having “consistent with” in all points might make it too difficult to deal with the real issues on the ground. Therefore the revised wording provides a degree of latitude.

**The Deputy Chairperson:** The Committee expects the policing of that aspect to be rigorous. We should be fairly fraught at the first sign that the Department of the Environment's taking the wording with an attitude

summed up by “Jolly good, very interesting. Now let us get on with the real world.”

I still do not quite understand why you have not been able to secure agreement with the Planning Appeals Commission on this point, for what you have described is logical. Why does it not accept it, and does its legal opinion not accept your logic? I presume that you had many discussions on the subject with it before we arrived at this situation.

**Mr Gamble:** There is an onus on us to go back to the Planning Appeals Commission, having met you and having heard its session last week. We must explain the position as we see it. It is predicated on several assumptions. We have presented a reasonable argument, and we can set that out to the Planning Appeals Commission. One hopes that it will not have a problem with that.

**Mr Hay:** The Planning Appeals Commission sees you, Mr Gamble, as having a second bite of the cherry, which is what its representatives have said to the Committee. It has made its decision, and the Department is being involved again — it makes it messy.

**Mr Gamble:** We do not wish — and I do not suggest that the Planning Appeals Commission wishes — to open an inquiry, as that is not in anyone's interest. However, there is an issue for the Department about the integrity of the regional development strategy. Several things can happen from the drafting of the plan to its being made. There is a legal obligation on the Department of the Environment that the plan should be “in conformity with” the regional development strategy. We have a mechanism in the shape of a second statement and the protocol which we shall have in place with the Department of the Environment. That is, as we progress, we ensure that there is convergence with the plan and the regional development strategy, which was the Deputy Chairperson's point. Therefore we do not face a situation down the line where the two diverge. That is critical, and the protocol is the key to that. In many ways the assurance of the second statement before they make the plan is important.

**Mr Raphael:** You raise an important point. The Planning Appeals Commission rightly wants to protect the procedures surrounding the public inquiry, for that is its remit. During last week's evidence session, its representatives said that they are not commenting on the legality of our proposal, but that they were referring to the procedural side, and that is quite right. We want to be sure that it is correct; hence the need for taking a legal opinion so that nothing will be floating around that could create problems. The Committee is correct that it is important that the matter be addressed properly, and the Planning Appeals Commission's point is reasonable.

**Mr Ervine:** The Department for Regional Development has huge power and authority here, not only because it is the Department, but because it is the guardian of the



regional development strategy. However, there are several implications to be looked at. Your ethos is wonderful, but can we guarantee that, in 10 years, the ethos of the departmental officials and the Minister will be just as wonderful? Is the passing of Bills and other legislation not about stopping excesses?

There is potential for a coach and horses to be driven through your suggestion that flexibility is needed in unforeseen circumstances. I understand the logic of that; however, there is a danger that unforeseen circumstances could be invented. I do not suggest that you would do that, but it could happen further down the line.

If I am an individual objector, and therefore with legal status, should we ever have joined-up government, would my opinion stand a chance in the hallowed halls of the Department of the Environment against the opinion expressed in the Department for Regional Development in its second statement? That chance would be remote. A little person like me would only be getting in the road. There will be a growth of the use of that flexibility, and little people like me will be steamrollered.

There is a further implication. Is there any provision whereby a little person could get legal aid to take on the might of the Department of the Environment and the Department for Regional Development? Your Department has been silent on that issue. Although I have raised an objection, unless I was wealthy, that objection would not matter. I should be swamped, because every time we talk to a Department about anything, there is the looming spectre of legal counsel. What chance does the little person have?

As the Bill stands, I am absolutely opposed to the second statement. It means that a loophole may be created at a later date, and it affords minimal opportunity for the little person to present an argument. Some developers will be able to afford it. However, ordinary people and small groups of people will have opinions. I am fearful about the way in which the legislation has been designed.

**Mr Gamble:** I hope that the Committee members who duly endorse the regional development strategy and its principles will equally endorse the statementing procedure to protect the integrity of the strategy on those principles. Through the two statements, we seek to offer that degree of protection to the regional development strategy's key principles. It is to be hoped that the individual who may oppose a change to the townscape's character, to cramming or to a failure to connect transport will look to that statementing procedure, which says that that plan does not conform to the regional development strategy for certain reasons. That is what the statementing procedure seeks to do. It is a twin-locking procedure to protect those interests and views.

**Mr Irvine:** I understand that no slight is intended on the people who are attempting to develop the regional development strategy. I am looking to the future and to

what might become a practical reality. After all evidence has been heard, the guardians of the regional development strategy may still not be keen. Given that you are the guardians of the regional development strategy, the Department of the Environment is placed in an interesting political situation. Versed with a political misjudgement to make and protection of the individual, I am not convinced that that protection would be guaranteed in the Department of the Environment's mind. It must be remembered that we may have joined-up government some day. Departments may talk and relate to one other and, therefore, have common purposes and interests. There are common purposes and interests that are legally alien to the individual's arguments.

**Mr Gamble:** Planning is always subject to restrictions. We believe that the regional development strategy's principles are fundamental and that the Committee shares that view. All we seek to do through that process is to ensure that plans meet and expand on those principles, and that they conform to the regional development strategy. There are two important interlocking points in planning. Through the Strategic Planning Bill, we suggest a twin-locking arrangement to give that assurance. It is a matter for the Assembly and its Committee to decide whether that is a sensible way forward.

**The Deputy Chairperson:** My understanding is that your first statement is a valid legal statement and is your view.

**Mr Gamble:** Both statements are in statute; one is potentially an objection.

**The Deputy Chairperson:** The first is an objection, and that is taken into account. Your second statement simply reiterates your first, but you have said that it does not have a statutory base.

**Mr Gamble:** It has a statutory base, but it is not treated — *[Interruption.]*

**The Deputy Chairperson:** It is not determinative and is not an objection. In effect, you say that you objected before and that you still object now. Planners are not obliged to take any particular account of it, which is presumably why you can go to judicial review.

**Mr Gamble:** No. The second statement is made, before the plan is made in the draft adoption statement when we see the outworkings of all the discussions of the public inquiry and we have a sense of the type of plan to be made. Before the Department of the Environment can satisfy its statutory duty, which is to introduce a plan that is in conformity, we shall have an opportunity to say whether we believe it is in conformity.

**The Deputy Chairperson:** However, you still say that you object.

**Mr Gamble:** Not necessarily.



**The Deputy Chairperson:** If you still believe that it does not conform to the strategy, it just confirms your original objection. Your statement will say that a plan is either in conformity or it is not.

**Mr Gamble:** Where a plan is not in conformity and before a plan is made, the Department of the Environment, having worked through the objections and views of others in an inquiry, may decide to take action in order to bring the plan into conformity. Therefore, our second statement could be to endorse that that plan is now in conformity.

**The Deputy Chairperson:** The initial application does not conform to the regional development strategy. If it is modified and submitted for a second time, and it conforms, that is jolly good. If the second submission does not conform, you have said that it does not have a material effect, other than that it is neither determinative nor an objection. Therefore, you feel that it is not a second bite of the cherry because it merely highlights the previous situation. However, if you say that it does affect the process, you are agreeing that it is a second bite of the cherry. You must be careful; you cannot have it both ways. Your argument that it is not the second bite of the cherry is based on your belief that, as the second submission only confirms that the plan still does not conform, it is neither a determination nor an objection and, therefore, does not have teeth. The second submission confirms the status identified in the first submission. If you argue that it does not have that status, it must be a second bite of the cherry.

**Mr Gamble:** If a plan is not in conformity, the Department assigns a statement of non-conformity, which is an objection. If, having discussed the plan with others, who may share similar views, we decide that the plan has not taken account of certain issues, we have an opportunity to offer an opinion before the plan is made. The status of that opinion is that the Department of the Environment must consider it in statute in the planning process. If two versions of a plan are submitted, both of which are not in conformity, there are two yellow cards against that plan. The view of learned colleagues is that it would be unwise for the Department of the Environment to proceed in the face two non-conforming statements.

**The Deputy Chairperson:** Absolutely, but the second non-conformity statement is an opinion.

**Mr Gamble:** It is an opinion.

**The Deputy Chairperson:** The second non-conformity statement is an opinion, but it could lead to a judicial review, which gives the Department teeth. The Department can, as the original objector, go to judicial review if the Planning Appeals Commission makes a decision with which it is unhappy. Therefore, it is a locking mechanism. However, my concern is that, as the second statement is an opinion, it allows the Department to argue that it is not a second bite of the cherry.

**Mr Gamble:** The Department does not believe that it is a second bite of the cherry.

**The Deputy Chairperson:** It is neither a determination nor an objection; ergo, it is an opinion. Technically, the Department of the Environment would be silly in all sorts of areas, including its dealings with the Committee. The process is fraught — the planners can thumb their noses the Department, in which case it would seek a judicial review, at which the Committee would be terribly excited because the planners were not conforming to the regional development strategy.

**Mr Gamble:** That is a good summation.

**Mr Savage:** The more I listen, the more confused I become. Mr Raphael mentioned the green belt, which, especially in my constituency, is changing. If a developer makes a good case that states that there are opportunities to create employment in a green belt, will the Department look at his argument favourably?

**Mr Raphael:** That is not what I said. There is an existing policy framework for dealing with development in, or outside, the green belt in development plans and, especially, in the strategy for rural Northern Ireland. Such a case would be dealt with in the context of the existing planning framework and policy. It would take something of such magnitude that had not been foreseen in the strategy. However, normal development in the countryside to do with developers seeking permission to build would be dealt with in the existing planning framework and policy.

**Mr Savage:** That is fine for someone who can afford to pay consultants to talk to the Department, but not for small businesses. Changes must be made, and the entire issue must be tightened up. I can think of a few examples of small businesses in Craigavon and Dromore that would be affected. I sat on the council for more than 20 years, and there were times when I got very angry with the planners. I know of someone who fought for a long time to get permission for a replacement dwelling. A change of personnel in the planning department ensued, and the person who bought the site was granted permission to build four houses on it. Legislation must be introduced to tighten that up to prevent such situations from happening.

**The Deputy Chairperson:** That is an important issue, but we are talking about two different matters. One is the planning legislation, which is a matter for the Department of the Environment, and here we are examining the strategic overview of a watchdog on the Planning Service and the systems that it uses.

**Mr Gamble:** One issue that we shall raise with colleagues is housing in settlements and the tension that surrounds replacement dwellings. It is critical for the Department to have discussions with the Committee on those matters.

**The Deputy Chairperson:** That is the next stage. The next item that the Committee was due to discuss was the report, but we do not have time. The next stage is to take the regional development strategy and concentrate on strategy and policy. That is the interesting meat in all this. The regional development strategy deals at a broad strategic level, but, in the next stage, we get into areas such as how we police what is happening.

**Mr Gamble:** They are the practical issues.

**Mr Ervine:** I am unclear about one point. When was it determined that a percentage ratio would be set between brownfield and greenfield sites? Did the Department agree with that?

**Mr Gamble:** Yes, but the ratio is not set. That percentage is the minimum that would be set.

**Mr Ervine:** I fear that we could see the early development of greenfield sites, because of the adjustment between the two determinations of “in general conformity with” and “consistent with”. If a Department was not keen on that percentage being delivered, it could develop greenfield sites much earlier because of the effort that is involved with brownfield sites. What do you mean by “unforeseen

circumstances”, as that could open up a can of worms? I have several issues of concern, not only about the individual but about what has been agreed, and almost decreed.

**Mr Gamble:** I agree entirely. There are principles in the regional development strategy that are not negotiable, and that is clear. How we do it, which was the Deputy Chairperson’s point, is getting down to the detail. Phasing land through land release is critical. We advise the Department of the Environment on how it carries out urban capacity studies and how it proceeds with the phasing of land to fulfil those targets. We hope that that reassures the Committee.

**Mr Raphael:** The Department of the Environment is committed and signed up to the principles of the regional development strategy, particularly those regarding housing development and the best way to manage and monitor a situation.

**Mr Ervine:** I am not really worried about those issues at the moment.

**The Deputy Chairperson:** Thank you for attending the Committee session, and I apologise to your colleagues. Time constraints mean that we cannot meet them today.

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**NORTHERN IRELAND  
ASSEMBLY**

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**COMMITTEE FOR EDUCATION**

Thursday 26 September 2002

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**EDUCATION AND LIBRARIES BILL  
(NIA 21/01)**

**Members present:**

Mr Kennedy (Chairperson)  
Mr S Wilson (Deputy Chairperson)  
Mrs E Bell  
Mr Gibson  
Mr McLaughlin  
Mr K Robinson

**Witnesses:**

Mr S Peover           )  
Mr J Caldwell        ) Department of Education  
Mr E McCloy         )

**The Chairperson:** Good morning and welcome to the Committee. Copies of questions received during the week from the South Eastern Education and Library Board and the Human Rights Commission will be circulated at the meeting for members' information. All written submissions received on the Bill should be included in the Committee's report. The normal procedure is to deal with each clause individually. After witnesses have given a briefing on the clause, members can ask questions.

**Mr Peover:** Clause 1 sets out the basic provision that introduces the common funding scheme. I told the Committee at our last meeting that existing arrangements do not allow for a common funding scheme. Rather than have a scheme in each board area, another for the Department of Education, one for grant-maintained integrated (GMI) schools and one for grammar schools, statutory provision has been made for a common funding scheme. The purpose of clause 1 is to create a framework for this, to define the schools to which the scheme will apply and to set out the consultation arrangements for it.

**The Chairperson:** Why are you not required to put an order detailing the formula subject to affirmative, confirmatory or negative resolution before the Assembly? You are seeking fairly far-reaching powers through the Bill. For the purposes of scrutiny and to keep the Committee and the Assembly content, it would be better to make those changes via the democratic process.

**Mr Peover:** During the general briefing on the Bill, I said that the scheme and the formula are complicated and

detailed documents and that they are varied regularly by the Department and its education partners. That has always been the case since LMS was created, and it will continue to be the case under a common scheme because anomalies and hard cases arise. A steering group comprising the Department and its education partners considers amendments to the scheme. The scheme is not only complicated — all the parts are interrelated. It is not simply a matter of changing one element; we have to determine how changing one element will affect the others.

It seems to us appropriate to work with our education partners. We have detailed consultation arrangements in the scheme that require us to take the views of the main partners and schools. We have a mechanism at ground level to agree the details of the best way forward. It did not seem to us that the statutory process of approval for the scheme was desirable or essential.

**Mr S Wilson:** You do not seem to see a need to talk to the Committee for Education or the Assembly on anything. When I listen to your patronising response and I read your document I wonder if you realise that devolution has taken place. There is no mention in clause 1 of any consultation with this Committee or the Assembly. It may be that we are relegated to "such other bodies and persons" as the Department thinks fit. I hardly think that is the way to treat this elected body on something as important as the amount of money that goes to schools and therefore enables the youngsters of our constituents to be properly educated.

The fact that the scheme is complicated and may require variation should not exclude it from being open to scrutiny. The Committee spent a lot of time responding to your consultation document on the common funding formula, and the way in which you treated that document was to dismiss around a third of the recommendations, some of which were important.

**The Chairperson:** We will have the opportunity to discuss that at a later meeting.

**Mr S Wilson:** It is even more important, therefore, that the Department is required to produce the formula for ratification. Can you explain to the Committee why, if it is so impossible for the Department of Education in Northern Ireland to consult and use statutory rules to present the formula for funding schools, it can be done in England and Wales? Is it because we might understand the formula less well than politicians in England and Wales; or is it simply that you want to live in splendid isolation in Rathgael House?

**Mr Peover:** I am not sure that I understand the reference to England and Wales, and I do not understand Mr Wilson's point. In England and Wales, LMS schemes are operated by local authorities.

**The Chairperson:** I understand that in England and Wales the fair funding regulations are remade each year.

**Mr Peover:** They do not set out the detail of LMS schemes in each local education authority's area.

**The Chairperson:** There is a regulation by which the democratic process can make a serious input. That is the point.

**Mr Peover:** I can only reiterate my point. The Department's view is that the detail of a scheme of this type, which is only one among many that the education service operates under, is not suitable to be subject to a statutory process. When changes are made on a regular and continual basis, the impact of one proposal for change on all the other aspects of the formula must be modelled before it can be run. That has been the experience of the education and library boards. They do not simply introduce changes as a matter of conceptual scrutiny of the formula. A proposal is brought to them; suggestions are made; and they are modelled against the impact of that change on not only the group of schools affected, but on all schools across the board's area and on all other aspects of the formula.

I am not trying to be patronising. It is not that the Department is cleverer than other people, but that the formula needs to be modelled against a set of data. Those data have to be run through fully. It is a considerable and complicated process, which the Department does not believe to be appropriate for a process of statutory approval.

**Mrs E Bell:** Although I do not associate myself with Mr Wilson's remarks, the Bill does give the Department far-reaching powers, and there needs to be more processing before legislation is produced. The Committee needs to be informed as much as possible about what the modifications are and what the Department does to deal with them.

I want to ask about clause 1(6), which, is about consultation. Having been a member of several boards of governors, I worry about their responsibilities within this clause. It states that

"Each board shall, in such manner as the Department may direct —

(a) consult the Board of Governors of every relevant controlled and maintained school in its area about the draft scheme".

Are you content that that will be done properly and that it will be done efficiently, so that everyone concerned is clear about how it is implemented? It states in sub-section (b):

"inform the Department of the outcome of those consultations."

Is that a statutory duty on the boards? Should they inform the Department in an unofficial manner?

**Mr Peover:** It is a statutory requirement to inform the Department. It expects boards to consult every Board of Governors, as they are currently required to do.

**Mrs E Bell:** I understand the difficulties that arise from that.

**Mr Peover:** I do not minimise the difficulties. Boards of Governors largely comprise lay people with many responsibilities, and the formal operations are complicated. Ultimately, it is important that boards of governors, which are advised by their senior management teams in schools, principals and vice-principals and so on, are able to consider the effect of the formula on their particular schools.

It has always been a principle of LMS that schools are consulted at various stages of the process, because they can judge how changes affect them. That is simply progressing what the Department believes has been good practice with regard to the existing LMS formula. If anything, it is more necessary to make that formula stronger.

**The Chairperson:** Will you clarify the position? Is the Department trying to get power to bring in a formula after consultation, either with or without modification? In other words, will it do what it likes?

**Mr Peover:** That is not my interpretation of the matter.

**The Chairperson:** Is it a fair interpretation?

**Mr Peover:** No, it is not a fair interpretation. A variety of views will be expressed in any consultation about change. Some people will like the change; some will be indifferent to it; and some will oppose it. Some organisation, whether the education and library board, the Department, or both, must decide how to proceed. Someone has to be responsible for decision making when different views expressed by various interest groups about the effects of the change are involved.

**The Chairperson:** Is it unreasonable for the Committee or the Assembly to expect to make a greater contribution than that which the Department envisages?

**Mr Peover:** It is entirely reasonable. We sent a draft of the common funding scheme to the Committee, and we envisage pursuing that process and consulting the Committee about the scheme and the formula. We have undertaken to offer the Committee an illustrative assessment of the impact of the common formula when we have enough information on the outcome of the current budget round and pupil projections. We intend to be as open and transparent as possible. Schools will have a budget, and they will know what the impact is. There is no point in hiding it. Schools must make their input based on as much information as possible.

**The Chairperson:** We will be returning to the Committee's recommendation.

**Mr S Wilson:** Mr Peover, if you intend to allow the Committee to see, and be consulted on, the proposals — I assume that it is a body that you think fit — and to see the outworking of that, why should the Assembly not make the final decision? It will affect so many people across Northern Ireland. Will the scheme not have more authority if it has the imprimatur of the Assembly, rather than just that of officials? What is the Department



running away from? As it is going to explain the model, the impact on schools and the changes, why should the Assembly not make the final decision on whether those changes will be desirable?

**Mr Peover:** The Department is not running away from anything. The consultation process, as described in the legislation, is as open as possible. All the interested parties, including the management authorities and individual schools, are involved. They can make representations to the Department, their managing authority, MLAs, MPs or whoever. The process of consultation and agreement is open.

The scheme is a detailed, practical matter of funding schools, and it did not seem to the Department to be an appropriate subject for statutory clearance. It seemed unnecessarily detailed. The Department is happy to consult all the parties, including the Committee. It has consulted the Committee extensively already and will continue to do so.

**Mr S Wilson:** What should be more open to account than the amount of money available to a school for the delivery of education? We will all bear the consequences if it is wrong and disadvantages schools in our constituencies. If we are talking about accountable government, that sort of issue should be more open to account than some of the others that the Assembly has a say in.

**The Chairperson:** We have dealt with the general principles fairly well. I wish to turn to the detail of clauses, including clause 1. Clause 1(10) says that where changes to the scheme are not considered significant by the Department, the need to consult can be waived. What does the Department consider to be significant changes, and what changes would not fall into that category?

**Mr Caldwell:** That is the standard arrangement which applies in education and library board schemes where there are variations judged significant or otherwise. There is no hard-and-fast rule as to what constitutes a significant difference, but in practice, if it were the simple upgrading of a factor to take account of average teacher salaries, that would not be judged a significant variation. If we completely changed the way a factor operated or introduced a new factor or way of processing the data within a factor, that would be a significant variation, and we should want to consult on it.

**The Chairperson:** So it is entirely at the discretion of officials.

**Mr Caldwell:** In precedent and practice, yes.

**The Chairperson:** And you are obviously content with that.

**Mr Caldwell:** You can set out a significant variation, but it would be hard to describe the other one.

**The Chairperson:** Yes. In my experience, it has been very hard to describe anything as being insignificant.

**Mr S Wilson:** Something is significant to a school if it affects its budget.

**The Chairperson:** Are there any other questions on anything in clause 1?

**Mr McLaughlin:** Is there a reason for not involving recognised unions under clause 1(4)?

**Mr Peover:** There is no specific reason for it. Such other bodies as we see fit can be consulted — anyone.

**The Chairperson:** Perhaps they are insignificant.

**Mr Peover:** They are far from that.

**Mr McLaughlin:** You have not specified them.

**Mr Peover:** No, we have not. What we have specified are the —

**Mr McLaughlin:** Why did you not specify the unions?

**Mr Peover:** The existing local management of schools schemes are operated by education and library boards, and they are required to consult not only schools but also the CCMS in relation to the sector. The Department consults the grant-maintained integrated and voluntary grammar school sectors.

The managing authorities have been the providers of funding under existing local management of schools schemes. It seemed appropriate to bring them into the legislation explicitly as the authorities to be consulted. The chief executives of the education and library boards are accounting officers for the resources in the maintained and controlled schools in their areas. They have personal financial responsibility, as does the board, so we felt it desirable to specify the boards and the CCMS in the legislation as groups which must be consulted as part of the process of preparing draft schemes. It is a transfer of responsibility from the boards to us in the Department. That is the rationale for having them there.

**Mr McLaughlin:** All parties in the Assembly, as well as society in general, would recognise that teachers and their unions are key stakeholders in the education system and should be specified as of right.

**Mr Peover:** We too recognise that they are key stakeholders, and we have mechanisms for consulting teaching unions on issues to do with policy, salaries and conditions of service through the negotiating machinery. We regularly consult the teachers' unions. To date, they have never been specified under local management of schools schemes, but that does not prevent their being consulted. The rationale for that part of the clause is that the current managing authorities are brought forward from the existing legislation into the new legislation.

**Mr McLaughlin:** Without your trying to improve things as you go on.

**Mr Peover:** Yes. If I can go back as far as 1989 —

**Mr McLaughlin:** I presume the existing model would not be changed unless we thought that it could be improved.

**Mr Peover:** Yes, the rationale behind the process set out in 1989 was that the groups affected by schemes, such as LMS and the Curriculum Advisory and Support Service (CASS), were schools. They knew whether their services would be enhanced or detrimentally affected by any changes and what their priorities and pressures were. Other people can act as proxies and put views on behalf of groups, but schools were the bedrock of the consultation, and that concept is maintained in the Bill. Every school is consulted on the content and impact of the formula on its circumstances.

**The Chairperson:** In the common funding formula proposal, the Department intends to fund preparatory departments at 30% of the approved teaching costs. Why is clause 2(7) included? Does that mean that the Department can reduce the funding without consultation or approval from the Assembly?

**Mr Peover:** The Department has reduced the funding of preparatory departments over several years, and it now runs at 30% of the teaching costs.

**The Chairperson:** I understand that, but I am not querying the background. We know by how much the Department has reduced the funding of preparatory departments. However, can the Department reduce the funding to nil without consulting with or getting approval from the Assembly? Yes or no?

**Mr Peover:** A Bill will come before the Assembly. If it is passed, the Assembly will have approved the Department's power to reduce the subsidies to nil. The Assembly is being —

**The Chairperson:** So, the answer is yes.

**Mr Peover:** The question was whether the Department would reduce funding without consulting the Assembly. The Assembly is being consulted through the Committee Stage of the Bill, and the power to enable that reduction is being included in the Bill.

**The Chairperson:** Yes, but —

**Mr Peover:** The Department would not just announce that from next September it will reduce the funding for preparatory schools to nil. The Department always consults with education partners and schools before changes are made. It is merely a proposal that the Bill contain a provision to reduce funding to nil.

**Mr S Wilson:** Why is that provision being sought?

**Mr Peover:** The Department has reduced the subsidy, and the provision is being sought to enable us to reduce

the funding to nil. The rationale is that the only real admissions criterion for preparatory departments is the parents' ability to pay the fees. We have more than enough primary school places, so there is no rationale for providing a subsidy to a fee-paying arrangement.

**Mr S Wilson:** According to the Programme for Government, you are going to subsidise Irish-medium and integrated schools, even though there is surplus accommodation, so your argument is a bit thin.

**Mr Peover:** It is not thin. We do not subsidise Irish-medium schools. We meet the costs of Irish-medium and grant-maintained integrated schools because, so far as possible, we are required to provide education according to the wishes of parents. Preparatory schools have no distinctive ethos, background or religious traditions. They are primary schools on the sites of grammar schools.

**Mr S Wilson:** Yes, but parents have chosen them.

**Mr Peover:** No one is required to cater for every choice that parents make.

**Mr S Wilson:** Are you saying that some choices are more important than others?

**Mr Peover:** Yes.

**Mr S Wilson:** Oh right. Thank you very much.

**Mr Peover:** Of course they are. How else —

**Mr S Wilson:** And the Department, without consulting the Assembly, will be the final arbiter on the provision.

**Mr Peover:** As I said earlier, the Department will submit proposals if it seeks to amend legislation, such as that to change the rates of subsidy to schools, but current legislation allows us to meet the expectations of parents if it does not involve unreasonable public expenditure. The question is: what is unreasonable public expenditure? The Assembly could debate any proposal to remove subsidies from preparatory departments. In the past we have taken the line that, in the main, there are more than enough primary school places in the controlled and maintained sectors. There is no rationale for heavily subsidising what is effectively a form of private education.

**The Chairperson:** Could not the same argument be made in respect of the integrated sector and the Irish-medium sector? For instance, provision could be made for a more natural integration or to enable certain schools to focus on teaching Irish — it could be taught on a widespread basis in most of the maintained sector. However, instead, special arrangements have been entered into for those sectors. Clearly, this has more to do with the politics of envy.

**Mr Peover:** Which is more to do with the politics of envy?

**The Chairperson:** The politics of envy are that you are not prepared to give funding to parents who have a

perfect right to choose to send their child to a preparatory school. Why are you being inconsistent?

**Mr Peover:** It is not inconsistent. What distinctive features do preparatory departments have that ordinary primary schools do not have?

**The Chairperson:** It is to do with the principle of parental choice that you have already mentioned.

**Mr Peover:** Why do parents choose to send their children to preparatory schools? What distinctive features attract parents to those schools?

**The Chairperson:** They choose to have their children educated in that way. They are not asking for 100% funding.

**Mr Peover:** Why do they make that choice? Funding is available for parents, if their requests can be fulfilled within the controlled or the maintained sectors. In some cases, they may also be fulfilled in integrated Irish-medium schools. There are some controlled and integrated schools in the controlled sector. There are also grant-maintained integrated schools. Some Irish-medium units are part of the maintained sector, but there are also free-standing Irish-medium schools. All those choices are available to parents, and they are distinctive choices. What distinctive aspects of preparatory education justify the public purse's meeting the costs, either partially or fully?

**Mr S Wilson:** Parents who send their youngsters to preparatory schools also pay into that public purse. You are not dispensing largesse to people who have not made a contribution. It is nonsense to suggest that this is a gift to those people — they have already made a contribution to the public purse.

**Mr Peover:** The basic point remains: what is the rationale for providing a subsidy for preparatory departments when the form of education that they offer is available in controlled and maintained schools where we have surplus places? If the controlled and maintained schools were full and extra capacity was needed, I could understand the rationale for effectively buying places in other types of schools. However, no such restrictions exist — plenty of places are available.

**The Chairperson:** The Department would incur a cost if pupils from preparatory departments were driven into either the controlled or the maintained sector. Why then is the Department not prepared to subsidise preparatory departments? Is it because you consider that form of education to be a privilege or in some way inconsistent with certain social outcomes? Some of us get the rather uneasy feeling that the boot is aimed at the preparatory sector in particular. It is a small sector, but it is being dealt with on a political basis. It is almost a political agenda that finally puts that sector to bed.

**Mr Peover:** You cannot expect me to comment on political agendas. As far as we are concerned, there is a

long-standing arrangement under which preparatory departments receive partial funding. Over the years, we have taken the view that that arrangement is not defensible given that the needs of the children concerned could be more than adequately met in the mainstream sectors.

Over the years we have progressively reduced the subsidy to its current level of 30%. I do not see how that can be portrayed as political, because it is about continuing change in the education system. If someone could provide me with a rationale about the form of education on offer in the preparatory departments and how it is distinct from that offered in a mainstream primary school, perhaps I could see the rationale for a subsidy. However, I have not seen a distinctive argument about their particular features that justify their being funded outside the normal system.

**Mr S Wilson:** The rationale that you give for other sectors is that choice should be paramount. If you accept the principle of parental choice, it is total arrogance on your part then to suggest that some choices are acceptable but others are not.

**Mr Peover:** I do not think that you should paraphrase what I say, because that is not what I said.

**Mr S Wilson:** That is what you said, and Hansard will show it.

**Mr Peover:** I did not say that parental choice was paramount; I said that under article 44 of the Education and Libraries Board (Northern Ireland) Order 1986 the Department is obliged to make provision for parents to exercise choice, but not where unreasonable public expenditure is involved. We acknowledge that parents want to make distinctive choices for the maintained sector, the controlled sector and for groups such as the integrated sector and the Irish-medium sector where distinctive forms of education are on offer. If someone can show how the form of education on offer in a preparatory department is distinct from that in a primary school, we will certainly consider it, but I am not aware of any rationale that would say that that is a distinctive choice.

**The Chairperson:** We have exercised that point very well.

**Mr S Wilson:** Clause 2(2) says that

"The common funding scheme may include such other provisions...as appear to the Department to be necessary or expedient in connection with the funding of relevant schools."

Clause 2(5)(c) says that the common funding formula

"may include provision taking into account factors affecting the needs of individual schools... subject to variation from school to school".

Clause 2(5)(b) says that the common funding formula

"may include provision for taking into account factors affecting particular needs of any class or description of school".



Are we having a common funding formula or not? If you are going to make all these variations, how do you then maintain that this is a common formula funding?

**Mr Peover:** I fully understand that point. As we have a very diverse education system with different types of schools that have different relationships with managing authorities, there is a need in the scheme to provide for a very large common core, particularly on issues such as age-weighted pupil units. Other points must also be considered; for example, some schools must meet their own insurance, some must meet part of their administration costs, some operate on a cash basis — there are many differences between types of schools. The legislation for the formula and the formula itself must allow for as large a degree of commonality as possible, given our variety of types of schools.

**Mr S Wilson:** Is it not going to be a common formula?

**Mr Peover:** If by “common” you mean regardless of whether a school is a grammar school, an integrated school, a maintained secondary school, a controlled grammar, or controlled secondary school, it will not be entirely common; there will be differences which should relate only to objective factors about the nature of the school, not to the fact that it is in one area rather than another, or that it is being funded by the Department rather than the boards, or being funded by the Western Board rather than the Belfast Board and so forth. We are looking for a formula, which, as far as the common features are concerned, will not differ between schools of different types in issues such as pupil numbers, accommodation and sports facilities. However, where there are real, substantial and significant differences between schools that affect how they operate, it would be unfair for the formula not to have some regard to that.

The last time we discussed the Bill, I said that we are not seeking to make all schools the same. The Chairperson asked if this is a way of forcing grammar schools into the controlled or maintained sectors. I said that it is not; it does not change the ethos or traditions of any school. It acknowledges that schools have always had differences in status and different needs because they have traditionally met different aspects of costs themselves. This is not easy: it is common as far as we can make it common, but there will be areas of difference that must be reflected.

**Mr Gibson:** Clause 2(10) is more or less a variation of what we have been discussing. It relates to awarding money outside the common formula. In what sort of circumstances would that be used? In other words, what departure would be necessary to give additional money that is not already dealt with?

**Mr Caldwell:** That is again part and parcel of all current local management of schools arrangements. That is the amount of funding known as “excepted items” that boards — and the Department in the case of grant-

maintained integrated and voluntary grammar schools — use when schools have a higher incidence of substitution because of long-term sickness or statemented children. Those costs have always been held centrally because there is no formulaic way of distributing the money in advance of a school year. They are held centrally and claimed back by schools. The common scheme introduces a completely common set of arrangements for the claiming back process.

**Mr Gibson:** That is really an additional common formula?

**Mr Caldwell:** Except it is not a formula. It is a common claiming process. There is a high degree of harmonisation in that already, but this standardises it.

**Mr K Robinson:** In clause 2(11), how likely is it — or historically how many times has it happened — that a school would open, close or amalgamate in the middle of as opposed to the beginning or end of a school year? Is this provision included to give advantage to one or a couple of particular types of school management over the traditional school management types?

**Mr Peover:** It does not happen often. It has been happening less often in recent years than before. Under the development proposal process that we now have, we expect school authorities to adhere to a timetable. That is for a variety of reasons, not least so that parents know whether a school will be open at the start of a school year. The process will ensure that most development proposals will result in schools opening from 1 September in whatever year it might be.

However, schools open occasionally at times other than at the start of a school year. It is not common, but it has happened in the smaller sectors. It may happen because a school is dependent on building work that is delayed beyond the start of a school year. There are circumstances in which a school may open or close during a school year, but you are right that it is rare.

**Mr S Wilson:** The import of clause 2(1)(b):

“provides for the common funding scheme to require each ELB to delegate to the Board of Governors of each relevant controlled or maintained school its budget allocation for each financial year.”

Sorry, that is not the one that I meant.

**The Chairperson:** We will move to clause 3. Do you have any comment, Mr Peover?

**Mr Peover:** Clause 3 is taking forward existing provisions in legislation to enable conditions to be applied under the scheme or in accordance with the scheme, via boards and so on. It is designed simply to enable some conditions to be applied to deal with any problems that might arise in a school.

**The Chairperson:** Is clause 3 not contrary to the ethos of the local management of schools funding, in



that it provides for restrictions to be placed on Boards of Governors with regard to what they can and cannot do without the approval of the relevant education and library board? Will the clause also apply to voluntary grammar and grant-maintained integrated schools?

**Mr Caldwell:** These arrangements apply only to education and library board controlled and maintained schools. The funding arrangements for voluntary grammar and grant-maintained schools are different because, as they receive cash, they are subject to a financial memorandum that must be agreed with the Department. In effect, the memorandum is the contract between the Department and the school. A document was issued, which we sent to the Committee, that replaced part of the local management of schools schemes that boards published. It set out the financial management arrangements that should exist between the chief executive of the education and library board, as the accounting officer, and the Board of Governors. It also set out the conditions on which the school is given a delegated budget.

**The Chairperson:** In that case, could the Department place restrictions on the voluntary grammar and grant-maintained integrated schools?

**Mr Peover:** The Department has done so. The purpose of the financial memorandum is to ensure regularity and propriety in the way that schools handle public money.

**Mr Gibson:** Are you saying that, regardless of the administration of a school, it is the responsibility of the various Boards of Governors to ensure that there is a common funding formula?

**Mr Peover:** Yes. We must ensure that control can be exercised over how schools spend their budgets.

**Mr K Robinson:** If we are discussing school Boards of Governors, I should declare an interest.

**The Chairperson:** That probably applies to almost everybody here. We could all declare something — other than a unilateral declaration of independence.

**Mr Peover:** Clause 4 is a basic provision to ensure that the Boards of Governors have decision-making powers over their delegated budgets. It requires that the amounts be put at the disposal of a Board of Governors for each financial year. It is part of the scheme under which a school's budget share is determined and then made available to the Board of Governors, which has discretion in the allocation of resources to staffing, books and materials.

**The Chairperson:** The Transferor Representatives' Council has questioned the need to include the words "under subsection 4" in clause 4(5).

**Mr Peover:** Subsection 5 exists to ensure that people who sit on Boards of Governors are not personally liable for decisions made by the board, if those decisions are challenged. When Boards of Governors took on these

responsibilities, under the Education Reform (Northern Ireland) Order 1989, there was a great deal of concern that individuals, who served on boards on a voluntary, unpaid basis, might become personally liable if a legal challenge were made to the actions of the board. Clause 5 is a way of ensuring that the board is a corporate entity for the purposes of such decisions.

**The Chairperson:** The view of the Transferor Representatives' Council is that that should be clarified to ensure that

"members of the Board of Governors of a school shall not incur any personal liability in respect of anything done in good faith in the exercise or purported exercise of their powers".

**Mr S Wilson:** What does the term "in good faith" mean?

**The Chairperson:** Presumably, it means a great deal to church representatives.

**Mr Peover:** One could envisage circumstances in which, despite the advice of an education and library board, a Board of Governors wilfully made an appointment that was not in accordance with procedures. Such action would not be considered to have been taken in good faith.

You are asking why is there a restriction under subsection (4) and if it could be removed. We would certainly consider that. I would need to check with our legal advisers to see if there is any particular rationale. The general intention is that Boards of Governors, when exercising their functions, should not be individually liable in law for decisions made by the board, unless there is some malfeasance or deliberate maliciousness.

**The Chairperson:** Are there any other questions on clause 4? Are we happy with clauses 5, 6 and 7? Clauses 8, 9 and 10 deal with the resource allocations plans — the funding and the accounts of the boards.

**Mr Peover:** We had financial schemes that boards submitted to the Department which outlined their intended spending for the year ahead under various categories. The arrangements now are for resource allocation plans, and those are more detailed and give more information about the way in which boards propose to use their resources. Those provisions will enable the introduction of that regime, together with resource budgeting, et cetera, which are all part of the general Government trend to improve the standard of accounting and oversight in the public sector.

**The Chairperson:** We were wondering why clauses 8, 9 and 10 refer to "the Department" rather than to "the Department of Education"?

**Mr Peover:** In the interpretation of the Bill "the Department" is the Department of Education, and we are adding in the other Departments specifically. When a Bill covers a particular area — for example, education

— it is normal for “the Department” to be the relevant Department.

**The Chairperson:** Are the draftsmen being careful with words?

**Mr Peover:** The Interpretation Act 1978 has always allowed “male” to cover “male and female”, and there are various conventions under which legislation is interpreted. That is one of those conventions.

**Mr McLaughlin:** It does not mean “the management”.

**The Chairperson:** The CCMS said that it has not been possible to include audited accounts in the annual report in the timescale laid down. Does clause 10 need to be amended to enable a statement of unaudited accounts to be included, with the agreement of the Northern Ireland Audit Office?

**Mr Peover:** I am not sure that the Northern Ireland Audit Office would be happy with that.

**Mr McCloy:** The complexities of moving from cash accounting to resource accounting have proved difficult for boards to adapt to and for the audit arrangements to be as effective and efficient. We hope that when these provisions take effect, from 2003-04, the Northern Ireland Audit Office will be able to conform to the timescales laid down.

**The Chairperson:** Surely CCMS would be expected to conform to the timescales and not the audit office?

**Mr Peover:** The Audit Office has auditors. All public bodies are required to conform to the timetable for the submission of their accounts, and that is tighter under current arrangements than it used to be.

**The Chairperson:** We move to clauses 11 to 14 on best value and deal with each separately, starting with clause 11.

**Mr Peover:** Best value is the replacement for the previous arrangements under which boards were required to test their services competitively. Best value continues to refer to the three Es of economy, efficiency and effectiveness. It also incorporates current approaches to improving the quality of services, particularly consulting the users of services about the way in which they are provided.

It is a different regime, a different approach, to ensuring high-quality and good-value services. As I said the last time this was discussed, the boards voluntarily adopted it and have been engaged in it for some time. Several exercises have been carried out, and a best-value unit has been set up. Outdated arrangements have been replaced by the statutory duty of best value.

**The Chairperson:** Are the provisions the same as those under which councils now operate?

**Mr Peover:** Yes. The drafting of these provisions was delayed until the outcome of the discussions on the best-value duty for local authorities was clear.

**The Chairperson:** Why does the legislation allow boards to decide how to do their duties rather than prescribe the method?

**Mr Peover:** The method is not prescribed; boards can take on projects and are required to examine areas of their services. Boards are expected to identify their most fruitful areas, as they have done until now, and to pursue investigations. It is preferred — and it makes sense — that that is done collectively rather than individually, since the five boards provide broadly similar services to the schools in their areas. Perhaps Mr McCloy will comment on the approaches taken by the boards.

**Mr McCloy:** Fundamental reviews of services across the boards are carried out centrally. Similarly, each board has facilities for best-value reviews of specific services in its area. The Department monitors the action plans which stem from them and receives copies of reports and outcomes. Monitoring ensures that effective action is taken to ensure best practice when providing services.

**The Chairperson:** In respect of clause 11(1), there are variations. The NEELB has suggested including a reference to quality of service. The NASUWT wants health and safety requirements and, with Unison, equality added to the issues to which a board must have regard. What is the Department’s view?

**Mr Peover:** There are statutory obligations with equality, and I doubt the need to replicate the duty on employers which exists in equality legislation. With regard to quality, “effective” means a service which provides what is needed in an appropriate and relevant way. A poor-quality service is not effective. If it is not what people need, and the intended outcomes are not achieved, I do not know under what criterion it could be regarded as a high-quality service. Efficiency, effectiveness and economy pick up the core requirements. An effective service achieves its objectives and is economic and efficient. That is good quality, and I should be surprised if any of the boards want to provide poor-quality services.

Health and safety is a requirement in its own right. There is no impact in a passing two-word reference to something which is elsewhere the subject of detailed statutory provision. I should expect the draftsman to be dubious about attempting to capture in short form a complex set of statutory duties which are specified in legislation and in good practice guides in other settings.

**The Chairperson:** The draftsman appears to be a cautious individual. If members have no further comments on clause 11, we will move on to clause 12. What is the rationale behind clause 12?

**Mr McCloy:** The existing provision in article 20 of the Education and Libraries (Northern Ireland) Order 1993 lists some non-commercial considerations which boards must exclude when awarding contracts. The Order-making power will be subject to the approval of the Assembly and is in recognition that some of these non-commercial issues can affect the actual performance of a contractor in relation to value for money. It replicates the provisions in section 2 of the Local Government (Best Value) Act (Northern Ireland) 2002 that are applied to local councils now.

**Mr S Wilson:** What will be the procedure for seeking Assembly approval?

**Mr McCloy:** It is an Order.

**Mr S Wilson:** It just says that a draft Order will be laid before the Assembly for resolution. Will that be by negative resolution, or in what way will the Assembly deal with it?

**Mr McCloy:** By affirmative resolution of the Assembly.

**Mr Peover:** I will check that with our legal adviser, but my impression is that it is by affirmative resolution of the Order, which will have to be voted on in the Assembly.

**The Chairperson:** It is good to know that the Assembly is useful for something.

**Mr Gibson:** What will be the effect of clause 12 on the public finance initiatives or the public-private partnership contracts?

**Mr Peover:** Will you repeat that, Mr Gibson?

**Mr Gibson:** We are discussing the clause on non-commercial interests, and the public-private-partnership contracts will all have a commercial interest, as they are commercial ventures.

**Mr Peover:** That is the case. Public-private-partnership contracts are —

**Mr Gibson:** Will clause 12 have an effect on those contracts?

**Mr Peover:** It will not affect public-private-partnership contracts. The clause refers to considerations that boards must take into account when letting contracts for services, which they would otherwise provide themselves. In a public-private-partnership contract the specification is drawn up and put out to tender in the Official Journal of the European Communities, and prospective contractors can tender against that specification and include in their tender proposals to undertake, for example, cleaning or catering services. Those proposals are tested against value for money or what it would cost the public sector to provide the services itself.

A separate process is undertaken to examine a contract. If you are employing a builder to construct an extension,

you could undertake the painting yourself — the builder does not get involved in that. He may submit a tender which quotes £3,000 for the job, including painting and decorating. The job can then be costed without the painting-and-decorating aspect. That complicated process goes on in public-private partnerships but is separate from this approach.

**Mr Gibson:** Does a conflict not arise?

**Mr Peover:** I do not think there is a conflict.

**Mr Gibson:** This is to do with a non-commercial operation, whereas public-private partnerships are commercial contracts.

**Mr Peover:** That is right. Public-private partnerships are contracts where the private sector is expected to take on a substantial proportion of the risk, and it tenders on the basis that it will provide services for a certain cost, which is tested against the public-sector cost of providing those services.

**The Chairperson:** We will go on to clause 13, which is to be put to the Assembly for affirmative or negative resolution. Is it likely to be affirmative?

**Mr Peover:** Yes. I shall check with the lawyers to make sure that I am not misinterpreting them.

**The Chairperson:** Clause 14 deals with the repeal of competition provisions. We shall move on to clause 27, which is entitled “Determination of travelling and subsistence allowances”. Is there anything to prevent a board ignoring the consultation and determining its own rates? Not that they would do that.

**Mr Peover:** I am sure they would not. There are provisions in previous education legislation that require an education body to conform to the directions of the Department on its statutory duties. If someone behaved totally unreasonably we would issue a direction, but boards always act in accordance with their statutory duties.

**Mr McCloy:** Perhaps I could explain the rationale behind that. Under existing legislation, the Department is required to determine the rates of travelling and subsistence allowances. The new legislation places that responsibility on education and library boards, which must seek the Department’s approval of those rates. The reason is to allow a comparable rate to other public bodies. The boards do not have to apply on an annual basis to get them uplifted. That approval extends to uprating due to inflation. It is really an administrative change to make the system more streamlined.

**Mr S Wilson:** Does it make the system more streamlined? Is this not just a con trick? On one hand you are arguing that it gives more autonomy to the education and library boards, and on the other you are saying that the Department must approve the boards’ decisions. Are you saying that if the boards submit wildly different



rates, the Department will approve them? Does it not add to the bureaucracy? A board discusses the matter, makes a decision and then has to seek departmental approval. That is just an illusion, is it not? The Department still has the final say. Why pretend that the boards have any say in the matter? Every decision has to be approved by the Department.

**Mr McCloy:** The education and library boards, as the employers, generally think that they should have that role, because they negotiate terms and conditions of service with their staff. The existing legislation was out of step with the board's requirement to negotiate the rates of allowances. From an operational point of view, the boards do it on a combined basis. They consult on the relevant areas with the staff commission, which is the central co-ordinating organisation for the operation of the industrial-relations side.

**Mr S Wilson:** Do you envisage a situation in which, for example, the Belfast Board set different rates from the North Eastern board, and the Department's approving that?

**Mr McCloy:** No. We would not approve that.

**The Chairperson:** Are they allowed to use red diesel?

**Mr S Wilson:** So the Department makes the final decision. It just strikes me as odd that you grant that power to the education and library board, yet it has to seek your approval. I imagined that you would tell me that the Department would make sure that rates were similar across the Province anyway. Why not just set them in the first place?

**Mr Peover:** They are set by negotiation. It is just conceivable that there might be circumstances in which different rates were justifiable. I cannot think of one.

**The Chairperson:** I come to clause 28 about officers of boards. How will that clause change current arrangements?

**Mr Peover:** It does not change them a great deal in practice. There has always been a requirement for chief executives and chief librarians to be appointed, and the clause acknowledges the existence of the Department of Culture, Arts and Leisure and its role in the library service. When devolution took place, responsibility for the library service moved to the Department of Culture, Arts and Leisure. The clause formalises the arrangements under which libraries are now part of that. However, it has always been a requirement for boards to appoint a fit person as the chief executive and for their decision to be subject to departmental approval.

**The Chairperson:** We shall not pursue that. Will the Department still be able to direct that certain officers must not be removed from office?

**Mr McCloy:** No. That provision is removed.

**The Chairperson:** Should clause 83(1)(a) of the Education and Libraries (Northern Ireland) Order 1986 be amended to include references to the chief executive's role as accounting officer?

**Mr Peover:** No. Before the boards' chief executives were chief executives, they were chief education officers, and the general requirement is for local education authorities to have a chief education officer too. It merely says that the chief executive of the board is the chief education officer and secretary to the board. It spells out in statutory form the responsibilities of the chief executive for the board itself. The accounting officer responsibilities are placed on him or her by means of a letter issued by the Department's accounting officer nominating him or her as the accounting officer and setting out the duties, so there is a separate process of specification as accounting officer.

**The Chairperson:** The North Eastern Board drew that to our attention. I thought that it ought to be so.

**Mr Peover:** It is not necessary, since accounting officer duties were established long since.

**The Chairperson:** But you will consider it.

**Mr Peover:** I shall certainly consider it, but I do not feel it is necessary.

**The Chairperson:** We now come to clause 29, which deals with principals on teaching appointments committees. What is the purpose of the change, and why is it necessary?

**Mr Peover:** The education and library boards have told us that it can be difficult to have adequate teacher representation on appointments committees. They are keen to have a panel on which to draw, perhaps with people from outside the board area with particular expertise or from a particular type of school. It is intended to reflect the concerns expressed by boards and the representations made to us for greater flexibility in the arrangements for teaching appointments committees.

**The Chairperson:** Will this change give principals from another board area voting rights? Was consideration given to appointing them in an advisory capacity only?

**Mr Peover:** That sometimes happens at present. If you wanted someone with a particular background, that person could sit in on a teaching appointments committee as an observer and adviser.

**The Chairperson:** So such people cannot vote.

**Mr Peover:** No, they cannot. These arrangements would allow people to be members of the committee rather than observers, so their role would change. As I say, it is in response to comments from boards that it can sometimes be an onerous duty for individuals caught up in many appointments. They would rather have a panel on which they could draw than simply two individuals



involved continually, particularly at heavy times of the year when many appointments are made.

**The Chairperson:** The school population is not too large, so teaching staff, who seek appointments, have regular contact with each other.

**Mr Peover:** Yes.

**The Chairperson:** Would that put anyone in an invidious position?

**Mr Peover:** It is to be hoped that it would not. Such decisions are made at local level. When inviting people to sit on an interview panel, the Board of Governors must ensure that it does not compromise the selection process. As Mr K Robinson said, people must declare an interest if they discover that a member of their staff or families is a candidate. There are arrangements in the standing orders for teacher appointment committees that should deal with such situations.

**The Chairperson:** How will clause 36 on the annual report of boards change their accounting arrangements?

**Mr McCloy:** Under current legislation, the Department is required to publish accounts for the five education and library boards and to lay them before the Assembly. Non-departmental public bodies have a responsibility to publish their accounts as part of their annual reports, and clauses 10 and 36 require boards, if they have published their annual reports, including accounts, to lay them before the Assembly. The rationale for omitting the requirement for a summary is that, rather than the previous cashed-based accounts, there is a movement to accruals-based accounts. Consolidation of accruals accounts is misleading because inter-board transactions are included in each set. Although the Department will provide a limited summary in the intervening period to conform to

existing legislation, a board's annual report, including accounts, will be a more informative document.

**The Chairperson:** Why include clause 1 (12) when the transfer of the funding responsibility for voluntary grammar schools and grant-maintained integrated schools to the education and library boards has been deferred until the outcome of the review of public administration?

**Mr Peover:** Clause 1(12) is included because it is still the Department's intention to transfer funding responsibility from the Department to whatever organisation exists after the review of public administration. Clause 1(12) provides the statutory cover for a date to be set on which that transfer can happen. We do not know what the outcome of the review of public administration will be. It may leave the current arrangements in place; it may create radically different arrangements. Therefore, it seems pointless to transfer that responsibility now, when it was intended to transfer it on the implementation date of the common funding formula. Given the potential change in structures, it does not seem sensible to implement the transfer statutorily. When the Department knows the new structures, the transfer will happen on an appointed day.

**The Chairperson:** Is it reasonable to say that it is not anticipated that the change will happen soon?

**Mr Peover:** The timetable for the review of public administration assumes that it will publish a report in December 2003, which will be subject to extensive discussion and consultation.

**The Chairperson:** Thank you for attending the meeting. It has been a useful and, at times, robust exchange.

**Mr Peover:** We will come back to the Committee on the legal nature of the Orders.



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**NORTHERN IRELAND  
ASSEMBLY**

*This report was not approved formally by the  
Committee prior to the suspension of the Assembly on  
14 October 2002, but is published by order of the Speaker.*

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**COMMITTEE FOR SOCIAL  
DEVELOPMENT**

Thursday 26 September 2002

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**HOUSING BILL  
(NIA 24/01)**

**Members present:**

Mr Cobain (Chairperson)  
Mr G Kelly (Deputy Chairperson)  
Sir John Gorman  
Mr B Hutchinson  
Mrs Nelis  
Mr O'Neill  
Mr S Wilson

**Witness:**

Mr S Carson     ) Department for Social Development

**The Chairperson:** I welcome Mr Scott Carson from the Department for Social Development. The purpose of the meeting is to continue the clause-by-clause scrutiny of the Housing Bill.

*Clause 145 agreed to.*

*Clauses 146 to 147 referred for further consideration.*

*Clauses 148 to 150 agreed to.*

*Schedules 1 to 5 referred for further consideration.*

**The Chairperson:** Is the Department in a position to give us some insight into amendments to the Bill?

**Mr Carson:** We have about four or five amendments to clauses or schedules that the Committee has already referred for further consideration, so I did not raise them at the time. I was waiting until you came back to the clause to mention the amendments we are proposing. They are fairly minor amendments

**The Chairperson:** That completes our initial clause-by-clause scrutiny of the Housing Bill. We have identified the need to revisit 103 clauses.





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**NORTHERN IRELAND  
ASSEMBLY**

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**COMMITTEE FOR THE ENVIRONMENT**

Thursday 26 September 2002

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**POLLUTION PREVENTION  
AND CONTROL BILL  
(NIA 19/01)**

**Members present:**

Rev Dr William McCrea (Chairperson)  
Mr Armstrong  
Mrs Carson  
Mr Molloy  
Mrs Nelis

**Witnesses:**

Mr D Bell                   ) Department  
Mr D Campbell           ) of the  
Mrs E Harkness         ) Environment  
Mr N Simmons            )

**The Chairperson:** I welcome Mr David Bell, Mr Damian Campbell, Mrs Ethne Harkness and Mr Norman Simmons from the Department. We are about to move to the clause-by-clause consideration of the Pollution Prevention and Control Bill, and the officials are with us should any matters requiring clarification arise.

I believe that it would be beneficial if I were to provide a brief summary of the Committee's scrutiny of the Bill to date. The Bill was introduced to the Assembly on 17 June 2002, and following the completion of the Second Stage Reading on 25 June 2002 the Bill was referred to the Committee. Members will recall that the Minister attended the Committee meeting on 6 June 2002 to ask for the Committee's support for accelerated passage for the Bill, but the Committee rejected that. However, in a gesture of co-operation, the Committee agreed to complete the Committee Stage of the Bill by mid-September.

The primary purpose of the Bill is to transpose EC Directive 96/91 into Northern Ireland legislation. That was supposed to have been done by March 1999, and the EC is currently pursuing infraction proceedings through the European Court against the UK for the delay. It is regrettable that Northern Ireland is the only region in the UK not to have transposed the Directive.

The Committee clearly benefited from considering and responding to the consultation paper leading to the Bill, issued by the Department in 2001, as this made

members aware of many potential issues and provided an informative background.

To many the Bill may appear as being relatively limited in its application, in that it is currently likely to apply only to around 250 installations in Northern Ireland. However, its effects are not to be underestimated, and the Committee recognised the importance of EC Directive 96/61, as it is the central piece of European legislation regulating all of industry's environmental performance by introducing an integrated permitting procedure for existing and new installations. The Bill will replace the existing legislation — the Industrial Pollution Control (Northern Ireland) Order 1997 — with a more comprehensive procedure with the aim of preventing pollution in air, land and water.

During our scrutiny, the Committee wrote to six key stakeholders and received three replies. The Committee consistently places great value on the views of those who will be directly affected by potential legislation, and we are grateful to those who replied.

The Committee also received extensive written and oral evidence from the Department's officials, and I wish place on record the Committee's thanks for that assistance. Officials are here today to deal with any queries from members, if required.

The Minister wrote to the Committee on 23 September 2002 to advise that he will move a number of proposed amendments, previously discussed with the Committee, at the forthcoming Consideration Stage. That letter is before members today, and it provides the wording of each proposed amendment.

As members are indicating that they are content with this summary, we will move to the clause-by-clause consideration.

*Clause 1 agreed to.*

**Clause 2 (Regulation of polluting activities)**

**The Chairperson:** The proposal is that the Committee is content with clause 2, subject to the amendments proposed by the Minister in his letter to the Committee dated 23 September 2002.

*Question,* That the Committee is content with the clause, as amended, *put and agreed to.*

*Clause 3 agreed to.*

**Clause 4 (Disposal licences which expire before commencement of waste management licensing)**

**The Chairperson:** The proposal is that the Committee is content with clause 4, subject to the amendments proposed by the Minister in his letter to the Committee dated 23 September 2002.

*Question,* That the Committee is content with the clause, as amended, *put and agreed to.*

**New Clause**

**The Chairperson:** The Minister, in his letter of 23 September 2002, has proposed the insertion of a new clause after the existing clause 4 to be headed “Financial Assistance by the Department”. The new clause, if agreed, will allow the Department to provide financial assistance to bodies to further the objectives of the waste strategy or prevention or control of environmental pollution.

The proposal is that the Committee is content that a new clause be inserted after clause 4, as proposed by the Minister in his letter to the Committee dated 23 September 2002.

*Question,* That the Committee is content that a new clause be inserted, *put and agreed to.*

*Clauses 5 to 8 agreed to.*

**Schedule 1 (Particular purposes for which provision may be made under section 2)**

**The Chairperson:** The proposal is that the Committee is content with schedule 1, subject to the proposed amendment from the Minister in his letter to the Committee dated 23 September 2002.

*Question,* That the Committee is content with the schedule, as amended, *put and agreed to.*

*Schedules 2 and 3 agreed to.*

**The Chairperson:** That concludes the Committee’s consideration of the Bill. A draft of the Committee’s report on the Bill was provided to members, and that will be updated to reflect today’s proceedings. I thank again the officials from the Department for their assistance; I trust that the amendments which we sought are helpful and will allow the Bill to proceed through the Assembly and receive Royal Assent. Thank you.

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**NORTHERN IRELAND  
ASSEMBLY**

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**COMMITTEE OF THE CENTRE**

Wednesday 2 October 2002

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**COMMISSIONER FOR CHILDREN  
AND YOUNG PEOPLE BILL  
(NIA 20/01)**

**Members present:**

Mr Poots (Chairperson)  
Dr Birnie  
Dr McDonnell  
Mr K Robinson  
Mr Shannon

**Witnesses:**

Mr C Stewart       ) Office of the First Minister  
Mrs H Stevens     ) and the Deputy First Minister

**The Chairperson:** I welcome Mr Chris Stewart and Mrs Heather Stevens from the Office of the First Minister and the Deputy First Minister. We will continue our discussion of the Commissioner for Children and Young People Bill with clause 19.

**Clause 19 (Disclosure of information by Commissioner)**

**Mrs Stevens:** The provisions in clause 19, which relate to confidentiality safeguards, are standard, and it is important that they be included in the Bill.

**Mr Shannon:** Christian Action Research and Education (CARE) suggested that the clause be amended to include the following words after 19(1)(d): “or (e) judicial review”. Is that possible?

**Mrs Stevens:** We are happy to take legal advice on that and include such a provision if it is felt necessary.

**The Chairperson:** That seems reasonable.

*Clause 19 referred for further consideration.*

**Clause 20 (Review of this Act)**

**Mr Stewart:** This is a standard but important provision. The commissioner’s office will be unique in the new Administration, and it is important that there be a mechanism to review and fine-tune its operation as necessary based on the commissioner’s experiences of operating the legislation.

**The Chairperson:** It has been suggested that an extension to the time allowed to the commissioner to make his or her report under clause 20(2) may be necessary.

**Mr Stewart:** We will inform the Ministers of the Committee’s views on that, but it is our view that three years ought to be long enough for the commissioner to have formed an opinion on any significant gaps, shortcomings or areas in which the legislation could be improved. There might also be a further timing difficulty if, for example, the period were extended to a fourth year. The Regulations that are made and approved must be dealt with by primary legislation, and we must ensure that the Assembly has time to do that, bearing in mind the timetable for Assembly elections.

**The Chairperson:** The Committee does not have a problem with that provision; however, others expressed their concerns to the Committee.

**Mr K Robinson:** That is a relevant point.

**Mr Shannon:** I have two proposals. First, after clause 20(1)(b) the words “(c) give an oral account and answer questions at the request of the Committee of the Centre” should be inserted.

**Mr Stewart:** I am happy to put that to the Ministers. It is not unreasonable and is in line with the policy intention that the commissioner be accountable to the Assembly and the Committee of the Centre.

**Mr Shannon:** Secondly, could the words “and they shall forward a copy to the Committee of the Centre for scrutiny by that Committee” be added to the end of clause 20(5)?

**Mr Stewart:** That is also in keeping with the policy intention. Perhaps we should consider whether the references in the Bill to reports that must be made to the Assembly are sufficient, or whether we need to state explicitly that they will also go to the Committee of the Centre.

**The Chairperson:** Perhaps it should be made explicit that the report must be sent to the relevant Committee. In this instance, that is the Committee of the Centre, but, at some stage, responsibility for the commissioner for children could transfer to another Department.

**Mr Shannon:** That is fair.

*Clause 20 referred for further consideration.*

**Clause 21 (Privilege for certain publications)**

**Mrs Stevens:** This is a standard provision, which is also found in the Commissioner for Complaints (Amendment) (Northern Ireland) Order 1997.

**The Chairperson:** Members are agreed on clause 21.

*Question, That the Committee is content with the clause, put and agreed to.*

**Clause 22 (Application of this Act: relevant authorities with mixed functions)**

**Mr Stewart:** We know that the Committee is concerned about the definition of “relevant authority” in the clause and, perhaps, also in clause 25, which must be considered. There are gaps in that definition that must be remedied.

**The Chairperson:** Would it be better to consider that under clause 25?

**Mr Stewart:** It is more likely to arise in clause 25.

*Clause 22 referred for further consideration.*

**Clause 23 (Application of this Act: matters arising before commencement)**

**The Chairperson:** There are no comments about this clause.

*Clause 23 referred for further consideration.*

**Clause 24 (Interpretation: “child or young person”)**

**Mr Stewart:** Clause 24 begins the section of the Bill that deals with definitions. It defines the meaning of “child or young person” in the Bill. The Department’s policy intention is that that basic definition include children from birth to 18 years of age, in keeping with the definition in the United Nations Convention on the Rights of the Child, and the clause reflects that. Young people of up to 21 years of age who are leaving care are also included.

**The Chairperson:** Several comments have been made about clause 24. Some members want that definition to be extended to cover children in utero.

**Mr Shannon:** Committee members have suggested that the words “from conception” be inserted after “person” at 24(1)(a) and also in subsection 2.

**The Chairperson:** Legalistic terminology might be necessary for those insertions. However, in principle, that is what members have suggested.

**Mr Stewart:** The Department understands that principle. Certain arguments must be considered when making a decision, and Ministers have yet to state their views on the matter. There is a strong argument that this is not the right time to amend the commissioner’s remit as suggested. It is, however, possible that the commissioner could examine the law on that matter under the powers in clause 3 and clause 20.

There are three dimensions to the argument that this is not the right time to extend the commissioner’s remit. First, it could be argued that such an extension would be ineffective. The policy behind the Bill, as drafted, is a rights-based and rights-driven initiative. However, unborn children have limited rights under domestic law. Therefore, the commissioner could have only a limited role in that respect. To put it crudely, the commissioner would have no tools with which to work. The position is similar, in

many respects, in international law; there is insufficient jurisprudence with regard to either the European Convention on Human Rights or the United Nations Convention on the Rights of the Child.

It is also the case that in ratifying the United Nations Convention on the Rights of the Child, the United Kingdom made it clear that it applied only to children aged from birth to 18 years, and not from conception. The Assembly cannot change that, because it is United Kingdom policy. Therefore, as with the position on domestic law, the commissioner’s role, if he or she were given the extended remit, would be ineffective because he or she would not have the tools with which to work.

The second strand of the argument concerns duplication of functions. Several Assembly Members have suggested that the commissioner might concentrate on matters such as health education for mothers and environmental matters that might affect the health or well-being of unborn children. However, those are already the responsibility of a range of statutory authorities, including the Health Promotion Agency, the Food Standards Agency, and the health and social services boards and trusts. It is difficult to determine the additional value that the commissioner could bring to that type of function, which would require him or her to take on an additional cadre of staff with relevant expertise and experience. That would increase the operating budget of £2 million, about which the Committee is already concerned.

The third strand of the argument is that such an extension of remit would inevitably involve the commissioner in matters relating to the law on abortion, which is a difficult and extremely sensitive area. Indeed, it is so sensitive that the commissioner’s involvement in it might be to the exclusion of many other matters. As an official, it is not for me to comment on policy priorities, or, indeed, on what the commissioner’s priorities should be; the Committee will have its own views on that. However, the basket of responsibilities that has been suggested for the commissioner is already full. If this is added, something else might have to go.

**Dr McDonnell:** I concur with the advice that has been given. I feel strongly about abortion and related issues, but to confuse those would wreck the commissioner’s role. *[Inaudible due to mobile phone interference]*.

That would cause mayhem, and the issues would become lost in each other. The Committee must be very careful. A plethora of organisations are involved in the health of children in utero. Dealing with those would mean adding another section to the Department of Health, Social Services and Public Safety, which would create another layer of bureaucracy.

I am keen for the commissioner to consider some of the matters that pertain to this issue. However, at this



stage, to attempt to extend the commissioner's remit would serve no one and would cause confusion.

**Mr Shannon:** Once the commissioner is in place, will he or she have the authority to extend the remit, or will the Committee or the Assembly have to consider that? If we do not extend the remit now, can we do so in future?

**Dr McDonnell:** The Committee would have to suggest amending the legislation. I have not expressed many strong views on this matter, but we should put something in place quickly because there is a gap in the legislation for children. I am not suggesting that the Committee ram the legislation through recklessly or inconclusively, but we must decide on the commissioner's remit and get the legislation through as best we can. We can review it if necessary.

I am worried about creating a connection between the children's commissioner and the emotion of the abortion issue, because it could bog the commissioner down with abortion issues. That would drag him or her away from the very matters that the debate has been about.

**Dr Birnie:** We must consider the extent to which legal devices exist to enable the commissioner to oversee the welfare of the child in utero. I accept that there may not be many such legal tools, but there are some. The courts have sometimes considered the destruction of an unborn child. Indeed, I think that there was such a case in Northern Ireland a couple of years ago. I understand Dr McDonnell's point, but if what happens to the child before birth affects his or her welfare — and there is clear evidence of that — the commissioner, at least in principle, should also have some control over that.

**Mr K Robinson:** If a case were brought to the commissioner's attention, would he or she not have the opportunity to take the next step? If necessary, that would lead to the legislation's being amended. Does that follow the logic of your argument?

**Dr Birnie:** Why wait for a case to be brought to the commissioner's attention?

**Mr K Robinson:** We might overload the legislation by adding such a power at this point. Furthermore, the commissioner's remit will progress naturally. A case will be brought, and the commissioner will be asked to make a decision, which will result in his or her asking for amended or extended powers.

**The Chairperson:** We have the best opportunity to introduce that power to the legislation now. If it is ever to be done, now is the time to do it. During the Assembly debate, several Members mentioned the matter and expressed an interest in including the power in the legislation. My preference is to introduce that power now. However, it is essential that we consider the matter fully because an amendment may be tabled at Consideration Stage, and, if we do not introduce that power, we must

have clear reasons for our decision. Mr Stewart, that must be raised with Ministers. You can detail the views that have been expressed and reinforce what was said in the Assembly.

**Mr Stewart:** I am happy to do that.

*Clause 24 referred for further consideration.*

#### **Clause 25 (Interpretation: "relevant authority")**

**Mrs Stevens:** Clause 25 defines the term "relevant authority", which is a fundamental concept in the Bill. It includes any authority that falls within the remit of the Assembly Ombudsman, thus covering all Departments. It also includes organisations that fall within the remit of the Commissioner for Complaints — in other words, statutory organisations and non-departmental public bodies.

The term "relevant authority" also covers bodies that are specifically listed in schedule 3, including several organisations in the health and education fields and some that deal with reserved matters such as justice and policing. Subsections 3 to 6 cover technical provisions, but subsection 7 ensures that the definition includes the constituent parts of any authority.

**The Chairperson:** That relates to the concerns that were raised about the term "independent provider" in clause 22.

**Mrs Stevens:** We will consider whether to extend the definition of "independent provider" to include those who operate outside the health field.

**The Chairperson:** Do refugee children and asylum-seekers fit into that definition?

**Mr Stevens:** Immigration and asylum-seeking are matters for the Home Office. As excepted matters, they will not be devolved to the Northern Ireland Administration.

**The Chairperson:** Does that mean that the children's commissioner will not have any authority in that respect?

**Mrs Stevens:** The commissioner will have a role in the provision of the services that Departments provide to children who are seeking asylum — for example, housing, education and health services. That is the only area of policy-making on which our Administration can have an effect.

**Dr McDonnell:** However, if an asylum-seeker gave birth to a child here, the commissioner could look after that child — the child would be fully qualified, so to speak.

**Mrs Stevens:** I would have to check the legal status of that child to ascertain whether he or she would have residence in Northern Ireland.

**Dr McDonnell:** A few of my patients are children of asylum-seekers, so I think that they would qualify.

*Clause 25 referred for further consideration.*

**Clause 26 (Interpretation: general)**

**Mr Stewart:** Clause 26 includes provisions that are typically found towards the end of Bills. It sets out several definitions for the purposes of clarity, and I will draw a few of them to the Committee's attention.

The Committee has already expressed concerns about the definition of "parent", and we will consider those and try to ensure that that definition covers anyone with parental responsibility, which itself must be defined.

**The Chairperson:** It was suggested that paragraph 2(b) should be dropped.

**Mr Stewart:** Paragraph 2(b) is little more than a statement of fact — it points out how the law operates in relation to that in the United Kingdom. When ratifying the United Nations Convention on the Rights of the Child, the UK made several reservations. Those excepted matters will be dealt with at Westminster. To be frank, removing or including paragraph 2(b) would not change how the law will operate in practice, but it is important to include it for clarification.

*Clause 26 referred for further consideration.*

**Clause 27 (Commencement)**

**Mrs Stevens:** Clause 27 provides for several of the Bill's provisions to come into effect as soon as the Bill

receives Royal Assent. Those provisions relate to the establishment of the office of the commissioner; funding and staffing arrangements; the interpretation provisions; and the commencement and short title provisions. The clause also allows for other provisions of the Bill to come into operation on such day or days as may be appointed by the Office of the First Minister and the Deputy First Minister through subordinate legislation.

*Clause 27 referred for further consideration.*

**Clause 28 (Short title)**

**Mr Stewart:** This simple clause provides for the short title.

*Clause 28 referred for further consideration.*

**The Chairperson:** It is essential that you get answers to the questions that have been asked last week and today.

**Mr Stewart:** We will expedite those for you. We had hoped to have at least some of those answers for you today, but we have been unable to do so because of the illness of one of the Ministers. We will send those as soon as possible to allow the Committee sufficient time to consider them before its next meeting.

**The Chairperson:** Thank you.

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## NORTHERN IRELAND ASSEMBLY

*This report was not approved formally by the Committee prior to the suspension of the Assembly on 14 October 2002, but is published by order of the Speaker.*

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### COMMITTEE FOR HEALTH, SOCIAL SERVICES AND PUBLIC SAFETY

Wednesday 2 October 2002

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### PROTECTION OF CHILDREN AND VULNERABLE ADULTS BILL (NIA 22/01)

#### Members present:

Dr Hendron (Chairperson)  
Ms Armitage  
Mrs Courtney  
Mr Gallagher  
Mr Hamilton

#### Witnesses:

Det Chief Inspector ) Police Service of  
William McAuley ) Northern Ireland

**The Chairperson:** Welcome Det Chief Inspector William McAuley, the care co-ordinator for Northern Ireland. We are interested in hearing about the Police Act 1997 with regard to what is known as soft information. We understand that Part V of the Act does not apply in Northern Ireland yet. Would you please tell us a bit about that?

**Det Chief Insp McAuley:** The Police Service of Northern Ireland (PSNI) would welcome the enactment of Part V of the Police Act 1997 as it feels handicapped by the fact that it does not have that piece of legislation. At present, we have the ability, under the Pre-Employment Consultancy Service (PECS) arrangements, to disclose criminal convictions in relation to people applying to work with children or vulnerable adults in the long term. However, the legislation limits information to criminal convictions: it does not include soft information or soft intelligence.

We have a process of disclosure based on stated cases — in other words, on stated law — in how we disclose further information that could be included in the category of soft information and soft intelligence. It is a lengthy, convoluted procedure that could be easily resolved by the enactment of Part V of the Act. There will be nothing new as regards the amount of information that would be disclosed, but the disclosure of the information would be much more time effective and detailed in content.

**The Chairperson:** Thank you, that is very helpful. Part V of the Act has come into effect in England and Wales. Has that been advantageous to your colleagues there?

**Det Chief Insp McAuley:** Yes, especially regarding the timing of the disclosure of information. As people are applying for employment, time is of the essence as regards disclosure because of application and interview procedures. Part V of the Police Act 1997 allows that process to happen very quickly. Information can be disclosed speedily. Without the legislation in Part V, it takes a long time to reach a decision about whether to disclose information.

**The Chairperson:** Is the implementation of Part V crucial to the effective operation of the Protection of Children and Vulnerable Adults Bill?

**Det Chief Insp McAuley:** Yes.

**Ms Armitage:** The Committee has been alerted to the fact that cross-border vetting is difficult, as the system in the Republic of Ireland is not as advanced as that in Northern Ireland. A person unsuitable to work with children or vulnerable people could move from the Irish Republic and take up employment in Northern Ireland. What checks would be appropriate? Could the vetting system be difficult or non-existent due to the inadequacies in the Republic?

**Det Chief Insp McAuley:** There are difficulties. If a PECS application were made to the PSNI about someone who has been previously resident in the Republic of Ireland, we would communicate with the Garda Síochána as regards criminal records and intelligence held. That information tends to be limited because of the systems that exist in the Republic.

**Ms Armitage:** Is there a good relationship between the PSNI and the Garda Síochána over vetting procedures?

**Det Chief Insp McAuley:** I have worked in child protection for a long time, and the relationships are excellent, particularly in the area of child protection.

**Ms Armitage:** Do they have the same procedures?

**Det Chief Insp McAuley:** The Republic of Ireland is behind us in relation to its legislation and procedures for trying to protect children. It enacted its Sex Offenders Bill two years ago, whereas the Sex Offenders Act was enacted in Britain in 1997. The Republic of Ireland is catching up.

**Ms Armitage:** What steps could be taken to enhance procedures? Is there much movement across the border?

**Det Chief Insp McAuley:** There is a significant movement of sex offenders. There was a great deal of movement prior to 1999-2000. We assumed that it was because people were not required to register in the South and felt that moving there freed them from restrictions or mandated imposition by the Garda Síochána or anyone else. The situation changed with the introduction of the Sex

Offenders Act 2001, and we have found that many of those people have now come back to the North of Ireland.

**Ms Armitage:** If someone from Northern Ireland flees to the Republic, would it be difficult to get that person back? Would we go so far as to use an extradition order for a child sex offender?

**Det Chief Insp McAuley:** Yes. We have to meet the same criteria for extradition as for any other criminal offence. We have had no significant difficulties using the extradition process for serious sexual crime and child abuse offences. The only difficult case involved the now notorious Fr Brendan Smyth. That had repercussions, and since then, our ability to secure people who flee to the Republic of Ireland for prosecution in the North has improved greatly.

**Ms Armitage:** Is that quite a quick process?

**Det Chief Insp McAuley:** No.

**Ms Armitage:** Are those people free to move around while you are waiting for them?

**Det Chief Insp McAuley:** It is difficult to say, but I think they move quite freely. There is provision for the prosecution of people who have committed serious sexual assaults or child abuse in both jurisdictions. We can prosecute citizens of the UK for offences committed in the South of Ireland. That happens on the odd occasion and avoids the necessity for extradition. The difficulty arises from the process of extradition, which is long and complicated. We must be able to show sufficient evidence to a court in Northern Ireland to make the initial application for extradition, which is sometimes difficult.

**Ms Armitage:** Do you have to send people back to the Republic who flee to Northern Ireland?

**Det Chief Insp McAuley:** Yes. The extradition process works in both jurisdictions.

**Mrs Courtney:** The schedule of the Bill lists many offences. The PSNI has suggested an amendment to paragraph 3(d). Would you expand on the reason for the amendment? I am thinking about the kidnapping of a young boy in Germany on Monday. The public were not told: the family kept it quiet and paid the ransom. However, the boy's body was found later, and it is thought that he was probably murdered on the day that he was kidnapped. That is a dreadful case. However, it could happen here.

**Det Chief Insp McAuley:** The idea behind the schedule is to list the offences to which the rest of the legislation applies. Other offences need to be included. For example, I would include offences under the mental health legislation, such as sexual intercourse with people who have been statemented.

It is difficult to say whether it is an effective method of providing protection. The list of offences is fairly exhaustive, though there are a few others that we would like to see included. If we were to include the offence of kidnapping, it would be necessary to identify some

connection between that offence and child protection. If the offence involved the abduction or kidnapping of a child, it should be included in the list. However, with regard to offences in the UK, a person who kidnaps a child would normally be prosecuted under abduction, which carries a capital penalty of life imprisonment. The preference is always to prosecute for the most serious offence.

**Mrs Courtney:** There is an offence under section 7 of the Criminal Law Amendment Act 1885 of abduction of girl with intent to have carnal knowledge. That is a very specific offence towards a girl. I wonder why the offences listed apply to some people but not to others.

**Mr Hamilton:** Perhaps I might return to the vetting procedures, in particular those of a cross-border nature. You said that the relationship between the PSNI and the Garda Síochána regarding cross-border vetting procedures was limited. What do you mean by "limited"? What type of information is available to you, and what is not?

**Det Chief Insp McAuley:** The information generally available is post-conviction. Someone will have been tried before a court, convicted, and a sentence will have been imposed. That information is easily available; getting beyond that information is difficult and limited because of procedural problems.

In Northern Ireland, specialist care units investigate child abuse and serious sexual offences. Those units are easily identified and information made available. The Garda Síochána does not have that type of structure in its investigative methods. Very often, serious offences are investigated by local uniformed gardaí, and it is sometimes difficult to make the necessary contacts with those who know the ins and outs of an offence. It is limited because of the existing structures rather than by intent.

**The Chairperson:** A representative from the Soldiers', Sailors' and Airmen's Families Association (SSAFA) gave evidence concerning regiments moving between Northern Ireland, Germany and other places and the impact of that on child protection. Is there any link between the PSNI and the armed forces as regards child protection?

**Det Chief Insp McAuley:** Yes. I have a counterpart in the Office of the General Officer Commanding Land Forces (GOC) at Thiepval who takes the military lead on child protection, and we meet frequently. We also have a contact in SSAFA. All criminal convictions, whether in a civil court or a result of court martial, are available on the police national computer, so I have access to that type of information directly.

I can make further enquiries with organisations such as SSAFA. The PSNI offers a place for military welfare staff to train so that they can have the same provisions and protocols applied in military jurisdiction as in civil jurisdiction. When a case of child abuse is investigated in a military jurisdiction — in other words in an army barracks or camp — the same protocols and procedures are applied as would be applied in the rest of the Province.

**The Chairperson:** Thank you very much.



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**NORTHERN IRELAND  
ASSEMBLY**

*This report was not approved formally by the  
Committee prior to the suspension of the Assembly on  
14 October 2002, but is published by order of the Speaker.*

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**COMMITTEE FOR HEALTH, SOCIAL  
SERVICES AND PUBLIC SAFETY**

Wednesday 2 October 2002

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**PROTECTION OF CHILDREN AND  
VULNERABLE ADULTS BILL  
(NIA 22/01)**

**Members present:**

Dr Hendron (Chairperson)  
Mr Gallagher (Deputy Chairperson)  
Ms Armitage  
Mrs Courtney  
Mr Hamilton  
Ms Ramsey

**Witnesses:**

Mr J L Clarke       ) Department of Health,  
Ms E McDaniel     ) Social Services and Public Safety

**The Chairperson:** Welcome Mr John Clarke and Ms Eilis McDaniel from the Department of Health, Social Services and Public Safety. Do you have any comments to make on the remarks of Det Chief Insp McCauley?

**Mr Clarke:** No. His explanation of North/South relationships and with regard to the armed forces concurs with our understanding. The commencement of Part V of the Police Act 1997 would be of great assistance.

**Clause 1 (Duty of Department to keep list)**

**The Chairperson:** Clause 1 imposes a duty on the Department to keep a list of individuals who are considered to be unsuitable to work with children. It also enables the Department to remove a person from the list if it is satisfied that they should not have been included in it. The Committee received no comments on this clause from the various bodies consulted.

**Mr Clarke:** An issue will be raised later as regards the two lists, so the clause may be changed slightly.

*Question, That the Committee is content with the clause, put and agreed to.*

**Clause 2 (Inclusion in list on reference following disciplinary action, etc)**

**The Chairperson:** Subsection (2) details the conditions that must be fulfilled before an organisation can make a referral. Definitions of childcare organisation and childcare position are given in clause 18. Barnardo's, the Children's Law Centre, the Nexus Institute and the Down Lisburn Health and Social Services Trust suggested that the Department's definition of organisations with a statutory duty to refer individuals found to be unsuitable to work with children was too limited due to the discretionary nature of the referral for non-childcare organisations.

The Children's Law Centre recommended that all organisations employing staff and/or volunteers who have regular contact with children and young people should be obliged to carry out regular checks and to make referrals. It stated that institutions in the criminal justice system, such as juvenile justice courts, attendance centres, the Probation Board for Northern Ireland and PSNI should be included. Its suggested amendment is that, in clause 2(1), the words

"A child care organisation shall, and any other organisation may,"

should be replaced with the words "All organisations shall". On first reading, that seems to be a reasonable amendment. What is your opinion, Mr Clarke?

**Mr Clarke:** Not unexpectedly, this is a big issue. I would advise the Committee that equivalent legislation is currently before the Scottish Parliament.

I am mentioning it only now because the same issue will be debated almost in parallel in Scotland. England already has the Protection of Children Act 1999, and equivalent legislation is to be introduced in the Scottish Parliament. I was recently at a meeting, and this is one of the big issues in both pieces of prospective legislation.

You asked whether all organisations should be required to carry out checks. The amendment raises several difficulties. The first fundamental difficulty is the meaning of "all organisations", and linked to that is how such a requirement would be enforced. There are powers to exert pressure on childcare organisations and others governed by regulation if they fail to comply. If we included the phrase "all organisations" in the Bill, we would have to invent a completely different system to enforce the requirement, which may result in a criminal sanction for failing to make a referral.

I do not want to say too much about that now, but I can say something about the practical implications of adopting such an approach. Changing the legislation to read "all organisations" would not be an effective amendment: essentially it would be unenforceable.

**The Chairperson:** If you include the phrase "all organisations", the question of accreditation for organisations is hardly necessary.

**Mr Clarke:** Yes. The idea of accreditation was a means of addressing the fact that we cannot identify every single circumstance in law under which a group of people might be involved with children. The childcare organisations were always going to be limited to regulations. The idea of accreditation was to allow organisations to approach the Department voluntarily. That would not be necessary if the Bill includes the phrase “all organisations”.

**The Chairperson:** That is very helpful.

**Ms Ramsey:** I take your point, but the difficulty is that we are not dealing with decent people: we are dealing with predators. Most, if not all, organisations involved in protecting children issues say that the clause is currently too wishy-washy. Can we find a compromise that takes their issues and the concerns of this Committee on board?

**Mr Clarke:** The accreditation scheme was the compromise. It was the only scheme put during the consultation period that we thought practical. As a member of the unit responsible for child protection, I understand what you are saying about the loophole whereby people can move into other areas. We highlighted that issue in the consultation document on the legislation, and it is worth remembering that this Bill operates in relation to the vetting of people: it does not give people certificates of clearance to work with children.

The issue of unsuitable people working with children and the circumstances under which people can get unsupervised access to children must be dealt with alongside this legislation. We are open to suggestions, but the accreditation scheme was our response to the concerns.

**The Chairperson:** Would it be helpful to return to that point next week? I understand that inserting “all organisations” would make the legislation unenforceable, but, as Ms Ramsey said, the legislation needs to cover all organisations working with children. I understand your point about accreditation.

**Mrs Courtney:** Mr Clarke, are you suggesting that inserting “all organisations” would make the legislation unworkable?

**Mr Clarke:** Yes. The phrase “all organisations” will create problems. A lot of thinking has gone into the clause. If we include all organisations, in which someone has substantial or regular access to children, and try to enforce that through the law, we will run into difficulties about regularity. It will create serious problems, especially for the person who is given the statutory duty to enforce the Bill.

*Clause 2 referred for further consideration.*

*Clause 3 agreed to.*

#### **Clause 4 (Power of certain other authorities to refer)**

**The Chairperson:** Subsection (1) confers powers on certain authorities to refer an individual who has not been referred under clauses 2 and 3. It is not clear why the only registration bodies covered in subsection (2) are the Nursing and Midwifery Council and the Northern Ireland Social Care Council. The subsection gives the Department the power to designate other persons by Order. The proposed amendment is to replace “may” with “shall” at clause 4(1).

**Ms Ramsey:** I suggest that clause 4 is referred until next week when we will know the outcome of the referral on clause 2.

*Clause 4 referred for further consideration.*

*Clauses 5 and 6 agreed to.*

#### **Clause 7 (Reference by authority making direct payments in respect of services)**

**The Chairperson:** Subsections (1) to (3) provide that an authority carrying out an inquiry under the Children (Northern Ireland) Order 1995 may refer an individual to be included in the list. The Down Lisburn Health and Social Services Trust is of the opinion that clause 7 should be more specific, with trusts being required to refer. The proposed amendment is to replace “may” with “shall” at clause (1).

**Ms Ramsey:** I suggest that we leave that until next week and deal with it with clauses 2 and 4.

**The Chairperson:** Yes. It is better to consider clause 7 in the context of changes to clauses 2 and 4.

*Clause 7 referred for further consideration.*

*Clauses 8 to 10 agreed to.*

#### **Clause 11 (Conditions for applications under section 10)**

**The Chairperson:** The Committee received no comments on this clause.

**Ms Ramsey:** Why was the figure of five years selected?

**Mr Clarke:** The figures of five years and ten years are arbitrary, but the intention is to avoid repeated applications.

*Question, That the Committee is content with the clause, put and agreed to.*

#### **Clause 12 (Restoration to list)**

**The Chairperson:** The Committee received no other comments regarding clause 12.

**Mr Clarke:** The comments refer to ensuring that executive directors of social work in trusts are covered. I am not sure whether that needs to be put as an amendment.

**The Committee Clerk:** Down Lisburn Health and Social Services Trust referred to the executive director of social work. Having looked at the Bill, they asked

that it be mentioned specifically. In clause 49, there is a definition of “director of social services”, and they wished to confirm with the Committee that it covered the other title.

**Mr Clarke:** It is an issue to be taken on board or at least thought about. It could remain at the level of director of social services; it is a matter of whether you want to extend the powers to make an application apply to trusts as well as boards. We can certainly consider an amendment.

**The Committee Clerk:** Perhaps Mr Clarke might clarify something. Clause 49 of the Bill states that

“director of social services” means: “(a) a director of social services of a Health and Social Services Board; or

(b) an executive director of social work of a Health and Social Services trust”.

Does that not meet your point regarding clause 12?

**Mr Clarke:** The legislation works at director of social services of a health and social services board level. It is not crucial to the operation if it is not put forward as an amendment.

**The Chairperson:** Would it be helpful to have an amendment?

**Mr Clarke:** The wording is probably sufficient as it is, but we can take it away and think about it. It would not be a huge policy shift to ensure that the legislation covered both positions.

**The Chairperson:** Perhaps we should seek clarification and return to the clause next week.

*Clause 12 referred for further consideration.*

**Clause 13 (List in connection with prohibiting or restricting employment in schools, etc.)**

**The Chairperson:** We may need to defer clause 13 because we need to involve the Department of Education.

**Mr Clarke:** Colleagues from the Department of Education, who are involved in such issues, are in a better position to talk about the detail of clause 13.

*Clause 13 referred for further consideration.*

**Clause 14 (Effect of inclusion on either list)**

**The Chairperson:** “Either list” in clause 14 refers to Department of Health, Social Services and Public Safety list and the Department of Education list. The Committee has not received any oral or written comments on clause 14.

**Mr J Kelly:** Will clause 14 be considered in conjunction with clause 13?

**The Chairperson:** Yes. There could be a consequential amendment. If amendments are made to clause 2, it may be necessary to make a subsequent amendment. With that exception, is the Committee content with Clause 14?

**Mr J Kelly:** Yes, if there is a consequential amendment.

**Ms Ramsey:** Would it not be better to defer clause 14 until next week’s meeting?

**The Chairperson:** Yes.

*Clause 14 referred for further consideration.*

**Clause 15 (Access to lists)**

**The Chairperson:** Subsection (2) covers arrangements for carrying out checks to establish whether an individual is included on the Department of Health, Social Services and Public Safety list or the Department of Education list. There is a suggested amendment. Barnardo’s has called for the Pre-Employment Consultancy Service (PECS) eligibility checks for staff, volunteers, carers and any others who are determined by an organisation, to be extended to include ongoing checks. It suggests that that could form part of a renewable license.

The suggested amendment to clause 15 is after “position” insert “of”.

**The Committee Clerk:** The first suggested amendment to clause 15 is to amend the clause to cover “all individuals connected to an organisation”.

**The Chairperson:** That is the proposed amendment from Barnardo’s. I mentioned the NSPCC’s proposed amendment, which applies to a different clause.

**Mr Clarke:** I am unsure about where the Barnardo’s amendment is supposed to be made to the clause.

**The Committee Clerk:** Barnardo’s made that suggestion with regard to all organisations. There is no specific place to insert that amendment. If the Committee were to adopt the suggestion by Barnardo’s, it would have to draft an amendment that meets the requirements of the Bill. I understand that it would affect subsection (2). If all the individuals who are connected to organisations were covered by it, it would affect how relevant individuals are covered.

**Mr Clarke:** Two matters must be mentioned. First, it is a transitional provision, which will fall if, and when, the Police Act 1997 comes into operation. If the Committee amends it, it must bear in mind that it is amending a provision that is intended to be transitional before the full system kicks in. Secondly, with regard to widening access to lists, I would be merely speculating as to where the amendment was supposed to be made.

**The Chairperson:** Can you explain the transition process? I am unsure about it.

**Mr Clarke:** As the Department has placed a requirement on certain organisations to carry out checks, the Department must provide them with access to the lists. The provision is necessary because we have neither the longer-term policy, nor has the Police Act 1997 commenced. That Act means that records would be processed here through a body equivalent to the Criminal Records Bureau. Therefore



in the meantime, the Department must provide access to records, which it is doing.

**The Chairperson:** Is it, therefore, unnecessary to insert the words “all individuals” although we have —

**Mr Clarke:** The amendment is to a transitional arrangement; therefore, if all individuals connected to an organisation are supposed to gain access to records under the Bill, they will not have access to them when the Police Act 1997 comes into operation. The amendment is to a transitional provision.

**The Chairperson:** When will the Act commence?

**Mr Clarke:** We are waiting for an answer to that.

**The Committee Clerk:** Members may want to leave clause 15. The NIO has been invited to give evidence to the Committee as to when Part V of the Police Act 1997 will be commenced.

**Ms Ramsey:** Will we come back to clause 15?

*Clause 15 referred for further consideration.*

#### **Clause 16 (Accredited organisations)**

**The Chairperson:** Clause 16 brings us back to the argument on clause 2 about the inclusion of “all organisations”. The Committee has suggested amendments. Do you have any comments to make, Mr Clarke? Have you seen the proposed amendments?

**Mr Clarke:** Yes. Changing “may” to “shall” is a drafting point; it does not make much difference. We are in total control of the commencement of each provision. I am not sure when we will make Regulations. However, there is no doubt that we will have to do that to establish an accredited organisation. The usual form of words is “may make Regulations”. I have, however, no doubt that we will make Regulations.

**The Chairperson:** Will the Regulations be laid before the Assembly?

**Mr Clarke:** Of course, we want to consult on many issues before bringing the Regulations to the House. Those Regulations which include how the accredited system operates and what charges may be imposed in connection with it.

**Ms Ramsey:** The problems are due to clauses 2 and 4.

The Down Lisburn Health and Social Services Trust and the Mater Infirmorum Hospital Health and Social Services Trust suggested that trusts should be included because of their contact with children.

**Mr Clarke:** That is a misunderstanding because, whereas we are a childcare organisation, trusts and the relevant parts of hospitals are regulated. The accreditation would never be relevant to them, so we would never accredit them. As it stands they are compelled to remain as childcare organisations.

**The Chairperson:** Are there any more questions on clause 16? Ms Ramsey suggested that we leave it until next week.

**Ms Ramsey:** We should come back to clause 16.

*Clause 16 referred for further consideration.*

#### **Clause 17 (Whistle-blowing by employee or member of child care organisation)**

**The Chairperson:** Mr Clarke, you have seen the suggested amendments for clause 17. Several amendments may be necessary if the Committee accepts the argument of the National Society for the Prevention of Cruelty to Children (NSPCC).

Some organisations, spearheaded by NSPCC, have suggested that amendments should be made to clause 17 to allow organisations to blow the whistle on other bodies in cases in which they know that the requirements in clause 2, in connection with referrals of individuals, are not being met. Therefore several issues that are associated with the provision of whistle blowing must be considered, including how that would work in practice; the difficulties that employees face; and the degree of protection that the Bill and other employment legislation give to the whistle blower.

**Mr Clarke:** The whistle-blowing provision is about people feeling comfortable about coming forward to blow the whistle on another person. That implies that there should be whistle-blowing procedures in organisations. It is a long-standing issue in child protection that stems from the Waterhouse report in Wales on encouraging the development of whistle-blowing arrangements in all organisations.

The protection that can be afforded in law to an individual who wants to, or feels that he or she must, blow the whistle on a colleague was taken up with counsel at the time. The view was that the general protection already exists and that the Bill is taking us to an extremely dangerous area. There are human rights issues if extensive protection is afforded outside the general law to people who whistle-blow on child protection issues. It puts the rights of the person on whom the whistle has been blown into stark relief. The view was that that was best left to the general law that exists on a wide variety of circumstances.

The idea that one organisation should be able to blow the whistle on another has been discussed with the NSPCC for some time, and the proposal was mentioned at a previous Committee meeting. We are interested in that area, but we can see certain drawbacks. We face the same dilemma as others in seeing why that provision should be included. To say that one organisation may report on another organisation because it failed to make a referral makes organisations look like policemen. Whistle blowing is currently contained in organisations. However, if it



works across organisations, we are effectively saying that organisations should act as policemen.

Having said that — as I have said to the NSPCC in the past — the idea has a certain attraction. It would mean that someone could take action if they clearly see and know that an organisation is not doing what it should in relation to someone about whom they have personal knowledge. However, it is a finely judged issue, as is the whole whistle-blowing area. It depends how far we want to push the line.

**The Chairperson:** Is it not overstating it to say that to allow one organisation to blow the whistle on another is giving them the role of policeman? Surely it is just one organisation reporting to the relevant authorities on another organisation? It is not policing.

**Mr Clarke:** In the provision, as it is currently drafted, whistle blowing can apply not only to an organisation, but to a named individual. I have some concern because we have had to consider that following the Bill's introduction. I have a slight reservation about the present wording, which states that once an organisation complains about another organisation not making a referral, the discussions and the communication flow is between the two organisations and the Department and the individual, who is at the centre of it, is cut out of the loop.

I suspect that the Department will have to rethink that aspect. It is more than just a complaint about an organisation; it is a complaint about an individual. That is possibly where the NSPCC's suggestion also gets into difficulty. There are no substantial hurdles to be jumped by the organisation that is making the referral, but something must be done about the person under clause 2.

**Mr J Kelly:** Are you suggesting that whistle blowing might be open to abuse?

**Mr Clarke:** Yes. I am concerned that the legislation must not lead to a situation in which it could be challenged because of unfair operation and openness to abuse. That it may be open to abuse may be more theoretical than real; however, with regard to human rights, it must be ensured that the legislation it is not open to challenge for that reason. If one organisation is reported by another, it is unavoidable that the finger is pointed at an individual, who will go to court. It will not be theoretical, and human rights issues will be a potential challenge.

**The Chairperson:** We should perhaps return to clause 17.

**Mr Clarke:** We shall go to counsel for legal advice. It is a wider issue than is covered by the amendments suggested by NSPCC.

**The Chairperson:** Perhaps the proposed amendments could be improved.

**Mr Clarke:** That amendment was one of the most difficult to draft, because of the concerns.

*Clause 17 referred for further consideration.*

### **Clause 18 (Interpretation of this Chapter)**

**The Chairperson:** Clause 18 defines several terms used in chapter 1. The Children's Law Centre recommended that all organisations that employ staff and/or volunteers and who have regular contact with children should be obliged to carry out checks. An amendment has been proposed that clause 18(1)(b) and (c) should be left out and replaced with

“Childcare organisation means an organisation —

(b) which is concerned with the provision of accommodation, education, social services, healthcare services, personal social services, leisure services, advice and representation services, criminal justice services to children or care or supervision of children.”

**Ms Ramsey:** Does the Department see any problem with that?

**Mr Clarke:** The main problem might be similar to that which arises when a prescribing provision is replaced with a list. The list must be kept in tune with what is happening. In this case, the prescribed provision could be retained and the text of the amendment added, but that becomes over-elaborate. I doubt whether any of the items on the list is not covered by a statutory provision in some shape or form. As in all legislation, the danger lies in being certain that the list is complete when it is compiled and whether it will remain complete.

**Mr J Kelly:** The list itself becomes prescriptive.

**Mr Clarke:** Yes, and people run down it and it becomes exclusive. Bear in mind that a list is an exclusion of everything that does not appear on it. My objection is not to that, but replacing a prescribing power with a list.

**The Chairperson:** The proposed amendment is to leave out clause 18(1)(b) and (c) and replace with:

“Childcare organisation means an organisation

(b) which is concerned with the provision of accommodation, education, social services, healthcare services, personal social services, leisure services, advice and representation services, criminal justice services to children or care or supervision of children.”

Would that improve the provisions?

**Mr Clarke:** No, because it runs the danger of excluding something. It is a fairly comprehensive list, but my concern is that even if that is so today it may not be at some time in the future.

**The Chairperson:** Do colleagues agree with that?

**Mr J Kelly:** I agree. By its nature it becomes prescriptive.

**Mr Clarke:** I can only suggest that, if the list is included in the Bill, some power to prescribe should be retained.

That would always be required, but to put them both in would be to go too far.

**Ms Ramsey:** Depending on what agreement we come to on clauses 2 and 4, I would be concerned about making a decision on this now.

*Clause 18 referred for further consideration.*

*Clause 19 agreed to.*

**Clause 20 (Meaning of “offence against a child”)**

**The Chairperson:** Nexus has queried the drafting convention that we must refer to “he”. It suggests that the only reference to female perpetrators, which is under-reported, is at clause 20(1)(c), and that relates to intercourse only. Many unreported instances of abuse, such as inappropriate touching, do not go as far as intercourse. Nexus claims that the clause also stereotypes non-intercourse sexual abuse as ‘male’. Nexus believes that the clause should be expanded to refer to any inappropriate sexual contact.

That is a fair point. Nexus suggests an amendment incorporating the phrase “and any inappropriate sexual contact” into the clause, bearing in mind the references in the schedule to the legal standing of offences committed against a child.

**Ms Ramsey:** Let us win one, John.

**The Chairperson:** It seems to be a reasonable amendment.

**Mr Clarke:** The offences listed in the schedule are those that a court would depend on in order to decide whether to make a disqualification order. Is Nexus clear about that? It comes down to identifying the offences in the statutes. That is what a court would look for.

**The Chairperson:** They are making the point that using the word “he” is a problem.

**Ms Ramsey:** All they are asking is that the phrase, “and any inappropriate sexual contact”, be included.

**Mr Clarke:** What is inappropriate sexual contact for the purposes of the High Court making an order?

**The Chairperson:** It may be a legal convention to use the word “he”. I do not know if that is correct or not. However, in the particular context of sexual abuse, one has to be more specific.

**Mr J Kelly:** We could argue about semantics, but what is inappropriate sexual contact?

**Mr Clarke:** The issue is that it would be the sentence of a senior court. Courts do not impose sentences, in this case a disqualification order, unless an offence is on the list. Courts do not operate on phrases such as “inappropriate sexual contact”.

**The Chairperson:** Mr Kelly made a point about what would be inappropriate. Any touching would be inappropriate.

**Mr Clarke:** I would not argue about the intention. I know where people are coming from. I am talking about the practicality of a senior court having to make a disqualification order on the basis of something that was as loosely phrased as that. Courts would not find that easy to deal with.

**Ms Ramsey:** I would like to discuss this matter in more detail.

**Mr J Kelly:** I am not sure either. I am not happy with it.

**Mr Clarke:** We have been examining the new Scottish legislation, which introduces a concept that is different from disqualification orders. In our case, it would give the courts a power to make referrals directly to the Department, and avoid the difficulty with disqualification orders.

It may be that a slightly different approach might address the problem that the Chairperson has raised more easily. A preliminary look at the Scottish legislation suggests that it has a bit more flexibility. As things stand here, the offences would have to be listed.

**The Chairperson:** Are you going to look at this and come back to us?

**Mr Clarke:** As regards the amendment, it would not be practical to include anything other than a specific offence. We can certainly look at the Scottish alternative to disqualification orders in detail. The principle is that, rather than having disqualification orders, courts would make referrals to the Department. This has a certain attraction because it is a lot simpler. It pulls things together.

*Clause 20 referred for further consideration.*

**Clause 21 (Disqualification of adults from working with children)**

**The Chairperson:** Clause 21 provides that, when an individual is convicted of, or charged with, an offence against a child, a court must impose a disqualification order to prevent the person from working with children when released.

The Probation Board suggests that the qualifying sentence should include community orders, and that courts should record whether the victim of an offence was a child. There is also the question of suspended sentences. The Probation Board suggests the words “all convicted” to cover that.

**Mr Clarke:** I agree in principle. I am just checking whether suspended sentences are already covered. Clause 23(2) states that

“references to a sentence of imprisonment or order for detention include references to a suspended sentence or order.”

Sentences are suspended for a variety of reasons, but that does not lessen the threat to children. In principle, we would want that.

**Ms Ramsey:** Does clause 23 not deal with young offenders?

**Mr Clarke:** Clause 23(2) states:

“In this Chapter references to a sentence of imprisonment or order for detention”.

The words “order for detention” relate to young people. However, “sentence of imprisonment” is in this chapter, and it includes suspended sentences.

**The Chairperson:** Is it worth amending clause 21?

**Mr Clarke:** To be honest, and I think the Committee would agree, we want to see a disqualification order whenever a court considers that someone is a risk to children. If there are any loopholes in the Bill as drafted, we will certainly want to plug them.

The legislation is couched in terms implying offences of certain seriousness. People might have concerns about that. The Scottish provision, which we have not studied in detail as yet, may allow a court to be more flexible when it considers someone a threat. I am sure that people feel that courts do not award very high sentences for a variety of reasons. However, linking a disqualification order to the length of a sentence is potentially problematic.

**The Chairperson:** We will come back to that again.

**Ms Ramsey:** In fairness to the Probation Board, I do not think that it is linking disqualification orders to sentences. It is linking disqualification orders to the people who get off: it is not linking them to sentences of 12 months or more. It is linking them to the people who get community orders or suspended sentences. That is the Probation Board's concern.

**Mr Clarke:** I take the point about community orders.

**The Committee Clerk:** Ms McWilliams has suggested a possible amendment to subsection 5. The current wording is:

“An order shall not be made under this section if the court is satisfied, having regard to all the circumstances, that it is unlikely that the individual will commit any further offence against a child.”

Ms McWilliams suggested that that should read:

“An order shall be made under this section unless the court is satisfied, having regard to all the circumstances, that it is unlikely that the individual will commit any further offence against a child.”

**Mr Clarke:** That is clearer. We shall take that up with the draftsman. It does not change the meaning.

**The Chairperson:** So that is acceptable?

**Mr Clarke:** It basically says that they must make an order unless they are satisfied that it is not necessary.

*Clause 21 referred for further consideration.*

## **Clause 22 (Disqualification of juveniles from working with children)**

**The Chairperson:** Barnardo's raised concerns about the clause and the position of those under 18 who have not been convicted. Barnardo's would like to see the provision strengthened. A person under 18 would only be disqualified if he were likely to re-offend. The danger that such a person could disappear from the system and pose a risk also needs to be considered.

Nexus raised the issue of qualifying sentences. The disqualification should apply to all convicted perpetrators, not just to those receiving sentences of 12 months or more. It should also refer to suspended sentences, if not already covered. Possible amendments to clause 22 should be considered together with clause 23, which defines the terms “qualifying sentence” and “relevant order”. Have you anything to say about that?

**Mr Clarke:** One of the points made relates to qualifying sentence. Why should a disqualification order only apply when a sentence is for 12 months or more? The risks could be just as great when a lesser sentence is involved.

If we are going to adopt a different approach, and a court may make a referral to social services directly, then some of the concerns may be addressed. We would not be linking disqualification orders directly to the length of a sentence. We would still be linking them to the offence, but not to the length of the sentence. In other words, a court would have formed a judgement and even if it imposed a sentence of nothing, because of the nature of the offence, the person has posed a threat to children and it could make a referral to the Department.

*Clause 22 referred for further consideration*

## **Clause 23 (Sections 21 and 22: supplementary)**

**The Chairperson:** Clause 23 follows from clause 22. Would it be helpful to come back to that again?

**Mr Clarke:** As I said in relation to the issue of the disqualification order, this will all change. It is another “clause 2” situation. If you change that, you start to change so much on the foot of that.

**Ms Ramsey:** The Probation Board and Nexus have made a valid point here. Mr Clarke said earlier that sometimes there are not sentences of over 12 months. That needs to be looked at.

**Mr Clarke:** The issue is about the arbitrary nature of the sentences that people get. Two people might commit the same offence, yet their sentences could be completely different. We must accept the court's decision, and there may be reasons why the sentences were different. To link disqualification orders with the length of sentence would be a concern. A court could decide, for some perfectly legitimate reason, to give different sentences to people who committed exactly the same offence. By

linking, you are not directly addressing the threat that each person poses to children.

**Ms Ramsey:** Based on the evidence that we have received to date, why are we sticking to 12 months?

**Ms McDaniel:** If we planned to go with the Scottish system, for example — and I am not saying that we will — the 12-month period would be abolished and would not come under consideration at all.

**Mr Clarke:** That is what I am saying. If we take the Scottish system, or what we understand it to be — and we cannot decide policy on the hoof — one of the most attractive points is that they have given the courts the power to make referrals to the Department, which is a way around this difficulty. The court would assess a person's threat and act as referrer. There are other advantages. It would simplify parts of the Bill, particularly as regards appeals. We would have a single list of those disqualified, rather than having disqualification orders and a list.

*Clause 23 referred for further consideration.*

#### **Clause 24 (Appeals)**

**The Chairperson:** Clause 24 clarifies that a disqualification order is to be treated, for the purpose of appeals, as a sentence imposed by a court.

**The Committee Clerk:** It may have an impact on other clauses.

**The Chairperson:** We will have to come back to that. The same applies to clauses 25 and 26.

**Mr Clarke:** This is about simplifying the legislation. If we decide to go down a different road, many of these provisions would not be necessary. This is illustrating the point that I was trying to make. Adopting the Scottish model would simplify this matter considerably. Everything would go into our list and subsequently to a tribunal.

**The Chairperson:** We have covered a fair bit today.

**Mr J Kelly:** Can we adopt the Scottish legislation?

**Mr Clarke:** Scotland is greatly interested in ours, particularly with regard to the provisions on whistle blowing.

**The Chairperson:** Mr Clarke, you have our document showing the suggested amendments. I know that this is difficult for the reasons that you have given, but it would be helpful if you could indicate which amendments would be useful or otherwise.

**Mr Clarke:** I will prepare as brief a paper as possible.

**The Chairperson:** That would apply to the clauses that we have not come to yet, as well. Thank you.

*Clause 24 referred for further consideration.*

*Clauses 25 and 26 referred for further consideration.*



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## NORTHERN IRELAND ASSEMBLY

*This report was not approved formally by the Committee prior to the suspension of the Assembly on 14 October 2002, but is published by order of the Speaker.*

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### COMMITTEE FOR REGIONAL DEVELOPMENT

Wednesday 2 October 2002

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### STRATEGIC PLANNING BILL (NIA 17/01)

#### Members present:

Mr McFarland (Deputy Chairperson)

Mr Byrne

Mr Bradley

Mr Ervine

Mr Hussey

Mr McNamee

Mr M Robinson

Mr Savage

#### Witnesses:

Mr B Gamble ) Department

Mr I Raphael ) for

Ms S Mossman ) Regional Development

**The Deputy Chairperson:** Today's meeting includes clause-by-clause scrutiny of the Strategic Planning Bill. Mr Billy Gamble, Mr Ian Raphael and Ms Sharon Mossman from the Department for Regional Development have once again kindly agreed to enter the lion's den to help us with the details.

I should like to begin by recapping. You will recall that the proposed Strategic Planning Bill was introduced in the Assembly on 11 June, and the Committee Stage commenced on 26 June. You may also recall that departmental officials first briefed the Committee on the proposed Bill on 14 November 2001 and again on 9 January 2002. Further discussion took place on 10 April following completion of the public consultation process. During the Committee Stage of the Bill, we took evidence from the Planning Appeals Commission, the Royal Town Planning Institute and the Department. Members will agree that we have been thorough in our approach and discussed all the key issues at length.

I do not wish to go over all that has been discussed, but there have been two important issues. The first, regarding the regional development strategy (RDS), concerns changing the words "consistent with" to "in general

conformity with". The second is the issue of the Department getting "a second bite of the cherry", as it was termed, when it comes to appeals on area plans not being in general conformity with the RDS.

I suspect that we shall wish to discuss the areas of contention briefly with you again, but we shall begin with the long title.

*Long title agreed to.*

**The Deputy Chairperson:** The Committee will move to a formal clause-by-clause consideration of the Bill. Officials from the Department for Regional Development are here to provide advice.

**Clause 1 (Certain policies, plans and schemes under the Planning Order to be in general conformity with the regional development strategy)**

**The Deputy Chairperson:** Clause 1 amends articles of the Planning (Northern Ireland) Order 1991. The explanatory and financial memorandum states:

"Under these provisions planning policies, development plans and development schemes must be 'consistent with' the regional development strategy. The amendment will delete the words 'consistent with' and substitute the words 'in general conformity with'."

The Committee has had several long discussions about that clause and the practical reasons for that change. Although Mr Ervine expressed concerns about it, the Committee agreed that, providing that the spirit of the RDS was adhered to, it would not be a get-out clause for Departments or the Planning Service to ignore the spirit and will of the RDS, with its clearly understood background. It is my understanding that members are content. Are there further questions?

**Mr McNamee:** The rationale for changing the wording was that, according to legal opinion, the phrase "consistent with" would be unnecessarily inflexible and could create problems in the legislation. It was suggested that the Committee ask the Department's officials to elaborate on that legal advice.

**Mr Gamble:** The Department of the Environment has a statutory duty to bring forward land for development in an orderly manner. When the Bill was proposed, the Department was advised that the phrase "consistent with" was too tight. There was no room for tolerance. For example, if 100 points had to be satisfied to prove that a plan was "consistent with" the RDS, they would all have to be met. There would be no flexibility in dealing with practical issues. As senior counsel put it, a plan could be 99% consistent with the RDS but be ruled out because one minor point was inconsistent.

The Department sought senior counsel's advice on using a form of words that is in common usage in British legislation dealing with the relationship between regional strategies and local development frameworks.

The term used is “in general conformity”, which allows a degree of realism to apply on the ground while maintaining that the plans must be in conformity with the overall strategy. Counsel believes that the wording will allow reasonable flexibility, but the integrity and the overarching authority of the RDS will not be impugned in any way.

**Mr McNamee:** Were examples given of how difficulties could arise in the legal interpretation of the restrictive nature of the term “consistent with”?

**Mr Gamble:** The literal definition of the term “consistent with” would be restrictive. The Committee is keen on the brownfield approach and sequential approach, integrating transportation and the importance of ensuring that you integrate land use with economic development. All those matters could be dealt with in a plan. The RDS was perhaps less of an issue, and it could put the plan out of kilter. The Department would wish to avoid that if the spirit, key objectives and guidelines were addressed in a plan and if all the right things were being done. It would give a degree of flexibility, provided that the key issues were in place to meet the objectives of the RDS.

**Mr Ervine:** I was conscious that the Planning Appeals Commission or the Royal Town Planning Institute was hung up on the change. My difficulty comes later in the Bill where the determinant of the issues will be the two Departments. An individual expecting an appeals process to be fair and reasonable could see that appeals process being rolled over. There is no higher authority than the two Departments, which have managed to achieve flexibility with the use of that language and then guarantee that only on their terms.

**The Deputy Chairperson:** We shall discuss that after we have finished with clause 1. Are colleagues happy that this is an exceptional power to provide flexibility? We should not expect the RDS to be manifestly ignored.

**Mr Ervine:** With respect, I am not sure that I can live with that. One has an effect on the other if such flexibility is introduced and the mechanism for appeal is diminished. In other words, if we guaranteed that keeping the previous wording would make it very restrictive, it would be more difficult for the Department to do what it wanted legally. It is a serious matter if we diminish or increase the Department’s flexibility and diminish the appeals process. I can concede if a proper and fair process follows it, but when we get through the Bill we shall find that the things that upset us will not have changed.

**The Deputy Chairperson:** The logic of the point is that if you use the words “consistent with”, nine out of 10 requirements for the RDS could be correct and a minor one incorrect. If you had the legal wording “consistent with”, that could torpedo the whole thing. As a stand-alone logical point, it seems to make sense to introduce that flexibility.

We shall fight the battle on the other matter in a moment or two. There seems to be sense in allowing the change on its own merits. Do members understand the logic behind the change of wording in clause 1? It is without prejudice to further discussions.

*Question,* That the Committee is content with the clause, *put and agreed to.*

**Clause 2 (Development plans: statement as to general conformity with the regional development strategy)**

**The Deputy Chairperson:** That gives us the option of having a second bite of the cherry. After you left last week, the Committee discussed the logic of this clause. Members were confused, since on the one hand the initial report seemed to suggest that the Department for Regional Development was an objector, and the second report was simply restating that. That implied that the statement did not give you a second bite of the cherry, for it had no separate punch; it simply reiterated your original view.

We subsequently thought that there was a bit of punch to the second, which is what others were saying, and that it would have allowed you two objections. However, we almost pretended that the second statement was not an objection, but really it might have been. We asked you to talk to the Planning Appeals Commission and to Mr John Warke to see whether we could agree that there was no doubt at all about the system and the relative weight of those objections. We also wanted to know whether the objections being raised might be overcome. It would be helpful if you could report your discussions.

**Mr Gamble:** There are many objections. Mr Raphael, Ms Mossman and I had a productive meeting with Mr John Warke and colleagues yesterday. Mr Warke said that he fully understood what we sought to do with the statementing procedure. In the case of a statement of non-conformity, the first declaration is potentially an objection duly made, in which case we should be party to an inquiry, as would others. Mr Warke also fully understood and confirmed with us that the conformity issue would be debated and that the commission would almost certainly raise it at the inquiry. We agreed about that.

The point at issue is the second part of that. It may well be upwards of two years before the inquiry team, which has been involved in planning, could draft a plan. The Department of the Environment must examine all the evidence, reports of discussions and the inquiry report. Under present law, the Department will then be able to decide on the plan and accept the material planning considerations raised. Indeed, Mr Ervine and others rightly raised those.

In those circumstances, as protector of the RDS, and being statutorily responsible for upholding its guiding principles and its implementation, our view and that of senior counsel is that it is not unreasonable for us to

comment before the Department of the Environment makes its report. As I say, that will be one and a half years or two years after the first statement, in which we offered a view along with others, was produced.

It is clear that the second statement is not an objection. It is, as the Committee agreed, part of the double-locking mechanism of ensuring that everyone fulfils their obligations under the RDS. That is necessary where the time lapse is long. I understand Mr Ervine's point about challenging the planning decision in relation to points made at the inquiry. In response — and separate from our statement — I can say that people can challenge it, but the Department of the Environment would make the decision. That is in no way fettered by the second statement; however an assurance is provided to the House and to the Committee as to whether the plan is ultimately in conformity. Our view will be expressed. Although that is not determinative, it puts further pressure on the Department of the Environment to fulfil its obligations.

**The Deputy Chairperson:** It is a confirmation of your original view with no legal standing.

**Mr Gamble:** Had there been changes to the original view, it might have been different.

**The Deputy Chairperson:** Do you mean if you said it was in conformity?

**Mr Gamble:** Yes, or if, in the first instance, it is not in conformity. The Planning Service has made moves to take on board the very points that Mr Ervine made.

**The Deputy Chairperson:** Technically, therefore, it is in conformity.

**Mr Gamble:** Yes, a statement could be made that, having regard to all the considerations —

**The Deputy Chairperson:** Saying that it is not in conformity simply restates your original position.

**Mr Ervine:** It is clear that there must be a guardian for the RDS. There must be an engine and someone to guarantee forward movement in line with what we originally wanted. That is all right; however, my difficulty is with the people who argue that that is not a good idea. We end up with two Government Departments: one the decision-maker and the other the largest decision-influencer. A machiavellian argument might be that it comes down to a political issue which would affect the RDS, planning or whatever is going on. We do not know what happens in those places. There is no question that today the two Ministers and their Departments are magnificent in everything that they do; however, that may not be the case in subsequent years. We, however, shall have set down — effectively on tablets of stone — mechanisms that could be abused. We as politicians know the outdated and pathetic attitudes surrounding planning issues, and along comes a new, vibrant and dynamic strategy. I am all in favour of the strategy, but it is not fair to give two

Government Departments unfettered power to decide. I know that you are being very clear and precise that one statement concerns potential objection and the other is a statement of opinion. As I said last week, try telling me that the statement of a Minister or a Department carries less weight than that of a punter. It does not, and we know that. A Department influences the decision-making process, and the decision is made by a Department, even though we know that there are problems with that.

**The Deputy Chairperson:** Is your discussion centred on the system for the Planning Appeals Commission? It seems to concern the system being wrong in planning and Department of Environment business rather than the issue in question.

**Mr Ervine:** Taking the second statement out cures the problem. Two Departments can get the decision that they want in smoke-filled rooms rather than in public circumstances. The Department's second statement guarantees that greater weight will be placed on what it thinks, as opposed to anyone else's opinion.

**The Deputy Chairperson:** That does not matter. It is a restatement of its first position.

**Mr Ervine:** Not necessarily.

**The Deputy Chairperson:** One of our difficulties in operating as the Committee for Regional Development is that we are charged with protecting the RDS. Therefore regardless of the rights and wrongs, we need a planning system that protects the RDS. If the second statement had full legal weight, I should agree that it might well be unfair. However, we have had assurances that it is simply a restatement of the Department's first position. We are being told that it is an opinion rather than a determination.

**Mr Gamble:** It could be a restatement of the first position, and it could be different. If a plan were in conformity and we confirmed that, it would be a restatement. If it were not in conformity and we confirmed that, it would also be a restatement. However, the first statement might say that a plan was not in conformity, and others might challenge the change which brought the plan into line with the strategy, as Mr Ervine pointed out. That is a wholly good thing. The reverse is equally possible, where it could spin out of conformity. In those cases, the second statement is only an opportunity for us to offer a second opinion.

**The Deputy Chairperson:** The difficulty is if the second statement overturns the non-conformity —

**Mr Gamble:** It cannot do that.

**The Deputy Chairperson:** Sorry, if the second statement now says that the plan is in conformity, no one will object because it is good that it conforms, and we are all happy. You have raised an interesting discussion point for the first time, which is that if your determinative



statement is that there is conformity, and something gets out of kilter —

**Mr Gamble:** That would be an exceptional situation.

**The Deputy Chairperson:** Absolutely, but the legality is important. If the plan ceases to be in conformity, your second statement is not simply a restatement of your first; it is a contrary opinion. You are saying that it does not matter because it is an opinion without legal status. You would not expect anyone to pay any attention to it if it ceased to be in conformity.

**Mr Gamble:** No, I want to clarify that point. The Department of the Environment must take account of the second statement. According to the Bill, the Department of the Environment must consider that. That statement cannot be determinative; otherwise we should be infringing the jurisdiction of another Department. However, it is an opinion at that stage on whether, in our view, the plan is still or has become in conformity or otherwise. Ultimately, the Department of the Environment must make its decision as the planning authority in the light of that second statement and all other material considerations, including the report and the objections raised during the inquiry.

**The Deputy Chairperson:** So it does have weight?

**Mr Gamble:** Only in that the Department of the Environment should take account of it.

**Mr Irvine:** The Department of the Environment cannot make a judgement without hearing the second opinion.

**The Deputy Chairperson:** Yes. We are losing sight of the initial idea that it was simply an opinion — a restatement of the first one. We have now hit a set of circumstances where, technically speaking, we could suddenly find that what was in conformity is no longer so. You have made a statement of which the Department of the Environment is required to take account. Therefore that second statement seems to have some legal effect. Is that correct? I am confused.

**Mr Gamble:** You are absolutely right. We could have a situation with the second statement where, for whatever reason, something has changed. For example, we could be at one with views held by the planning inquiry and by parties to it in relation to the plan at that point. However, the Department of the Environment must deliberate on the inquiry's report. It could take a different view, although one would hope that that would not be the case. The second statement is for us to express a view of the plan to be adopted by the Department of the Environment. That is the double-locking nature of the statement on procedure, which protects the authority of the RDS.

**Mr Byrne:** One of the concerns about the Bill is that two key central Departments — the Department of the Environment and the Department for Regional Development — will be in charge of shaping local development plans. If the terminology is loosened to read “in general

conformity with”, local development plans may deviate from the RDS, and things could get out of kilter. The local district council is an accountable, democratic organisation that serves the interests of individuals, interest groups and the community. My concern is that it will have no legal recourse or input and will be unable to make a statement on the outcome of a local development plan. I raised that issue two weeks ago; however, reading from the minutes of the meeting last week, which I was unfortunately unable to attend, I am not sure whether the correspondences from the Committee to the Department were coterminous with my sentiments. Local development plans involve one district or, in some cases, two districts. For example, a plan will be developed in West Tyrone for both Strabane District Council and Omagh District Council. One of the concerns for rural district councils is that urbanisation in housing development might be over-emphasised. If the Department of the Environment and the Department for Regional Development were the sole legal guardians of the form and implementation of local development plans, the interests of those with rural sensitivity could be marginalised. I am concerned that the Bill is too heavily weighted towards the interests of central Government Departments.

**Mr McNamee:** The second statement will not be treated as an objection, even if it is a statement of non-conformity. Only in exceptional circumstances will the first statement be one of conformity and the second statement one of non-conformity. If that is the case, and the Department of the Environment must consider any statement received from the Department for Regional Development, what requirement does “shall consider” in clause 2(8) place on the Department? Can the Department simply say that it has considered the statement but has decided to make no change, or must it respond in detail to justify its decision?

**Mr Gamble:** I hope that the Department of the Environment will never be put in that position. However, if it were, it would have to justify its decision to depart from the strategy. It would have to make the reasons known and publish documentation. To move forward it would have to be able to defend its reasons for having one or two yellow cards against the plan. It is hoped that that will not be the case. Mr Raphael has been working to agree a protocol with the Department of the Environment, so that at key stages we can discuss with it what must happen to ensure that the plan converges with the policy impact of the RDS. Those discussions will take place before the draft-plan stage, when the Department of the Environment initiates the draft-plan stage and at critical points subsequent to the inquiry point, at which the Department for Regional Development tracks to ensure that the plan's progression conforms with the RDS. That protocol arrangement with the Department of the Environment, which was rehearsed in the House, will ensure over time that plans are in line rather than diverging.

Ultimately, in the light of the report from the inquiry, the Department of the Environment is the planning



authority and must defend its actions with, perhaps, a second non-conforming statement.

**Mr Byrne** is correct about the councils' role at inquiry. Councils are there either in support or to object. The role of the Department for Regional Development at the inquiry is no different. The Department will give its opinion on the plan and, presumably, the council will have been in detailed discussions about it. It is hoped that the views of the Department of the Environment and the council will be reflected in the draft plan. We foresee that the second statement will be somewhat different, and very much outside the inquiry. It is the final point at which the Department for Regional Development confirms or expresses a view on a plan before the Department of the Environment fulfils its statutory duty.

**Mr Ervine:** That is what makes it absurd. The original statement of objection is reinforced by saying that what has been said, proposed and advocated is not good enough to fit into the Department for Regional Development's plan. The Department of the Environment will know that the Department for Regional Development is saying "no". However, the Department for Regional Development may then say that adjustments have been made and that there has been dialogue, so its response changes to "yes". It could be argued that, on a nod and a wink, the Department is given an advantage over everyone else and, in respect of a development plan, that could be the whole population of a town or a region. Am I correct?

**Mr Gamble:** I hear what you say, but I disagree. I hope that I have not hinted that collusion occurs. In good government it is important that the two Departments work together because they are custodians of the RDS and the deliverer of modern planning. It behoves us, as the authors of the RDS, to put in place the key planning policies to ensure that we have good development plans. The Department of the Environment has a statutory duty on plan-making, and the Department for Regional Development has a statutory duty in relation to the RDS; there is a degree of complementarity about how we move forward.

The second statement is an opinion from the Department for Regional Development expressed before the Department of the Environment fulfils its statutory duty. Two or three years might pass between the draft-plan stage and that stage. Things can change. It is important that we be allowed to express an opinion on that second statement before a plan is made.

**The Deputy Chairperson:** I sense that the Committee is uncomfortable with this. More deliberation and consideration is required. After Mr Hussey speaks, I shall put the question, which I expect to be negatived. It is likely that the clause will be referred for further consideration. In that case we shall consider the remaining clauses.

**Mr Gamble:** I am unsure about how the Committee deals with clause-by-clause scrutiny. Would it be helpful if there were no difficulty with the first part of the clause?

**The Deputy Chairperson:** No. The clause must be agreed in its entirety.

**Mr Hussey:** Two different Departments have different outlooks on the RDS. One regards it as aspirational, the other as prescriptive, and the two clash. Further to Mr Byrne's question, is local authority input regarded as being within the Department of Environment's remit? Can it, therefore, as Mr Byrne suggested, be dealt with through legislation?

**Mr Raphael:** Mr Byrne raised a good point about the role of district councils. District councils currently have a clear role in the preparation of development plans. For example, a steering group has been set up for most development plans so that councils have an input. If councils so desire, they also have a role in public inquiries. Councils can make representations on draft plans, as can anyone else.

Councils have a role to play in plan preparation through the existing procedures set up in the Department of Environment, and they avail of the opportunity to be proactive. That too is in the context of the role that the RDS must play in a development plan.

**Mr Byrne:** The most crucial details are put together at the finalisation stage of a local development plan. In the interests of making a Strategic Planning Bill fair and balanced for central and local government, a district council should be allowed a formal input into representations at that final stage, if it so wished. That is a change from how things have previously been done; however, this is a new game.

If a local development plan is to mean anything, it must have some balance between local interest and central departmental interests. We seek implementation within the parameters of the RDS. However, the local implementation of the RDS will ultimately be through local development plans. Given that we want five-yearly reviews of the RDS, it is not unreasonable to provide a local authority with a formal mechanism whereby it can intervene at that last hurdle before the local development plan is finalised.

**Mr Gamble:** I have one point to make before you put the question that the clause be agreed. Does the Committee believe that there should be a mechanism to give the parties that originally attended an inquiry the same opportunity afforded to the Department for Regional Development to comment at the second point in the time-scale outlined in the Bill? To ensure that the proceedings are fair, there would be no special treatment, but others who were involved in an inquiry would also, as Mr Byrne said, have an opportunity to make a final representation.

**The Deputy Chairperson:** It was felt that the Department for Regional Development had two bites of the cherry. People may be content with that, but we must mull it over because of the probable legal implications. Of course, a planning difficulty at the moment is the argument that third-party appeals should be allowed. It is concerned with the appeals mechanism, and the Committee must think about that a little more.

**Mr Gamble:** I must refer the issue back to the Minister.

*Question, That the Committee is content with the clause, put and negated.*

**The Deputy Chairperson:** The Committee is unhappy. Therefore I propose that the Committee task its research organisation to do a brief on the issues that have been raised and their impact, and that it regroup when the implications of clause 2 are clearer.

*Clause 2 referred for further consideration.*

**Clause 3 (Regional Development Strategy: transitional arrangements for certain development plans)**

**The Deputy Chairperson:** Clause 3 makes arrangements for three development plans that were at draft stage before the formulation of the RDS on 20 September 2001. The following development plans will be treated as “excepted plans”: Craigavon Area Plan 2010; Cookstown Area Plan 2010; and Dungannon and South Tyrone Area Plan 2010. The statement of conformity procedure in clause 2 does not apply to “excepted plans”.

Do Members have any comments? These plans, because they were being formulated, were left out of the RDS. Part of the reason for that was that it would allow the plans to be slightly different than in conformity with the RDS.

**Mr Bradley:** If we are to review clause 2, how can we talk about it now?

**The Deputy Chairperson:** The statement of conformity procedure in clause 2 does not apply to “excepted plans”.

**Mr Ervine:** Why not?

**Mr Gamble:** It is a transitional arrangement, whereby the plans are exempt. When the plans are reviewed and amended in the future, the provision will bite on. However, those plans are the only plans that will be made and, therefore, it is wholly reasonable to make an exception.

**The Deputy Chairperson:** It is fair to say that they are out of kilter with the RDS. They were drafted before the rules of the game were decided.

**Mr Byrne:** Members know that the area plans for Cookstown, Craigavon and Dungannon and South Tyrone have been finalised. Clause 3(2) states that

“Section 2 does not apply in relation to the making of an excepted plan.”

Are those plans, which are in their early stages, expected to be in conformity with the RDS?

**Mr Gamble:** The law states that they must be consistent. If the Bill is passed before the Assembly is dissolved, it will bring in a new arrangement that they would be required to meet.

**Mr Byrne:** In other words, they must be in general conformity with the RDS. Let us say that the Bill is enacted within six months. Will the finalisation of those local development plans have to be in relation to the new Bill when it is enacted?

**Mr Gamble:** Yes.

**Mr McNamee:** Am I correct that only three plans have been excepted on the basis that the work was at an advanced stage, and that to bring them under the conditions of the Bill would have created difficulties and negated a great deal of work?

**Mr Gamble:** The Bill makes provision for those three only.

**Mr Hussey:** My point concerns the impact on neighbouring areas. Mr Byrne mentioned the West Tyrone area plan. I looked at the plans for Cookstown and Dungannon and south Tyrone and, although I am not being parochial, deviations from the RDS that may already exist in those plans could have a knock-on effect on the West Tyrone area. How can that be dealt with? Can a neighbouring area that would be affected by something that already exists within an exempted area balance it?

**Mr Gamble:** That is an important point. Even if those plans are exempt, it is important that we manage them in such a way that they conform over time to the RDS, and that they do not have the impact that Mr Hussey is concerned about. Mr Raphael has a key role in ensuring that we reduce the potential impact of such plans. That is critical.

**Mr Raphael:** In developing the protocol, the Department of the Environment must consider that question, and there should not be a knock-on effect. Although those three plans are excepted at the moment, they are at a stage where the Department of the Environment might alter them. The issue of conformity clearly comes into play. There is an onus on the Department, as of now, to manage the situation even in developing those plans.

**Mr Gamble:** The whole statementing procedure is critical to managing that.

**Mr Hussey:** I am glad that that is on the record.

*Question, That the Committee is content with the clause, put and agreed to.*

**Clause 4 (Short title and interpretation)**

**The Deputy Chairperson:** Do members have any comments on clause 4?

**Mr Hussey:** The brackets are in a different place.

**The Deputy Chairperson:** The staff will be lashed afterwards.

*Question, That the Committee is content with the clause, put and agreed to.*

**The Deputy Chairperson:** Thank you for bearing with us. We shall try to clarify those issues so that everyone is comfortable. There is no point in continuing without common understanding.

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## NORTHERN IRELAND ASSEMBLY

*This report was not approved formally by the Committee prior to the suspension of the Assembly on 14 October 2002, but is published by order of the Speaker.*

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### COMMITTEE FOR THE ENVIRONMENT

Thursday 3 October 2002

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### AREAS OF SPECIAL SCIENTIFIC INTEREST BILL (NIA 2/02)

#### Members present:

Ms Lewsley (Deputy Chairperson)

Mr Armstrong

Mrs Carson

Mr Coyle

Mr Ford

Mr Molloy

Mrs Nelis

Mr Poots

#### Witnesses:

Mr D Leonard )

Mr B Murphy ) Department of the Environment

Mr G Seymour )

**The Deputy Chairperson:** I welcome Mr Dermot Leonard, Mr Brian Murphy and Mr Graham Seymour from the Department of the Environment.

**Mr Murphy:** The Committee will have received a detailed blow-by-blow account of each clause. It might be helpful if I clump clauses together as they fall within the Bill for ease of reference.

Clauses 1 to 4 essentially deal with the entire declaration process, whether that is a declaration of a new area of special scientific interest (ASSI) or proposals to vary, add, subtract or revoke a designation. Clauses 5 to 10, and also clauses 14 to 19, deal with protection and management arrangements for ASSIs. Clauses 11 to 13 and clause 21 deal with obligations and requirements on public bodies and the responsibilities of the Crown.

The remaining clauses, 20 and 22 to 26, deal with general matters, transitional arrangements between the existing legislation and the Bill's proposals, and appeals. That is a general overview of the Bill's structure. Shall we start with clauses 1 to 4 and cover any questions or points of information as they arise?

**The Deputy Chairperson:** Yes.

**Mr Murphy:** Clause 1 deals with the Department's powers to declare an ASSI. A new feature of the Bill puts a statutory obligation on the Department to notify publicly when an area has been declared. With the existing legislation, the clause allows for representations or objections. Those two additions place a requirement on the Department to provide a statement outlining how the site will be managed. The Department must also publish notice in newspapers. That is in response to concerns expressed during the consultation exercise.

Clause 2 is a variation of a declaration that will enable the Department to vary matters specified in it, other than areas of land concerned any time after the confirmation. In doing so, the Department must inform local councils, as well as the relevant owners or occupiers, to allow representations or objections before confirming that variation or rescinding it.

Clause 3 covers a declaration of additional land. It covers instances when additional land, which might attract ASSI designation, is drawn to the Department's attention. It means that the Department can avoid a redesignation process, although the procedures are similar to those that are referred to in clause 1. The Department must go through the same process, but it is not as onerous or time-consuming. The Department is required to consult with the Council for Nature Conservation and the Countryside.

**The Deputy Chairperson:** How would the Department channel the representations? Three organisations have asked about consultation. How would the Department conduct that?

**Mr Seymour:** Can you explain the question?

**The Deputy Chairperson:** Representations have been made. For example, Lisburn City Council has indicated that it should be consulted on any enlargement proposal on each declaration. How will the Department conduct that consultation in future?

**Mr Seymour:** The arrangements will stay much as they are with regard to consultation, and will build on the present method. There is a period of time in which people can make scientific representations and objections before the Department can confirm an area as an ASSI. That principle ensures that, from the outset, the site is protected while the process takes place. The process is repeated in certain cases; for example, if the Department wants to declare additional land, or make any other variation that the opening clauses of the Bill refer to. The process is then repeated. Therefore the Department takes action, which is followed by a period of objection and representation. The Department then confirms the ASSI.

**Mr Murphy:** Clause 4 covers instances in which the Department wants to denotify part of an ASSI. There could be a variety of reasons for that. The clause enables the Department to do that. As Mr Seymour explained, the procedure of informing people of the Department's



intentions and taking objections is much the same. The difference is that at present the Department must denotify the entire site and redesignate it, whereas the clause enables the Department to say that if a field is no longer up to scratch, it can be taken out of the ASSI without having to revoke it and start the whole process again.

**Mr Ford:** I want to raise the issue of denotifying a larger area, which is referred to in clause 4, subsection 4. Clause 2, subsection 2, states that, in a confirmed declaration, the Department cannot vary an area of land in order to increase the amount of land that is included within it. Why is it logical, therefore, to make it possible to denotify a larger area than that which was originally denoted in the denotification proposal?

**Mr Seymour:** The Department's lawyers have interpreted it in the way that the legislation has been drafted.

**Mr Ford:** Did the lawyers draft the Department's wishes, or have they produced an interpretation that differs from those wishes?

**Mr Seymour:** They have drafted the fairest and most practical arrangement. If, during the course of consultation, it transpires that a slightly larger area should be denotified, the Department can do that without starting the process all over again. That seems a logical and practical way to proceed, rather than starting all over again because the Department may have made a minor error.

**Mr Ford:** If you are proposing to notify an ASSI in the first instance, and on closer examination it appears that a slightly larger area should be included, might it not be possible to confirm a larger area? That seems to be equally logical. It should be variable in both instances or in neither.

**Mr Seymour:** The difference is that, if you notify a slightly larger area, the owner of the land would not have been able to make a representation to the Department, because he or she would not have been notified. I hope that that is logical.

**Mr Ford:** If the Department proposes to vary the denotification by increasing the area of concern, what opportunity is there for non-governmental organisations, such as conservation bodies, which may be interested in the site, to comment? If you receive representation, will you consult further with all interested parties on increasing the area covered by denotification?

**Mr Seymour:** In situations such as that, we would have to use our judgement. If it were extremely minor, for example part of a field, we would not restart the process. However, if we were under pressure to denotify a substantially larger area than we had anticipated, we would restart the process to enable a wider consultation.

**Mr Ford:** I am not sure, therefore, that I agree that secondary consultation on landowners should not be

possible in the issue of a notification, which appears to be parallel to the process that you have just outlined.

**Mr Seymour:** Clauses 1 to 4 are intended to give us more flexibility, which I think they do. There are, perhaps, some nuances that we need to explore with the full working of the Bill. However, in totality, they give us better flexibility than provided for by the current arrangements, which offer us little opportunity to change anything without restarting the process.

**Mr Murphy:** Clause 5 begins to address the protection and management of ASSIs. It provides that the owner or occupier shall not carry out any operations specified in the declarations unless notice is given to the Department and the Department gives its consent. It goes on to say that the Department may also by notice withdraw or modify the consent. Of course, the Department is required to explain its reasoning, and it has introduced a right of appeal that was not there before.

**Mr Poots:** I have some concerns about the implementation of clause 5. When attempting to make a living, the farming community has had some bad experiences with the Environment and Heritage Service. Farmers have encountered some obdurate individuals with closed minds about the proposals. Ultimately, ASSIs are attractive because of the efforts of the rural communities, which have the interests of the areas at heart. However, as well as having the interests of the areas at heart, they must maintain a living and be able to justify their actions in those areas. Many people in the Department do not see the situation in that light. Therefore I am concerned about the clause and I do not have faith that the people who will implement the management plans will work in such a way that will allow individuals to make a living on the land. Should there, perhaps, be a presumption that someone in an ASSI should be allowed to develop his or her land unless the Department has specific reasons for them not to do so? I do not mean building bungalows; I mean the maintenance of their rural activity.

**Mr Seymour:** That opens the door to a situation we found ourselves in under the old legislation where we would be subject to applications for consent for operations that would clearly cause significant and serious damage to the protected site. We did not have the power to refuse those applications. All we could do was attempt to seek agreement through a management agreement and take it from there. We hoped to reach an agreement and offer some sort of compensation payments to the landowner. At any time during that process, we would have had the threat of damage to perhaps one of our best and most protected sites, which also qualify for designation under European legislation. That continuous threat of damage would influence the outcome of negotiations.

As with other forms of environmental legislation, such as listed buildings and monuments legislation, planning permission and so on, the Bill gives us the ability to



state that an application is unacceptable and to refuse it. We would still pursue a management agreement, but it gives us the opportunity to refuse an operation that would clearly be very damaging.

I would obviously defend the decisions made by my colleagues in dealing with these applications. Even if a landowner feels aggrieved by our decision, the Bill offers the opportunity to go to appeal. The decision of that appeal will be final, and we will not be able to overturn it. If we lose on appeal because we have acted irrationally or unreasonably, the decision will stand.

**Mr Poots:** This is where we will beg to differ. You used the words “very damaging”, but I suspect that there are case officers who refuse cases that may be “marginally damaging”. A balance must be struck. There may be marginal damage caused to the ASSI, but it may ensure that the individual who owns that property is able to continue maintaining a living on the property whether through the establishment of a mushroom tunnel, an additional sheep house or whatever it happens to be. Great consideration must be given to someone’s ability to maintain the agricultural way of life, which is essential to the countryside.

Planning conditions set out strictly what you can and cannot do. Limited development is permitted for the agricultural community. The Bill will add to that. As I indicated before, if people from your Department go out with a closed mind, it will create tremendous difficulties. Where agricultural activity is being carried out, there should be a presumption to permit unless significant damage will be caused to the environment. In that case, your Department would be right to act.

**Mr Murphy:** I understand the difficulty, and I am sure that Graham Seymour and his colleagues also understand that. Our difficulty is that the legislation requires us to do these things. The Bill’s emphasis is on conservation. If you take it through to the European dimension, the presumption is also towards conservation. We recognise that that presents difficulties in relation to the individual who owns the land. The bias in the legislation is towards conservation.

**Mr Poots:** Will there be guidance notes to accompany the legislation?

**Mr Seymour:** Yes, there will be.

**Mr Poots:** Perhaps my difficulty could be dealt with in the guidance notes as opposed to dealing with it in legislation. It is a genuine concern in the rural community.

**Mr Molloy:** The question of who owns the land is clearer now that the EU legislates for it. The EU does not seem to be as interested in conservation and planning controls in other countries as it is here. We tend to implement and enforce the legislation more rigidly than other places.

Farmers have generally protected sites of particular interest. However, some farmers find it hard to understand certain issues. A listed building or a monument is visible, but the protection of land and gravel is not as clear. Little effort has been put into explaining the urgency of protecting some sites, which have been dug around and left like pinnacles, and which create difficult conditions for farmers to work around. Therefore there must be more consultation.

The right of appeal is useful, but will it deal with extending existing ASSIs? Is there a right of appeal for existing sites whose character has changed?

**Mr Seymour:** The right of appeal in the Bill is confined to two issues. There is no right of appeal at the point of declaration. First, when the Department refuses to allow a landowner to carry out an operation, he can appeal against that decision. Secondly, there is a right of appeal against management notices served by the Department, but that would be used sparingly.

That is appropriate, because only when the Department receives an application from a landowner to carry out an operation can it see what impact the designation will have on that person. At any stage before that, the impact is hypothetical. The appeal mechanism applies in relation to a consent application for a particular activity.

**The Deputy Chairperson:** With regard to Mr Poots’s question, when will the guidance notes be available? Will the Committee receive a copy?

**Mr Seymour:** Yes. There is no difficulty with that. The Department must produce guidance when the legislation is passed. The Bill changes the relationship between the Department and landowners, so we will want to disseminate the information as quickly as possible. The Department will not write guidance until the Bill comes into force, in case changes are made to the legislation as it passes through the House. However, the Department will endeavour to write it quickly and send it to the Committee.

**Mr Ford:** With regard to clause 5, the Department’s notes mention consent for potentially damaging operations outside the ASSI. Specific reference is made to the Department’s preferring to seek a management agreement in such cases, although it is different in the case of public authorities. What is the provision for a management agreement? Should clause 7 not spell out that a management agreement applies beyond the boundaries of the ASSI that may be affected, so that it is clearly seen as an overall management practice for the ASSI and not as a stand-alone agreement?

**Mr Seymour:** The Department did not feel that it was necessary to mention that in the Bill. It already has the power to draft a management agreement with a landowner within an ASSI, which includes land that sits outside the ASSI. That is entirely voluntary. If the landowner is happy to bring land that falls outside the

designated area into an agreement — for which the Department will pay — it can be done. That provision is contained in the old legislation, the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985, which is not being changed. Therefore the draftsmen felt that there was no need to spell it out in the Bill.

**Mr Ford:** It would have made a more logical statement on the management of ASSIs if that had been included in clause 7, which refers only to owners and occupiers of land within ASSIs. It may be that a different owner or occupier across the march ditch is having the impact, and the management agreement should, therefore, be included in clause 7 if we are seeking a coherent management plan for ASSIs.

**Mr Seymour:** We could refer that back to our legal people to see whether there is a case for doing that. The power exists because this is what we are doing all the time. However, I am not sure whether including that in the Bill would make it clearer.

**Mr Murphy:** It is something that we will examine. The power exists to do it, and it gives us a much wider power, I suspect, than if it were written into this part of the Bill. There may be occasions when a person would want to enter into an agreement with someone who is not adjacent to an ASSI. It is a much more general power. We already have the power to do that, and it gives us the flexibility that we need, and, therefore we, thought that we did not need to specify it.

Clause 6 deals with the right of appeal referred to in clause 5.

Clause 7 reiterates the existing legislation to enable us to enter into the management agreements that Mr Seymour has referred to.

Clause 8 has powers to deal with neglect or inappropriate management of ASSIs, and is important, not just in terms of what we do but in how we stave off possible infraction proceedings from Europe. It goes to the heart of the protection aspects, and it allows us to take steps to ensure the protection of ASSIs.

The whole tenor of the Bill, and our approach to it, is always to seek agreement.

**Mr Poots:** In clause 8, I am concerned about the ability of individuals to ensure that the management agreements are carried out. Will they have adequate financial support to carry out such activities? I am referring to older people who have been living on farms for many years and who physically may not be able to carry out the work, and who could not get other people to do the work for them. Will the Department be heavy-handed and carry out activities to retain the site and then send a large bill to someone who may not be in a position to pay it? I would be concerned that a sledgehammer might be used

to crack a nut in a situation that should be handled reasonably and sensitively.

There may be other reasons for damage, such as over-grazing and so forth, that would be simpler to deal with. However, I would be concerned that older people would end up suffering, perhaps having to sell their property.

**Mr Seymour:** That would be done only as a last resort. In all instances the Department will try to resolve any difficulties through management agreements. In those cases in which a landowner may be aged or unable to do some of the work required, we can draft the agreement in a way that allows the Department to carry out the work if necessary, or to find other ways of doing it, perhaps by bringing in a voluntary organisation. There is flexibility in drafting agreements so that landowners can be helped to carry out work that is beneficial to the site.

We would only serve a notice in extreme cases in which, for example, a landowner allowed a ditch to be blocked, or conversely, has put drains into a bog, affecting the whole site, or in which a landowner was absent or impossible to contact and where the Department thought that it had to act. As Mr Murphy has explained, this legislation is particularly important where it refers to sites that have been declared as European sites. We could not allow a situation for which we did not have the legislation to deal with those cases. However, they will be few and far between.

**Mr Murphy:** In discussions about this matter among ourselves and with the Ulster Farmers' Union, we had difficulty in envisaging a situation in which we would force someone to pay who could not pay. It is in our interest to have the site protected. It is much more likely that, if necessary, the Department will pick up the bill or do the work itself, rather than impose a penalty on landowners.

**The Deputy Chairperson:** Can that work the other way? In the situation that Mr Poots outlined, in which elderly people cannot maintain the land, can they approach the Department for help so that that land does not deteriorate to the point where it would cost much more?

**Mr Seymour:** We would be delighted if that were the case, particularly under our new management of sensitive sites (MOSS) scheme. We can draft an agreement that helps them to help us.

**The Deputy Chairperson:** Can most of that be reflected in the guidance notes?

**Mr Seymour:** Yes. It is not something that can be easily reflected in the Bill, but it will be put in the guidance notes.

**Mr Molloy:** The current wording is draconian and repressive towards those with whom it intends to deal. It talks about charging the farmer. If the Department, or some other body, could do the work, that must be written into the Bill. The implementation of that could be open

to interpretation by different officers. Some will deal with it by agreement, and others will use a sledgehammer. The wording of the legislation as it stands leaves it open to the harshest interpretation. If there is an opportunity to get the Department to make agreements to do the work, that must be reflected in the Bill, so that both options are available.

**Mr Seymour:** The Bill reflects the Department's options and puts the emphasis on seeking agreement. Even though we are not likely to use it, we think that it is important that the Bill gives the Department the power to recover costs. There might be circumstances in which a landowner is perfectly capable of paying for work to be done. The power is discretionary; as Mr Murphy said, we cannot envisage going down that road very often, but from the Department's perspective on the use of public money, it is important to have that redress.

**Mr Murphy:** That is covered in the Bill.

**Mr Leonard:** Please correct me if I have taken Mr Molloy up wrong. When an elderly landowner approaches the Department to seek an agreement, clause (7)(3)(b) provides for an agreement to be drawn up in such a way that allows the Department to meet jointly any costs incurred on any works that would be carried out.

**Mrs Nelis:** I have concerns. It is unnecessary to include this clause: others will adequately protect the management

agreement. It shifts responsibility. The Department decides which areas are of special scientific interest and agrees compensation with the landowners. Care and maintenance are the Department's responsibility. This clause shifts the emphasis, putting the onus on the landowner to maintain and conserve that land. That responsibility should rest with the Department, and there is no reason for the inclusion of this clause.

**Mr Seymour:** It will be used only sparingly in circumstances in which agreement cannot be reached and in which activity — whatever that is — seriously threatens to damage the site's special features. That power is necessary to deal with such circumstances, albeit rarely.

**Mr Murphy:** The other aspect is sensitive and we do not want to labour it. The European Union took infraction proceedings against the United Kingdom because that power did not exist in legislation. The UK conceded the point and made provision in the Countryside and Rights of Way Act 2000. We are committed to avoiding similar infraction. In any case, it must be done.

**The Deputy Chairperson:** Perhaps Mr Murphy will consider some of the issues raised today and respond to them next week. Thank you very much.





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## NORTHERN IRELAND ASSEMBLY

*This report was not approved formally by the Committee prior to the suspension of the Assembly on 14 October 2002, but is published by order of the Speaker.*

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### COMMITTEE FOR SOCIAL DEVELOPMENT

Thursday 3 October 2002

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### HOUSING BILL (NIA 24/01)

#### Members present:

Mr O'Neill (Acting Chairperson)  
Mr Hamilton  
Mr B Hutchinson  
Mrs Nelis  
Mr M Robinson

#### Witnesses:

Mr S Baird ) Department  
Mr S Carson ) for Social  
Mr G Davidson ) Development

**The Acting Chairperson (Mr O'Neill):** I welcome Mr Stephen Baird, Mr Scott Carson and Mr George Davidson from the Department for Social Development. The Committee will return to the detailed clause-by-clause scrutiny of the Housing Bill, particularly those clauses that were referred for further consideration.

I ask members to read the relevant clauses and paragraphs in the Bill, together with the commentary in the explanatory and financial memorandum and the other supporting papers. The Committee has several options. Before choosing an option, members may wish to seek clarification on the clauses from the Department's officials.

After we have discussed each clause and the potential for amendments with the officials, the Committee will decide whether it is content with the clause as drafted. Otherwise, it can agree on a potential amendment and request that the Department considers the matter and reports back to the Committee, and, by so doing, it will defer the consideration of the clause. Where an amendment is considered to be appropriate, the Department will be asked whether it is willing to draft it.

#### Clause 1 (Introductory tenancies)

**Mr B Hutchinson:** Clause 1(1) says:

"The Executive or a registered housing association may elect".

Should it not read "shall"?

If one housing association elects to operate an introductory tenancy regime, but another does not, what will the position of the latter's tenants be? Will it not also run contrary to section 75 of the Northern Ireland Act 1998, in that people will be treated differently where housing is concerned?

**The Acting Chairperson:** What is the Department's view of the use of the word "may"?

**Mr Davidson:** The Department's view is that it should be discretionary at this point, although it expects that the Housing Executive and housing associations will bring in introductory tenancies. There is a common waiting list and a common selection scheme. All social housing tenancies are drawn from the one source. It is conceivable that each landlord who draws from that source might not have introductory tenancies. One reason why it has been left open is that there may be particular instances when it may not be suitable, or a particular association may not want introductory tenancies.

**Mr B Hutchinson:** Why would a housing association not want introductory tenancies?

**Mr Davidson:** I will give my view. Fold housing associations, which let to elderly tenants, may feel that there is not a great likelihood of elderly tenants indulging in antisocial behaviour, and that is one of the main reasons why introductory tenancies are there.

**Mr B Hutchinson:** You obviously do not live in my street.

**Mr Davidson:** An introductory tenancy is discretionary in the current draft legislation, rather than a requirement.

**Mr B Hutchinson:** If a fold housing association does not have introductory tenancies and Belfast Improved Housing (BIH) does, will it apply to its elderly tenants?

**Mr Davidson:** I expect that each landlord will —

**Mr B Hutchinson:** You can see where our concern lies. BIH also houses elderly people in bungalows. If BIH operate introductory tenancies, will they apply to every tenant?

**Mr Davidson:** Our understanding is that each social landlord will not be able to be selective about which tenants are given introductory tenants and which are not. A landlord will bring in an introductory tenancy regime that will apply to each tenant.

**Mr B Hutchinson:** Can you understand our concern?

**Mr Davidson:** Yes, but I do not think that it would happen.

**Mrs Nelis:** I have major problems with clauses 1 to 7. The introduction of the Bill is very negative. The legislation will establish insecure tenancies, which will be an infringement of people's rights to housing. Can the Department insert a provision to guarantee a person's civil right to be housed?

**Mr Davidson:** There is conjecture over whether everyone has a right to housing, especially social housing. Certain criteria must be met. The legislation on introductory tenancies is one of a raft of measures to deal with antisocial behaviour. It is not designed to infringe people's rights, as you would term them. Those intent on meeting their obligations as tenants will hardly notice an introductory tenancy. They will have the right to repairs, the right to compensation — all the rights of a secure tenant.

The purpose of introductory tenancies is to allow landlords to see what the likely behaviour of a tenant might be in the longer term and to deal with antisocial behaviour — for example, before a person becomes a secure tenant, by which time it is difficult for a landlord to deal with the harm and the nuisance being caused.

**Mrs Nelis:** If the legislation is about antisocial behaviour, why is it called the Housing Bill? The word “housing” implies that it is about the right to decent housing or the right to grants for housing. “Housing” is a misnomer. Clauses 1 to 17 concern repossession, eviction and denying people their rights.

**Mr Carson:** The long title of the Bill explains that it is about a range of measures to deal with housing, such as the conduct of tenants, including antisocial behaviour, grants and other assistance for unfit housing. It is a Bill about housing, but it covers a raft of measures.

**Mrs Nelis:** I do not have problems with that part of the Bill. However, the first part of the Bill removes the principle that establishes a person's right to a house. In other words, it establishes insecure tenancies. Some of the amendments raise that issue, but we have not come to them yet. Will the Department include some sort of assertion that states that people have an absolute right to housing?

**Mr Carson:** No one has that right.

**Mr Davidson:** The purpose of introductory tenancies takes us back to what most tenants are entitled to, which is quiet enjoyment of their own property. The legislation seeks to ensure that. We must give back to the vast majority of tenants, who are adversely affected by the antisocial behaviour of a minority of tenants, quiet enjoyment of their tenancies.

**Mr B Hutchinson:** Mr Chairman, it was remiss of me not to declare an interest, as I am a member of a housing association board. I apologise.

**The Acting Chairperson:** You have already declared that interest during the process of consideration of the Bill.

Mr Hamilton, did you want to make a comment?

**Mr Hamilton:** I only want to make the observation that people do not have an automatic right to a house.

**Mrs Nelis:** In international law they do, but we will not go into that now.

**The Acting Chairperson:** Unfortunately, I am in the Chair, and the situation is difficult. I have concerns about

the issue of introductory tenancies, and it is not to be confused with a desire to ensure that antisocial tenants are dealt with. That is an attempt to wrong-foot the argument, which is about the right to housing. That right is enshrined in the United Nations Universal Declaration of Human Rights and is also included in the Programme for Government, which we all agreed to in the Assembly. The concept of introductory tenancies does not sit well with that. This is not a semantic argument, but I would be interested to hear the Department's view on that matter.

The implication of introductory tenancies is that from the time an application is made, the tenant goes through a period of introduction before becoming a full tenant. That applies to everybody, without any criteria being applied. That rests apparently with the judgement of the officer from the local office, or his manager, responsible for the allocation of houses.

Has the Department considered the amendment that deals with the concept of probationary tenancy? Although this is not an argument about semantics, there is a considerable dictionary difference between the words “introductory” and “probationary”. I nearly used the word “discretionary” and got into another argument with someone else. The word “probationary”, in this context, means that someone is placed, on the basis of evidence, on a probationary tenancy. If that person does not adhere to the conditions of that probation, then the issue of the removal of tenancy arises. With regard to people's rights, would that not be the preferable way to approach the issue, so as not to abuse the principle of right to housing for all that is enshrined in the United Nations Declaration of Human Rights, and included in the Programme for Government?

**Mr Davidson:** The Department's view is that, in the context of the comments made by the Committee members, probationary tenancies would apply only to those who had already been convicted of antisocial behaviour. The Department would see that as defeating the policy objective. If introductory tenancies had been brought in 10 years ago, then tenants who are now guilty of antisocial behaviour would have secure tenancies, because they did so in the first year of their tenancy. The introductory tenancy tries to ensure that you get some evidence over the first year of a tenancy as to whether the tenant is or is not likely to be sensible and abide by the tenancy agreement. If you do that only for those who have already been found guilty of antisocial behaviour, then people who are guilty of such behaviour for the first time have secure tenancies.

**The Acting Chairperson:** You have either misunderstood my point, or I have not made myself clear. My understanding is that probationary tenancy means that in the case of a tenant who is found guilty of an antisocial offence — and evidence of such an offence does not necessarily lead to a legal hearing, and is not just based on the view of the housing officer — the evidence is acted upon, a warning is issued and the probationary tenancy

is applied. If the antisocial conduct continues, then that person is removed. What are your views on that? Is there not a major difference between that and applying an introductory tenancy to everybody?

**Mr Davidson:** If I were looking at introductory tenancy from a tenant's viewpoint, I would not feel that I was in any way disadvantaged by it. It does not mean that the landlord does not trust the tenant; rather it is a time when the landlord can determine whether the person is likely to be a decent tenant. Anybody guilty of antisocial behaviour during that time will be dealt with according to the Housing Executive's normal procedure and, in the meantime, the tenant has all the rights that any secure tenant has. People with introductory tenancies are not disadvantaged when compared to other tenants. They have the same rights during that introductory period, and the intention is to give them a secure tenancy at the end of that year.

**Mr Carson:** Probationary tenancy is very akin to the current system where taking away a tenancy and eviction comes at the end of a long train of action. Under the existing legislation, people are visited, mediation takes place, warnings are given about the behaviour, and only at the end of that procedure will the house be repossessed, if that person has not reformed.

**The Acting Chairperson:** You may not be aware that when this issue is analysed and stripped down it relates to a fundamental political tenet. Traditional conservatism would declare that all men are evil and must be punished. Therefore everyone is wrong until they prove themselves right. You are trying to do that with the introductory tenancy. That is my view.

**Mrs Nelis:** The fundamental difference between introductory tenancies and the current system is that if someone is given an introductory tenancy, their right to security of tenure is removed.

**Mr Carson:** I do not disagree with that. In case you misunderstood, I was saying that I do not see much difference between probationary tenancy and the existing system. I accept your point.

**Mr Davidson:** The current situation is that people are secure tenants from day one, and that situation may prevent the Housing Executive and social landlords from taking reasonable and immediate action to get rid of the harm and the nuisance some people may cause. A secure tenancy guarantees the person that property, and it is a tortuous route to try to deal with the person and remove the nuisance from people in the vicinity who want quiet to enjoy their secure tenancies. The purpose of this is not to take away people's rights, rather it is to allow the social landlords to see whether the tenants will prove to be what we regard as decent tenants and if not, then to allow the landlords to do something about the situation, which they cannot do under the current system. This is not just the Department's view; social landlords,

and particularly the Housing Executive, are in favour of this, along with the other measures to deal with antisocial behaviour.

**Mrs Nelis:** I have two points in relation to that. First, there is no evidence to suggest that removing a roof from over someone's head is going to resolve the issue of antisocial behaviour. That will just move the problem elsewhere. In some submissions, and certainly in the evidence given to the Committee last week, the feeling was that introductory tenancies are wide open to abuse. We learned that when the Bill was introduced in England, the landlords, whether they were housing associations or whatever, used it to resolve problems of rent arrears, and that, not antisocial behaviour, accounted for 68% of those who were evicted — although some people might define rent arrears as antisocial behaviour.

**Mr Davidson:** There is no intention at present for social landlords to use this legislation as a method of dealing with rent arrears. However, there should be some way in which social landlords could deal with the possibility of tenants who, on the first day of their tenancy, decide not to pay rent. It is not intended that introductory tenancies, if they were introduced, would be used to deal with the problem of rent arrears: there are well-established ways of dealing with that. Introductory tenancies should deal with antisocial behaviour, and rent arrears is not within the definition of antisocial behaviour. However, it does deprive the Housing Executive of funds that it could use for other housing purposes.

**The Acting Chairperson:** Since it is suggested that introductory tenancies be applied to Housing Executive and housing associations, why should they not be applied to tenants in private accommodation?

**Mr Davidson:** Private-sector landlords have other means of getting rid of antisocial tenants, such as notices to quit, and so forth, and there is no reason why they should need introductory tenancies. It is not provided for in the Bill.

**The Acting Chairperson:** If we introduce one set of rules for one sector, we could be questioned under the equality legislation about not introducing the same rule for all sectors?

**Mr Davidson:** The private-rented sector is not mentioned in the obligations in section 75 of the Northern Ireland Act 1998. Section 75 deals with other aspects of people, and not the fact that they choose to live in the private-rented sector.

**Mr B Hutchinson:** Does the Housing Executive have any statistics on antisocial behaviour? I would guarantee that the private-rented sector has the highest levels of antisocial behaviour, and that is because the private-rented sector has stolen and embezzled money out of the Government for years by creating situations where landlords put all sorts of people into houses knowing what the majority of them were up to — and that continues.



MLAs could produce statistics to show that the majority of problems come from the private-rented sector. With this Bill we are saying that only those people who live in social housing provided by the Government are involved in antisocial behaviour. If we really want to stop it, it must be stopped everywhere, and not just in one sector.

**Mr Davidson:** There are other authorities to deal with antisocial behaviour.

**Mr B Hutchinson:** It is not working.

**Mr Davidson:** With respect, because it is not working does not mean that it should become the obligation to the Housing Executive or housing associations to deal with antisocial behaviour.

**Mr B Hutchinson:** Stringent restrictions could be put on the private landlord to do exactly the same thing. You are telling us that we need these laws to deal with the people who live in Housing Executive and housing association houses. If we already had a system that worked, why are we changing it?

**Mr Davidson:** We are bringing in extra provisions because the existing provisions have been shown not to work, or to be tortuously slow to deal with the problems.

**Mr B Hutchinson:** Could we have the statistics?

**Mr Davidson:** I have some figures on the types of antisocial behaviour dealt with by the Housing Executive, but I do not have anything from the private-rented sector.

**Mr B Hutchinson:** I am referring to the Housing Executive.

**Mr Davidson:** The Housing Executive breaks down antisocial behaviour into 16 categories, ranging from noise levels to criminality, verbal abuse, boundary disputes, vehicles, intimidation, drugs and alcohol. I do not have the figures for the last year, but at the present time the Housing Executive is dealing with 57 cases of antisocial behaviour.

**Mr B Hutchinson:** I have a teenage son who likes to play his decks. Is that antisocial behaviour?

**Mr Davidson:** Someone in the vicinity may claim that that is antisocial behaviour.

**Mr B Hutchinson:** We must be careful about what we mean. If we want to criminalise young people and turn noise from decks and such like into antisocial behaviour, that is fair enough. However, I am sure that many housing officers have teenage sons and daughters who play decks.

**Mr Davidson:** The courts currently decide what is defined as nuisance, noise or harm. If the Housing Executive chooses to deal with someone for playing loud music, for example, it will need to be sure that a court will accept that it has acted in a reasonable way in bringing the case to court. We do not ask the Housing Executive to determine what is noise, harm or nuisance. A court will determine whether the behaviour has been antisocial

and whether the Housing Executive has a strong and right case to bring to court.

**The Acting Chairperson:** An introductory tenant will not be taken to court, will they? Will their tenancy not just be removed?

**Mr Baird:** An introductory tenancy could be ended only by court order. The purpose of introductory tenancies is to remove the requirement for the landlord to prove grounds for possession in court. When a landlord currently takes a tenant to court seeking an order for possession, the landlord must prove that the statutory grounds exist and must provide evidence, bring witnesses and so forth. We want to move to the introductory system because of the difficulties involved in that.

When a landlord wants to take an order for possession in relation to an introductory tenancy, he still must go to court and get the order. The difference is that the Bill would require the court to grant the order for possession more or less on demand by the landlord. However, it would be subject to the test of reasonableness; the court could only grant such an order if it felt it was reasonable to do so in the circumstances.

**Mr B Hutchinson:** Through research, we have discovered that places such as Germany deal with antisocial behaviour. One of the difficulties is that we are dealing with housing problems that are declared as antisocial behaviour. In the street where I live there are two housing associations, privately owned homes and private-rented homes. If I live in a housing association house on an introductory tenancy and bring someone in who makes noise, I can get kicked out. Other people in the street can do what they want, and there is no law against it.

We are making a rod for our own backs. These are policing problems, and the police should deal with them. We should not see them in the light that you are seeing them in; they should be seen the other way round. Anti-social behaviour is antisocial behaviour, and whether it is in someone's home does not matter. The police must deal with that, and the legislation should give the police the power to do that. You are turning our housing problems into antisocial behaviour problems.

**Mr Davidson:** When the Housing Executive in particular currently deals with antisocial behaviour, it brings the police, local authorities and, if necessary, health and social services personnel to the interview about the nuisance with the complainant. The Housing Executive brings in the various authorities, including the police, to see if there are ways of dealing with the issue, short of having to evict the tenant, which is a last resort. The landlord is not trying to deal with the issue alone.

**Mr B Hutchinson:** Mr Davidson has missed the point. There was a Housing Executive strategy several years ago that told people in working-class areas such as the Shankill that 90% to 95% of Housing Executive



tenants were no use. It needed people who owned their own homes. It went on a campaign of selling homes. With the Department of the Environment, it also went on a campaign of giving grants to enable people to get low mortgages so that there would be a mixture of tenure.

We live in areas of mixed tenure, and you are saying that this antisocial behaviour measure will apply only to those who live in social housing run by the Housing Executive or a housing association. It should apply to everyone, and the only people who can apply it to everyone are the police. Why are we bringing out laws that affect only one sector and not all sectors? If someone has just bought a home, after a grant from the Department of the Environment enabled them to get a low mortgage, they can partake in all the antisocial behaviour they want and there are no laws to deal with it.

**Mr Davidson:** There are authorities to deal with it —

**Mr B Hutchinson:** The authorities do not deal with it. That is why you are introducing this legislation, is it not?

**Mr Davidson:** We are introducing legislation to allow the Housing Executive and social landlords to deal with it better. Unfortunately, it is not a matter for housing legislation if the police or other authorities do not take the action expected by some people.

**Mr B Hutchinson:** That is the point I am making; that is why you are making it. The police do not deal with antisocial behaviour on behalf of the Housing Executive; the legislation is being introduced to enable the Housing Executive to deal with it. The police should deal with it.

**Mr Davidson:** The police are brought in by the Housing Executive when there are complaints of antisocial behaviour.

**The Acting Chairperson:** Clearly, this clause and the other clauses dealing with antisocial behaviour will not find their way through the Committee today. In such circumstances, officers and departmental officials may be asked if the concerns expressed today, together with those expressed in the recommendations from various voluntary and statutory groups, could be submitted to the Minister for possible further consideration and presented to the Committee again in a slightly different format.

**Mr Davidson:** I suggest that the Minister should be informed of the view of the Committee as a whole, rather than the views of individuals. Several people have commented, but officials do not know the Committee's view, for example, on whether introductory tenancies should be brought in or should be at the discretion of landlords. The Committee's view must be taken to the Minister, who already knows the Department's views on the Bill's provisions. It is a question of whether the Committee's view will make him want to change those.

**Mr B Hutchinson:** I am offended by what Mr Davidson has said. I am an elected representative. I am entitled to

my view and to give that to the Department. If officials want to start this caper of needing to know the Committee's view, we will give them that on the day. My authority as an elected representative is being challenged because I spoke. I am a member of the Committee. Not everyone will agree with my views, and I will not always agree with theirs, but that is not the point. Officials are here to solve problems. They do not have the right to make sure that everyone else shares my view, just because they do not like what I have said.

**Mr Hamilton:** That is not at all what the gentleman said, Billy.

**Mr B Hutchinson:** Tom, you should let the gentleman speak for himself.

**The Acting Chairperson:** Members should address comments through the Chair, please.

**Mr Hamilton:** Mr Davidson asked for the Committee's view. I assume that he meant a formal view, rather than reporting that "Mr Hutchinson said this; Mrs Nelis said that."

**Mr B Hutchinson:** You tell me how we will get that. Going round the table does not give the view of the whole Committee.

**Mr Hamilton:** We can take a vote.

**The Acting Chairperson:** Members, the only way to make progress is to have the discussion through the Chair. At this stage it is not a matter of taking a vote. Views have been expressed that reflect deep concern. That is sufficient for me, as temporary Chairperson of the Committee, to ask Mr Davidson to enquire of the Minister whether those concerns can be reflected, and to convey his response. We have not even begun to examine other amendments, because we are in a state of concern. Tom Hamilton is perhaps indicating some support for introductory tenancies.

**Mr B Hutchinson:** That is the first I have heard of it.

**The Acting Chairperson:** If so, he may want to put it on record. However, I have heard no one speak in favour of the proposals. Everyone who has spoken has given a genuine cause for concern.

We must proceed. We could sit here for the rest of the afternoon discussing this clause. Is there any way in which this might be processed with a greater degree of acceptability and with the removal of some of the concerns expressed by Committee members?

**Mr Davidson:** I understand, and I apologise to Mr Hutchinson. There was no intention on my part to do what he suggested I did.

After attending Committee meetings we are required to tell the Minister what happened. The start of this discussion was about whether introductory tenancies should be discretionary or mandatory. That has still not been resolved.

We then discussed whether introductory tenancies were a good thing at all, regardless of whether they were discretionary or mandatory. We need to talk about what the provisions are doing. The provisions are introducing an introductory tenancy regime. In order to tell the Minister the Committee's views, we need to know whether the Committee, as a body, likes introductory tenancies, but does not like some of the ramifications, or wants introductory tenancies to be statutory rather than discretionary, as they currently are. We need some view on that, regardless of members' individual views, although we are quite happy to take those.

**The Acting Chairperson:** You do not know what to say to the Minister to reflect the view of the Committee.

**Mr Davidson:** I could tell him that there were a variety of views and that there were discussions about antisocial behaviour and introductory tenancies in general, but that there are concerns about them. There does not seem to be broad support, but I do not know the degree of support. Do we suggest to the Minister that the Committee wants some of those provisions to be changed, either to make introductory tenancies mandatory or to retain their existing discretionary nature? Alternatively, do some individual aspects need to be changed to reflect the Committee's concerns? I have not got that picture.

**The Acting Chairperson:** That being the case, all we can do is defer consideration of that clause until we, as a Committee, decide what we want and see if we can come to a decision. There may need to be a majority decision in order to progress. My intention was simply to see whether the Minister might be prepared to accept a recommendation that could go some way to meeting some of the Committee's concerns. Everyone is anxious to help with the antisocial behaviour problem. There is an opportunity to do something through housing, but there is more to antisocial behaviour than simply dealing with tenancies, as Mr Hutchinson explained. There is a heck of a lot more to the issue.

**Mr B Hutchinson:** Irrespective of what happens in this building, the people who end up picking up the pieces of antisocial behaviour are the elected representatives in this room. People come to my door at 2.00 am to tell me that people are being antisocial. People come to my constituency office day and daily. I live in the area that I represent and am therefore on call 24 hours a day, seven days a week. It is in my interests to have such provisions, but the difficulty is that we are not going about it the right way. People need to learn lessons.

**Mrs Nelis:** I want to reiterate that the entire Committee is concerned about antisocial behaviour. We are all actively trying to deal with it in our own constituencies, through multi-agency approaches and other methods. If this legislation is allowed to go through, removing a person or an entire family will not deal with antisocial behaviour. It will also be an infringement of equality

legislation, the Good Friday Agreement and the UN Declaration of Human Rights. The Minister must address those concerns and respond to them.

**Mr Davidson:** The Committee will know that all provisions of the Bill have already been proofed from an equality and a human rights perspective. There were no concerns at departmental level, or from the Northern Ireland Human Rights Commission or the Equality Commission for Northern Ireland.

**Mr B Hutchinson:** Is there an equality mechanism? I assume that the people who will be most affected by introductory tenancies will be female lone parents. Will there be a way for those people to be tracked to ensure that they are not being discriminated against because they are lone parents and female?

**Mr Davidson:** The Housing Executive, under its equality obligations, at a point when it introduces a new policy — and if this is to go through legislation and be considered for implementation by the Housing Executive, it will be a new policy — is required to equality proof and human rights proof that policy.

**Mr B Hutchinson:** Do you accept that one sector of society will be affected?

**Mr Davidson:** I would wait for the equality impact assessment to be carried out by the Housing Executive to see the range of people who may or may not be affected. I do not want to hazard a guess. The equality impact assessment will do that job in a structured way.

**The Acting Chairperson:** We need to defer consideration until the Committee has an opportunity to thrash out a more pointed response to the Minister.

*Clause 1 referred for further consideration.*

*Clause 2 referred for further consideration.*

*Clause 4 referred for further consideration.*

*Clauses 6 to 8 referred for further consideration.*

*Clause 10 referred for further consideration.*

*Clauses 12 to 14 referred for further consideration.*

**Mr Carson:** Will the Committee write to the Minister?

**The Acting Chairperson:** The Committee will examine the situation and then decide what to do.

**Mr Carson:** I thought that you might want us, as officials, to take some action in the meantime.

**The Acting Chairperson:** The Committee is agreed that further consideration needs to be given to those clauses.

*Clause 17 (Extension of ground of nuisance or annoyance to neighbours, &c.)*

**Mrs Nelis:** I raised concerns about clause 17 at our last meeting. The clause proposes to extend the grounds for

repossession to nuisance. However, the term “nuisance” is not defined. Can the officials define that for the Committee?

The clause refers to nuisance caused by tenant’s visitors. There is a proposal to extend that to the locality, not only a particular house but also to people who have committed an arrestable offence. I have problems with that clause. A barking dog was used as an example of a nuisance. Could the grounds for repossession be extended because a dog is barking and the tenancy situation is introductory?

**Mr Carson:** The term “nuisance” has been used for many years in legislation, and it is not defined. Once something in legislation is defined, we are trapped into that. If a definition of “nuisance” is type-bound in primary legislation, it can take a long time to change. Therefore it is left up to the courts to interpret a nuisance in individual cases and to make sure that it is a nuisance. A dog barking occasionally would not be considered as a nuisance.

**Mrs Nelis:** Will the courts make the decision on repossession?

**Mr Carson:** The courts decide whether what took place was a nuisance and whether the house can be repossessed on those grounds.

**Mr B Hutchinson:** Does the Housing Executive take hidden disabilities such as behavioural problems in young children into consideration?

**Mr Davidson:** As I understand it, the Housing Executive will take into consideration all circumstances that might be material to the case. Repossession is the tail end of a long process. For example, a case about a dog barking might be resolved through the Housing Executive’s mediation service, without the need for a court case. If the case involves a disabled person or someone who has mental health problems, the Housing Executive’s processes should take account of that. As part of the second stage of the process for dealing with nuisance, it engages with other agencies, such as the police, local councils and social services. I imagine that the health, or mental health, problems of the people involved would be brought to the Housing Executive’s attention.

**Mr B Hutchinson:** I read some statistics recently, which said that in north Belfast there was an increase in the number of children between the ages of eight and 12 who suffer from behavioural problems, which is a medical condition. It is a growing problem. Could all those people find themselves in court?

**Mr Baird:** I would like to reassure Mr Hutchinson that section 22(3) of the Disability Discrimination Act 1995 makes it illegal to seek to evict a person on the basis of a disability. The Housing Executive would fall foul of the law if it attempted such action.

**The Acting Chairperson:** Mr Davidson outlined a list of categories of antisocial behaviour. How would the Bill’s provision affect that list?

**Mr Davidson:** It is unlikely that it will affect the list at all. Until now, landlords have been able to deal only with problems caused by tenants. The provision will extend the grounds for repossession to visitors who engage in antisocial activities. It includes the locality, not just the house. I suspect that it will not impact upon the Housing Executive’s categories of nuisance. There are already 16 categories, and it is difficult to see how they could be extended. I did not give the Committee the full list of categories, but I can do so.

**The Acting Chairperson:** That would be useful.

**Mr Davidson:** The categories are: noise; poor maintenance of gardens; criminality; verbal abuse; harassment; damage to property; pets and animals in general; racial abuse; vehicles; intimidation; drugs; alcohol; boundary disputes; business nuisance; public nuisance and rubbish.

**Mr B Hutchinson:** Does the Department not consider eviction to be as bad a problem as homelessness? The Committee has recently tried to deal with homelessness; now it is dealing with evictions. Will the legislation not add to the problems that the Assembly is trying to solve?

**Mr Davidson:** It might add to the numbers of people who seek rehousing, but the Housing Executive will not have a duty to house them. Therefore they must find accommodation elsewhere. The purpose of the legislation is to ensure that the ordinary tenant, who is not causing any harm, has the right to enjoy his or her property. To do anything else would leave the nuisance in the same place.

**Mr B Hutchinson:** Therefore the nuisance is moved on to annoy someone else?

**Mr Davidson:** The social landlord will not move them on. The social landlord will take over possession of the property, if that is what the process leads to. Where the person finds housing, is a matter for him or her, although the Housing Executive will provide advice and point him towards other landlords who may provide accommodation. The Housing Executive will not have a duty to house them in social housing.

**Mr B Hutchinson:** You can see the pattern.

**The Acting Chairperson:** I presume they would be categorised as intentionally homeless.

**Mr Davidson:** Yes. They would be regarded as contributing to their own homelessness and would not therefore be entitled. We deal with that issue elsewhere in the Bill.

**The Acting Chairperson:** How long would people be categorised as intentionally homeless?

**Mr Davidson:** There is no time limit.

**The Acting Chairperson:** Could it be for ever?

**Mr Davidson:** People could ask to be put on the housing register once again. It would be for the Housing Executive to decide whether the person would be a suitable tenant



at that point. There is certainly no time limit in legislation for a person who is guilty of antisocial behaviour and is evicted on the basis of that.

**Mrs Nelis:** I am concerned about that, because it puts the onus on tenants to be accountable for their visitors. You cannot expect people to exercise that type of influence on those who visit their homes. For instance, I am an elected representative, and there is an alcoholic in my neighbourhood who visits me regularly. He is a nuisance to my neighbours because he shouts all over the place. I bring him in and give him a cup of tea. I am glad that I own my own house; I would probably get evicted if this legislation goes through. This is very serious.

**Mr Davidson:** The Housing Executive would have to consider whether it were in the circumstances to expect a tenant to exercise control over a visitor. There may be situations in which tenants may be deemed able to control a visitor, but others when they are not. Ultimately, if the matter goes to court, that court will consider whether it were reasonable for the Housing Executive to lay that responsibility on a tenant.

**The Acting Chairperson:** I raised issues about the clause on a previous occasion. Mr Carson, you mentioned people who suffered from physical and sexual abuse and who wanted to get away from their abuser. You indicated that very clear guidelines would be given in the advice notes. I cannot remember exactly what you said at the time.

**Mr Carson:** I cannot remember either.

**The Acting Chairperson:** If someone pursued by an abuser — perhaps a wife who is suffering physical abuse — is re-housed and is visited at midnight by a husband demanding whatever he considers to be his rights, and creating merry hell in the mean time, what would the Housing Executive's position be?

**Mr Carson:** Clearly, the wife would not be penalised.

**The Acting Chairperson:** You have said to me that that is clearly the case. However, is there not a case for making sure that such guidance is included in any advice notes accompanying the legislation? Advice should be given so that people in an office somewhere do not use their position to perpetrate an injustice because they have a grudge against somebody.

**Mr Davidson:** I recall that point, but I do not recall that we had to follow it up. I suspect that the Housing Executive will draw up its own internal guidance to ensure that each of its district offices deals with this matter consistently. I am sure that it will issue guidance as to the circumstances in which it might or might not be reasonable to hold a tenant accountable for the conduct of a visitor.

I suspect that the Housing Executive would recognise the situation you mentioned and would not seek to evict an abused person on the basis that the abuser had caused a problem. I suspect that the executive would see that such a case would never see the light of day in court.

Ultimately, if the Housing Executive were to be told that that such advice had to go into their guidance, then the Department already has powers of direction in existing legislation. It could direct the Housing Executive not to seek to deal with the tenant under the provisions. I suspect that we will never have to direct the Housing Executive in that regard.

**The Acting Chairperson:** It might reassure some of us.

It is perhaps an exaggerated case, although I know of occasions when it has happened. However, in all situations, there could be areas of grey, which may be less difficult to decide. The tenant may still be disadvantaged due to the activities of someone else — presuming that the tenant would receive a sympathetic ear.

**Mr Davidson:** If you want confirmation from the Housing Executive about how they would deal with that scenario, then we will get that. However, there are other scenarios that the Housing Executive will have to deal with. Its processes ensure that anything that a district office considers doing, with regard to eviction or taking people to court, goes through a headquarters process, which will look at the reasonableness of the individual case against previous cases, or as an individual case. It would have to be sure that a court would consider the Housing Executive's conduct to be reasonable. I am sure that I can get that confirmation from the Housing Executive. However, it is dealing with only one scenario; others will come up, which are not catered for in detail, but will fall into the normal process and category of nuisance and antisocial behaviour.

**Mr B Hutchinson:** It is of concern that we do not have consistency across the board. However, with regard to Mr Davidson's description of the process involving headquarters, how would that happen for housing associations?

**Mr Davidson:** I do not know.

**Mr B Hutchinson:** Therefore we are treating people differently again.

**Mr Davidson:** We are not. Housing associations will have ways of dealing with antisocial behaviour.

**Mr B Hutchinson:** I understand that. However, how do we get all 35 housing associations to do the same, and how does everyone receive the same justice? There is bound to be a case for natural justice. Someone will take people to court over those matters.

**Mr Davidson:** Given that social housing and tenancy is off the central list, when certain policies come into play there is more requirement than ever that housing associations are treated in the same way. The Department's housing association branch usually directs the associations in how to deal with issues such as rent arrears and so on. I am not party to those instructions because I do not work in that area of the Department. However, directives and instructions are regularly issued to housing associations with regard to how the Department feels they should



deal with particular issues. The difficulty is how to make sure that every housing association deals with the case in exactly the same way, because another association may have dealt with the same case. The Department does not have that role.

**Mr B Hutchinson:** My argument is that the Housing Executive should have consistency, as it is responsible for all district offices. The housing association branch of the Department is responsible for the housing associations. Therefore I assumed the answer would be that they would come to the Department.

**Mr Davidson:** Housing associations also have a complaints procedure, and people can ultimately go to the Department, if it is not involved at the landlord level. Therefore if cases came within that scope, the Department would be involved. However, that requires the process to have gone through the Housing Executive's complaints procedure first. If a person continues to feel aggrieved at how they have been treated by an association, then the Department can become involved. At present, that is in place, and it can deal with antisocial behaviour, if that is the background to the complaint.

**The Acting Chairperson:** Some of those concerns might have been addressed if you had included the section that was in the earlier piece of legislation — the strategic role of the Housing Executive over all housing.

**Mrs Nelis:** The proposed breadth of that clause appears to be in breach of article 1 of protocol 1 of the European Convention on Human Rights, and that is a cause for concern. The Bill has already been before the Human Rights Commission, which has suggested an amendment to that effect.

**Mr Davidson:** The whole Bill has been proofed for equality and human rights by the Department. The provisions themselves do not introduce inequalities or deny human rights. If the Bill is passed and the provisions come into play, the Housing Executives and social landlords will be required to proof the policies for human rights and equality before they are implemented. The Bill may appear to be in contravention of some rights, but equality and human rights impact assessments are the mechanisms that will determine whether it raises any equality or human rights issues. It is all conjecture until the policies are invoked, at which point the landlord or Housing Executive is required under equality and human rights legislation to carry out impact assessments.

**The Acting Chairperson:** We will now look at the some of the listed amendments suggested to clause 17. Disability Action has proposed the first amendment, to ground 2(a). Disability Action is concerned as to the measurement to be used in an assessment of a person "causing or likely to cause a nuisance or annoyance". It believes that it is crucial that hidden disabilities, which can be manifest in behavioural changes, are taken into account. Disability Action recommends that this clause be amended to ensure that action to possess a tenancy

cannot be taken against a person where the behaviour in question is the result of a disability.

The answer from the officials appears to indicate that that is covered by other legislation. Is that correct?

**Mr Baird:** Yes.

**The Acting Chairperson:** Why is Disability Action concerned — does it know about section 22(3) of the Disability Discrimination Act 1995?

**Mr Baird:** I expect that Disability Action does know about it. I am not sure why it feels that the Disability Discrimination Act does not provide adequate protection — the Department feels that it would.

**Mr Carson:** I suspect that Disability Action sees housing legislation as separate from disability legislation, and that housing legislation stands in isolation from all other legislation. However, that is not the case. Housing legislation must obey all equality legislation, including disability legislation.

**The Acting Chairperson:** Does the Committee dismiss that amendment?

*Members indicated assent.*

**The Acting Chairperson:** We now move to the amendment proposed by the Housing Rights Service, which suggests that this clause be amended to ensure that action to possess a tenancy cannot be taken because of the likely behaviour of a visitor within the locality; or because the tenant, household member or a visitor has been convicted of an arrestable offence.

**Mr Davidson:** The Department believes that that amendment is contrary to the policy objective, which is to ensure that we can evict people on that basis.

**Mr Baird:** The proposed amendment reflects the position in existing legislation, and so there would be no benefit to it. The Department would not look on that favourably, because it fails to provide the Housing Executive with the facility to seek possession when a visitor in the locality has caused nuisance, or because the tenant has been convicted of an arrestable offence. We feel that those provisions are necessary and that is why they have been included in the Bill.

**The Acting Chairperson:** Could I have the views of Committee members?

**Mrs Nelis:** Is it on the Housing Rights Service amendment?

**The Acting Chairperson:** The Housing Rights Service has tabled a possible amendment to be considered that is different from the original. The Bill states that:

"The tenant or a person residing in or visiting the dwelling-house-

(a) has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality, or

(b) has been convicted of –

(i) using the dwelling-house or allowing it to be used for immoral or illegal purposes, or

(ii) an arrestable offence committed in, or in the locality of, the dwelling-house.”

**Mr Baird:** The proposed amendment is very similar to the law as it stands at the moment, rather than bearing any similarity to the proposal in the Bill. The amendment would not move us on from the existing legal position.

**Mrs Nelis:** I am content with the amendment.

**The Acting Chairperson:** Are members content to accept the amendment? Two members appear to be in favour of the amendment, and two are against. One member does not want to discuss the proposition.

**Mr Davidson:** The purpose of this, and other proposals, in the legislation is to strengthen and build on what we already have should they be found not to be working, or are a tortuous route. We are inclined to strengthen the arm of the landlords to deal with the issue. The corollary of it is that if we do not do what we are currently doing, social landlords will not have sufficient powers to be able to deal with the issue. We are trying to provide them with those powers.

**The Acting Chairperson:** We understand the point very well. Thank you for your additional help.

#### **Question proposed:**

*That the Committee recommend to the Assembly that the clause be amended as follows: on page 9,*

delete lines 21–28

and insert

“(a) has been guilty of conduct causing nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality, or

(b) has been convicted of using the dwelling house or allowing it to be used for immoral purposes”.

— [Mr B Hutchinson]

#### **Question put.**

*The Committee divided: Ayes 3; Noes 2.*

**AYES**

*Mrs Nelis, Mr O'Neill, Mr Hutchinson*

**NOES**

*Mr Robinson, Mr Hamilton*

*Question accordingly agreed to.*

**The Acting Chairperson:** I take it that you are not prepared to run with the draft.

**Mr Davidson:** We take the Committee's views back to the Minister. The Minister decided that this was the policy he wanted. The Committee is not in favour of it, but it is the Minister's decision as to whether he runs with it.

**The Acting Chairperson:** A series of other amendments has been suggested. The first of these is from the Equality Commission for Northern Ireland, and it outlines the recommendation that the Bill

“(a) makes it clear that racist harassment or abuse constitutes ‘ill-treatment’ in clause 22(1) and (2); and

(b) takes account of the definition of a ‘racist incident’ as contained in the Macpherson report.”

Noted below that submission is the full title of the Macpherson report:

“‘The Stephen Lawrence Inquiry. Report of an Inquiry by William Macpherson of Cluny’. London, TSO.”

The Equality Commission recommends:

“amending this clause to ensure that action to possess a tenancy cannot be taken:

(a) because of the likely behaviour of a visitor within the locality; or

(b) because the tenant, household member or a visitor has been convicted of an arrestable offence.”

Do you have a response to that?

**Mr Davidson:** The Department's view is that “nuisance or annoyance” would cover something as serious as racial harassment and abuse, and an amendment intended to emphasise that is unnecessary.

**The Acting Chairperson:** I suppose that the second part does not apply now, does it? We have amended that.

**Mr Davidson:** The Department's view is that we should not emphasise racial harassment as being nuisance or annoyance. To specify a definition of a racist incident would be superfluous. We know the Macpherson definition. A definition in this legislation would be superfluous because “nuisance or annoyance” would include racial harassment.

**The Acting Chairperson:** Are Members content with that? “Nuisance or annoyance” covers racial abuse. The Department's view is that this recommendation is not necessary as racial abuse is already covered.

**Mrs Nelis:** I do not agree with that at all. We have to be clear, and the words “nuisance or annoyance” would not cover the Macpherson definition of racist incidents. I propose that we accept the Equality Commission's recommendation.

**The Acting Chairperson:** Would you like to run through that again? I am not sure that —

**Mr Davidson:** I understand the point made. I just want to take you back to the categories of antisocial behaviour and nuisance that I classified earlier. Racial abuse is already included. The Housing Executive currently accepts racial abuse as a form of antisocial behaviour

and nuisance. The amendment is not required. We do not see the need to isolate racial harassment as a form of nuisance and annoyance. It is already dealt with under those categories. To identify one type could lead to a necessity to specify everything that is an annoyance.

**The Acting Chairperson:** I understand your point. However, Mrs Nelis's point is that Macpherson is clear about what he says. Are you aware of how the Housing Executive views the Macpherson report when it deals with racial incidents, if it must?

**Mr Davidson:** I am not aware of that. I only know that it deals with racial abuse as nuisance and annoyance. I do not know whether it accepts the Macpherson definition.

**The Acting Chairperson:** Perhaps it is more a question of regulation than law. Do you understand the point, Mrs Nelis?

**Mrs Nelis:** Yes.

**The Acting Chairperson:** It is a regulatory matter. We must establish whether it is using the Macpherson definition. It is important to use that definition.

**Mrs Nelis:** It gives clarification; it is absolutely clear.

**The Acting Chairperson:** It would be an interesting issue for us to explore. Perhaps we could find out about that.

**Mr Davidson:** If you want some confirmation that the Housing Executive recognises the Macpherson definition when it deals with racial abuse, we can obtain that information. I cannot say that it will inform us that it does use that definition but —

**The Acting Chairperson:** I understand. We could deal with the Housing Executive directly on what we regard as the definition of racism, according to Macpherson. It would be between the Housing Executive and us whether the executive uses or ignores it.

**Mr Davidson:** You will appreciate that the Housing Executive probably uses its own legal services in most of these matters, and it would have good advice on what the law demands.

**The Acting Chairperson:** If we are able to get that kind of assurance, are members content to reject that amendment?

**Mrs Nelis:** As long as the definitions are clear, and nuisance is not defined as a barking dog. It must be clear.

You said that the Housing Executive would have difficulty with that. What is the problem with inserting it as an amendment?

**Mr Carson:** The difficulty arises if a racial harassment amendment is inserted, and someone is abused because of his or her disability. Someone could notice that the legislation covers racial harassment but not disability harassment. Other harassment could be included; for example, religious discrimination. When one aspect of

harassment is described, it leads to a danger of excluding so many others. It is better to leave that interpretation to the courts.

**The Acting Chairperson:** That is where the Housing Executive defines what constitutes harassment.

**Mr B Hutchinson:** There is no reason why the Committee cannot agree that clause, because it is for the Housing Executive to interpret racial harassment. The clause is fine and should be agreed. There was a similar situation with the Street Trading Bill when we realised that we could not include everything in the Bill, but that there were other pieces of legislation that it all tied into and that there were guidelines for councils. We should try to convince the Housing Executive that it should use the Macpherson definition of racial harassment. However, we should not delay agreement of the clause. That will not matter, because it is for the Housing Executive to determine the interpretation.

**The Acting Chairperson:** If it will satisfy Mrs Nelis and Mr Hutchinson, that could be included as a recommendation in the Committee's report. We can dismiss the amendment.

*Members indicated assent.*

**The Acting Chairperson:** Shelter Northern Ireland said that the clause should make it clear that the offence is only an offence if it is linked to the visit.

**Mr Davidson:** The Department feels that it would be unlikely that the Housing Executive would seek to use those powers if the arrestable offence had nothing to do with the visit; for example, if it was committed elsewhere or was unrelated to that particular locality or tenant.

**The Acting Chairperson:** Has that not already been covered through the other amendments that have been accepted? The word "offence" is not mentioned.

**Mr B Hutchinson:** Those are all interesting. How will the Housing Executive get round the problem of touts who work for the police? Currently, we cannot get people arrested who are selling drugs from Housing Executive houses.

**The Acting Chairperson:** Shelter's suggestion is already covered by the amendment that we have adopted.

Lower Antrim Road Regeneration Initiative commented on antisocial behaviour. Have you any comment on that?

**Mr Davidson:** Our analysis was that that group welcomed the increase in empowerment of housing authorities, but had reservations about eviction leading to homelessness and felt that eviction should be a last resort. The group's statement is a comment rather than a request for an amendment. Eviction is a last resort. We have already discussed the potential for creating homelessness through eviction. However, the Housing Executive would have no duty to do anything about such homelessness.

**The Acting Chairperson:** Can we dismiss that?

*Members indicated assent.*

**The Acting Chairperson:** The Northern Ireland Council for Voluntary Action (NICVA) recommends that the clause should be amended to ensure that the tenancy cannot be taken away because of the likely behaviour of a visitor or because the tenant, household member or visitor has been convicted of an arrestable offence. We have taken the Housing Rights Service amendment. To a large extent, that covers that recommendation. Can we dismiss that?

*Members indicated assent.*

**The Acting Chairperson:** The Council for the Homeless in Northern Ireland (CHNI) recommended that clauses 17 to 20 be deleted. Their other option is for clause 17 to be amended to include a new ground 2 in schedule 3 of the 1983 Order on nuisance or noisy neighbours. The recommended new ground reads:

“The tenant or a person residing in the dwelling-house

(a) has been found guilty of conduct causing nuisance to a person residing in the locality

(b) has been convicted of using the dwelling-house or allowing it to be used for immoral or illegal purposes.”

**Mrs Nelis:** That is the same as the one we already examined.

**The Acting Chairperson:** That suggestion is covered by what we have already done, but we are entitled to ask Mr Davidson’s view.

**Mr Davidson:** Our view is that it does cover what has already been done. It would be contrary to the policy objective for me to give a position.

**The Acting Chairperson:** Members, shall we dismiss that one since it has been covered by the other amendments? We cannot accept the other amendment if we decide to accept the deletion; therefore, that too must be dismissed. Do we agree that the proposal to delete clauses 17 to 20 be dismissed?

*Members indicated assent.*

**The Acting Chairperson:** Do we agree that the CHNI proposal to amend clause 17 be dismissed?

*Members indicated assent.*

**The Acting Chairperson:** The next concerns the recommendation of the Northern Ireland Human Rights Commission.

“The Northern Ireland Human Rights Commission considers that the proposed breadth of the extension of the ground of nuisance or annoyance to neighbours and others may be so wide as to breach the tenant’s right to property under Article 1 of Protocol 1 of the ECHR.

In the present draft, [ground 2A (b)] (ii) would allow a person to lose their tenancy simply because any visitor had committed any arrestable offence nearby.”

We removed “arrestable offence” and have dealt with its substance in our amendment.

**Mr Davidson:** There is a note that “immediate vicinity” is preferred to “locality”; however, the problem with “locality” and “immediate” still exists regarding the area in which the problem was caused. The same point was made by other consultees. We want the proposals as they stand.

**The Acting Chairperson:** We have adopted the other amendment, which used “localities”. Shall we dismiss this one?

**Mr B Hutchinson:** George Davidson made the point that everything must still be checked. Does that not cover it for now? The Speaker has to send this and to make sure —

**The Acting Chairperson:** Presumably. Do we agree that this be dismissed?

**Mrs Nelis:** I am not too happy about dismissing it, and I am not sure why.

**The Acting Chairperson:** This concerns the gap between what we have already done in taking the other amendment on board, and the use of “immediate vicinity” instead of “locality”.

**Mrs Nelis:** The other amendment reflects the law as it stands. Am I correct? The Human Rights Commission drew attention to the fact that it may breach article 1 of protocol 1.

**Mr Carson:** It may breach it. That does not mean that it does. As George Davidson said, legal advisers were content.

**Mrs Nelis:** If there is a breach I am sure that someone will challenge the existing law.

**The Acting Chairperson:** Do we agree to dismiss it?

*Members indicated assent.*

**The Acting Chairperson:** The final recommendation, from Oaklee Housing Association, is:

“under ground for possession relating to arrestable offences, to include such instances even where there has not been a conviction, but where the “offence” and disturbance has warranted calling the PSNI.”

Do we agree to dismiss that? That is asking for a noose.

*Members indicated assent.*

**The Acting Chairperson:** That concludes our consideration today.



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## NORTHERN IRELAND ASSEMBLY

*This report was not approved formally by the Committee prior to the suspension of the Assembly on 14 October 2002, but is published by order of the Speaker.*

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### COMMITTEE FOR THE ENVIRONMENT

Thursday 3 October 2002

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### LOCAL AIR QUALITY MANAGEMENT BILL (NIA 13/01)

#### Members present:

Ms Lewsley (Deputy Chairperson)  
Mr Armstrong  
Mrs Carson  
Mr Coyle  
Mr Ford  
Mr McClarty  
Mr Molloy  
Mrs Nelis  
Mr Watson

#### Witnesses:

Ms H Anderson )  
Ms A Hall ) Department of the Environment  
Mr D Kennedy )

**The Deputy Chairperson:** I welcome Ms Helen Anderson, Ms Ann Hall and Mr Dan Kennedy from the Department of the Environment. Members should declare any interests with regard to local government.

*Various members declared an interest.*

**Ms Anderson:** We have already provided some notes that summarise the Bill's content and bring members up to date with what has happened over the summer. I will go over those. A table has been circulated this morning that takes the information that was in the previous appendices 1 and 2 and sets it out in a slightly different format for easier consideration.

The Bill seeks to implement EC Directive 96/62 on Ambient Air Quality Assessment and Management and to satisfy the Programme for Government and 'Investing for Health' commitments that the Executive have signed up to. The content of the Bill is summarised on the handout provided; the salient points that will be discussed later are highlighted.

The Bill requires district councils to carry out reviews and assessments of air quality within their areas and, if

air quality standards and objectives are not likely to be achieved, to designate that part of the council area as an air quality management area.

The Bill requires each district council to prepare a report of the findings of the air quality assessment and prepare an action plan in relation to any powers exercisable by the district council and to send that to other relevant authorities. Relevant authorities are then required to submit proposals, in relation to any powers exercised by them, for inclusion in a composite action plan. The Bill is about linking district councils with Government Departments and other relevant public bodies to sort out what activities are needed for improving air quality and to put those into an action plan.

The Bill also allows the Department of the Environment to act and recoup costs where a district council fails to fulfil its requirements under the Bill. It allows the Department to direct a district council to take any specific action on air quality matters, and it provides the Department with the power to issue guidance to district councils and other relevant authorities concerning their respective functions under the Bill.

The Bill provides the Department with the power to make grants or loans to any body or person in relation to air quality review, assessment and management. That was a discretionary power previously; it was not mandatory. The Bill details the powers of authorised persons. Other important points are listed, but they will not be important in today's discussion. I am conscious that best use should be made of the time, but I am happy to go over those points again if Committee members so wish.

The paperwork also contains an itinerary of the interplay between the Department and the Committee thus far. Again, I can go through that in more detail if it would be helpful. The main issues highlighted in meetings with the Committee have been concerns in relation to the continued funding for district councils to undertake their activities under the Bill, the lack of an appeal mechanism for district councils in the Bill as currently drafted, and the Crown immunity issue. The Bill, as it stands, puts in place the standard Crown immunity provision, which sets out that the Crown will not be held criminally liable but can be taken to the High Court and deemed to have acted unlawfully. A declaration can be made against the Crown.

We thank the Committee for forwarding copies of the comments that it received over the summer. We have taken those on board and, as we indicated we would, we have held several meetings about the Bill with the various stakeholder groups over the summer. Those have been very fruitful. Among the groups that we met were the Planning Service of the Department of the Environment, the Regional Planning and Transportation Division and the Roads Service of the Department for Regional Development, and the Housing Division of the

Department for Social Development. We have also met the Northern Ireland Housing Executive and representatives from the district councils.

All parties received various papers and copies of the Bill and the proposed Regulations. We then held lengthy discussions with all the stakeholders. We have offered them the opportunity to come back to us, either orally or in writing, to take up any outstanding issues. There is a table in the paperwork that details those issues, which originated from both the written and oral aspects of that exercise.

At the meetings, we explained to the stakeholders the contents of the Bill and the associated proposed requirements of the Relevant Authority Regulations. The Bill sets out a range of duties on district councils and relevant authorities. That is meaningless unless it is known who the relevant authorities will be. We undertook to draft Regulations on that and circulate them for discussion and comment during the summer. That was part of the stakeholder meetings. The various parties have seen those and have had an opportunity to comment.

The Department found that the meetings were well received and that there was general consensus in favour of the Bill proceeding.

**The Deputy Chairperson:** Could the Committee have a copy of the proposed Regulations?

**Ms Anderson:** Yes. I have an early draft, and there is also a draft consultation paper to accompany the Regulations.

Discussion centred on: clause 4, which deals with the designation of air quality management areas; clause 5, which deals with the action planning phase; clause 10, which relates to funding; and clause 11, which relates to the powers of authorised officers. I will go through each of those in turn.

On clause 4, the Planning Service and Regional Planning and Transportation Division queried how we would determine what size of an area would be declared as an air quality management area. We told them that air quality management areas will vary in size depending on need. In some instances in GB, air quality management areas can be as large as a borough council area, or they can be a very small portion of road or a roundabout. It relates to the exposure of individuals to levels of pollutant that are above health-based standards. There is no set size for them, and they will be determined by the circumstances. The Planning Service and Regional Planning and Transportation Division were content with that clarification.

Clause 5 is the action-planning phase. Various Departments, including the Department for Regional Development, the Department of the Environment and the Department for Social Development, may have activities to perform in relation to bringing forward action plans that would identify the actions that they propose to take,

and the timescales in which they propose to take them, to bring about reductions in air pollution in those air quality management areas.

District councils expressed concern about the possible lack of commitment from Departments and other bodies — mostly the Northern Ireland Housing Executive — and that was where the Relevant Authority Regulations came into their own. We sent those Regulations to the district councils before the meetings, and we were able to talk our way through them. The Regulations prescribe for the various Departments and the Housing Executive which clauses of the Bill they will be responsible for actioning. The Relevant Authority Regulations go through the Bill clause by clause, indicating the Departments involved. They also state whether the district councils or the Northern Ireland Housing Executive have a role to play in respect of that clause or that subsection or paragraph within that clause. All of the stakeholders were happy with that, as it clarified who was expected to do what.

There are a few programmes and strategy documents on the transport and planning side that already contain significant air quality commitments. In addition, all of the stakeholders at the meeting were happy to give a verbal commitment to the air quality dimension, and they saw how it sat alongside their priorities and issues. Everybody was content that the Regulations locked people in, and that the commitment would, therefore, be assured.

District councils had concerns about the Planning Service taking air quality into account whenever it was producing area plans and policy documents. The Planning Service emphasised that it was keen to embrace that partnership approach. It pointed out that the Relevant Authority Regulations spell out the Planning Service's role and the actions that it would have to come forward with, and that its strategy documents identify air quality as an issue that it would take on board in developing any plans. The Planning Service emphasised that air quality could be a material consideration for planning matters. When that was explained to the district councils, they were happy that through that — and particularly through the Relevant Authority Regulations — the Planning Service would be locked in. If planning issues were required, the Planning Service would have to come forward with proposals for inclusion in the action plans under the Bill, and those would also find their way into the relevant planning plans.

We also talked about policy guidance on the planning side, and the Planning Service agreed to make an input to the air quality technical guidance that we are formulating at the moment. The Planning Service mentioned its planning policy statement 1 (PPS1). The hope is that between the technical guidance, which the Department is working on with the Planning Service at the moment, and PPS1, there will be adequate coverage on the planning policy side with regard to air quality. That technical

guidance will go out for consultation this winter. Therefore if councils feel that enough has not been done with regard to air quality policy, they will have an opportunity to voice their concerns.

Councils expressed concern about leverage over bodies such as housing associations and private-rented sector tenants. This concern arises from the pollution problems caused by domestic coal fires. The Housing Executive will be named as a relevant authority and, therefore, will have to act as appropriate. However, housing associations will not be named in the Relevant Authority Regulations because, legally, it would not be appropriate to do so.

Housing associations and private-rented sector tenants are already subject to the existing smoke control and clean air legislation, so councils already have a power to enforce the controls. The Department for Social Development assured us that it has leverage over housing associations, and that, if need be, it can use that to ensure compliance. Should commitment be lacking, the Department can take action. The Department of the Environment discussed the matter fully with the councils. They were wholly content with that position and could see how the system would work in practice.

The Committee received a copy of a letter that the Housing Executive sent to us. The Housing Executive discussed the matter with us fully at the stakeholder meetings. It is fair to say that the Housing Executive is not reluctant to play its role with regard to the Bill. It understands the purpose of the Bill, and it embraces the health and air quality dimensions of the executive's policy documents. Those helped to bring about the fuel switching policy that the Housing Executive operates with regard to oil and gas. From that point of view, it is wholly on board.

However, the Housing Executive has concerns about timetabling. Its programme for switching to the cleaner fuels will not reach completion until about 2009-10. The target date for some of the air quality requirements with regard to the two pollutants that are relevant to the Housing Executive is 2005. The Department explained to the Housing Executive that actions will be required only where there are problems. Action will not be necessary across the whole of Northern Ireland. Where there are air quality problems that are going to cause difficulties, air quality management areas will be declared. The Department is not in a position to say how many of those there will be in Northern Ireland, but it is unlikely that large parts of Northern Ireland will be declared as air quality management areas.

In a sense, the Housing Executive, as with all the partners, will be asked to focus its attention in the air quality management areas that are declared. Some of those may be areas where the Housing Executive has already introduced its fuel switching policy. We have been very up front with the Housing Executive. The action

planning process under the Bill will cause it to examine the timetables that it has set for itself. However, the Department and the councils will discuss the matter with the Housing Executive to see whether we can accommodate the air quality management area plan needs within the executive's timetables. It may be that the Housing Executive will have to skew some of its timetables to accommodate the air quality pressures, but that will become apparent when we are further down the line.

The Department has been very open with the Housing Executive, and discussions are ongoing. The executive is content with the Bill. I stress — and it has been stressed to the Housing Executive — that the Bill itself does not contain the timetable in respect of air quality. It puts in place a mechanism for delivery; it identifies the players and states that action plans will be required. We will produce separate Regulations which will name the pollutants and identify the separate timeframes. Those Regulations are scheduled for winter of this year, and any concerns about them will be discussed.

Some of the target values for those pollutants are EC requirements, over which we have no discretion. Others are national health limits, and there may be some discretion about when they could be achieved. That is for another day; however, it may be helpful to know that some of those are EU-driven.

**The Deputy Chairperson:** It is October. Does “winter of this year” mean that the consultation will be in November or December?

**Ms Anderson:** All being well, it should be late November/early December. Supporting Regulations must be in place to allow people to understand and comment meaningfully on the Bill, and we worked on those during the summer. The Relevant Authority Regulations have been brought forward, and we aim to issue those next month. The other Regulations are not yet ironed out, but we hope that they will be ready for consultation in late November/early December.

Staying with clause 5, the district councils, the Roads Service, the Planning Service and Regional Planning and Transportation Division queried the timetabling for activities under the Bill. The EU-driven Air Quality Limit Value Regulations, and the Air Quality Regulations, which will set out the national requirements for the health-based pollutant levels, will define the timeframes for work to be carried out. In addition, all the internal governmental stakeholders are assisting us in drawing up a suite of technical guidance to assist all of the stakeholders with the activities required under the Bill. That is well under way and should be sent out for consultation in November/December.

All of that will assist in identifying and setting out the timetable, which is not covered in the Bill. The players are content to clear the Bill and will examine and comment on the timetabling separately.



The Roads Service expressed concern that it had not received early feedback from district councils on potential problems. The Committee may recall that almost a year ago district councils began a voluntary review and assessment process. It is still at an early stage, and there is not much to share with other stakeholders. Government stakeholders are concerned that information should be shared with them as early as possible. The district councils have assured us that as soon as there is anything to share it will be shared.

In addition, the relevant councils have set up a Greater Belfast Air Quality Partnership. The Roads Service and the Department of the Environment have been invited to attend as observers. When the partnership has relevant information to share with others, such as the Planning Service, the Department for Social Development or the Housing Executive, those bodies will be invited on as observers. Again, the players are content with that.

The Committee had raised the issue of the lack of appeal mechanisms. District councils asked us to clarify their right to appeal under the Bill, in the context of possible disagreement between themselves and a Department in which the Department of the Environment was left as the arbitrator. It was spelt out to councils that although the Department of the Environment would be the arbitrator in such circumstances, the matter would not be dealt with by us as individuals; it would instead be contracted to an independent consultant, skilled in that type of work, and the consultant would advise us. That is appropriate, because it boils down to action plans and technical reports. The problem pollutants will be set out, together with their levels, their likely levels in the target years, and the proportion of reduction required.

The sources of the pollutants would be considered, and, through that, the type of reactions required from the various stakeholders will be determined. It is appropriate that an external consultant, skilled in this type of work, should carry that out. He would simply report back to the Department of the Environment. We would then engage with the stakeholders and help them to take on board his views and concerns. When we talked through that, the councils were wholly content with that approach. They could see the rationale for having adopted that approach in the Bill. It made sense in the context in which we were operating.

The district councils had no concerns about the Department of the Environment having a power of direction over them. The Environment Committee raised that issue previously. I raised that with the district councils as an Environment Committee concern, but they indicated that they were content with it. We would only use that in the most extreme circumstances, and the district councils were content with that position. That is the summation of clause 5. Would anyone like to ask any questions before I move on to the funding?

**The Deputy Chairperson:** No. We can move on.

**Ms Anderson:** Clause 10 is the funding clause. Again, the Environment Committee had expressed concerns about this clause. District councils raised three particular concerns, one of which related to the grants or loans. The Bill allows for grants or loans. We currently grant money to district councils. They raised a request that that be made available to the councils at all times. The Bill provides a power for the Department of the Environment to fund work on air quality. That is a mandatory power, but it is not an obligatory power in that the Department does not have to fund. The Bill states that the Department “may” fund.

The Department indicated that it currently views the voluntary air quality management process as a key element in improving air quality in the short to medium term and that there is programmed funding of that until 2003-04. After that, future funding requirements will be considered by the Department. Those considerations will take into account the types and levels of funds made available to local authorities in GB, and the district council need for funding. My colleague, Dan Kennedy, could go into more detail, but most of the funding up to now has been for equipment or for particular activities. Much of that is one-off funding.

Once we get further down the action planning process, many of the activities required are going to relate to the creation of smoke control areas and perhaps to traffic measures. The traffic measure costs will be lifted by the Department for Regional Development’s Roads Service. If district councils decide to put in place smoke control areas, a separate funding line has already been provided by the Department under the clean-air legislation for that. Therefore the funding for that would not fall under the Bill.

We would be looking to fund additional areas, which would have to be based on need. District councils were content with that approach and can see that any funding will have to be on a needs basis. We do not know what those needs will be. Therefore we will address them when we do. The review and assessment process being carried out by district councils will inform that, but not enough information is coming from that to currently allow us to identify what those needs will be.

**The Deputy Chairperson:** When will criteria be available for the councils to see if they will qualify for any available grant?

**Ms Anderson:** They are currently being grant-aided under the review and assessment process. That will continue until 2004. There is an open door on smoke control areas. The district councils can apply to the Department for funding under smoke control. There are set criteria for the available funding under that. My colleague, Dan Kennedy, is perhaps best placed to speak about funding



beyond 2004. However, it can be encapsulated by saying that when the review and assessment processes identify the sources of the pollution, and the degree of reduction required from each of the sources, we will be better informed to know what type of funding schemes might be necessary. The lack of information to enable us to identify additional funding schemes is holding us back; it is not because of any reticence on the Department's part. Dan Kennedy might want to comment at this stage.

**Mr Kennedy:** No, I think that you have covered most of the issues.

**Mrs Nelis:** Will there be established criteria for additional funding in respect of those areas with the highest rate of smoke and sulphur dioxide? I note that Strabane District Council submitted a response to the consultation which states that it had the highest levels — 32 micrograms per cubic metre — and Derry had the next highest. The Housing Executive has already stated that it is not in a position to address the changeover in the solid fuel heating system, and that means that those sulphur dioxide levels in Strabane and Derry are likely to remain. How do you think that district councils should address this issue, and what criteria will you be using for additional funding?

**Ms Anderson:** The response from Strabane District Council contained allegations about its position vis-à-vis its pollution status in the UK. The Department has already responded to the council on that allegation. We are not disputing that it would have pollution problems, but the monitoring equipment from which the figures were derived had not been in position for a sufficient period to provide a true reflection of the council's position in the pollution league. Mr Kennedy could clarify that.

**Mr Kennedy:** The monitoring site had only been operational for less than a year. When the review and assessment process is complete, it will help to give a better picture of the extent of the pollution, especially in the Strabane area, and it will also project forward to the target dates and allow a reasonable assessment. If levels were significant following that review, I would anticipate that smoke control would be a factor. The Department of the Environment already has a funding line for providing moneys for smoke control.

**Ms Anderson:** The only action that district councils will be able to take under the Bill relates to the imposition of smoke control areas. The clean-air legislation currently allows councils to declare those smoke control areas, and the Department has substantial amounts of money available to provide funding to them. The Housing Executive will have to put forward its case for funding. We have told it that if there were air quality pressures, we would be prepared to support it on the internal papers that would work their way through the Department for Social Development. However, it would not be a case of the Department of the Environment funding the Housing

Executive: that would be a massive policy departure. However, funding lines already exist for district councils. Where air quality management areas are declared, action plans will identify the actions to be taken by the various parties, and the availability of funds to undertake those actions will be crucial.

**Mrs Nelis:** Is air quality control a cross-cutting issue?

**Ms Anderson:** It certainly is a cross-cutting issue.

**Mrs Nelis:** That should impact on the funding arrangements.

**Ms Anderson:** It ought to, but you will appreciate that it is not really for me to comment on another Department's funding arrangements.

**The Deputy Chairperson:** Dunmurry, in my constituency, was rated two years ago as being the village with the highest pollution, and the council had to take action. The area contained an estate that was not a smokeless zone, and the council is working with the Housing Executive to try to eradicate that in the next few years. It cannot be done all at once. The Housing Executive will fund the change from coal to other fuels.

**Ms Anderson:** District councils and the Housing Executive already work in partnership in relation to smoke control areas. Where air quality monitoring areas are declared, those councils that have not turned their attention to smoke control in the past might have to. Some councils, such as Belfast, have adopted it in full, and other councils have not, but it may be appropriate for them to do. The Bill is going to focus their attention on that.

Clause 11 relates to the powers of authorised officers to enter residential premises, and a couple of issues were raised about that. The Northern Ireland Human Rights Commission has told the Environment Committee that it would like to see provision in the Bill, or at least an indication of the Department's intention, to establish a code of practice for the exercise of this power. The Bill allows authorised officers to enter residential premises, having given seven days' notice with the resident's consent, or having given seven days' notice with a warrant from a Justice of the Peace.

That is similar to the provisions in other legislation. We discussed that with district councils at the stakeholder meetings because any additional code of practice would impact on them. They said that they already deal with a wide range of legislation. The Police and Criminal Evidence (Northern Ireland) Order 1989, the codes of practice under it and the Cabinet Office's enforcement concordat provide them with guidelines in and around this area. They felt that that might be enough to satisfy the Human Rights Commission. We have considered the Police and Criminal Evidence (Northern Ireland) Order 1989, the codes of practice under it and the enforcement

concordat, and we have extracted what appeared to be the relevant material from those. We intend to liaise directly with the Human Rights Commission and see whether that would be sufficient to satisfy it. If the Committee is content, we will adopt that direct approach, and we will report back to you.

**The Deputy Chairperson:** Yes. We are content.

**Ms Anderson:** We hope to make contact with the Human Rights Commission next week with a view to exchanging papers and arranging an early meeting to try to resolve its concerns. We have liaised with it previously on the Bill. It did not raise the issue at that time, otherwise we would perhaps have been further on, but we hope to resolve the issue soon.

One of the district councils stated that the seven days' prior notice of entry to residential premises seemed excessive. However, that is the provision in the equivalent GB legislation, and it is equivalent to provision in other pieces of Northern Ireland environmental legislation. On that basis, we would be content to stand with it. The Environment Committee did not raise the issue previously. We explained that at the stakeholder meetings, and the district councils indicated contentment with that on that basis.

The last issue, which is the extension of the gas distribution system throughout Northern Ireland, has also been raised by the Environment Committee. It does not really fit in under any of the clauses in the Bill.

The Department appreciates fully that the availability of natural gas in Northern Ireland has an impact on air quality. Having said that, fuel distribution is a separate policy issue to that under the Bill. The Bill just seeks to put in place a mechanism to require air quality in Northern Ireland to be looked at and actioned where it is bad. When the air pollution problems that are identified under the Bill cannot be reduced adequately using available measures, which will include fuel types, the matter will be for collective consideration by our Department and other Departments or agencies.

We have explained that to the Environment Committee previously. We went into that in some detail at the various stakeholder meetings. The district councils and others indicated that they were content with that; they appreciated that it was not an issue for the Bill. It is perhaps a general issue of concern, but it is not an issue for the Bill. We are content to leave it on that basis.

I have gone quickly through that because I wanted to give you a flavour of what has been involved and the issues that we have been able to satisfy the various stakeholders on. That may leave you in a better position to identify what you wish to take forward with us.

**Mr Armstrong:** Is there anything in the Bill relating to industrial pollution or waste pollution?

**Ms Anderson:** Those sorts of pollution will be dealt with under the pollution prevention and control regime. Generally, pollution from industry affects the air quality in the immediate surrounding area. However, industrial pollution will be dealt with under the appropriate legislation, and neither the Bill nor the mechanisms under it will be used to effect improvements in sectors where more appropriate legislation already exists.

**The Deputy Chairperson:** If the Committee is content, I would like to thank Ms Anderson and her team for all the work that they did during the summer. We appreciate the very concise document given to the Committee this morning.

**Mrs Nelis:** Will there be any right to compensation for those who have been affected by air pollution?

**Ms Anderson:** No.

**Mrs Nelis:** Will that be dealt with in separate legislation?

**Ms Anderson:** The Department has no intention of developing legislation to deal with cases where the health of individuals has been affected. I will seek legal advice on that matter before reporting back to the Committee, if members are content.

**The Deputy Chairperson:** OK. Thank you.

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## NORTHERN IRELAND ASSEMBLY

*This report was not approved formally by the Committee prior to the suspension of the Assembly on 14 October 2002, but is published by order of the Speaker.*

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### COMMITTEE FOR THE ENVIRONMENT

Thursday 3 October 2002

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### PLANNING (AMENDMENT) BILL (NIA 12/01)

#### Members present:

Rev Dr William McCrea (Chairperson)  
Ms Lewsley (Deputy Chairperson)  
Mr Armstrong  
Mrs Carson  
Mr Coyle  
Mr Ford  
Mr McClarty  
Mr Molloy  
Mrs Nelis  
Mr Poots  
Mr Watson

#### Witnesses:

Mr J Lambe            )  
Mr I Maye            ) Department of the Environment  
Mr D Small            )

**The Chairperson:** I welcome Mr Ian Maye, Mr David Small and Mr Jackie Lambe from the Department of the Environment. Good morning, gentlemen. I understand that you are going to give a presentation on the issues and concerns raised by the Committee at previous meetings.

**Mr Maye:** This is Mr Small's last appearance before this Committee. He is about to go to the Department of Agriculture and Rural Development, so he will be up before another Committee from now on. His place will be taken by Mr Wilfred Reavie, who is a long-standing member of the Planning Service with legislative experience. Mr Lambe will remain part of the team, so that we will not be bereft of all experience.

**The Chairperson:** Mr Small, I wish you every success in your new appointment. I trust that you will find it rewarding.

**Mr Maye:** We will run through the issues, set out in the Minister's letter of 2 October, which were originally raised by the Committee four weeks ago. We will stop whenever you see fit to ask questions or if you want

clarification. We will then move on to the points, primarily of clarification, that were raised two weeks ago.

**Mr Small:** The Minister's letter addressed four issues raised by the Committee on 5 September. On two of those issues, the Minister intends to put proposals forward to the Executive Committee and the Secretary of State. On the other two issues, he explains in the letter why he feels unable to accept the recommendations of the Committee.

I will deal first with the issues on which the Minister accepts and empathises with the Committee's views.

First, the Minister agrees that the proposed levels of fines under clauses 1, 2 and 8 of the Bill should be increased from level 3 on the standard scale (£1,000) to the maximum of the standard scale (£5,000). There is logic in that. The Minister will suggest that to the Executive Committee. His view is that the kind of increase proposed is consistent with the earlier proposal to increase the maximum level of fine available in the Magistrate's Court from £20,000 to £30,000. To ensure consistency with other provisions in the Planning Order (Northern Ireland) 1991, the opportunity will also be taken to increase the levels of fines available under articles 22 and 66 of that Order. There is a similar rationale for increasing those from level 3 on the standard scale to the maximum of the scale.

Secondly, the Committee asked whether the proposed custodial sentences in the Bill for offences relating to listed building consent could be extended to other offences in the Bill. The Minister empathises with that proposal; such a change would send a clear message to those who seek to breach planning control. He intends to send papers on that to the Executive Committee and the Secretary of State. On both of those issues, the Minister agrees with the Committee's recommendations.

Two further issues were raised. The first was to do with stop notices. The Committee will recall that the essential point was whether such notices ought to take immediate effect. The provisions, as drafted, allow stop notices to take immediate effect whenever the Department so determines. The Committee's view was that it should happen automatically. The Minister has considered the issues raised by the Committee but believes that the provisions as currently drafted are appropriate. There are a number of reasons for that.

The first reason is that stop notices are only one of a number of powers available to the Department to stop activity. The Committee will be aware that clause 3 provides the Department with new express powers to seek court injunctions to stop unauthorised activity. The Department already has substantial powers through that process.

The second point is that we are concerned about the possible implications of stop notices taking immediate

effect in every situation. The main concern is that it may simply be impossible for developers to make safe unstable structures or buildings that are unsafe or unstable. There are serious potential dangers. The Committee suggested that we make provision for circumstances such as that, under which we could specify that the stop notice would not take immediate effect. Our concern is that it would be virtually impossible for the Department to make those judgements with absolute confidence and certainty. Getting it wrong could have serious implications.

The Minister's view is that clause 9 gives the Department the power to make a stop notice take immediate effect in cases where, for example, we think that an activity is causing serious environmental damage and should be stopped immediately, and where we can be absolutely confident that there are no dangers associated with doing that.

Finally, the new powers to better enforce stop notices are worth mentioning. The Bill sets out a range of new powers, including higher fines, the proposed new offence of unauthorised activity, and the proposed custodial sentences. That is an important point. Part of the Committee's concern, I think, is that even where a stop notice or enforcement notice takes effect, the unauthorised activity often continues. The Chairperson made that point at the last meeting. Our view is that the new powers in the Bill will allow us to change that situation. Where a stop notice takes effect, whether it does so within a day or immediately, it will take effect in an appropriate manner. Where it does not, we will use the significant new powers in the Bill to enforce it.

The other point raised was in relation to the protection of trees. Again, the Minister empathises with the Committee's view that there may be other circumstances in which we ought to be able to apply protection to trees, outside the very specific circumstances of tree preservation orders (TPOs). We discussed at the last meeting our concerns about blanket protection, and I think that the Committee accepted that there were reasons why that was not appropriate.

Nevertheless, the Minister accepts the Committee's view and agrees with the Committee's proposal that we should look further at finding some other means of extending control. He has asked officials to liaise with departmental solicitors, and we are doing that at the moment. We have asked for their views on a possible model that would give the Minister some discretion through which he could extend TPO-type control to specified locations or specified circumstances. We are awaiting legal advice on that point. The Minister accepts the Committee's views, and we are taking the matter forward.

**The Chairperson:** The first two issues, on which the Minister has accepted our views, we will take as read. I am sure that Members will want to comment on the other two issues.

**Mr Molloy:** With regard to stop notices, I think that wording could be inserted that would mean that notices would have to be implemented, but with due care given to the protection of the building. I do not think that someone in the middle of taking down a building would be told to stop and would have to leave it in an unsafe condition. The legal people could put together a wording that would ensure that it had to be made safe, but also that the stop notice would have to take effect.

**Mrs Carson:** I am concerned about the tree preservation orders. It is still a bit woolly. I am concerned that the maximum fine for an offence under the relevant clauses is only level 3, or £1,000. That is not very much. Only yesterday I received letters from people who were concerned about trees being taken down by the Roads Service. We need to tighten up, because once the tree is down, it is gone. We should have a higher level of fine.

**Mr Small:** That is one of the fines that we intend to increase in the context of the suggestion put forward by the Committee. There are two levels of fines that can be applied in relation to trees. There is one level where damage is done to the tree that is not likely to kill the tree. The level of fine for that, we propose, will be increased to £5,000. In cases where a tree is removed or felled unlawfully, the level of fine in the Magistrate's Court will be increased to £30,000, subject to the agreement of the Executive. In the Crown Court, the level of fine that can be imposed will be unlimited.

**Mrs Carson:** It sounds good, and I hope it works, because £30,000 is not much to a large developer. If one or two trees are putting a development at risk, £30,000 or £60,000 can be written off. I am still concerned.

**Mr Small:** The other relevant provision in the Bill is that, where trees are removed unlawfully in breach of a tree preservation order, they must be replaced. That will be an automatic requirement. It will not free the site for development. The developer may still face the £30,000 fine — or higher, if we take it through the Crown Court — and he will have no development with which to recover that loss.

**Mrs Carson:** How are we going to encourage more people to take out tree preservation orders?

**Mr Small:** Tree preservation orders are a matter for the Department. It is for the Department to determine where it is appropriate to place TPOs and to establish some sort of programme for doing so.

**Mr Maye:** One thing that we are doing, as we have reported to the Committee before, is to conduct a survey of all woodland in Belfast, under the Forest of Belfast initiative. That will lead to recommendations. We would like to replicate that in other parts of Northern Ireland. In the meantime, when an individual or a community group comes to us with a request for a TPO to be put on land, we look very seriously at that. When planning



applications are submitted, if there are already trees on the land our own planning officers will often request the imposition of a TPO. We take that very seriously.

The combination of those three approaches should help us to better protect trees as a whole, but the issue that the Minister has asked us to look at is whether we can put a mechanism into this Bill to allow him to protect classes of trees in certain circumstances, such as within the curtilage of a listed building or in an area of townscape character. That is what he wants us to explore, because it would give him great flexibility. We could protect particular classes of trees, rather than looking at individual stands of trees on an individual basis, which is essentially what we are doing at the moment and which is not satisfactory. It means that we have to look at each in a particular way, and that is labour intensive. If we can protect classes by a legislative mechanism, then that is much easier to administer and police.

**Mrs Carson:** Thank you, I look forward to that.

**Mr Poots:** In relation to the stop notices, you indicate that the three-day period is there; it could be made shorter. You also indicated the problems there could be if you had an immediate stop notice in relation to raw sewage, for example, spilling out. I think that it should be turned round so that the stop notice should take immediate effect unless there are particular reasons for it not being able to do so. It should continue for a period of up to three days in relation to, for example, raw sewage, or health and safety issues. The emphasis should be on illegal development, and in such circumstances the stop notice should be immediate. Then, if there are other considerations to be taken into account that would allow some development to take place for health and safety, or other, reasons, that should be included. The emphasis of the stop notice should be turned round in relation to the three days to sort things out, because there will be people who will use those additional three days to continue with further development.

**Mr Small:** I think the Minister's response on that is that while we accept the reasons for the proposal the Committee makes, we would like to reserve the discretion relating to when the Department feels it is appropriate to make a stop notice take immediate effect — because there will be circumstances in which an activity has to stop immediately, and we will specify through the planning policy statement the kind of circumstances in which we feel that will be the case, and in those cases we will make it take immediate effect. Our concern still revolves around a situation whereby if a stop notice were to take effect in every single case unless the Department specified that it was not going to, the onus would then fall on the Department to determine in a very accurate way in every single circumstance in which there was some potential danger, either for health and safety reasons or some other danger that we may not

have foreseen. Where that happens, and where we fail to foresee that danger, and something awful does happen, the responsibility and liability for that will fall to the Department. However, that is not to say that where an activity is being carried out that we feel must stop immediately that we will not use a stop notice. We will make a judgement on a case-by-case basis depending on the individual circumstances, and that will probably involve inspecting the site in each case. We also will retain the clause 3 power of injunction where some major unauthorised piece of development is taking place and where we can, through a court injunction, have the activity stopped immediately. Our view is that the power is there to allow us to do it; we simply want to retain some discretion in how we do it, rather than have our hands tied through an automatic requirement.

**Mr Ford:** First, on tree preservation orders, I do not see anything in the Minister's letter that refers to a point that I have made previously about the issue of the preservation of the habitat around the trees rather than merely single trees on their own — something that does not yet appear to be addressed in any part of the UK, but there is no reason why we should not be first. But on a more substantive point, the fourth page of the Minister's letter has a long paragraph which starts: "Clause 9, therefore". It forms the basis of what Mr Small has just said in relation to whether we go for immediate implementation or the three-day delay. It seems to me that the implications of the references in the Minister's letter to cost benefit and assessment on foreseeable costs and so on gives the impression that you will only consider, in a minority of cases, acting early if the stop notice takes effect from three days. Surely if the matter is being considered properly, that sort of assessment needs to be carried out in any case? Therefore it seems to me that it can as easily be carried out to determine whether it does not need to come into operation, as to whether it does. The only alternative implication is that you are not actually going to be seriously considering whether a stop notice should take place immediately, because that is the only circumstance in which you would not be doing that assessment anyway.

**Mr Small:** I think that those kinds of assessments — for example, the cost-benefit analysis that you mentioned — will have to be carried out in every single case, no matter whether it takes immediate effect or takes effect within a day or two days. The other factor that we are just uncertain about is the potential danger that we may not have foreseen, or the potential damage that may result which we had not foreseen, and where liability for getting that wrong will transfer to the Department. Although we can anticipate the kind of health and safety situations that might arise, such as an unstable piece of structure, where we can see easily that matters need to be put right before the stop notice takes effect, there might also be circumstances that we cannot anticipate or

foresee, and where we will get it wrong. By requiring a stop notice to take effect immediately, or by requiring the developer to lift his machinery and take it off site, there may be some consequence that we had not anticipated. It is situations such as that that we simply do not want to tie our hands on.

**Mr Ford:** Is that not dealt with by the point that Mr Molloy made at the beginning of this discussion — that it should be possible to phrase the requirements in such a way as to provide for matters which need to be completed for urgent health and safety considerations or whatever? I am not a lawyer, but I am sure that your lawyers could come up with wording to cover that.

**The Chairperson:** Although it is true that there may be circumstances that you have not perceived, and, therefore, by having it before the three days you would be leaving the Department open to problems, it can also be turned the other way round. Say, for example, you give three days, and you do not perceive the situation to be dangerous. Is that not leaving yourselves open?

**Mr Small:** Three days would be regarded as a reasonable period for a contractor or developer to make a site safe.

**The Chairperson:** It could be three days in which a contractor could do an awful lot of further damage. Most of the people sitting round this table know fine well what happens, for example, when trees are being taken away. It starts about 4-00 am and by the afternoon it is nearly all over. Therefore in those three days, all the damage can be done.

**Mr Maye:** Issues have been raised this morning that we should take away and look at seriously. There is a germ of an idea in my head that we could reverse the presumption but build in a statutory defence which would enable a developer to do whatever was necessary to make the site safe, at the same time as complying with the notice. There is an issue there for us to look at, and we will do so.

**The Chairperson:** That is exactly what we were saying at the previous meeting, and the Minister refers to that in his letter. He states:

“The Committee’s view was that a Stop Notice should always have immediate effect unless there were specific reasons, i.e., health and safety, why it should not have immediate effect.”

That is really what we are talking about; but we need to get wording that reflects that position.

**Mrs Nelis:** It has been mentioned that where very serious breaches of planning control occur, the Department has recourse to an injunction or restraining order from the courts. However, that is wide open to interpretation. What would constitute a serious breach of planning control? Why cannot that be dealt with under the stop notice rather than have to avail of the court’s intervention? That

point is not very clear. Secondly — and I understand that the Department is protecting its back in respect of an appeal — it is possible that developers or landowners could simply remove the trees from the site before they even submit a planning application. Were that to be proven when their planning application is submitted, how would the Department propose that the planners should deal with that application? Would there be any sanctions on a developer where it is proven that he has cleared the site of the trees or whatever?

**Mr Maye:** The reason we think it is necessary to have an express power to apply to the court for an injunction is that an injunction, by its very nature, brings very stiff penalties if it is not adhered to by the person against whom it is taken — much stiffer than the penalties that are available to the court or to the Department in relation to a stop notice.

Last year, there was a case in which the Department was in the process of applying to the Attorney-General for an injunction against activity at Bishops Court racetrack. In that case, the bank intervened, took possession of the racetrack and sold it. The case illustrates that the Department is occasionally prepared to seek an injunction. In that case, the Department did not have to pursue it because the bank intervened and effectively took the decision out of its hands. An injunction brings stiff penalties, because if a person does not comply with its terms, he or she is in contempt of court. Therefore the court can deal with that person in whatever way it likes. It brings with it the potential for a much stiffer penalty against developers and others.

**Mr Small:** The Committee raised the point that the removal of trees on a development site should be made unlawful. The Department’s view is that that would be most effective when an application has been made. The legislation could be framed so that when an application has been made and the development site is cleared, the removal of trees after that would be unlawful. That might be possible.

However, the Department’s point is that, potentially, there is an easy way around that for the developer. The trees could be removed before the site becomes the subject of an advocacy, and becomes a development site. The only way to deal with that would be with some kind of blanket control, which the Department has discussed in the past. The Department is considering options that would allow the Minister to specify circumstances or categories of trees for which special protection would be possible. The Department is not yet sure whether that would address that kind of situation. However, it is seeking legal advice on how far it could apply such a power.

**Mrs Nelis:** Unless the legislative framework indicates that the Department is prepared to deal strongly and seriously with developers who have cleared sites in advance of submitting planning applications, developers will

continue to do so. I want to establish whether, if it were proven that a developer had been cute enough to clear a site and submit a planning application six months later, there is some mechanism that planners could use to deal with that.

**Mr Small:** The Department's concern is how it could frame a provision that would have that effect. It has sought advice from its legal advisers on how that might be achieved, and on how it might operate.

**Mr Maye:** The Department and the Minister are trying to find a compromise that does not necessarily affect all Northern Ireland but applies to those parts that have, for example, listed buildings or areas of townscape character. The Minister might want to add other categories, which will allow the Bill to provide the same protection for those areas as that which is provided for a conservation area. That would make life much easier for the Department and for the public, because it would mean that whole areas or the curtilage of listed buildings might be protected in the same way as conservation areas. The Department would be better able to decide which areas are worth protecting.

At present that is a cumbersome process, because the Department must examine individual trees and stands of trees. It must ask arboriculturalists to prepare a report. It must also ask landscape architects to examine the amenity value of the stand of trees. If the Department can find a method that allows the Minister to protect trees by categorising areas, such as areas that surround listed buildings, and so on, I believe that that will go some way towards what the Committee wants to achieve.

**The Chairperson:** You mentioned the curtilage of listed buildings. Can you explain what is meant by the Department's comments about clause 23, which deals with trees? There is

"currently nothing to prevent Department from putting a TPO on trees within the curtilage of a listed building. It is not possible to give automatic protection to trees within the curtilage of a listed building due to legal difficulties in defining what curtilage is."

**Mr Small:** Legal advice has suggested that it would be difficult for the Department to define the curtilage of a listed building in statute. Although it is not impossible, the Department was advised against it.

**The Chairperson:** The Department has said that there is nothing to prevent it from doing that. However, it goes on to say that it is not possible to give automatic protection.

**Mr Small:** The Department can examine the grounds or curtilage of a listed building, and it can specify protection for individual trees. However, before universal, automatic protection to trees in the curtilage of a listed building can be provided, a statutory definition of curtilage must be developed, so that the blanket control can apply in every case. Legal advice suggests that that would be difficult.

**Mr Maye:** The Department is trying to think of a way round that difficulty, so that it can provide protection within the curtilage of listed buildings by another means. It is exploring with its legal advisers possibilities that would avoid the need to define curtilage in law, which is the principal problem. If that can be achieved, the Department can develop proposals, which the Committee would welcome, and which would be relatively easy for the Department to implement.

**The Chairperson:** Did you deal with Mr Ford's point?

**Mr Ford:** No. Not yet.

**The Chairperson:** When do you intend to do that?

**Mr Maye:** We will come back for the next meeting.

**Mr Molloy:** On some sites where there was a difficulty about removing trees, the contractors did not remove them, but they undermined them by cutting the roots, and the trees soon had to be removed. That sort of case demonstrates the need for legislation that requires individuals to seek permission before removing any trees. That should apply in the rural community or on any new development. A judgement can be made on each application, and, if the individual does not apply for permission, he or she will be acting illegally.

**Mr Maye:** The Department does not want to make life hard for the farmers and individual householders who may be affected by that sort of blanket protection. The Department is trying to reach a compromise that allows it to protect trees that merit protection — for example, in areas of townscape character, such as a village of listed buildings — without applying blanket protection. Blanket protection brings with it regulation, and regulation brings with it a burden on individual householders and farmers, which the Department is keen to avoid.

The administration of such a system would be a burden on the Department. It is keen to avoid creating difficulties for farmers, because that sort of blanket regulation would hit them hardest. However, householders would also be hit every time they wanted to crop or prune trees in their back gardens.

**The Chairperson:** You said that the Department would consider its response to that point and to the previous point about stop notices, and it will try to find a solution.

**Mr Armstrong:** The age of the tree must be considered, because if it were to die soon naturally, there is no onus on anyone to preserve it.

**The Chairperson:** Is it not the case that a tree that is threatened with decay can be removed?

**Mr Small:** Yes. There is a provision to deal with that.

**Mr Maye:** It applies also to trees in conservation areas, or whatever areas the Department brings under control.



**The Chairperson:** The Committee will move on to the next part of the presentation.

**Mr Lambe:** I would like to go through the issues that were raised at our meeting two weeks ago. The first issue concerned the proposed power to allow the Planning Appeals Commission to dismiss appeals in cases of undue delay. The Committee asked whether the Department could obtain some figures on that from the other Administrations.

I contacted colleagues in the Office of the Deputy Prime Minister and in the Scottish Office. They told me that the figures are not readily available. Their understanding from the Planning Inspectorate and the Scottish Reporters Unit is that the figures are so small that they are not recorded separately. It was a question of fractions of a percentage of the overall number of appeals.

The cases are subsumed into the category of withdrawn appeals. Often the appellant withdraws the appeal, rather than have a dismissal of an appeal on his planning record. Often it is thought that having a dismissed appeal on the record will prejudice any future application or appeal. Is the Committee content with that information, or does it want further clarification from the other Administrations? I am happy to go back to them.

**Mr Small:** The outcome of our discussions was that the power is very rarely used. Other Administrations do not consider it to be essential to business. That supports the views expressed by the chief commissioner of the Planning Appeals Commission. He said that he does not see the need for the provision, because he does not need that power. Discussions with colleagues in other jurisdictions seem to support that. Although the power exists in England, Wales and Scotland, it is not often used. Rather than make a provision in the Bill that may not be needed, the Department will take up the chief commissioner's suggestion and remove the clause, if the Committee is content.

**The Chairperson:** The Committee will refer clause 19 for further consideration and take a look at the Department's response. If you have any further information on that, please let the Committee have it, because it is important.

**Mr Maye:** The other side of the coin is that, although the power is rarely used, it is used in a small number of cases. The Committee might want to bear that in mind. The Bill would provide a discretionary power, which the Planning Appeals Commission could use if it sees fit. It is up to the Planning Appeals Commission to make that decision.

**The Chairperson:** On the one hand, we can leave the provision in the Bill — just in case it is needed. On the other hand, the Planning Appeals Commission said that it was not necessary.

**Mr Maye:** The Department is happy to do whatever the Committee thinks is most appropriate.

**The Chairperson:** The Committee needs time to think about it before it makes a final decision. Members should examine the clause carefully and we would be grateful for further information.

**Mr Lambe:** The second issue that was raised concerned the statutory definition of “curtilage”. I obtained a copy of the legal advice that was given to the Department, which I can give to the Committee. Perhaps the Committee will want its own legal advisers to give a second opinion on it.

The third issue concerned the building preservation notice that is known as “spot listing”. The Department was asked who would determine cases of disputed claims for compensation. The matter would be dealt with in accordance with the way in which the Department deals with claims for compensation in relation to tree preservation orders, where it has refused consent to fell or remove a tree. Applicants would submit their claims for compensation, and the Department would assess them using the services of the Valuation and Lands Agency. If the Department cannot negotiate or arbitrate a dispute, the case would be referred to the Lands Tribunal, which would have a final say in the amount of compensation that would be payable.

Another point was raised about tree preservation orders compensation. The query concerned the amount of money that had been submitted to the Department in relation to claims for compensation as a result of refusal of consent to fell trees. There are currently two cases, both of which are with the Lands Tribunal awaiting hearing. One involves a firm known as Russell Brothers and has a value of around £100,000 in relation to loss of development value of land. I do not have the name of the developer in the other case, but it involves Edenaclogh wood, and the claim is for £90,000, comprising £40,000 in relation to loss of timber value and £50,000 in relation to loss of development value of the site. Those are the only two claims with the Department in relation to compensation. In the past there have been large payments — in the Finnebrogue case it was £300,000. One of the proposals in the Bill is that we can specify in future tree preservation orders the limitations that there will be on compensation liability. For example, we can state that the development value of the land in question will not be open for negotiation in any compensation claims.

**Mr Molloy:** It seems that if compensation can be paid to a developer who cannot develop a site because of a tree preservation order on it, a farmer or any individual who does not get planning permission for building a house on a farm should also be able to get compensation in that situation. Is that correct?

**Mr Maye:** In certain circumstances compensation would be payable, but not in all circumstances.



**The Chairperson:** What circumstances?

**Mr Maye:** I can look into that and come back to you, but we have made some payments in those sorts of circumstances.

**The Chairperson:** It is important for us to get those details.

**Mr Maye:** To add a gloss to what Mr Lambe has said, I looked at one stand of trees recently in Belfast, which, in all respects, was worthy of protection, but the potential compensation value for loss of development was assessed by the Valuation and Lands Agency as being £17.5 million. If we can rule that out through the Bill, so that compensation is payable, we would have no hesitation in protecting such a stand of trees, but at the moment there is a difficult judgement to be made when sums of that nature have to be balanced as part of the equation.

**Mr Lambe:** Another point was raised in relation to clause 27, which extends the Department's grant-aiding powers. The point was made that the clause as drafted would not appear to extend the power to provide grant aid for bodies such as Planning Aid. At the time we undertook to look at that further. Clause 27 extends an existing power to grant-aid certain bodies under article 120 of the Planning (Northern Ireland) Order 1991. The Department has existing powers under that article to grant-aid such bodies as Planning Aid, and that is the power that we are currently using. The purpose and intention of clause 27 was to regularise a position whereby the Department was making payments on an extra-statutory basis to bodies such as building preservation trusts. The opportunity was being taken to regularise the position by making those payments statutory. It would be a normal requirement from the Department of Finance and Personnel to regularise in statute the grant-aiding powers as soon as it is practicable to do so.

**The Chairperson:** Under which article do grants, including grants to Planning Aid, come?

**Mr Lambe:** They are currently covered under article 120 of the Planning (Northern Ireland) Order 1991, which is being amended by a provision in clause 27 of the Planning (Amendment) Bill, which is extending the grant-aiding powers of the Department.

**The Chairperson:** But not removing the powers.

**Mr Lambe:** No, it is simply adding to the grant-aiding powers.

The final point was in relation to article 40 agreements. The Committee had some sympathy with Lisburn Borough

Council, which, during the consultation return on the Bill, contended that it should have a greater role in drawing up article 40 agreements and, in particular, where an application for modification or discharge of part of the planning agreement had been submitted. Unfortunately, we are not yet in a position to get back to the Committee with a final answer. We will put papers to the Minister for a decision on that this week, and hope to return to the next Committee meeting with an answer.

**The Chairperson:** Can you come back on clause 21 which concerns advertisements?

**Mr Small:** We have nothing specific. During our most recent presentation, we discussed the advertising provisions. The intention of the current provision in the Bill is to extend the definition of advertising. The Committee made comments about mobile advertisements on trailers, and how the Department dealt with that. We said that we were reviewing advertising, which is likely to result in either subordinate legislative change, or procedural change in the area of enforcement. It will not necessarily result in changes to primary legislation.

**The Chairperson:** You say that it is "likely". That gives us no reassurance whatsoever. Is it coming in subordinate legislation?

**Mr Small:** We cannot say, because we are in the middle of the work involved.

**The Chairperson:** We were told that the Department was conducting a review of enforcing advertising control, which was possibly a matter for the next planning Bill.

**Mr Maye:** If it would be helpful, I will bring the completed report to the Committee for consideration before decisions are taken on how to progress.

**The Chairperson:** The Committee's question was: why not this Bill? We were told that this might be a matter for the next planning Bill, but only the Lord Himself knows when the next planning Bill will be. Surely now is the time to do something about this matter.

**Mr Maye:** I will bring the report of the review to the Committee as soon as it is ready so that members can discuss it.

**The Chairperson:** Have you anything further to add?

**Mr Small:** I think we have covered all the issues that the Committee has raised.

**The Chairperson:** We have a letter from Friends of the Earth on the subject of third-party appeals. We will let you have a copy of that. We wish Mr Small well in his new brief. Thank you.



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**NORTHERN IRELAND  
ASSEMBLY**

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**COMMITTEE FOR EDUCATION**

Monday 7 October 2002

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**EDUCATION AND LIBRARIES BILL  
(NIA 21/01)**

**Members present:**

Mr Kennedy (Chairperson)  
Mrs E Bell  
Mr Gallagher  
Mr Hamilton  
Mr McHugh  
Mr K Robinson

**Witness:**

Ms S Fitzpatrick ) Northern Ireland Pre-School  
                              ) Playgroup Association

**The Chairperson:** The Committee welcomes Ms Siobhan Fitzpatrick, chief executive of the Northern Ireland Pre-School Playgroup Association (NIPPA). This is an evidence session on the issue of two-year-olds receiving funded nursery places. NIPPA has raised several concerns regarding the legislative loophole that enables two-year-olds to receive funded nursery places, when some older children, up to the age of four, do not. NIPPA would like this to be addressed in the Education and Libraries Bill. The Council for Catholic Maintained Schools (CCMS) has raised similar concerns.

On 12 September, the matter was discussed with the Department, and it indicated its intention to hold a consultation on the issue and to seek the next legislative opportunity to address the matter. The Committee, therefore, has agreed to take evidence from NIPPA to assist further consideration of the matter during the clause-by-clause scrutiny of the Bill.

Members already have copies of NIPPA's written submission and the comments from the Council for Catholic Maintained Schools. After Ms Fitzpatrick outlines the issue and the views of NIPPA, members will have an opportunity to ask questions.

**Ms Fitzpatrick:** I would like to thank the Committee for the opportunity afforded to NIPPA to present its views. As the Chairperson has stated, NIPPA's concern was first alerted when it read the proposed Education and Libraries Bill and realised that the current legislative loophole, which allows the admission of two-year-olds

into statutory nursery provision, was not addressed in that Bill.

Since the pre-school expansion programme commenced in 1998, NIPPA has raised this issue together with other professional colleagues. Prior to 1998, the likelihood of a two-year-old being admitted to nursery school provision was remote, given the low level of provision here in Northern Ireland. However, with the pre-school expansion programme, and the move towards 100% funding for children in their immediate pre-school year, the situation has changed dramatically.

Department of Education figures suggest that as many as 10% of two-year-olds are in nursery schools. A quick sum, based on the current rate of funding at £1,275 per place, would indicate that roughly £1.2 million is being spent on the two-year-olds, while approximately the same number of children, in their immediate pre-school year, cannot avail of places. Apart from the value for money and proper expenditure of public funds considerations, NIPPA and other professionals are concerned about the impact that the admission of two-year-olds into nursery schools could have on the children themselves. We are concerned because all child development theory suggests that the current pre-school curriculum is not suitable for younger children. It is not age-appropriate, and, rather than supporting educational development, research suggests that children in an inappropriate environment are likely to do less well in pre-school and school.

We are also concerned, as are many nursery school teachers, that staff have not been trained to meet the social, emotional, physical and, indeed, cognitive needs of these very young children. Anecdotal evidence suggests that teachers are spending a great deal of time in personal support regimes — toileting children rather than teaching them. Another concern is that nursery buildings are not suitable as regards physical layout. They do not have the same physical requirements as a full day nursery in terms of sleeping and toileting arrangements or the provision of outdoor play space for younger children, et cetera.

The staff ratio for a child of two in a day nursery registered by the Department of Health, Social Services and Public Safety is 1:5. In a nursery school that ratio drops to 1:13. Some education and library boards have employed classroom assistants to support these younger children, but we feel that that is not an appropriate use of existing limited financial resources.

Another concern is that 10% of pre-school places are being taken up by two-year-olds. The result is that the very group that the pre-school expansion programme is targeted at is being deprived of those places. The situation is, I know, very difficult to deal with. Many nursery schools, especially in Belfast and other urban areas, were built in the late 1960s and early 1970s. Populations have changed since then. If the two-year-olds were to be removed from such nursery schools, the viability of those schools may

be in question. There is an opportunity to change the legislation and to do what the Labour Government, faced with a similar situation in England, are doing. The Government are creating integrated children's centres for younger children and are focusing on a foundation stage for pre-school children.

**The Chairperson:** Thank you for that concise report.

**Mrs E Bell:** I know that your comments are as a result of your great experience in this field. You mentioned current staff ratios and the fact that you are concerned that training is not in line with the potential legislation. Are you suggesting that training should be dealt with in the Bill or is it something for future consideration?

**Ms Fitzpatrick:** If teachers are to be faced with these very young children, then teacher training would need to be reviewed. I hope that the Education and Libraries Bill can remove that legislative loophole, so that teachers would not be faced with the specific training demands required for that very young age group.

**Mrs E Bell:** I am also concerned about children with special needs. Might the new legislation be detrimental to very young children with autism or behavioural problems, for example, because although those conditions may be detected, they may not be able to be dealt with at that age?

**Ms Fitzpatrick:** That could be a concern also.

**Mr K Robinson:** You rightly highlight the point about demographics, which are extremely important, particularly in relation to urban schools, when considering whether a school remains in existence. I can, therefore, understand the desire to retain the two-year-old children, but we could be causing them damage rather than giving them benefit.

I want support for two-year-olds, but the support being discussed does not seem to be the right sort. We are bringing them into contact with adults who are not properly trained, and, therefore, the children are not getting any benefit from an educational point of view either. You mentioned the integrated children's centres in England for pre-school children. Could you elaborate on that?

**Ms Fitzpatrick:** It has been a very interesting development spearheaded by the Labour Party's commitment to ending child poverty and promoting best practice in early childhood care and education. It has been recognised through the development and funding of neighbourhood nurseries and through the recent development of children's centres, that children from 0 to 3 years of age need support and intervention. However, it has to be appropriate support and intervention. The Labour Government are spearheading several new initiatives, led by Manchester Metropolitan University, to create appropriate curriculums and environments for younger children.

There are several "centres of excellence" in England, which are seen as beacon centres by the Government.

For example, the Pen Green Centre in Corby integrates care and education for the younger age group, but it also has nursery provision for the older age group.

**Mr McHugh:** It is difficult subject, and people have different views on it. Is it possible that the situation is being used as a cheap form of childcare, considering that it costs, I think, £1 an hour compared to £3 an hour for childcare in the private sector? How much of that is going on? Should those children be outside their homes at all at that age? What is the impact on children when they get to primary 1, considering that the curriculum is sometimes wrong for three- or four-year-olds, never mind for those who are two years of age? Often the experience is not good, and it could be damaging to children in later years.

**Ms Fitzpatrick:** You have raised several valid points. The children would be availing of free places, but you are correct that people who work full-time, and need to avail of childcare for their two-year-olds, often have to pay in the private sector. Research highlights that being exposed to inappropriate educational and care experiences damages young children, and that is against the whole thrust of the purpose of investing in early learning, which is about positive experiences for young children and creating a disposition for learning. Research suggests that if young children are exposed to an inappropriate environment, they will turn off learning, and their self-esteem will be badly affected.

**Mr McHugh:** Who decides which of the kids go to those schools? Is it the person in charge of the play-school? Do they pick and choose depending on who is asking?

**Ms Fitzpatrick:** No. There are well-defined admission criteria. I am loath to use the term "middle class", but better informed parents are usually more organised about putting their children's names down for nursery places. They are often more motivated to avail of the places than some of the more needy families.

**The Chairperson:** What age does NIPPA feel it is appropriate to specify in the legislation? Would it be three years of age or three and a half years of age? Have you a proposal on that?

**Ms Fitzpatrick:** There has been much discussion with colleagues in educational circles and care circles. In European and international practice, it appears that the common age for admission to pre-school is three. In the UK, we have had a situation in which 100% funding for four-year-olds is moving to 100% funding for three-year-olds. The two-year funding of a foundation pre-school would be ideal. However, regardless of the funding, if we had a common entry of three-year-olds, which applied to nursery schools, pre-school playgroups in the voluntary sector and others, parents would be less confused, and all children in an age group would be treated in the same way with the one curriculum.



**The Chairperson:** The Department does not believe that the legislation should be amended without consultation. Are your organisation's views widely supported?

**Ms Fitzpatrick:** Absolutely. NIPPA has been discussing the matter internally since 1998 and, more importantly, through the childcare partnerships, which the health and social services boards have set up. Those partnerships also have the interest of the education and library boards. In the childcare sector, there is a unanimous belief that allowing two-year-olds to continue in nursery school is almost a child protection issue.

**Mr Hamilton:** In your submission, you stated that some schools would suffer if the two-year-old criteria were removed as some schools are undersubscribed and there are other schools that four-year-olds cannot get into because of the number of places that are occupied by two-year-olds. Is that the case across Northern Ireland, or are certain areas affected more than others? In certain parts of the Province, are some schools massively oversubscribed and others seriously undersubscribed?

**Ms Fitzpatrick:** The evidence suggests that the worst affected area is Greater Belfast. That is tied with population shifts and to the fact that nurseries were planned when areas of need were identified in Belfast. However, there are similar patterns in other board areas. For example, in Craigavon there could be a pattern of two-year-olds because of population shifts, but, in other areas, it is more complicated due to a pattern of reception provision. The continued existence of reception provision in some areas is pushing nursery provision towards aiming for the younger age group.

**Mr Hamilton:** You mentioned the fact that 10% of children's places are occupied by two-year-olds. How many places is that?

**Ms Fitzpatrick:** The expansion programme has created approximately 9,000 places, so it is 10% of that.

**Mr Gallagher:** Are those two-year-olds in pre-school education for one or two years?

**Ms Fitzpatrick:** Some of the children continue in pre-school education for two years.

**Mr Gallagher:** What percentage of those children continue for two years?

**Ms Fitzpatrick:** I do not have those figures, but I can obtain them.

**Mr K Robinson:** We understand the curriculum problem and the demographic impact on schools, but I can see the educational benefits of ensuring that three- and four-year-olds are getting a suitable curriculum and meeting appropriately trained staff. That is the educational side of it.

However, the Committee is also conscious of the social side of education. Urban areas such as Craigavon

could feel the downside of change in the legislation. How do you see us squaring that circle? If we move the focus to the upper age group — and, I think, rightly so — how do we ensure that we do not negate any possible advantages that the 0- to 2-year olds might have, particularly in areas where children are getting off to a bad start in education? How do we get appropriate provision and strategies for them?

**Ms Fitzpatrick:** This issue cannot be seen in isolation, and the Committee has an opportunity to grasp some of those nettles in its inquiry into early years' provision for 0- to 6-year-olds. The Sure Start model for the 0- to 3-year-olds, which health and social services is leading on, has a key educational component for promoting best practice for 0- to 3-year-olds.

That is the model that should be used in conjunction with good nursery education. That is the model that the Organisation for Economic Co-operation and Development report, 'Starting Strong: Early Childhood Education and Care', suggested for developing services for 0- to 6-year-olds.

**Mr K Robinson:** That model already has a proven record in the north and west of the city.

**Ms Fitzpatrick:** Yes, and in 23 other areas across Northern Ireland. There appears to be additional funding for additional Sure Start projects in the draft Budget.

**Mr K Robinson:** So we are not just pulling all resources to one end and totally exposing the other.

**Ms Fitzpatrick:** Yes. There needs to be an integrated strategy for 0- to 6-year-olds.

**The Chairperson:** In your response to Mr Gallagher's question you spoke about obtaining figures; who is best placed to provide those figures to the Committee?

**Ms Fitzpatrick:** The Department or the education and library boards have them.

**Mr Hamilton:** Your submission listed five disadvantages in the present system. You say that you have been discussing the problems with the Child Care Partnership since 1998. Have you raised the issues with the Department during that time? I know that the Department is talking about putting the matter out to consultation, so what response did you get when you highlighted your concerns about school buildings, suitability of curriculum, teaching staff not properly trained and so on?

**Ms Fitzpatrick:** Officials would say that I have been like a broken record. Since the beginning of the programme the issue has been highlighted, not just by NIPPA but also by several pre-school advisory groups. I understood that the Department would be taking the first possible legislative opportunity to close the loophole, and I was concerned when I read the proposed Education and Libraries Bill to see that that was not going to be the case.

I understand that this could be controversial from the Department's perspective because there may be a realignment of some provisions. However, it is an issue that should be dealt with sooner rather than later in the best interests of children.

**Mr Hamilton:** Did you feel that the officials you spoke to accepted that the buildings were inadequate, that the curriculum was not appropriate and that the staff were not properly trained? Did they accept that staff/pupil ratios are concerning?

**Ms Fitzpatrick:** It would be fair to say that any time the issue was raised, officials gave me the impression that they were not happy that two-year-olds were in nursery education. They saw it as not being the appropriate environment for such young children.

**The Chairperson:** If the legislation were amended, would it affect particular groups? If so, which ones?

**Ms Fitzpatrick:** It would affect nursery schools and classes which, because of population changes, are mostly

meeting the needs of two-year-olds. Most of those nursery schools are probably in inner city areas. There is an opportunity to reuse those buildings and redeploy staff in a much more imaginative way.

**The Chairperson:** If the legislation is not amended, what will the effect be on the Programme for Government target to ensure that one year of free pre-school education is available for every child in his or her immediate pre-school year for parents who want it?

**Ms Fitzpatrick:** Some parents would choose not to send their children to nursery school anyway, even if 100% provision was reached. As long as resources to the tune of 10% continue to slip into services for two-year-olds, 10% of children will not be funded. Therefore it will be difficult to meet the Programme for Government target.

**The Chairperson:** Thank you very much for your co-operation.

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## NORTHERN IRELAND ASSEMBLY

*This report was not approved formally by the Committee prior to the suspension of the Assembly on 14 October 2002, but is published by order of the Speaker.*

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### COMMITTEE FOR SOCIAL DEVELOPMENT

Tuesday 8 October 2002

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### HOUSING BILL (NIA 24/01)

#### Members present:

Mr Cobain (Chairperson)  
Sir John Gorman  
Mr B Hutchinson  
Mr O'Neill  
Mr M Robinson  
Mr S Wilson

#### Witnesses:

Mr S Baird )  
Mr S Carson ) Department for Social  
Mr G Davidson ) Development

**The Chairperson:** I welcome Mr Scott Carson, Mr George Davidson and Mr Stephen Baird from the Department for Social Development.

#### *Clause 18 (New ground of domestic violence)*

**The Chairperson:** The Equality Commission for Northern Ireland has suggested an amendment to this clause. It proposes that it be redrafted to read:

“the court is satisfied that the partner who has left is unlikely to return to live with the other partner”.

**Mr O'Neill:** What is the Department's view on the proposed amendment?

**Mr Davidson:** The Department thinks that the current provision is sufficiently clear and that no amendment is necessary.

**Mr S Wilson:** A person is unlikely to return as a lodger. That is the only other interpretation that could be made.

**The Chairperson:** Is the Committee content to dismiss the suggested amendment?

*Members indicated assent.*

*Question, That the Committee is content with the clause, put and agreed to.*

#### *Clause 19 (Extension of ground that grant of tenancy induced by false statement)*

**Mr O'Neill:** Could the Department give its views on the suggested amendments? The Council for the Homeless (Northern Ireland) proposes the deletion of this clause and thinks that the current reading of the Housing (Northern Ireland) Order 1983 is more appropriate. Shelter Northern Ireland agrees with the objective of the clause but believes the proper proof must be available to back up the decision.

**Mr Davidson:** Shelter is not arguing with the objective but wants proper proof to be made available. It is for the Housing Executive to determine what is proper proof and whether it would pass muster if the courts examined it. We see no reason why the provision should be changed in any way.

**Mr B Hutchinson:** I would like to hear the Department's view on the proposed amendment by the Council for the Homeless (Northern Ireland).

**Mr Davidson:** The Council for the Homeless suggests that the existing grounds in the 1983 Order are adequate. However, it does not cover false statements made by third parties acting at tenant's instigation, and that must be changed. We do not propose that the current provision should stay.

**The Chairperson:** Is the Committee content to dismiss the suggested amendments?

*Members indicated assent.*

*Question, That the Committee is content with clause, put and agreed to.*

#### *Clause 20 (Proceedings for possession or termination)*

**The Chairperson:** There are several suggested amendments to this clause.

**Mr Davidson:** There are three suggested amendments to clause 20 from three organisations. Shelter says that the proceedings should be available to non-secure tenants. We interpret that as referring to tenants in the private-rented sector. However, landlords in the private-rented sector already have provisions for possession of dwellings. There is no need for that provision in this legislation.

The Housing Rights Service recommends the removal of the power of courts to dispense with the notice of intention in cases of antisocial behaviour. The Department's view is that this needs to be there. It is reasonable to assume that it would be appropriate to dispense with the notice if a court considered it just and equitable to do so. We oppose the proposed amendment on the basis that it would undermine a policy objective of taking a quicker route, or at least a route that would remove one impediment.

**The Chairperson:** Are you saying that the Department agrees that landlords should not have to issue a formal notice of proceedings for possession?

**Mr Davidson:** Private-sector landlords already have ways of getting possession of buildings or termination of tenancies. There is no need for this legislation to make provision for that. This legislation is for social housing tenants only.

**The Chairperson:** Yes, but I think that the Committee wants these provisions to apply across the field.

**Mr S Wilson:** The notice of intent is really a warning to the person engaged in antisocial behaviour. Is it not correct to say that, having been issued, the warning would enable a termination of tenancy to be fast-tracked? Is it not the case that to do away with that notice is to do away with treating antisocial behaviour as a special category?

**Mr Davidson:** We would do away with the notice, provided that the court agreed that it was reasonable to do so. It would simply remove one step from the process.

**Mr O'Neill:** I am not sure that I could support the removal of this right. It provides some protection. Removing it would shorten the process and make it easier to evict people.

**Mr S Wilson:** Is that not the whole point in cases where somebody is engaging in antisocial behaviour and making life a misery for those around them? The process is tortuous at present. If a court agreed to remove this step, it would be possible to deal with the problem. It would not mean that people would be evicted; it would mean that courts could deal with the problem more quickly. Is that not the case?

**Mr Davidson:** That is right. The courts would have to decide that it was equitable to dismiss the notice on each occasion. A court would consider the circumstances of the case before it decided that it was reasonable to dispense with the notice.

**Mr S Wilson:** So a safeguard exists in that a court could decide that enough evidence had not been provided to do away with the notice.

**Mr Davidson:** That is a possibility.

**The Chairperson:** Did you say that private-sector landlords have this provision already?

**Mr Davidson:** No, but they have various mechanisms for evicting antisocial tenants.

**The Chairperson:** I know that.

**Mr Baird:** Private-sector landlords can serve a notice to quit, which is quicker than the procedure for terminating secure tenancies.

**The Chairperson:** The Committee should also deal with the issue of temporary tenancies.

**Mr Baird:** I think the issue at stake is simply a proposal to streamline the termination procedure for secure tenancies, as opposed to introductory tenancies.

**The Chairperson:** Is the Committee content with clause 20?

**Mr O'Neill:** I reserve my judgement on that.

**Mr Davidson:** The Council for the Homeless (Northern Ireland) suggest that this provision be omitted on the basis that fast-tracking eviction could lead to increased levels of homelessness. An alternative is an amendment to remove the power of the courts. The Department's view is that to do so would be to remove the policy intention.

**Mr O'Neill:** I am not content with the provision. Of the three suggested amendments, I prefer the second. If it is the wish of the Committee, then so be it, but I am not content.

**The Chairperson:** We can vote on the amendment. There are three members in favour of and three against the amendment. I have a casting vote.

**The Committee Clerk:** Mr Chairperson, I need to check this with regard to the legislation. I am not sure whether you are voting on the amendment or the clause.

**The Chairperson:** I am voting on the amendment.

**Mr S Wilson:** The argument is that it will be quicker to deal with antisocial tenants, if we remove the requirement for a notice to be given. However, if we take that away, are we not, in effect, saying that antisocial behaviour will be treated in the same way as any other reason for terminating a tenancy? Would that not be the effect of removing these requirements?

**The Chairperson:** We would be removing only one requirement.

**Mr S Wilson:** However, all the clauses deal with that requirement. Are we not, in effect, removing the ability to deal with antisocial behaviour as a reason for terminating a tenancy differently from other reasons?

**Mr O'Neill:** It is still sufficient. There is provision in the clause to deal with that.

**Sir John Gorman:** Is it not the case that these provisions for antisocial behaviour have been a total and absolute flop? They are no good. In England, a new idea has been proposed, which members can read about for themselves. It should be given some consideration. We should not be so picky about clauses and subsections, because these provisions are not going to be any good anyway. We may as well wait until some positive experience has been gained. For example, housing officials should be trained to deal with antisocial behaviour.

**Mr Davidson:** I presented a briefing paper to the Committee following a previous meeting.

**Sir John Gorman:** Yes, you did. I am reading it.

**Mr Davidson:** I briefed the Committee on the matters that are the subject of consultation in the rest of the United Kingdom. It is not about the failure of existing policies per se but the fact that local authorities across the water



are not employing them consistently or well. That is really the basis of the present consultation. There is a plethora of local authority landlords across the water, but that is not the case here. There is one social-housing landlord which thinks that these provisions will help it deal with antisocial behaviour. The consultation paper across the water does not deal with that. There are different problems there because of the range of local authority landlords.

**Sir John Gorman:** All I am doing is repeating what you said in your letter, namely that Committee members may be aware of the introduction of antisocial behaviour orders, known as ASBOs, and that their effectiveness has been patchy. That is rather more polite than the way I put it.

**Mr Baird:** ASBOs were introduced in England under criminal justice legislation. They would also be a criminal justice matter in Northern Ireland. There is nothing in the Bill that really equates to ASBOs. Clearly, a great deal of publicity has been given to the less than effective employment of ASBOs in England, but we do not propose to introduce them in this Bill.

**The Chairperson:** We shall refer the clause for further consideration.

**Mr S Wilson:** For what reason are we referring it?

**The Chairperson:** We must speak about voting; there is a convention that we must clarify.

*Clause 20 referred for further consideration.*

**Clause 21 (Power to grant injunctions against antisocial behaviour)**

**The Chairperson:** There are a number of suggested amendments to this clause. Do you wish to say anything on the amendments, Mr Davidson?

**Mr Davidson:** In general terms, yes. Many people ask for the extension of this facility to private-sector landlords. By the same token, we do not propose to amend the Bill in that regard.

**The Chairperson:** You are not willing to treat private-sector landlords in the same way as others?

**Mr Davidson:** The provisions are to allow social landlords to deal with antisocial behaviour better. There are already laws in place that allow private-sector landlords to try and deal with antisocial behaviour among their tenants. It might well be that they are not effective, perhaps because the agencies responsible do not get involved, but that is not what we intend for the Housing Executive and the housing associations. We are giving them the power to seek injunctions to stop antisocial behaviour.

**The Chairperson:** So it is the Housing Executive, housing associations and so forth.

**Mr Davidson:** Yes. It covers secure tenancies under housing associations and the Housing Executive.

**Mr B Hutchinson:** I do not want to go over all this again, for it has already been rehearsed in other discussions. However, I am concerned about consistency here, particularly for people who live in streets where there is a mix of people who own their own homes, social landlords and private landlords. Those who live in the houses can behave in different ways and not be affected by the law. That is my difficulty; there is no consistency here if we apply it only to one group of people.

**The Chairperson:** The Committee needs a definition of “landlord”.

**Mr Davidson:** There are private-sector landlords and social landlords. The latter are the Housing Executive and registered housing associations in Northern Ireland. The proposal will give social landlords the right to ask for notices of intention, which are part of the current process, to be dispensed with. However, where the court thinks it is reasonable, it has dispensed with those. Presumably, in determining reasonableness, the courts will look at what the Housing Executive and housing associations have done to deal with the issue.

The proposal does not give private-sector landlords the power to seek an injunction or to ask for a notice of intention to be set aside. Private-sector landlords would use a notice to quit, rather than an injunction, and tenants who have been found guilty of antisocial behaviour would be removed from the property in that way. No private-sector landlord would go through an injunction process. Tenancies in the private-rented sector are rarely secure. However, we are referring to secure tenancies that other social landlords have, and those are difficult to end. It is less difficult to end a non-secure tenancy, which is more common in the private-rented sector.

**The Chairperson:** The Committee is concerned about the distinction between private landlords and social landlords, and we want that removed.

**Mr S Wilson:** For the sake of argument, and bearing in mind that the Committee has not made a decision, where the word “landlord” is used in the Bill members might want that to refer to the private sector and social-rented sector — and I have found that notices to quit can be difficult to implement in either case — where would the definition be changed? Is there a schedule to the Bill where “landlord” is defined as only a social landlord? What must we change if we decided to go down the route that that must include all landlords?

**Mr Davidson:** In the provisions we are examining, regardless of where there may be a definition already, it would be relatively easy to make a change to:

“the Executive or registered housing associations or private sector landlord”.

That provision could be made. However, private-sector landlords have not asked for those provisions in the consultation process. Private-sector landlords as individuals,

or their association, have not seen fit to ask for the powers that they would receive from being included in the wording.

**Mr S Wilson:** Some private-sector landlords may not want that. However, I find that some are happy to hide behind the fact that the law does not enable them to do some things. I would like to be able to tell them that they can do something about a tenant. However, they may be happy to take their rent, and therefore they do not want to do anything. If we change clause 1 to read:

“the Executive or registered housing associations or private sector landlord”,

even though it is titled “Introductory tenancies”, will that definition of landlord apply throughout the Bill?

**Mr Carson:** The problem is that the term “landlord” is not necessarily used. The Bill refers to the

“Executive or registered housing association”.

I am not sure that landlords are mentioned in the provisions to which you refer. Clause 1(1) states:

“The Executive or a registered housing association may elect to operate an introductory tenancy regime.”

Therefore every time those organisations are referred to, we would be asking if the same should be applied to private-sector landlords.

**Mr S Wilson:** However, clause 20(1) states:

“The court shall not entertain proceedings for the possession of a dwelling-house let under a secure tenancy unless

(a) the landlord has served a notice on the tenant complying with the provisions of this Article, or”.

Does “landlord” include only the social sector, or does it include all landlords?

**Mr Baird:** In that context, it is clear that it means only social landlords, because it refers to a secure tenancy, which exists only in the social-rented sector. Therefore by definition, the landlords are those in the social sector.

The problem is that provisions concerning antisocial behaviour, and particularly the introductory tenancy provisions, do not hinge around the definition of “landlord” but on the concept of secure tenancies. Those exist only in the social-rented sector. Therefore an attempt to extend the introductory tenancy regime to private-sector landlords is meaningless, because the introductory tenancy is an alternative to a secure tenancy. If that were extended to private-sector landlords, it would be an alternative to the existing non-secure form of tenancy. It might even turn out to be more secure than the type of tenancy currently offered by private-sector landlords, so the purpose would be defeated.

There may be merit in examining other provisions, such as injunctions, and in streamlining the repossession procedures to determine whether they could be extended to private-sector landlords. We have not taken that into consideration because the original scope of the Bill was

to target the social-rented sector; however, that might be possible. It would be as well to leave introductory tenancies as they are.

**Mr Davidson:** Moreover, were such measures to be introduced at this time, private-sector landlords have not been consulted upon a provision in the Bill that suggests that they will be given new powers to seek injunctions. When this was put out for consultation they did not see fit to ask for those powers; nor did any of the organisations which represent private-sector landlords ask for those provisions to be changed.

**Mr S Wilson:** One reason they did not ask was that they were scared stiff, for example, by the prospect of being responsible for the behaviour of some of their tenants. Some private-sector landlords are totally irresponsible, and they do not want to be held accountable or for anyone to be able to say that they could deal with a family who behaved in an antisocial way if they decided to take action. That is why they are not clamouring at your door. To give landlords those powers would also give them responsibility, which many of them do not want.

**Mr Davidson:** Furthermore, these provisions simply give the Housing Executive and registered housing associations discretion to seek injunctions. If the provisions were amended to include private-sector landlords, they would use their discretion to behave in the same way as they currently behave. This law as it stands allows the Housing Executive and other social landlords to determine the instances in which they take positive action. It would not require private-sector landlords to do so if they did not wish. Those who take positive action may use these powers; however, others who do not want to take positive action — for whatever reason — will simply not be required to do so. There is no sanction on them.

**Mr S Wilson:** Yes, but there is a difference. Sometimes the Housing Executive will be reluctant to take action against a tenant and will find excuses for not doing so. However, if the power to take action exists, public representatives can tell their constituents that something can be done. It may be decided not to exercise that power, but a lever exists to make them do something about it. If landlords do not have the ability to take action — discretion or no discretion — they can hold their hands up and say “Well, you can cry all you want”.

**Mr Carson:** Does the Committee want this clause extended to cover private-sector landlords? If so, I would be happy to take it away, work with the Minister and come back to the Committee.

**Mr O'Neill:** We have a wee bit of a problem with it. We have agreed that it is the Committee's view and that we would like to see some degree of equality across all the sectors, to avoid a situation of three or four different standards in one street. I imagine that there will be a

problem with the consultative element. If we do not allow the private sector to comment on the Bill it nullifies the process to some extent. However, I would be interested to hear what the response would be to the Committee's view.

**Mr Carson:** I would be happy to advise the Minister that the Committee would like to see that amended.

**Mr S Wilson:** I see the distinction that is being made now. We are not dealing with secure tenancies. Mr Baird suggested that we should be looking at injunctions later on. Is that despite the fact that secure tenancies —

**Mr Carson:** That is the point that I was going to take away in relation to injunctions in clause 21.

#### **Clause 21 referred for further consideration.**

#### **Clause 22 (meaning of "harm")**

**The Chairperson:** There is one amendment to clause 22 in relation to racial harassment, suggested by the Equality Commission for Northern Ireland.

**Mr Davidson:** It is the Department's view that we consider the term "ill-treatment" would cover something as serious as racial harassment and abuse and that an amendment to emphasise that fact is not necessary.

**The Chairperson:** Do you think that there is sufficient provision in the Bill to cover that?

**Mr Davidson:** The term "ill treatment" covers racial harassment and abuse; therefore there is no need to emphasise that.

**Mr S Wilson:** If you isolate one kind of harassment or abuse, you make it more important than other issues. People may be persecuted for their religious views, their sexual orientation or the football team that they support. Where do you stop?

**Mr O'Neill:** We covered this last week in your absence, and we accepted the Department's advice on it, subject to a note at some stage being made to the Housing Executive about the Macpherson Report and its definition.

*Question, That the Committee is content with the clause, put and agreed to.*

#### **Clause 23 (Meaning of "dwelling-house")**

**The Chairperson:** There is one amendment, suggested by the Equality Commission for Northern Ireland, to clause 23 relating to travellers.

**Mr Davidson:** The Equality Commission has said that the definition of dwelling should apply to traveller accommodation so that eligibility for grants can be extended. However, clause 23 does not deal with grants; it deals with the subject we have just discussed. The Equality Commission has misunderstood that.

*Question, That the Committee is content with the clause, put and agreed to.*

*Clause 24 agreed to.*

**The Chairperson:** We shall now look at the clauses deferred in Part II, concerning grants for the renewal of private sector housing. The Committee has stated its support of discretionary grants rather than mandatory grants.

**Mr O'Neill:** We could save some time here. Some concern was expressed about how the grants section related to the status and future of the replacement grant, which is largely a rural grant. What are the Department's views on that grant? Where does it sit in relation to any changes that might be made in the legislation? If it continues, will it be subject to a review?

**Mr Davidson:** The replacement grant is presently allowed for in subordinate legislation on foot of the Housing (Northern Ireland) Order 1992. The Bill does not change that. The replacement grant is a second option for the Housing Executive, having dismissed the renovation grant as the first option for providing a fit house for someone. Most of the criteria that apply to renovation grants also apply to replacement grants regarding types of houses, ownership, and so on. There is therefore no need to legislate in this Housing Bill for replacement grants; they are already there. In common with the other grants, apart from disability and disabled facilities grants, replacement grants will become discretionary. Since it is the second phase of a renovation grant proposal, it is natural that it should be replaced.

That does not change the circumstances in which the Housing Executive might offer someone a replacement grant. People currently get a replacement grant when their house cannot be renovated at all or without unreasonable expenditure.

**Sir John Gorman:** That has worked very satisfactorily since the 1950s, so why change it?

**Mr O'Neill:** The second part of my question asked if the Department had any plans to examine that legislation.

**Mr Davidson:** Yes. We shall not examine the legislation now, but we shall certainly do so with the Housing Executive and evaluate how well the replacement grant Regulations are working to target the right people. The matter is being reviewed by the Housing Executive and the Department. However, if there is any change to that, it does not require a change in this Housing Bill because a replacement grant is provided for in subordinate legislation on foot of the Housing (Northern Ireland) Order 1992. That power will still be there.

**Mr S Wilson:** If the grants are to be discretionary, does that enable the Housing Executive to do exactly what you are talking about?

**Mr O'Neill:** It was I who had reservations about all those grants clauses. In the light of that information and the clarity which it provided, you could move them all if you wished.

**Mr B Hutchinson:** Perhaps I might ask a more general question about the grant scheme. Does it address lead and asbestos as the Scottish Bill does?



**Mr Davidson:** Not specifically.

**Mr B Hutchinson:** Would you consider doing something about it?

**Mr Davidson:** If the Housing Executive found lead or asbestos in a property and felt that it was a health hazard or unfit for human habitation, it would be required to consider a renovation grant, replacement grant or whatever grants were appropriate. It is not mentioned specifically.

**The Chairperson:** Before we go any further, clauses 46 to 79 cover the replacement of discretionary grants with mandatory grants. Should we propose to ditch those proposed amendments?

**Mr Carson:** The Minister has agreed to a possible amendment. The Housing Executive has introduced a modest amendment to clause 52(3)(a).

**The Chairperson:** We are not at clause 52. We are dealing with clauses 46 to 79 with the exception of 52.

**Mr Carson:** I merely wanted to make you aware of the fact that we hope to amend clause 52(3).

**The Chairperson:** We are not dealing with Clause 52. That was my mistake.

**The Committee Clerk:** Let me clarify: where there is a single amendment dealing with the move from discretionary to mandatory —

**The Chairperson:** We need a proposal that we dismiss the proposed amendments from 46 to 79 except on clause 52.

**Mr B Hutchinson:** If we do that, we must bear in mind that the Housing Executive's proposed amendment refers to 51(3).

**The Committee Clerk:** Clauses 50, 51 and 52 are not affected by any decision that the Committee might take in relation to the proposed Shelter amendment dealing with mandatory and discretionary grants. The Chairperson is suggesting that the Committee dismiss the notion of amending the word "discretionary" to "mandatory" in those clauses. Afterwards the Committee can return to each clause in turn if there are any different amendments from other organisations.

*Members indicated assent.*

*Clauses 50 to 52 referred for further consideration.*

#### **Clause 25 (Grants for improvements and repairs, & c.)**

**The Chairperson:** There are two suggested amendments, from the Equality Commission and the Lower Antrim Road Regeneration Initiative. We shall deal with the Equality Commission.

**Mr S Wilson:** I assume that "all dwelling houses" refers to all dwellings. It does not matter who owns them or for what purpose. Providing it is a dwelling house, the

grants system will apply. I just cannot understand why these things —

**The Chairperson:** We must go through these.

**Mr Davidson:** I have provided the Committee with a synopsis of the Department's views on all these amendments. If there are any doubts or any clarification is needed, I am happy to take any questions. However, if travellers are in a dwelling that is not their own private dwelling — a caravan, mobile home or social housing — social housing does not acquire grants.

**The Chairperson:** Is the Committee content that we dismiss the suggested amendment from the Equality Commission?

*Members indicated assent.*

**The Chairperson:** We move to the Lower Antrim Road Regeneration Initiative's amendment.

**Mr Davidson:** Our synopsis is that it would like to move from a mandatory to a discretionary grants system. However, it thinks that a "worst first" policy should be adopted. That would be a matter for the Housing Executive. It can adopt that attitude within a discretionary scheme more so than within a mandatory scheme.

**The Chairperson:** Is the Committee content to dismiss the Lower Antrim Road Regeneration Initiative's suggested amendment?

*Members indicated assent.*

*Question, That the Committee is content with the clause, put and agreed to.*

#### **Clause 26 (Applications for grants)**

**The Chairperson:** We must deal with the Disability Action amendment.

**Mr Davidson:** Its comments concern the difficulties in engaging with an affordable contractor, and it states that the amount of grant often does not cover the cost of the work. Our position is that if there is difficulty in engaging a contractor to do the work at a price close to what the Housing Executive feels is the value of that work, remedial action is an administrative matter for the Housing Executive. It is not something that one would include in the Housing Bill. The Housing Executive should consider the process it uses to come up with its notional estimate of the cost of the work, which is used as a benchmark.

**The Chairperson:** Are we agreed to dismiss the suggested amendment?

*Members indicated assent.*

**The Chairperson:** We move to the suggested amendment from the Lower Antrim Road Regeneration Initiative.



**Mr S Wilson:** That should be dismissed because it is the same as the last amendment.

**The Chairperson:** Are members content to dismiss the suggested amendment?

*Members indicated assent.*

*Question, That the Committee is content with the clause, put and agreed to.*

**Clause 27 (Ineligible applicants)**

**The Chairperson:** Is the Committee content to dismiss Shelter's suggested amendment?

*Members indicated assent.*

**The Chairperson:** Is the Committee content to dismiss the suggested amendment by the Lower Antrim Road Regeneration Initiative on the Part II grants scheme — the proposal for a "worst first" policy?

*Members indicated assent.*

*Question, That the Committee is content with the clause, put and agreed to.*

**Clause 28 (The age of the property)**

**The Chairperson:** Is the Committee content to dismiss both the suggested amendments to clause 28?

*Members indicated assent.*

*Question, That the Committee is content with the clause, put and agreed to.*

**Clause 29 (Excluded description of works)**

**The Chairperson:** Is the Committee content to dismiss the suggested amendments to clause 29?

*Members indicated assent.*

*Question, That the Committee is content with the clause, put and agreed to.*

**Clause 30 (Renovation grants: owner's applications and tenant's applications)**

**The Chairperson:** Is the Committee content to dismiss the suggested amendments to clause 30?

*Members indicated assent.*

*Question, That the Committee is content with the clause, put and agreed to.*

**Clause 31 (Renovation grants: certificates required in case of owner's application)**

**The Chairperson:** Is the Committee content to dismiss the suggested amendments to clause 31?

*Members indicated assent.*

*Question, That the Committee is content with the clause, put and agreed to.*

**Clause 32 (Renovation grants: certificates required in case of tenant's application)**

**The Chairperson:** Is the Committee content to dismiss the amendments to clause 31?

*Members indicated assent.*

*Question, That the Committee is content with the clause, put and agreed to.*

**Clause 33 (Renovation grants: purposes for which grants may be given)**

**The Chairperson:** Is the Committee content to dismiss the three suggested amendments to clause 33?

*Members indicated assent.*

*Question, That the Committee is content with the clause, put and agreed to.*

**Clause 34 (Renovation grants: approval of application)**

**The Chairperson:** Is the Committee content to dismiss the suggested amendments to clause 34?

*Members indicated assent.*

*Question, That the Committee is content with the clause, put and agreed to.*

**Clause 35 (Common parts grants: occupation of flats by occupying tenants)**

**Mr Davidson:** Our position on the amendment from the Equality Commission is that workspace is outside the purposes of the grant scheme, in particular the common parts grant, which it refers to. There is no case for an amendment to clauses 35 to 39.

**The Chairperson:** Is the Committee content to dismiss the suggested amendments on clause 35?

*Members indicated assent.*

*Question, That the Committee is content with the clause, put and agreed to.*

**Clause 36 (Common parts grants: landlord's and tenants' applications)**

**The Chairperson:** The Equality Commission commented on clause 36 with regard to a task force.

**Mr Davidson:** I am sorry. I do not have sight of the Equality Commission's comments on clause 36.

**The Chairperson:** The Equality Commission recommends that

"landlords should not be allowed to withhold consent unreasonably for a disabled person making changes to the physical features of premises".

**Mr Carson:** That is not really an issue for legislation. In fact, the legislation does not mention the landlord's consent being required.

**The Chairperson:** Does the Committee wish to dismiss the three suggested amendments?

*Members indicated assent.*

*Question, That the Committee is content with the clause, put and agreed to.*

**Clause 37 (Common parts grants: certificates required to accompany application)**

**The Chairperson:** Does the Committee wish to dismiss the suggested amendments?

*Members indicated assent*

*Question, That the Committee is content with the clause, put and agreed to.*

**Clause 38 (Common part grants: purposes for which grant may be given)**

**The Chairperson:** Does the Committee wish to dismiss the suggested amendments?

*Members indicated assent.*

*Question, That the Committee is content with the clause, put and agreed to.*

**Clause 39 (Common parts grants: approval of application)**

**The Chairperson:** Does the Committee wish to dismiss the suggested amendments?

*Members indicated assent.*

*Question, That the Committee is content with the clause, put and agreed to.*

**Clause 40 (Disabled facilities grants: owner's and tenant's applications)**

**Mr B Hutchinson:** May we have a response to this clause?

**Mr Davidson:** This is the abolition of the means test if a disabled facilities grant were to be beneficial to a child. In those circumstances, to provide for the abolition of the means test would be contrary to the principle of targeting resources at those most in need. There is no case for an amendment to the Bill. We would be paying 100% disabled facilities grants to people who could afford to do the work. That is contrary to targeting those most in need, which is a principle of the grants scheme and other housing policies.

**Mr S Wilson:** It is also contrary to the Committee's position on discretionary grants.

**The Chairperson:** It is also contrary to the Northern Ireland Human Rights Commission's position.

**Mr Davidson:** We have proofed the clause against human rights considerations.

**The Chairperson:** Does the Committee wish to dismiss the suggested amendments?

*Members indicated assent.*

*Question, That the Committee is content with the clause, put and agreed to.*

**Clause 41 (Disabled facilities grants: the disabled occupant)**

**The Chairperson:** Does the Committee wish to dismiss the suggested amendments?

*Members indicated assent.*

*Question, That the Committee is content with the clause, put and agreed to.*

**Clause 42 (Disabled facilities grants: certificate required in case of owner's application)**

**The Chairperson:** Does the Committee wish to dismiss the suggested amendments?

*Members indicated assent.*

*Question, That the Committee is content with the clause, put and agreed to.*

**Clause 43 (Disabled facilities grants: certificates required in case of tenant's application)**

**The Chairperson:** Does the Committee wish to dismiss the suggested amendments?

*Members indicated assent.*

*Question, That the Committee is content with the clause, put and agreed to.*

**Clause 44 (Disabled facilities grants: purposes for which grant must or may be given)**

**The Chairperson:** Does the Committee wish to dismiss the suggested amendments?

*Members indicated assent.*

*Question, That the Committee is content with the clause, put and agreed to.*

**Clause 45 (Disabled facilities grants: approval of application)**

**The Chairperson:** Does the Committee wish to dismiss the suggested amendments?

*Members indicated assent.*

*Question, That the Committee is content with the clause, put and agreed to.*

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## NORTHERN IRELAND ASSEMBLY

*This report was not approved formally by the Committee prior to the suspension of the Assembly on 14 October 2002, but is published by order of the Speaker.*

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### COMMITTEE OF THE CENTRE

Wednesday 9 October 2002

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### COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE BILL (NIA 20/01)

#### Members present:

Mr Poots (Chairperson)  
Mr Gibson (Deputy Chairperson)  
Dr Birnie  
Mr Kennedy  
Ms Lewsley  
Dr McDonnell  
Dr O'Hagan  
Mr Shannon

#### Witnesses:

Mr C Stewart ) Office of the First Minister  
Mrs H Stevens ) and the Deputy First Minister

**The Deputy Chairperson:** Over the past two weeks we have undertaken a scrutiny of the clauses in the Bill, and the Committee will now proceed to the formal clause-by-clause consideration. Departmental officials from the Office of the First Minister and the Deputy First Minister will answer any questions that may arise during that consideration, and I appreciate their attendance. Hansard will record the clause-by-clause scrutiny, and it will form part of the report of the Committee Stage of the Bill. I will guide the discussion as much as possible, but every member of the Committee must focus, because it is crunch time, and we must make decisions.

#### *Clause 1 (The Commissioner for Children and Young People for Northern Ireland)*

**The Deputy Chairperson:** The Committee was content with clause 1 as drafted, subject to consideration of written confirmation from OFMDFM setting out its commitment to an independent, open and transparent appointment process. That should include details of the appointment process, including the appointment of an independent assessor, and the role of the young people.

**Mr Stewart:** I apologise that members have not yet received written confirmation from OFMDFM. The Ministers have signed the letter, and it will issue today.

We trust that it will fully alleviate the Committee's concerns. The letter will detail how we envisage the process to take place, and it will contain a clear commitment to an open and transparent process and detail the involvement of children and young people.

**Ms Lewsley:** I would like clarification. You said that the process would include young people in one form or other. Will that be ongoing for every commissioner? For example, if the first commissioner stays in the post for three years, and the post is readvertised, will young people automatically be included? Is it in the legislation?

**Mr Stewart:** We do not intend to put it in the legislation. However, we will ensure the continued involvement of children and young people. We want to ask children and young people how they feel that that involvement should be taken forward in the future. As this is the first time, we have established a process and drawn up procedures. It is important that children and young people are able to shape that for future appointment processes.

**Ms Lewsley:** The Children's Commissioner for Wales said that two posts in the Department were reserved for young people. Is that a model of good practice that our commissioner would take?

**Mrs Stevens:** It is our hope that the commissioner would employ young people in those posts. However, we will give the commissioner a budget, and he or she will decide who to employ, as we want the commissioner to be completely independent. That includes employing children and young people. That seems to be the best practice approach in Wales and Norway, and we hope that our commissioner will follow suit.

*Clause 1 referred for further consideration.*

#### *Clause 2 (Principal aim of the Commissioner)*

**The Deputy Chairperson:** The Office of the First Minister and the Deputy First Minister agreed to consider the inclusion of the necessary provision whereby the commissioner recognises the responsibilities of children. Members also had concerns about the use of the word "rights" in clause 2(2)(a), and they wished to raise that with the NIO. There was a discussion on whether the term "best interests" embodied welfare, but a conclusion was not reached. In the absence of the opportunity to raise those concerns with the NIO, the Committee must now decide whether it wishes to propose any amendments to that subsection.

I think the NIO is refusing to talk to us, is that correct? Rather, they are not talking to us.

**The Committee Clerk:** We are awaiting a further reply from the NIO, but, so far, it has not agreed to talk to the Committee.

**The Deputy Chairperson:** The Office of the First Minister and the Deputy First Minister agreed to consider the suggestion that clause 2(3)(a) be changed to read:

“the importance of the rights, responsibilities and role of parents”.

**Mr Stewart:** Members raised several points on that subsection. Ministers have agreed that there should be an amendment to clause 3, and a reference to parents should be inserted in clause 3(5)(a) and clause 3(5)(d).

At the previous evidence session, several members suggested that we needed to do something to ensure that the commissioner focused not only on children’s rights but on their responsibilities. Members suggested potential amendments on several points throughout the Bill. Ministers carefully considered those amendments, and they decided that it would be better to try to address the Committee’s concern with one overarching amendment rather than to try to amend the language in almost every clause, as would otherwise be necessary.

Unfortunately, I do not now have a precise form of words to suggest to the Committee. However, Ministers have agreed that they will introduce an amendment to clause 3 — probably at clause 3(1)(b) — which would introduce an additional statutory duty for the commissioner to promote a culture of respect for the rights of others. During discussions with members last week, it became clear that members were concerned that children and young people, in claiming their rights, also need to have regard for the rights of others. Ministers are happy to introduce an amendment that will place that as a statutory duty on the commissioner.

**The Deputy Chairperson:** Are Members content that the amendment caters for the concerns that were raised at the last meeting, subject to seeing the actual wording of it?

*Members indicated assent.*

**Mr Deputy Chairperson:** I would like to return to clause 2(2)(a), because we did not reach a conclusion on it.

**Mr Stewart:** The Department and the Minister’s view is that the term “best interests” encompasses welfare. “Best interests” is a broader term, which includes the key dimensions of welfare.

**The Deputy Chairperson:** That is my interpretation, but others may not agree.

**Dr O’Hagan:** I am not convinced. Having listened to evidence from other people who work in the sector, I still believe that the term “best interests” needs to be included, for there is a huge debate on the question. Legislation must be exact.

**Mr Stewart:** That is a slightly different point. Are you suggesting that “best interests” should be inserted in clause 2(2)(a) along with “rights”? We certainly see a distinction between the term “best interests” and the term “rights”; they are separate and distinct. I must advise the Committee that the Northern Ireland Office would strongly resist any attempt to insert “best interests” into clause 2(2)(a) — to the point where the Secretary of State would be unlikely to give his consent to the Bill.

**The Deputy Chairperson:** That is down to us, members of the Committee.

**Dr O’Hagan:** Since we do not have the Northern Ireland Office here to tell us, may I ask on what grounds the Secretary of State would not consent to the Bill?

**Mr Stewart:** I shall attempt to explain the Northern Ireland Office’s position. The matter was the subject of many meetings, discussions and negotiations. The Northern Ireland Office was very concerned about the Commissioner having an overarching role as set out in clause 2, which would be based on the term “best interests”. It was felt that it was inimical to the operation of the juvenile justice system, which works according to the different — we should say narrower — standard of “welfare”. On those grounds, the Northern Ireland Office said that if we went for the term “best interests” at this point in the Bill, it would not be prepared to consent to the inclusion of the juvenile justice system within the commissioner’s remit.

**Dr O’Hagan:** Should I infer from your answer that the Northern Ireland Office would prefer lower standards in relation to the juvenile justice system?

**Mr Stewart:** The Northern Ireland Office holds to the view that the correct standard to operate in a juvenile system is that of “welfare”. It also has a different concern about what we term the “paramountcy principle”. The Northern Ireland Office recognises the need for the commissioner to operate a paramountcy principle, but takes the view that the juvenile justice system must also balance other considerations, notably the wider interests of society.

In trying to explain and clarify the Northern Ireland Office’s position, I am not in any way endorsing it on behalf of — *[Laughter]*.

**The Deputy Chairperson:** Let us say that we force the issue. Could the Northern Ireland Office really torpedo the Bill?

**Mr Stewart:** Yes. The Secretary of State must still give consent to the Bill at the Final Stage, and he could withhold that.

**The Deputy Chairperson:** It may not happen, but there is an old story that, if you hit your head off a brick wall hard enough, it is not the wall that falls — not that I carry any brief for brick walls.

**Ms Lewsley:** In clause 2(1), the phrase “rights and best interests” is mentioned for children and young persons, so why can it not be mentioned in 2(2)(a)?

**Mr Stewart:** The Northern Ireland Office’s concern is for “paramount consideration” and the term that accompanies it. It was happy to see us use the term “rights”, but was concerned about “best interests” being the paramount consideration.



**The Deputy Chairperson:** It is crunch time. Are we content to leave it, or do we wish to introduce an amendment?

**Dr O'Hagan:** I do not know if "content" is the right word.

**Ms Lewsley:** We are between a rock and a hard place.

**The Deputy Chairperson:** Yes. I have no sympathy for whoever they are at the NIO, but I do not want the Bill to peter out either.

**Ms Lewsley:** We could write to the Northern Ireland Office, stating the issue that we have raised today. We have to let the clause go, but we still have concerns about the term "best interests" not being used and the possibility of our having a two-tier system in Northern Ireland.

**The Deputy Chairperson:** If you feel that would clear our consciences, we can do that.

**Ms Lewsley:** It means that we have voiced our opinion and said that we are not happy; we are not simply letting them off the hook.

**The Deputy Chairperson:** We should also reflect that in the Committee's report, to make it double-barrelled. Are members content with clause 2?

**Dr O'Hagan:** There are one or two other points in clause 2, as well as suggestions for changes to some of the other clauses. In clause 2(3)(a), which mentions

"the importance of the role of parents",

it was suggested that "primary carers" be inserted.

There is not always a nuclear family. That is one suggestion.

**Mr Stewart:** The Department considered that point carefully. It would be difficult to insert the term "primary carer", so we decided not to proceed with it. It is too broad a term. For example, if a child were in hospital, the primary carer would be his or her named nurse. However, the Department proposes to amend the definition of parent to include all those with parental responsibility, which may address the member's point.

**Dr O'Hagan:** Another amendment suggests that a new clause 2(3)(c) would state that the commissioner, when exercising the functions, must have regard for

"any relevant provisions of international human rights instruments".

**Mr Stewart:** The Department considered that paragraph, but the Ministers decided not to proceed with that suggested amendment. The advice from legislative counsel was that clause 2(3)(b) should not be read as exclusive. It places an emphasis on the UN Convention on the Rights of the Child, but it does not preclude the commissioner from taking into account other relevant international standards.

**Dr O'Hagan:** Should that not be explicitly stated?

**Mr Stewart:** Ministers considered the point and decided not to include such an amendment.

**The Deputy Chairperson:** As there are no further comments, is the Committee content with the clause, subject to seeing the wording on the points made?

*Clause 2 referred for further consideration.*

### **Clause 3 (Duties of the Commissioner)**

**The Deputy Chairperson:** Those of you who are carrying on a private conversation please concentrate on clause 3.

**Mr Kennedy:** I was just talking to your colleague.

**The Deputy Chairperson:** I was just being an old schoolmaster.

**Mr Shannon:** Are we reviewing the issues that we agreed last week? I apologise for my late arrival.

**The Deputy Chairperson:** The Department is reporting back to the Committee — bringing back to us the considered opinions of the great and the good.

The Office of the First Minister and the Deputy First Minister agreed to consider the inclusion of a provision that would ensure that the commissioner's activities are publicised to adults, particularly parents, and that their views are sought.

**Mr Stewart:** The Department agrees with the Committee's suggestion and proposes amendments to clauses 3(5)(a) and 3(5)(d) to include specific references to parents.

**The Deputy Chairperson:** Will the wording of those amendments be made available to the Committee?

**Mr Stewart:** Yes.

**The Deputy Chairperson:** The Office of the First Minister and the Deputy First Minister was to consider the suggestion of substituting "responsibilities, best interests and welfare" for "rights and best interests" or "rights and welfare".

**Mr Stewart:** As I said, members suggested that sort of terminology for several clauses in the Bill. However, the Ministers considered the matter and thought that introducing a new statutory duty in clause 3, rather than tabling a series of amendments, would best address the issue.

**The Deputy Chairperson:** In other words, an overarching clause will cover all of that?

**Mr Stewart:** Yes. It will be wrapped up in a new statutory duty, which will probably be inserted in clause 3(1)(b) in the Bill.

**The Deputy Chairperson:** Is the Committee content with the clause as drafted?

**Mr Shannon:** I want to make sure that the amendments are included. I asked for several amendments to clause 3. The terminology was the same. It was "responsibilities,

best interests and welfare”, and in some of the other paragraphs it was “rights, responsibilities, best interests and welfare”. Will that be put in?

**The Deputy Chairperson:** Let me help you, Jim. Just before you arrived, Mr Stewart informed the Committee that the Department would insert an overarching statutory duty in clause 3(1)(b), rather than insert those phrases all the way through the Bill.

**Mr Shannon:** There is no sense in looking through the Bill if we are not absolutely sure.

**The Deputy Chairperson:** That is a warning to the Committee; do not let the Bill go until members are content.

**Mr Shannon:** The Committee proposed that “responsibilities, best interests and welfare” be inserted after “rights” at clause 3(1)(a) and clause 3(1)(b), and “rights, responsibilities, best interests and welfare” be inserted in place of “best interests” at clause 3(1)(c). It also proposed that “rights, responsibilities, best interests and welfare” be inserted in place of “rights and welfare” at clause 3(2) and in place of “rights or best interests” at clause 3(4). I want to ensure that those amendments will be made.

**Mr Stewart:** Ministers have considered carefully the points raised about terminology in the Bill, and they are reluctant to depart from the current terminology — particularly in respect of best interests versus welfare. Ministers feel that “best interests” encompass “welfare” and they see it as unnecessary to have “best interests and welfare”. One term commented on by the Committee but not covered by the Department was “responsibilities”, and that will form the core of the new statutory duty in clause 3.

As was said earlier, we do not have a precise form of words available for the Committee today, but no doubt the Committee will want to see it before making up its mind. There will be a statutory duty placed on the commissioner to promote a culture of respect for the rights of others. It was clear from our discussions last week that that is what lay behind members’ concerns about responsibilities. The Committee was concerned that children and young people who claimed their rights did not do so to the detriment of the rights of others. That should be reflected in the commissioner’s role. I hope that when the Committee sees the form of words on that, their concerns will be addressed.

**Mr Shannon:** You have used the word “rights” in certain parts of the Bill, but the Committee has asked that it be used repetitively. I am not sure that I agree with you about “best interests” and “welfare”. I believe that they define different sectors, and it would be appropriate to have both terms included.

Chairman, please clarify something for me. Is the Committee just considering what it wants included in the Bill today? Will departmental officials return to the

Committee with other terminology for us to consider and on which to make a final decision, or is the Committee deciding today what is acceptable?

**The Deputy Chairperson:** The Committee is waiting to see particular wording that might be included in clause 2. Now we are discussing the Committee’s concerns about wording in clause 3. Wording in clause 3(1)(b) has to be considered to ensure that it contains the overarching statement that is supposed to embody the concerns of Mr Shannon and other members.

**Mr Shannon:** So it would be fair to say that we will get a second go at it.

**The Deputy Chairperson:** Yes, the Committee will get another bite at the cherry. We are agreeing in principle, but the Committee will want to see the final words.

**Mr Shannon:** In other words, if members are not happy with the Department’s interpretation, the Committee will have another opportunity to change them.

**The Deputy Chairperson:** We are content to proceed until we see the final words.

**Dr O’Hagan:** I have three propositions, which are all interrelated. The first is that a provision be inserted that the Executive, Assembly and the Northern Ireland Office refer all proposed measures to the children’s commissioner in draft so that the commissioner may then advise; secondly, a new clause should be inserted to ensure that the Executive, the Assembly and the Northern Ireland Office receive any such advice and take it into account when considering a proposed measure; and thirdly, that the commissioner be given some duty to draft and operate a child protection policy.

**Mr Stewart:** The first two points are closely related, and the Department is not minded to bring forward amendments along those lines. Ministers recognise the importance of the childproofing function for legislation, but they do not propose to introduce a statutory duty on the commissioner to do that in the way suggested.

On the third point, it is accepted that the commissioner ought to operate a child protection policy. Again, it is not felt that that should be included in legislation.

**Dr O’Hagan:** Is there any reason why the childproofing element was not included?

**Mr Stewart:** Ministers would prefer to see the childproofing function carried out within the context of section 75 of the Northern Ireland Act 1998, rather than introducing new specific legislative provision for that.

**Dr O’Hagan:** How do you do that if children are not mentioned specifically in section 75?

**Mr Stewart:** Age is mentioned specifically in section 75.

**Mr Shannon:** I am trying to labour this meeting for as long as I can. We have asked for a new subsection to be inserted in clause 3, with the effect that parents’ views

would be sought on the commissioner's activities. Has that been included?

**Mr Stewart:** That was agreed. However, it will be inserted not as a new subsection but as references in 3(5)(a) and 3(5)(d).

**The Deputy Chairperson:** Subject to seeing the new wording, are we content with clause 3?

*Clause 3 referred for further consideration.*

#### **Clause 4 (General powers of the Commissioner)**

**The Deputy Chairperson:** The Office of the First and the Deputy First Minister agreed to consider extending subsection 1 to include the provision about consultation and promotional activities.

**Mr Stewart:** We considered that carefully. Ministers have decided that that would not be appropriate. That is based on advice from the Office of the Legislative Counsel (OLC), which pointed out that such an amendment would make the clause clash with the statutory duties in clause 3(1). Under clause 3(1), the commissioner would be under a statutory duty to carry out such functions. If we were then to also introduce a permissive power to do so in clause 4(1), that might be seen as somehow diluting the statutory duties and would be at odds with them.

**The Deputy Chairperson:** I would like to check that. Clause 3(1) states that the commissioner "shall" promote, so I am inclined to agree with that response. Are there any other comments? If not, are we content with clause 4?

**Mr Shannon:** Sorry —

**Mr Kennedy:** We are due to suspend next week.

**Mr Shannon:** I want to get as much done as possible before I leave.

**Ms Lewsley:** He has to have the last word. *[Laughter]*.

**Mr Shannon:** The terminology is similar to clause 3. I am happy to return to it; I just want to ensure that it is in relation to rights, responsibilities, best interests and welfare. Will you provide terminology for clause 4 that is similar to clause 3 so we can consider that?

**Mr Stewart:** The Ministers' intention is that the statutory duty to be introduced to clause 3 will be of a pervasive nature. It will govern all the commissioner's functions. It is not proposed that we would amend the terminology in successive clauses throughout the Bill.

**The Deputy Chairperson:** In other words, clause 3(1)(b) would be the overarching one, which would catch every clause.

**Mr Shannon:** That would go into clauses 5, 6 and so on. OK.

*Question, That the Committee is content with the clause, put and agreed to.*

#### **Clause 5 (General review of advocacy, complaint, inspection and whistle-blowing arrangements of relevant authorities)**

**The Deputy Chairperson:** The Office of the First Minister and the Deputy First Minister agreed to consider with the Office of the Legislative Counsel whether it would be appropriate to include the term "rights" in clause 5(1)(a)(i).

**Mr Stewart:** Ministers have not yet made a final decision on that point. They have asked us to look again carefully with the Office of the Legislative Counsel about whether the effect of the term "rights" would be caught by the terminology already in the clause. There is some doubt over that, and we need some further advice from the Office of the Legislative Counsel. At this stage, it is likely that we will accept that suggestion.

**The Deputy Chairperson:** It is likely?

**Mr Stewart:** Yes.

**The Deputy Chairperson:** The Office of the First Minister and the Deputy First Minister agreed to amend 5(1)(b) to read "by or on behalf of children".

**Mr Stewart:** Yes. Ministers have accepted that.

**The Deputy Chairperson:** The Office of the First Minister and the Deputy First Minister agreed to seek advice on whether 5(1)(d)(iv) could be expanded to include the term "welfare and responsibilities".

**Mr Stewart:** Having examined that very carefully, Ministers feel it is not appropriate to include either word. As we have mentioned several times, we believe that the concept of welfare is included in the term "best interests". The term "responsibilities" would also be grammatically incorrect if inserted into the clause at that point.

**The Deputy Chairperson:** Are members content? Bear in mind that the Department will return to us on the question of including "rights". It has agreed to our suggestion on 5(1)(b).

**Mr Stewart:** There was also a suggestion that the word "information" be introduced into 5(1)(a)(ii)(A), and we have accepted that.

**The Deputy Chairperson:** That is excellent. Is the Committee content with clause 5, subject to the points that remain outstanding?

*Clause 5 referred for further consideration.*

#### **Clause 6 (Review of advocacy, complaint, inspection and whistle-blowing arrangements of relevant authorities in individual cases)**

**The Deputy Chairperson:** No issues were raised regarding clause 6, a fact I find surprising.



**Dr McDonnell:** Dr O'Hagan has found one.

**Dr O'Hagan:** It concerns expanding the term "child or young person" by inserting "or group of children or young persons" after it. I am thinking in particular of 6(1), 6(2)(a) and 6(2)(b).

**Mr Stewart:** We sought specific advice on that point from the OLC, who advised us that it was not necessary. The Interpretation Act (Northern Ireland) 1954 would come into play here, and the singular term would also cover the plural. Therefore, the clause as drafted would allow the commissioner to act on behalf of a group of children or young people. There are similar references in other parts in the Bill.

**The Deputy Chairperson:** Are we content?

**Mr Stewart:** Sorry, Chairman. There is an amendment not requested by the Committee, which we nevertheless propose to introduce in relation to clause 6. I am sure that the Committee will agree. We shall introduce into clause 6 a provision similar or analogous to that in clause 5(4). That would bring clause 6 into play when there are no arrangements. We felt that that was inadvertently left out of clause 6. It is a minor technical amendment, and it will certainly not change the policy intention.

**Dr O'Hagan:** What would the wording be?

**Mr Stewart:** The wording will be exactly the same as that in 5(4).

*Clause 6 referred for further consideration.*

**Clause 7 (Assistance with complaints to relevant authorities)**

**The Deputy Chairperson:** There were concerns about the restrictions in subsection (3), and the Office of the First Minister and the Deputy First Minister was asked to reconsider the phrase

"shall not provide any assistance"

and also to consider the inclusion of a phrase such as

"unless it would be unreasonable to do so".

**Mr Stewart:** Ministers considered the Committee's views very carefully, and it is proposed to make amendments to clause 7 which we hope will address the Committee's concerns. Unfortunately I do not have a precise form of words available today, but two amendments will be made. First, the wording of 7(3) and 7(4) will be changed to make it clearer regarding how the Commissioner might operate. One form of words which has been suggested — I stress that it is not the final wording — is

"the Commissioner may provide assistance unless it appears that there is another person or body likely to provide such assistance".

The effect would be to change the default position from the Commissioner not acting to the Commissioner acting.

We shall also introduce another amendment to clarify that the Commissioner's involvement with a child or young person could continue throughout the processing of the complaint and would not finish at the point where the complaint was made.

**The Deputy Chairperson:** The proposal to express subsections (3) and (4) in a positive way has already been covered.

**Mr Stewart:** We shall do that. That amendment will not substantively affect the operation of the clause but will make clear that the expected default is that the Commissioner will act rather than not.

**The Deputy Chairperson:** Is the Committee content to proceed, subject to the rewording of subsections (3) and (4)?

*Members indicated assent.*

*Clause 7 referred for further consideration.*

**Clause 8 (Investigation of complaints against relevant authorities)**

**The Deputy Chairperson:**

The Office of the First Minister and the Deputy First Minister agreed to consider the suggestion that a copy of the statement under subsection (4) should also be sent to the relevant authority.

**Mr Stewart:** Following consideration, Ministers concluded that it would not be wise to proceed along those lines. The commissioner would possibly have the discretion under the existing clause 8(4)(b) to send the report in that way. However, it was thought unwise to make that automatic. In some circumstances the commissioner may want to protect the identity of a child or young person who had complained, and would not feel it appropriate to notify the authority concerned. It is important to leave that matter to the commissioner's discretion.

**The Deputy Chairperson:** Before new issues are discussed, is the Committee content with that answer?

*Members indicated assent.*

**Dr O'Hagan:** Several other issues arise. There is concern that the inclusion of "subject to sub-section 2 and section 9" in clause 8(1) would limit the commissioner's discretion to investigate a complaint against a relevant authority. There has been a suggestion that those words be deleted.

**Mr Stewart:** The Ministers considered that very carefully; however, they take the view that the clause as drafted reflects the policy intention, which is that the commissioner would investigate very few complaints. The commissioner's main role is seen as reviewing complaints that have been investigated and monitoring the operation of complaints procedures.



**Dr O'Hagan:** The same point arises in clause 8(2)(b) and clause 8(3). I assume that the same answer applies.

**Mr Stewart:** Yes.

**Mr Shannon:** In clause 8(1)(a), the last word "or" should be removed and replaced by the word "and", thus tying (a) and (b) together rather than separating them.

**Mr Stewart:** Such an amendment would have the reverse effect to that wanted by the member. It would require a complaint to involve both, and not either, of the elements. In that case, "or" is preferable.

**The Deputy Chairperson:** Is the Committee content, bearing in mind that subsection (4) has not been finalised?

*Clause 8 referred for further consideration.*

**Clause 9 (Actions which may be investigated, restrictions and inclusions)**

**The Deputy Chairperson:** The Committee wishes to pursue its concerns about the restrictions in subsection (2) with the NIO. In the absence of an opportunity to raise those with the NIO, the Committee must decide if it wishes to propose any amendments to subsection (2). Moreover, the need for a definition of "local inquiry" was suggested.

**Mr Stewart:** The Ministers' attention was drawn to the Committee's concerns and to the fact that you had been unable to obtain an explanation from the NIO. The Ministers have asked us to write to the NIO to draw the Committee's concerns to their attention. On the latter point, following advice from legislative counsel, we do not believe that it is necessary to include a definition of "local inquiry".

**Dr O'Hagan:** There is a concern that the current wording in clause 9(1) would mean that the commissioner is prohibited from investigating a complaint except in exceptional circumstances. An amendment has been suggested, namely, after "right or remedy", insert:

"where the commissioner is best placed to conduct such an investigation, or there are other exceptional circumstances, which make it appropriate to carry out such an investigation".

What is your opinion on that?

**Mr Stewart:** Such an amendment would be problematic in two ways, and that is why Ministers do not want to proceed with it. It is a standard provision, which reflects similar provisions in the Commissioner for Complaints legislation, and that is because those provisions deal with the ombudsman's functions. The clause is not prohibitive in the way the member's concerns indicate. The qualification is not "exceptional circumstances"; the wording is:

"unless the commissioner is satisfied that, in the particular circumstances, it is not reasonable to expect the complainant to resort to or to have resorted to a particular right or remedy."

That is a much lower hurdle to jump than "exceptional circumstances". The amendment suggested by the member would introduce an exceptional circumstances qualification.

*Question, That the Committee is content with the clause, put and agreed to.*

**Clause 10 (Power to bring, intervene in or assist in legal proceedings)**

**The Deputy Chairperson:** The Office of the First Minister and the Deputy First Minister agreed to consider whether "other" in clause 10(3)(b) should be deleted.

**Mr Stewart:** Mr Chairperson, we referred that to the OLC, which states that that word is necessary in order to be precise about the meaning of the clause, as I predicted last week.

**The Deputy Chairperson:** Can you explain that for my benefit?

**Mr Stewart:** The clause that precedes it includes another exceptional circumstance. Therefore legislative counsel felt that clause 10(3)(b) needs "other" to make it clear that it refers to "other" exceptional circumstances.

**The Deputy Chairperson:** I agree. The potential conflict between the advocacy role and the ombudsman role was discussed, and OFMDFM agreed to consider carefully the views of the Human Rights Commission on that issue. What is your considered response?

**Mr Stewart:** I considered that carefully, and Ministers shared some of the concerns raised by the Committee. They have asked us to approach the NIO again and discuss the provisions in subsections 10(4) and 10(5). The Committee will recall that the issue centres on the exercise of ombudsman and advocacy functions. It would be problematic if the commissioner were to act as an advocate before acting as an ombudsman. However, it is much less problematic for the commissioner to act as an ombudsman first, and subsequently use his or her powers of advocacy. As the Bill is drafted, that would be prohibited by 10(4) and 10(5), and we want to discuss those with the NIO to see if there is any room for manoeuvre.

**The Deputy Chairperson:** Are members content with that answer?

*Members indicated assent.*

**Dr O'Hagan:** There is a separate issue, which I do not want to go into in too much detail. With regard to clause 10, what is OFMDFM's opinion on inserting a clause to give the commissioner the opportunity or the ability to take class action?

**Mr Stewart:** We looked at the issue of the commissioner acting on behalf of groups of children and young people. As we mentioned, the provisions, as currently drafted, will allow the commissioner to act on behalf of identified groups of children and young people. It would not be possible or desirable to have provisions to allow the

commissioner to act on behalf of unnamed children or young people. That could run us into problems with the European Convention on Human Rights.

**Dr O'Hagan:** What problems are those?

**Mr Stewart:** We could run into difficulties with the right to a fair trial, as detailed in Article 6 of the European Convention on Human Rights, if the commissioner were to pursue an action or discharge functions on behalf of anonymous children.

**The Deputy Chairperson:** I accept that.

*Clause 10 referred for further consideration.*

#### **Clause 11 (Assistance in relation to legal proceedings)**

**The Deputy Chairperson:** The Office of the First Minister and the Deputy First Minister agreed to look at whether the wording of clause 11(2) could be clarified. Do you have any comments?

**Mr Stewart:** We have considered that, but the Office of the First Minister and the Deputy First Minister feels that the wording of the clause should remain. The provision contains some very important restrictions, and the Ministers do not think that it should be amended.

**The Deputy Chairperson:** Do members have any comments?

**Dr O'Hagan:** There are similar problems with clauses 11(4) and 11(5) as there were with clauses 10(4) and 10(5). The Office of the First Minister and the Deputy First Minister is to revisit clauses 10(4) and 10(5). Is it possible to do that with clause 11?

**Mr Stewart:** The member is entirely correct. We will take up those provisions with the NIO in the same way.

**The Deputy Chairperson:** Subject to the NIO's response to the member's suggestion, is the Committee content with the clause?

**Mr Stewart:** Several members were also concerned about clause 11(7) and the need for clarification. There is no precise form of wording on that, but the Ministers have asked us to examine it and consider an amendment to clarify how that clause will operate and the circumstances in which the commissioner might seek to use those powers. We will come back to the Committee on that.

**The Deputy Chairperson:** Subject to that, the Committee is content with clause 11.

*Clause 11 referred for further consideration.*

#### **Clause 12 (Formal investigations)**

**The Deputy Chairperson:** The Office of the First Minister and the Deputy First Minister agree that subsection (3)(b) should provide that the notice of investigation should also to be sent to the complainant. Mr Stewart, have you any comments?

**Mr Stewart:** That has been accepted. There will be an amendment to that point.

**The Deputy Chairperson:** The Office of the First Minister and the Deputy First Minister has agreed to consider whether it would be appropriate to send the notice under subsection (3)(b) to the Committee.

**Mr Stewart:** The Ministers considered that point but felt, on balance, that it would not be appropriate to do so. The Ministers felt that it could leave the Committee open to accusations that it was becoming directly involved in the day-to-day work of the commissioner in a way that might be seen as prejudicial to the commissioner's independence. They also pointed out the difficulty of giving a formal statutory role to the Committee of the Centre, which is not a Statutory Committee but a Standing Committee.

**The Deputy Chairperson:** I see the Ministers' point.

The Committee also had concerns that clause 12 excluded non-devolved bodies.

**Mr Stewart:** What provision of clause 12 mentions that?

**The Deputy Chairperson:** Clause 12(1)(a) states that the commissioner may conduct an investigation in relation to

"a relevant authority other than one listed in Part II of Schedule 3."

**Mr Stewart:** That provision and, indeed, the complexity of that part of the Bill reflect the outcome of negotiations with the NIO. There is a difference in how formal investigations will operate in relation to the transferred and devolved fields. The NIO has made its position clear. Again, if there were any attempt to amend that, the Secretary of State would not give consent to the Bill.

**The Deputy Chairperson:** In other words, he is not prepared to play ball.

**Mr Stewart:** I would not put it as starkly as that.

**The Deputy Chairperson:** Yes, but we had better live with the reality.

**Mr Kennedy:** The Deputy Chairperson can say that, Mr Stewart, but you cannot.

**Mr Stewart:** Absolutely.

**The Deputy Chairperson:** I am sure that the Secretary of State, being a Scotsman, would not be at all familiar with west Tyrone language. There has been a concession on the first query.

**Dr O'Hagan:** I know that we are holding things up, but this is important. In relation to clause 12, was any thought given to granting the commissioner stronger powers of formal investigation, such as the power to instigate investigations and powers of subpoena and discovery, rather than waiting for a referral?

**Mr Stewart:** We considered the circumstances in which the commissioner should be able to exercise the

powers of formal investigation contained in clause 12. The Ministers are not minded to extend that.

Clause 16 provides for the commissioner to have substantial powers to summon witnesses and discover documents. Those powers come into play in relation to formal investigations under clause 12.

**The Deputy Chairperson:** Is the member satisfied?

**Dr O'Hagan:** Yes.

**Mr Shannon:** With regard to clause 12(6), it may not be necessary to include the words

“and, in particular, it is for the Commissioner to determine whether any person may be represented by counsel or solicitor or otherwise in the investigation.”

It may be sufficient for it to read as follows:

“Except as otherwise provided by this Act, the procedure for conducting a formal investigation shall be such as the Commissioner considers appropriate in the circumstances of the case;”

What is your opinion on that?

**Mr Stewart:** Again, that matter was considered carefully, but Ministers felt that the provision should stand as drafted.

**The Deputy Chairperson:** Mr Shannon, if you feel strongly enough about the matter, you can table an amendment.

**Mr Shannon:** I think it was said earlier that, if the Ministers feel strongly enough about it, it does not really matter what we say. If the Committee does not agree with the Ministers, irrespective of what happens outside, the amendment may not be accepted. Is that the impression that the Committee has?

**The Deputy Chairperson:** With regard to the NIO, yes.

**Mr Stewart:** That may be the case in relation to the NIO's position, although we will explore that with it. Today, I hope to show those areas where Ministers have made it clear that they agree with the Committee's suggestions, and will table amendments to reflect the Committee's concerns about those matters. Of course, there are other areas where Ministers disagree with the Committee's suggestions, but the Committee is free to table its own amendments on those points.

**Mr Shannon:** If it is in order, I propose that the Committee tables an amendment.

**The Deputy Chairperson:** Could we leave that for now, because we are not yet at that stage?

**Mr Shannon:** In that case, may I put on record my intention to propose an amendment?

**The Deputy Chairperson:** Yes.

**Ms Lewsley:** Why do you want to remove that part of the clause? Obviously, the commissioner's role is to assess whether someone should be represented by counsel or

solicitor or otherwise, rather than assume that someone will be taken through the whole process every time a case comes forward. Could that not have a huge impact on the cost?

**The Deputy Chairperson:** The member is merely registering his intention to propose an amendment.

**Mr Shannon:** That is correct. We do not have time to debate the matter now.

**The Deputy Chairperson:** When the legislation comes back from the Ministers, and the Member has the chance to consider the matter again, he may decide not to table an amendment.

**Mr Shannon:** I may decide to go ahead.

**The Deputy Chairperson:** The Committee is content with the clause, aside from the information that is to come back.

**Ms Lewsley:** I thought that the point of today's exercise was to go through the Bill and either agree or not agree on each clause. Jim Shannon proposed that part of clause 12(6) be removed. Officials say that the Ministers said that they will not remove that part. I cannot see how the answer that we get next week will be any different from the answer that we have today. Therefore, the Committee has the right to decide now whether to propose an amendment to the clause.

**The Deputy Chairperson:** Indeed, it will have. The Committee will decide on that matter.

**Ms Lewsley:** Can that not be done today?

**The Deputy Chairperson:** The member simply said that he has an intention to propose an amendment. When the legislation comes back to the Committee, the Committee will reconsider it. Members will have to say “Yes” or “No” to each clause, and if anyone says “No”, we will simply vote on it. Someone can vote to deny Mr Shannon's amendment, but he could propose it again.

**Mr Shannon:** I can make the point today or at the next meeting. I can continue to make the point until such time as the Committee decides what to do. I must register my concern about the necessity for the second part of clause 12(6). I do not know whether it is appropriate to debate the matter now, or next time — if there is a next time.

**The Deputy Chairperson:** There will be a next time. The Committee has to do this again, because reworded legislation will come back to the Committee. Am I right about that?

**Mr Shannon:** I will check the matter with the people who contacted me.

**The Deputy Chairperson:** The Committee should agree as much as it can today. The reworded parts of the Bill must come back to the Committee to be agreed. At some stage, the Committee will have to agree on the matter, because to return to the point that Patricia Lewsley



made, the Committee must say “Yes” or “No”. I have given everyone a chance to have a say, but the next time will be the last. I apologise, because I must leave the meeting. Can someone act as Chairperson?

**Mr Shannon:** We may not have a quorum.

**Mr Kennedy:** I am about to leave.

**The Deputy Chairperson:** I was told that the Chairperson would be back, but I have an appointment and I must leave.

**Mr Kennedy:** Is another member available to attend the meeting?

**The Committee Clerk:** We may be able to get another member.

**Mr Kennedy:** I will stay until then.

*Clause 12 referred for further consideration.*

### **Clause 13 (Formal investigations: exclusions)**

**The Acting Chairperson (Ms Lewsley):** Clause 13 raises issues that the Committee wishes to discuss with the NIO. In the absence of an opportunity to raise those with the NIO, the Committee must decide whether it wishes to propose any amendments to the subsection. Will it raise those concerns in the letter that it will send to the NIO on other issues? Is the Committee content with the clause as drafted?

*Question, That the Committee is content with the clause, put and agreed to.*

### **Clause 14 (Report on formal investigation)**

**The Acting Chairperson:** The Office of the First Minister and the Deputy First Minister agreed that a report under subsections 14(1) and 14(2) should also go to the child, or children, concerned. It also agreed to consider the need to include the reasons for recommendations in a report under 14(4).

Is the Committee content with the clause?

**Dr O’Hagan:** Was any consideration given to power of enforcement when the clause was drafted?

**Mr Stewart:** Yes. That was considered at length throughout the drafting and preparation of the Bill, and the Ministers are not inclined to include any powers of enforcement at this point.

**Dr O’Hagan:** Why?

**Mr Stewart:** Fundamentally, it is not considered appropriate that the commissioner should act in that way. However, an additional, and important, reason is that, if powers of that nature were included in the clause, the NIO’s immediate reaction would be to refuse to agree to include juvenile justice in the Bill.

**Mr Shannon:** Clause 14(4) states:

“A report under this section may include recommendations as to action to be taken by a relevant authority mentioned in the report”.

Would it not be appropriate that the reasons for each recommendation must also be stated clearly?

**Mr Stewart:** Yes.

**The Acting Chairperson:** We have already agreed that. Subject to the agreed changes, is the Committee content with the clause?

*Clause 14 referred for further consideration.*

### **Clause 15 (Further action following report on formal investigation)**

**The Acting Chairperson:** The Office of the First Minister and the Deputy First Minister agreed to consider the inclusion of reasons for recommendations in clause 15.

**Dr O’Hagan:** In the absence of enforcement powers, should we consider strengthening the powers of the commissioner? In clause 15(1), 15(2), 15(3) and 15(4), should we replace the word “may” with “must”?

**Mr Stewart:** That was considered carefully, but it was felt that it was more appropriate to allow the commissioner a degree of latitude and discretion rather than make the suggested amendment.

**Mr Shannon:** In clause 15(5)(a), after “recommendations”, should we insert “and reasons”? Or has that been done?

**The Acting Chairperson:** That has been agreed.

Subject to the wording approved by the Office of the First Minister and the Deputy First Minister, is the Committee content with the clause?

*Clause 15 referred for further consideration.*

*Clause 16 agreed to.*

### **Clause 17 (Powers of entry and inspection for purposes of formal investigation)**

**The Acting Chairperson:** The Office of the First Minister and the Deputy First Minister agreed to reconsider the definition of employees under subsection (2)(d) to include voluntary workers.

**Mr Stewart:** It is unfortunate that we do not have a precise form of words for you today, but that amendment will be made.

**The Acting Chairperson:** The Office of the First Minister and the Deputy First Minister agreed to reconsider the wording of subsection (7) concerning a “duly authenticated document” and whether such authentication needed to be given by, for example, a Justice of the Peace. It also agreed to consider the need for the phrase “if so required”.

**Mr Stewart:** We sought specific advice on that point from the Office of the Legislative Counsel, which advised that the clause is OK as drafted. It is not the intention that the commissioner or his or her staff would



have to seek authentication in each individual case from, for example, a Justice of the Peace. However, they would have a standing authentication in the form of a warrant card or similar document, which could be produced if required. That is thought to reflect current best practice in the use of powers of entry.

**Dr O'Hagan:** There is a concern that some premises, such as leisure facilities, might be excluded from those mentioned in subsection (1)(c). It needs to be broadened out.

**Mr Stewart:** We have examined that point, and feel that those type of facilities would fall into the meaning of the clause as drafted. The member's concern is reflected in the Department's policy intention.

**Mr Shannon:** In subsection (1), after "he may", should the words "subject to the provisions of subsection (7)" be inserted? It is important to have that at the beginning.

**Mr Stewart:** If necessary, we will go back to the Office of the Legislative Counsel. Inserting those words might, however, make it tautologous. Subsection (7) can be read back into the application of all of clause 17.

**Mr Shannon:** I am happy if that is the way in which it is interpreted. I wanted to ensure that it was watertight.

**Mr Stewart:** I understand the member's concern. I assure him that other interested parties, especially the NIO, were at pains to ensure that we included suitable checks and balances on the use of power of entry.

*Clause 17 referred for further consideration.*

#### ***Clause 18 (Obstruction and contempt in relation to formal investigation)***

**The Acting Chairperson:** Do members have any concerns?

**Dr O'Hagan:** There was a suggestion that the word "formal" should be left out of clause 18(1)(a). That would strengthen the power of the commission to prevent the obstruction of the commissioner. What are your views on that?

**Mr Stewart:** The difficulty is that it would be too strong. Informal investigations, which are allowed under the Bill, are extremely broad in their application; they are, to all intents and purpose, unlimited in their application. To make all such investigations subject to that provision relating to obstruction is not something that we would want to go ahead with. If we did, it is likely that it would be challenged in the courts.

*Question, That the Committee is content with the clause, put and agreed to.*

#### ***Clause 19 (Disclosure of information by Commissioner)***

**The Acting Chairperson:** The Office of the First Minister and the Deputy First Minister agreed to consider whether "judicial review" should be added to the list in subsection (1).

**Mr Stewart:** The advice from the Office of the Legislative Counsel is that that is not necessary, as the normal court rules on discovery would apply and documents could be discovered for the purposes of judicial review.

**Mr Shannon:** If the advantages of judicial review are already incorporated, that would be sufficient.

*Question, That the Committee is content with the clause, put and agreed to.*

#### ***Clause 20 (Review of this Act)***

**The Acting Chairperson:** The Office of the First Minister and the Deputy First Minister agreed to consider whether subsections (1) and (5) should be amended to provide for the reports to be subject to scrutiny by the relevant Committee of the Assembly.

**Mr Stewart:** Ministers are not minded to amend that provision. It is thought sufficient that the annual report is required to be referred to the Assembly. That makes it open to the Committee of the Centre or, indeed, any other relevant Committee that is given that function in the future to have access to the commissioner's report.

**Dr O'Hagan:** Clause 20(2) states:

"The first report under this section will be made as soon as practicable after the third anniversary of the passing of this Act."

Should a time limit be set by adding the words "and before the fourth anniversary of the passing of this Act", so that there is a responsibility to produce a report within a particular period?

**Mr Stewart:** Ministers have considered that, but do not feel that any amendment is necessary. They feel that the existing wording "as soon as practicable after" is sufficiently strong to ensure the prompt submission of the commissioner's report. However, they agree with the Member's concern that it should not be unduly delayed.

*Question, That the Committee is content with the clause, put and agreed to.*

*Clause 21 agreed to.*

#### ***Clause 22 (Application of this Act: relevant authorities with mixed functions)***

**The Acting Chairperson:** The Office of the First Minister and the Deputy First Minister agreed to reconsider the implications of this clause in relation to "independent providers".

**Mr Stewart:** We examined that carefully and we were minded initially to make an amendment to the definition of independent providers. However, having considered it further, we did not come across any additional examples of independent providers that would not be captured either by the existing definition or as relevant authorities in their own right. If organisations emerge in the future, which are not covered by the current definition, we would

seek to include them, not within the definition of independent providers, but directly as relevant authorities in their own right. The Bill includes provisions to do that quickly and in a straightforward manner by means of subordinate legislation.

*Question, That the Committee is content with the clause, put and agreed to.*

*Clause 23 agreed to.*

**Clause 24 (Interpretation: “child or young person”)**

**The Acting Chairperson:** The Committee discussed whether the definition of child should be amended to cover children from conception. Officials from the Office of the First Minister and the Deputy First Minister stated that the Ministers have not yet taken a position on that matter and agreed to relay the views expressed at the meeting.

**Mr Stewart:** We relayed those views. Ministers carefully considered the arguments for and against that proposal, but have asked me to make it clear that they are strongly against such an extension of the commissioner’s remit.

**Mr Shannon:** I asked about that matter last week. It is unfortunate that so few members are present today because the issue raises concerns for many of us. I believe that the words “from conception and” should be included in the clause, and nothing that I have heard has made me change my mind. I am not sure how other members feel about the matter. The point was made that the inclusion of those words might in some way inhibit the progress of the legislation. Is that correct?

**Mr Stewart:** Several arguments were made, and I am happy to recap on them. Dr McDonnell cogently pointed out that the inclusion of the wording would inevitably tie the commissioner to the controversial and sensitive issue of abortion law, which could be to the detriment of the exercise of the commissioner’s other functions.

Our argument had three strands. First, if the amendment were made, the commissioner would have few, if any, tools to work with. International law on the rights of unborn children is unclear. There is not yet a sufficient body of jurisprudence to make clear how international human rights standards would come into play. In ratifying the UN Convention on the Rights of the Child, which is the key standard, the United Kingdom Government made it clear that the interpretation placed upon it applies from birth onwards. In domestic law, the position is equally unhelpful in that, although it is clearer than international law, unborn children have few rights. Given that the initiative is very much rights-driven and the commissioner’s core concern will be rights, he or she would have few tools to work with in relation to the rights of unborn children.

Secondly, the argument was put that the commissioner should be concerned with information, advice and research on matters that might affect the health of unborn children. It was pointed out that several statutory authorities already

have that specific responsibility, including the Health Promotion Agency, the Food Standards Agency and a broad range of bodies operating in the health and social services field. Against that background, Ministers strongly believe that it would not be appropriate to extend the commissioner’s remit in the way suggested.

**Mr Shannon:** You mentioned that the commissioner would have few tools with which to work. If, over time, changes were made elsewhere, this would become a much more legislative issue. Would the inclusion of those three words in the Bill now make it easier for the system and the rules of law to work? Should we amend the wording now to cater for any changes that may come later?

**Mr Stewart:** In the future, it would be possible to amend the commissioner’s remit to include unborn children if it was felt that it was appropriate to do so. From the outset, it would also be possible for the commissioner to use the powers that are proposed in clause 3 and clause 20 to comment on the appropriateness or otherwise of that remit. For example, clause 3 includes the function of keeping under review the adequacy of law and practice in relation to rights. It would be open for the commissioner in doing so to comment on his or her remit or the general state of the law in relation to those matters.

**Mr Shannon:** The Chairperson is not present, but I know that he shares my opinion on this matter. I cannot speak for my other Colleague, but he is probably happy for the wording to be included in the clause. Perhaps I can receive guidance on how to take the matter forward.

**The Acting Chairperson:** The Committee may wish to defer decision on this clause until another day, when more members may be present.

**Mr Shannon:** Deferral might be better.

**The Acting Chairperson:** The Office of the First Minister and the Deputy First Minister agreed to consider the suggestion that the commissioner’s remit should cover young people up to the age of 25 who suffer from disabilities.

**Mr Stewart:** Ministers are agreed that they wish to table an amendment to include disabled young people up to the age of 21, rather than 25.

**The Acting Chairperson:** Under the UN Convention on the Rights of the Child and the Children (Northern Ireland) Order 1995, what is the age limit for people with disabilities? Is it 25 years?

**Mr Stewart:** I would need to check that. I do not have that detail. I do not think that the UN Convention contains anything beyond a general limit of 18 years.

*Clause 24 referred for further consideration.*

**Clause 25 (Interpretation: “relevant authority”)**

**The Acting Chairperson:** There appears to be a typographical error at 25(1)(a), in that “bodies subject to complaint” should read “bodies subject to investigation”.

**Mr Stewart:** That is a typographical error, and the Office of the Legislative Counsel was greatly embarrassed when it was pointed out. It will be fixed.

**Dr O'Hagan:** Who says we do not read the Bills?

**The Acting Chairperson:** Has the Office of the First Minister and the Deputy First Minister agreed to consider the interpretation of "relevant authority"?

**Mr Stewart:** The Ministers do not intend to propose any further change to "relevant authority".

**The Acting Chairperson:** It also agreed to check the implications of the Bill for children of refugees and asylum seekers.

**Mr Stewart:** No change is proposed for those provisions for the reasons that were outlined last week. Those are excepted matters, which will not be devolved to the Northern Ireland Assembly. The Bill provides for the commissioner's remit to include an examination of the services provided to children of refugees or asylum seekers, for which the Assembly and Northern Ireland Departments are responsible.

**Dr O'Hagan:** It may be an excepted matter, but the Office of the First Minister and the Deputy First Minister should have an opinion on it. What is its opinion? It is relevant to clause 26(2)(b).

**Mr Stewart:** The Department does not propose to include any excepted bodies in the definition of "relevant authority", and it would be inappropriate to do so.

**The Acting Chairperson:** What happens to a child of refugees who is born in Northern Ireland? What is that child's status?

**Mr Stewart:** Those children would be deemed to be ordinarily resident in Northern Ireland, and therefore would come —

**The Acting Chairperson:** Would they come under the commissioner's remit?

**Mr Stewart:** They would have access to the full range of health, social services and other services that ought to be provided. The commissioner would be able to examine the adequacy, or otherwise, of that service provision.

**Dr O'Hagan:** It is reasonable to assume that a child who was not born here might have problems. What position would that child be in?

**Mr Stewart:** The position would be similar. The commissioner's remit could take into account the provision, or lack of provision, of services to that child. The commissioner would not be involved in determining the refugee status of such children.

**Dr O'Hagan:** Would a child of a refugee or an asylum seeker have the same rights as every other child?

**Mr Stewart:** Yes. They would have the same rights as anyone who was ordinarily resident.

*Clause 25 referred for further consideration.*

#### **Clause 26 (Interpretation: general)**

**The Acting Chairperson:** The Office of the First Minister and the Deputy First Minister agreed to reconsider the definition of "parent" and to include a definition of parental responsibility.

**Mr Stewart:** That was agreed.

*Clause 26 referred for further consideration.*

*Clauses 27 and 28 agreed to.*

#### **Schedule 1 (The Commissioner for Children and Young People for Northern Ireland)**

**The Acting Chairperson:** Issues were raised about staffing in paragraph 5(5), where it states that the approval of the Department of Finance and Personnel is required. That could be seen as political interference in an open and transparent employment system. It has been suggested that the phrase "subject to examination" should replace the word "approval".

**Mr Stewart:** Ministers share the Committee's concerns about those provisions, and an amendment is proposed. There is no precise wording for the amendment, but the Ministers have decided that an amendment will be brought forward to clarify how those provisions will work in practice and to ensure that there is not an undue level of interference with the day-to-day conduct of the commissioner's business.

**The Acting Chairperson:** It has been suggested that paragraph 10 effectively means that the commissioner cannot raise additional funds and that that is unnecessarily restrictive. No such duty is placed on the Northern Ireland Human Rights Commission.

**Mr Stewart:** The Ministers are not minded to amend that provision. They feel that there is a sufficient degree of flexibility contained in the provisions in paragraph 10(3).

**Dr O'Hagan:** Why?

**Mr Stewart:** Subparagraph 3 allows a degree of discretion and allows for those provisions not to be applied to such sums, or sums of such description, as the Office of the First Minister and the Deputy First Minister direct. At the time, the Ministers will want to make a ministerial statement about how they see that operating in practice. They will make it clear that they do not see that provision as unnecessarily or inappropriately restricting the commissioner's opportunities to generate income. Those are a fairly standard set of provisions.

**Dr Birnie:** It does not close off the possibility of applying to charitable trusts or foundations?

**Mr Stewart:** No. The commissioner could, for example, raise money by offering organisations awareness training.

**The Acting Chairperson:** Several consequential amendments are included at the end of schedule 1.



There appears to be a typing error: should paragraph 16 of the schedule be numbered paragraph 15?

**Mr Stewart:** Well spotted. We have picked up on that and it will be changed.

**Mr Shannon:** I want to suggest an amendment to paragraph 12(3) of schedule 1 to include a provision that a copy of every report is sent to the Committee of the Centre for its scrutiny.

**Mr Stewart:** That relates back to an earlier point. The Ministers feel that it is sufficient for the reference to be to the Assembly, rather than the Committee specifically.

**Mr Shannon:** Would it be better to provide that every report is sent to “the relevant Committee”?

**Mr Stewart:** Again, Ministers are minded to leave the provision as it stands, with the reference to the Assembly.

*Schedule 1 referred for further consideration.*

**The Chairperson:** I apologise for being late.

#### ***Schedule 2 (Investigations under section 4(4) or 5(6))***

**The Chairperson:** The Committee has one issue with schedule 2. It is suggested that the provisions may constitute a breach of the European Convention on Human Rights.

**Mr Stewart:** It is not felt that they would. We said that several amendments would be made to earlier provisions in clauses 12, 14 and 17, which are similar to the provisions in schedule 2, and that we would introduce similar amendments to schedule 2 to ensure that they remain consistent. Other than that, it is not proposed that those provisions be amended.

**Mr Shannon:** In schedule 2(2)(b), after “concerned”, should the phrases “the office and Committee of the Centre”, “the appropriate body” or “the Assembly” be inserted?

**Mr Stewart:** The amendments in relation to the earlier clauses will be reflected in schedule 2.

**Mr Shannon:** Schedule 2(4) states:

“An investigation shall be conducted in private”.

Should something similar to the previous discussion be inserted there that clearly states the reasons for each recommendation?

**Mr Stewart:** That is agreed. An amendment to that effect will be introduced.

**The Chairperson:** Is the Committee content with the schedule subject to the amendments that will be proposed by the Office of the First Minister and the Deputy First Minister and by the Committee?

*Schedule 2 referred for further consideration.*

#### ***Schedule 3 (Relevant authorities)***

**The Chairperson:** The main issues raised deal with the separation of devolved and non-devolved bodies. We have not met the Northern Ireland Office, so I do not know what is to be done about those amendments. It is understood that the Assembly Ombudsman has questioned the inclusion of his own posts as Ombudsman and Commissioner for Complaints under the schedule. He has also questioned the inclusion of the Police Ombudsman and the Parliamentary Commissioner for Administration in Part II of the schedule.

**Mr Stewart:** We have considered that carefully. My colleague met Tom Frawley to discuss his concerns. We feel that an amendment should be made. It is probable that the Commissioner for Complaints could have many dealings with children and young people in the conduct of his functions. Therefore, it is important that the commissioner for children and young people should have, within his or her remit, the operation of the Commissioner for Complaints.

Equally, it is important that children or young people who may have complaints about the commissioner for children and young people should have somewhere to take those complaints. Therefore, our commissioner should be within the remit of the Commissioner for Complaints.

*Schedule 3 referred for further consideration.*

**The Chairperson:** That completes the clause-by-clause scrutiny. Members received a further submission from Trond Waage, the Norwegian Children’s Ombudsman, and a response from the Committee for Education.

Is the Committee content that those are included in the final report?

*Members indicated assent.*

**Dr O’Hagan:** We are not at the final stages. I wish to have a clear understanding. If members wish to raise other issues, are we still free to make suggestions?

**The Committee Clerk:** The Committee has cleared certain clauses today. The Office of the First Minister and the Deputy First Minister has agreed to come back with wordings, and we shall have an opportunity to examine those, and to prepare the final report. We do not propose to go back over the clauses that have been agreed.

**Dr O’Hagan:** If members have particular concerns, can they still be raised?

**The Chairperson:** Any member can table an amendment at Consideration Stage in the Assembly.

**Dr Birnie:** I wish to clarify that we shall return to clause 24.

**The Chairperson:** That will take place at our next meeting on Wednesday 16 October — possibly.



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## NORTHERN IRELAND ASSEMBLY

*This report was not approved formally by the Committee prior to the suspension of the Assembly on 14 October 2002, but is published by order of the Speaker.*

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### COMMITTEE FOR THE ENVIRONMENT

Thursday 10 October 2002

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### PLANNING (AMENDMENT) BILL (NIA 12/01)

#### Members present:

Rev Dr William McCrea (Chairperson)

Ms Lewsley (Deputy Chairperson)

Mr Armstrong

Mrs Carson

Mr Coyle

Mr Ford

Mr McClarty

Mr Molloy

Mrs Nelis

Mr Poots

Mr Watson

#### Witnesses:

Mr I Maye )

Mr W Reavie ) Department of the Environment

Mr J Lambe )

**The Chairperson:** Welcome Mr Ian Maye, Mr Wilfred Reavie and Mr Jackie Lambe from the Department of the Environment.

**Mr Lambe:** I will begin with the Minister's letter to the Secretary of State, which we said he would be writing to seek approval on two issues. First, that the maximum fine that can be imposed in the Magistrate's Court should be increased from £20,000 to £30,000. That will apply to several clauses in the Bill, about which members had expressed concerns, and to two clauses in the Planning (Northern Ireland) Order 1991 which outline similar offences. Secondly, as I reported last week, the Minister had agreed to the creation of the new offence, and he is seeking the Secretary of State's permission for the Assembly to consider inserting that as an amendment to the Bill.

**The Chairperson:** The Committee requested that, so we are satisfied.

**Mr Maye:** The Minister felt that it was important to write to the Secretary of State as quickly as possible and we will be pressing for an early response. Given the current

political uncertainty, the Minister felt it necessary that the record should state that it was agreed.

**The Chairperson:** When was the matter supposed to go to the Executive?

**Mr Maye:** It went to the Executive last week and was agreed then. It was then forwarded to the Secretary of State.

**The Chairperson:** When you say that that went before the Executive Committee, were the increasing of the fine from £1,000 to £5,000 and the custodial sentence agreed?

**Mr Maye:** No. Those matters have yet to go before the Executive Committee. They are dealt with in the letter that the Minister sent to the Committee last week. We have booked a slot for that, and have prepared a draft paper to present to the Executive Committee. As normal, we will share that with the Committee as soon as it goes before the Executive.

**The Chairperson:** When did you send this letter to the Secretary of State? There is no date on the letter.

**Mr Maye:** We sent it yesterday.

**The Chairperson:** So it has been dated?

**Mr Maye:** Yes.

**Mr Lambe:** The Minister's letter to the Committee deals primarily with three issues that we discussed at last week's meeting and on 19 September. The first issue relates to stop notices. The Committee felt that stop notices should take effect immediately except when there is a specific reason for that not to be the case. The Minister has agreed to the Committee's request, and we will propose amendments to reflect that in due course.

The second issue concerns the article 40 agreements. The Committee saw merit in a suggestion from Lisburn Borough Council that not only should councils be consulted when an application is submitted to the Department to modify, vary or discharge an article 40 agreement, but that councils should be involved in a consultative role when an article 40 agreement is being drawn up. Again, the Minister has accepted the Committee's view on that, and we will propose amendments to the Bill.

The third issue concerns what the Department can do to protect trees, above what is provided by the Bill. The Department sought legal advice on that. Unfortunately, we have not received the advice. However, as soon as we have something more positive to report we will consult the Committee again.

**The Chairperson:** As you know, the Committee has strong views on this matter. We require legislation that does protect. When do you expect to have the advice?

**Mr Maye:** We are pressing for it, and we hope to have it within the next week or so. Mr Ford raised points

on several occasions concerning what can be done to protect the underbrush.

**Mr Ford:** I took that to be part of your continuing trees consultation.

**Mr Maye:** It is, but I just wanted to confirm that.

**Mr Ford:** Do not worry, we will be back after suspension to ask you.

**The Chairperson:** Last week, the letter from Friends of the Earth was forwarded to you. We have not yet had a response.

**Mr Maye:** We are not yet in a position to respond. There is a submission going to the Minister on that matter.

**The Chairperson:** However, can I take it that you considering the letter and will answer it?

**Mr Maye:** Yes.

**The Chairman:** This morning, the Committee received a letter from the under-secretary of the Belfast metropolitan residents group on the Planning (Amendment) Bill. We will hand that to the Department. We would not like you to go away empty-handed feeling that the Committee had not given you something to chew on and digest.

The Committee has gathered substantial evidence on the Planning (Amendment) Bill. This is an appropriate time to get it published. The factual evidence gathered so far is making for a weighty document. Do Members agree that this is an appropriate time to publish the evidence?

*Members indicated assent.*

**The Chairperson:** Factual evidence has also been given to the Committee on the Local Air Quality Management Bill. Do Members agree to publish the factual evidence?

*Members indicated assent.*

**Mrs Nelis:** It appears that Roads Service and the developer will not have to consult with councils. I appreciate that we are dealing with a separate Department. However, I have drawn the Minister's attention to a situation in Derry where a developer built houses on a road before it was abandoned.

**Mr Maye:** I am aware of that.

**Mrs Nelis:** People purchased houses in good faith but now cannot sell them as the developer has not constructed the road that he had promised when the other road was abandoned. This protracted case has been going on for months and there seems to be no resolution.

**Mr Maye:** I called a meeting with officials from Roads Service and planning officials from that area to see if we can find some way around that. I am sympathetic to the plight of those people. However, their solicitors did not provide them with a very good service, because the property certificates they received drew attention to

that issue. The solicitors should have acted on that at the time of the purchase of those houses. I want to look closely at the issue because those people are in a very awkward position.

**Mrs Nelis:** How can we prevent such things from happening again? The developer was obviously aware that the abandonment notices had not been served, and he was also acutely aware of the legislation, but he went ahead and built the houses and sold them on.

**Mr Maye:** It comes down to more stringent enforcement and Planning Service having the resources to check developments, rather than waiting until the problems are drawn to the Department's attention. That is a crucial element. In this case, the problems did not come to our attention until the purchasers had completed the sale of their houses, and then it was too late as the houses had already been built. The Department was faced with the choice of taking legal action, which could have resulted in those houses being demolished and taken from the property owners. We are trying to find some other way to address the problem. The way to tackle this situation is through stronger and more proactive enforcement.

The Department could tighten up the way in which it puts together the conditions that it applies to planning permissions. However, stronger and more proactive enforcement is the principal way of avoiding this sort of situation in the future.

**The Chairperson:** What was the position on advertisements — clause 21? You recommended a review of enforcement. However, is it acceptable that we should just wait for a review?

**Mr Maye:** At our last meeting I agreed to present the Committee with the review report when it is finalised and at that time I would listen to the Committee's comments and determine how best to progress the issue.

**The Chairperson:** When will that be?

**Mr Maye:** It is to be hoped that that will happen in the next few months.

**The Chairperson:** You were to come back to the Committee on the compensation issue.

**Mr Maye:** We have not been able to pull together the information as yet, but we will do.

**The Chairperson:** It concerns clause 22, which is very important. When do you expect to receive a response?

**Mr Maye:** We hope to have a response in the next week.

**The Chairperson:** It is an urgent matter. Thank you for coming. The Committee appreciates your help. Major issues are still to be finalised and Members trust that they will be finalised to the satisfaction of all. Thank you very much.

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## NORTHERN IRELAND ASSEMBLY

*This report was not approved formally by the Committee prior to the suspension of the Assembly on 14 October 2002, but is published by order of the Speaker.*

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### COMMITTEE FOR THE ENVIRONMENT

Thursday 10 October 2002

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### AREAS OF SPECIAL SCIENTIFIC INTEREST BILL (NIA 2/02)

#### Members present:

Rev Dr William McCrea (Chairperson)  
Ms Lewsley (Deputy Chairperson)  
Mr Armstrong  
Mrs Carson  
Mr Coyle  
Mr Ford  
Mr McClarty  
Mrs Nelis  
Mr Poots  
Mr Watson

#### Witnesses:

Mr D Leonard	) Department
Mr B Murphy	) of the
Mr G Seymour	) Environment

*The first 30 minutes of evidence not recorded due to technical difficulties; during that time clauses 4, 5, 8 and 10 of the Areas of Special Scientific Interest Bill were discussed.*

**Mr Poots:** Clause 12 deals with public bodies that are used to carry out work in ASSIs. Are there different sets of regulations for operators in ASSIs in that public bodies will be allowed to carry out operations in such a way as to give rise to as little damage as is reasonably practicable in all the circumstances, and then those bodies will restore the site to its former condition, so far as is reasonably practicable, if any such damage does occur. In clause 12(7) it states:

“This section does not apply in relation to operations carried out by the Department.”

In that instance, it seems that the Department can almost do what it wishes. Public bodies can do something less, and private landowners can probably do nothing at all.

**Mr Seymour:** Clause 12(7) has been added because you cannot write a piece of legislation about internal consult-

ation arrangements in the Department. The Department cannot consult itself in quite the same way. Legislators have added that subsection, as it is common sense.

**The Chairperson:** Is the inference from Mr Poots a reality?

**Mr Seymour:** I would like to think that the Department always follows the guidelines to the letter, but we cannot consult ourselves.

**Mr Poots:** Before the Departments were split, the former Department of the Environment could pollute whatever it liked and get Crown immunity, but it came down on private individuals and industries like a tonne of bricks. If you are asking me to put total faith in the Department to act responsibly at all times, I am afraid that, from past experience, I cannot do that.

Clause 12(7) should be amended in a way that would take some cognisance of previous clauses relating to public bodies when carrying out activities. The same precautionary approach should be put in place. Are public bodies treated differently from private individuals and landowners?

**Mr Seymour:** You are referring to services that were within the remit of the Department of the Environment but which now come under another Department and so would be subject to the provisions of this Bill. There is a slight difference between the arrangements for public bodies and private landowners. Mr Murphy has given the reason: it is recognition that public bodies have statutory functions. We have taken the line adopted in the English and Welsh legislation, the Countryside and Rights of Way Act 2000. We did not feel that there was a case to introduce more onerous restrictions on public bodies here than had been introduced in the rest of the UK, particularly in view of the fact that the current informal liaison arrangements between public bodies and us are probably much stronger in Northern Ireland than in Great Britain, where the authorities are more dispersed.

**Mr Poots:** But the onerous conditions are applied to private landowners.

**Mr Seymour:** They are serious and fairly onerous requirements, and they are supported later in the text by the section on offences. The aim is to ensure that public bodies set a very good example in the management of land within ASSIs and also in the way that they consent to other activities that could impinge upon ASSIs.

**Mrs Carson:** How many ASSIs are in the control of public bodies? The fact that there are three sections dealing with such bodies suggests that the number is large.

**Mr Seymour:** It varies enormously. Large parts of some sites, such as the Mourne and the Garron Plateau, are owned by a public body — in those two cases it is the Water Service. A public body can therefore be a very major landowner. In other cases, public bodies have functions that could affect ASSIs. For example, Northern

Ireland Electricity might have to cut a swathe through woodland to allow power lines to be erected. It varies, but from time to time all ASSIs could be affected by the activities of public bodies. The definition of “public bodies” would include statutory bodies such as Northern Ireland Electricity.

**Mrs Carson:** Mr Poots has rightly raised the fact that the sections do not apply to operations carried out by the Department. Clause 15, which deals with the power to carry out works, reads:

“The Department may carry out such works and do such other things on land acquired under section 14 as the Department thinks necessary or expedient”.

The Department seems omnipotent. You say that it will always do things correctly, but what power does it have over work done by subcontractors?

**Mr Seymour:** If you disregard the Driver and Vehicle Licensing Agency and the Planning Service, which are not involved in practical work, you are more or less left with the Environment and Heritage Service. It is very difficult to legislate for a Department trying to consult with itself. However, we abide by the principles. If wardens and site staff manage sites that we own within ASSIs, we ask them to apply for consent to us as if they were any other landowner. That is obviously not something that we can easily build into the legislation. However, we are at least seen to be following the same principles that we would expect other landowners to keep to.

**Mrs Carson:** Is that written into your notes of guidance?

**The Chairperson:** The Department’s duties should be no less onerous than the general public’s; that should be included. Quite honestly, the wording in clause 12(7):

“This section does not apply in relation to operations carried out by the Department”

is removing responsibility from the Department. The Department’s responsibilities should be no less onerous than those of the individual. He or she has far less money than the Department to deal with matters.

**Mr Seymour:** We could ask the Department’s legal advisers for guidance on that issue.

**The Chairperson:** Several people are concerned about the matter.

**Mr Ford:** I agree that it may be difficult to define that in the Bill, but Mrs Carson’s point is another example of why we must see proper guidance notes, which state that departmental officials are meant to take full account of the provisions.

**Mr Murphy:** Absolutely.

**Mr Ford:** Regardless of when guidance notes become official, it should be possible for the Committee to see a draft before the end of Committee Stage.

**The Chairperson:** Definitely, it is vital. Before the Committee approves the Bill we need to see what the guidance notes are tying the Department down to.

**Mr Murphy:** My recollection is that clause 12(7) was drafted following legal advice. However, as Mr Seymour said, we will reconsider it.

**The Chairperson:** Even with legal advice, the Department should cover its back.

**Mr Murphy:** Clauses 12 and 13 go together. It is the same procedure. Clause 12 applies to the body that wishes to carry out an operation, and clause 13 applies to the body that gives others consent to carry out an operation.

**The Chairperson:** Clause 14 gives the Department the power to acquire land.

**Mr Murphy:** This is an existing power, but the difference is that clause 14 removes the time restriction. It is a power of last resort. Mr Seymour will explain it more fully, but my recollection is that it has never been exercised for a compulsory purchase against a landowner’s wish. More often, the reverse has been the case, when landowners have suggested that the Department should purchase their land.

**Mr Poots:** I am unimpressed with clause 14. It gives the Department excessive powers. In my view, if land is to be vested, the process should go through a court, whereby a landowner can put his or her case as to why he or she wishes to keep the land. It is unreasonable that the Department can act as judge, jury and executioner; landowners can have land taken off them, and the Department can hold on to it for a while and then sell it to the original owner’s neighbour. Essentially, that can be done; it has not been done, and it may be unlikely that it is done but, nevertheless, the excessive power exists and could be exercised.

**The Chairperson:** Are you referring to 14(6)?

**Mr Poots:** Yes.

**Mr Murphy:** The safeguards that Mr Poots feels are necessary are contained in the Bill.

**Mr Leonard:** The key provision is clause 14(3), which states that

“Sections 97(2) and (3) of, and Schedule 6 to, the Local Government Act (Northern Ireland) 1972 (c. 9) shall apply subject to the modifications set out in Schedule 2 to the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 (NI 1) for the purpose of vesting orders under this section”.

That provision requires the Department to publish notice of its intention to make a vesting. It will give owners, occupiers and other parties the opportunity to make representations. If the disagreements cannot be resolved, an inquiry will be held, during which members of the public, owners and occupiers can make their points of view known. An inspector will then make a



report or recommendation to the Department, which can then decide to make the order; make it with modifications; or refuse to make it.

If the Department makes the order, and compensation matters arise that cannot be resolved — in other words, if an owner or occupier is unhappy with the amount of compensation that he or she has been offered — the case is referred to the Lands Tribunal for Northern Ireland for independent arbitration. Ultimately, all the clauses can be subject to judicial review.

**Mr Poots:** That is another matter. Judicial reviews are extremely expensive. That would not give a landowner enough cover to seek a judicial review against the Department. Essentially, you said that the Department would bring the case and decide on it. That is wrong in principle. Someone, independent of the Department, should decide on the merits and demerits of the case. The Department is right to bring the case, and is within its powers in doing so; however, it is unreasonable that the Department should decide on it. The Department will almost certainly come down on the side of its own officials.

**The Chairperson:** The response you made earlier goes against this one. You said that the Department cannot talk to itself. Surely it could not be common justice, in any legal sense, for the Department to bring an action and then determine that action.

It goes deeper. Mr Poots referred to clause 14(6), which says:

“Where the Department is of the opinion that any land acquired under this section would be more expediently or efficiently managed or conserved in the public interest by any other person, the Department may convey (either for value or otherwise) that land to that person.”

Under that subsection, the land can be taken from one person and, as Mr Poots rightly said, given to a neighbour.

**Mr Seymour:** Perhaps the answer lies in the guidance notes, to which we have referred on several occasions.

**The Chairperson:** It cannot lie in the guidance notes, because there are none.

**Mr Seymour:** We have used the term before. This is a power of last resort, which is already in our legislation. We are only extending the circumstances in which it may be used. At the moment, the power is constrained to a maximum period of nine months after a consent application has been received. It is very time-bound.

**The Chairperson:** The reason you give has not washed with the Committee in the past. We are not living in the past. The Committee has responsibility to examine legislation and, if it puts its finger of approval on legislation, then that legislation is approved. If the Committee feels that a power, irrespective of whether it was given in the past, is not right or relevant for society, it has the right to make that determination. If the Committee feels strongly about the matter, it can ensure that representation is made until such a power is removed.

We are talking about legislation that is coming into effect under the Bill. There may have been such a power in the past but that, in itself, is not an argument. I am not saying that just because there was a power in the past then there should not be the same power in the future, but saying that it exists is not a good enough reason for its being in this specific Bill. Members are raising concerns about that power. Clause 14(6) specifically says that where, in the opinion of the Department,

“any land acquired under this section would be more expediently or efficiently managed or conserved in the public interest by any other person —

“Person”, not “body” —

“— the Department may convey (either for value or otherwise) that land to that person.”

That power is very wide-ranging.

**Mr Murphy:** I shall ask Mr Seymour to address the latter point. I take your point concerning legislation. We must start from the basis that we are required to serve and protect those areas that are of special interest to us. Our basis comes from conservation.

We exercise this particular power only when we are satisfied that we have been unable to conclude a management agreement on reasonable terms or that the landowner, having entered into such an agreement, is not living up to it. We might then seek to use that power. In doing so, however, we are constrained by what Mr Leonard outlined. In a sense, that is where we are coming from in the legislation.

I know the intent of clause 14(6), and Mr Seymour will speak about that. Normally, it has been applied when conservation bodies agree to manage a particular piece of land: the power allows us to let them do just that. That is the sense of the power.

**The Chairperson:** There is nothing about “bodies” in clause 14(6). It refers to a “person”.

**Mr Seymour:** The wording is also trying to reflect the circumstances where we acquire land but want to lease it to a neighbouring landowner for the purposes of grazing, for example. There might be circumstances when we would want to do that.

**The Chairperson:** So you take it off one person and instead of leasing it to the person whom you took it off, you lease it to the neighbour?

**Mr Poots:** No, it does not say that. It says, “may convey”. Conveyance relates to the sale of land; it does not deal with leasing.

**Mr Seymour:** It is trying to cover a range of possibilities in a broad sense so that we can act in the most flexible way possible for the benefit of the land management. We are happy to reflect on that and whether that wording needs to be quite so open-ended.

**The Chairperson:** In response to Mr Poots's first point, Mr Leonard confirmed that the Department was bringing an issue and was determining the same issue. You cannot talk to yourselves or apply directives to yourselves, as you told us a moment ago.

**Mr Seymour:** This power is built around the Government's powers of compulsory purchase across the board. I am confident that the Department's powers of compulsory purchase in other aspects would be exactly the same. It just builds on those powers, including the ability to hold an inquiry.

**Mr Armstrong:** Although I missed the beginning, it seems that there is little thought left for the person that owned the land in the first place. The Department is judge, jury and executioner. You seem to be a law unto yourselves.

**Mrs Nelis:** I am concerned by the number of times you mentioned "power of last resort" in response to questions this morning. My considered opinion is that the law is always used as a power of first resort rather than of last resort. It is not good enough to say that we should approve clauses in the Bill that give the Department sweeping powers that you tell us may be used as a last resort. Neither private landowners nor we have any guarantee of that. Using a statutory power as a last resort is not a good enough explanation.

**Mr Seymour:** One can reflect upon our existing powers of compulsory purchase. We have not used those in 17 years. That is our track record to date. I realise that we are looking to the future, and this must perhaps be spelt out in the guidance notes, which we have talked about. Our track record is that we have not used the power of last resort.

The last thing on earth we want is to acquire many bits of land all over the country, which we cannot manage ourselves. The power would be used only in extreme circumstances where the integrity of a whole site — a site that perhaps has a European designation — is being threatened or damaged because of one activity on one particular piece of land. That might be because of an absentee landowner or perhaps because of a landowner that cannot even be traced. We are often faced with a situation where we cannot even trace a landowner.

**The Chairperson:** You may be referring to England and such places when speaking about absentee landowners. We are talking about Northern Ireland where there are very few absentee landowners.

You mentioned that the Department was looking at the issue from the point of view of conservation, but so is the Committee. Let it not be suggested that the Committee is ignoring that issue. However, we are concerned about sweeping powers. The powers may have been in existence but were not exercised in the past; however, the Committee must give approval to certain provisions, and just because

some things have happened in the past, it does not mean that the Committee will approve their happening in the future. Subsection 14(6) causes me deep concern.

**Mr Murphy:** I apologise unreservedly if it sounded as though I was implying that the Committee was not concerned about conservation. I was trying to put two things into context and show how the Department is concerned about the future. The nature of land owning and management over the next 25 or 30 years will change because of, for example, CAP reform, the changes in food production, and all the issues that face farmers in Northern Ireland.

The second aspect is the presumption in European law that you protect areas of special scientific interest. The Bill is helping us to comply with that European legislation. Our division deals with increasing amounts of legislation coming from Europe, which is often viewed as being restrictive and imposing powers on Departments and agencies. That is the climate in which we have to operate.

European legislation is continually being strengthened in certain areas. On the other hand, the Department recognises that the nature of land management will change during the next 25 years, and the Bill is trying to reflect that in its tenor and tone. The Department's approach to consultation has been one of partnership and seeking agreement.

**Mr Ford:** No reasonable person could object to the terms in which you outlined certain concerns, such as the integrity of a significant site being at risk, or the matter being dealt with as a last resort. It seems that clause 14(2) is much looser. One might conclude that clause 14(2)(a) suggests that even if land is being managed properly, but the owner does not want to enter into a formal agreement, the Department might exercise its right to vest the land. Although, that was clearly not the tenor of your remarks, it is how I, as a layperson, read the clause.

Could the Department strengthen the form of words used in clause 14(2) to indicate that the circumstances in which the Department would act would be more extreme than the Bill seems to indicate? That would not address the concerns about the matter of disposal in clause 14(6) but it might address some of the Committee's concerns.

**Mr Seymour:** The Department will examine that clause. The point of clause 14(2)(a) is that it is a safeguard. The Department must demonstrate that it has attempted to seek a management agreement. It cannot vest land easily. However, if my colleagues are happy, we will examine the clause again and see whether the wording can reflect that vesting land is a last resort.

**Mr Ford:** It seems that minor amendments to clause 14(2) might make it clearer.

**Mrs Carson:** How much of the Bill is unique to Northern Ireland, and how much has been lifted en bloc

from the Countryside and Rights of Way Act 2000 or the Scottish legislation that was passed?

**Mr Seymour:** The Scottish legislation is still progressing. The Northern Ireland legislation is not lifted en bloc because the Department's consultation exercises brought us down slightly different routes. However, the laws are comparable in severity and breadth of measures. Therefore the Northern Ireland legislation is comparable without being identical to what is being introduced to England and Wales.

**Mrs Carson:** What parts are different?

**Mr Seymour:** It would take a long time to go through all of the differences. There are subtle differences because Northern Ireland's processes are slightly different. The clause concerning the compulsory purchase powers — the powers to acquire land — is more or less identical to what is being introduced in England and Wales. It is what has already been introduced through the Countryside and Rights of Way Act 2000, and it is a relaxation of the current time constraints on which one can use compulsory purchase as a power. That was introduced into England and Wales, and it is virtually identical here.

**Mrs Carson:** Therefore the clause related to acquiring land is just a mirror image of what has gone through in the Countryside and Rights of Way Act 2000?

**Mr Seymour:** Yes, but with different references to Northern Ireland legislation.

**Mrs Carson:** But basically you have transposed the Countryside and Rights of Way Act 2000 en bloc.

**Mr Seymour:** Yes, for clause 14.

**Mr Murphy:** I shall explain the process, Mr Chairperson. There was a lengthy consultation, of which you are aware. It was never the Department's intention to lift the countryside and rights of way legislation. We wanted to produce legislation that suited the requirements of Northern Ireland. However, when it came to the nitty-gritty we looked to the Countryside and Rights of Way Act 2000 to see if the suitable and appropriate legislation could be lifted from it. As Mr Seymour said, in many instances legislation has been lifted but in other cases it has been tweaked to suit the Northern Ireland circumstances. We started off to produce legislation which would be applicable to Northern Ireland but which reflected the similar pattern across the UK.

Clause 15 enables the Department to carry out work necessary to protect the integrity of an area of special scientific interest where it has acquired land.

Clause 16 deals with powers of entry. It allows officials to go onto land to inspect or check on the integrity of an ASSI and to see whether it has been damaged. Safeguards are in place which state that the Department must speak to the landowner to get permission to go onto the land.

The necessity of that power was recognised, and exists because of damage being caused by third parties without the permission or knowledge of a landowner, but it allows the Department to inspect the site.

**The Chairperson:** Has that been checked by the Human Rights Commission?

**Mr Leonard:** The entire Bill has been cleared by the Human Rights Commission.

**Mr Murphy:** It is similar to powers that already exist for officials in the Planning Service and the Department of Agriculture and Rural Development.

**The Chairperson:** I see that the Ulster Farmers' Union suggested an independent body to oversee the use of the Bill.

**Mr Murphy:** The Department was not sure what the Ulster Farmers' Union meant or how its suggestion would be exercised. One must look at the practical application of the Bill. As the law stands, if we want to go onto their land we seek permission from the landowner. We are not quite sure what independent mechanism would be required.

**The Chairperson:** Have you asked the Ulster Farmers' Union for an explanation?

**Mr Murphy:** We were given an explanation but it did not make things any clearer. We met with representatives from the union a couple of weeks ago to discuss several issues. I think that they are concerned that we might enter their land without permission.

**The Chairperson:** Have you any documentation from them?

**Mr Murphy:** We have written to and met them, but we have no documentation from them other than the response to the consultation.

**The Chairperson:** We want to find out what that point is.

**Mr Murphy:** Clause 17 deals with the power to make by-laws. Clause 18 covers offences, and relates to the requirements of clause 5. Clause 18(2) and 18(3) cover how we might deal with public bodies. I feel that it complies with clause 12. It will become an offence to intentionally or recklessly damage an ASSI — there is no such provision in existing legislation.

**Mrs Nelis:** I am not familiar with this issue. Can you give an example of how someone could intentionally or recklessly damage a site?

**Mr Seymour:** Under current legislation, an offence is committed only if someone carries out an operation in an ASSI without notifying us in advance or seeking our consent — that provision applies only to owners or occupiers. People who fall outside that bracket — the so-called "third parties" — are not committing an offence



if they carry out an activity that damages an ASSI. The clauses are largely intended to pick up on those individuals.

In practice, it is deemed to be reasonable that people are at least informed that they are carrying out an activity within an ASSI, and that they are damaging the site. If, having been thus informed, they continue to carry out that operation, they are considered to have intentionally or recklessly damaged the site and therefore to have committed an offence.

**Mr Murphy:** Another example is fly-tipping. Third parties often dump rubble in wetland areas, especially in County Down — sometimes they do so in the middle of the night. That is an example of reckless damage and that is the sort of activity that we are trying to stop.

**Mrs Nelis:** Ramblers may plough through ASSIs.

**Mr Seymour:** It is unlikely that a group of ramblers would do much damage to an ASSI. However, if they did, one could not say that their actions were intentional or reckless unless they had been warned that the activity in which they were about to engage would damage the site. It is intended as a safeguard for people who perhaps innocently take part in an activity that causes damage.

**Mr Murphy:** Clause 19 relates to the powers to require an offender to restore and make good as far as practicable the damage caused by their activity.

**The Chairperson:** Is the Committee's emphasis on the need for restoration to be extended to public bodies covered by clause 19?

**Mr Murphy:** Yes.

**Mr Leonard:** Clause 19(1)(a) applies the principles of restoration where offences have been committed by public bodies.

**Mr Murphy:** Clause 20 has been carried forward from the existing legislation, which requires that the Department, the council and any other bodies have regard to the needs of agriculture, forestry and fisheries.

**Mr Murphy:** Clause 21 deals with the issue of Crown immunity. I noted the Committee's comments on that issue.

**Mr Ford:** Can you explain subsection 2 which deal with the non-application of sections 5 to 10?

**Mr Leonard:** This goes to the very heart of Crown immunity. One arm of the Crown will refuse consent for an operation to be carried out by another arm of the Crown. This is a cross-cutting matter that extends across the issue of government throughout Northern Ireland.

**Mr Ford:** If that is the case, why does it need to be spelt out?

**Mr Leonard:** I think that it was done on the advice of the draftsman.

**Mr Ford:** It surprises me that it was included at all.

**Mr Leonard:** Given the general presumption of Crown immunity, it surprises me that it was deemed necessary to spell that out in the Bill.

**Mrs Nelis:** I share Mr Ford's concerns. Many areas of scientific interest, such as the parkland at Magilligan, have already been damaged by the fact of Crown immunity. Will Crown immunity be subject to EU legislation?

**Mr Murphy:** I do not know. As a consequence of this and concerns that the Committee has in respect of other legislation on Crown immunity, we have begun to examine the matter. As Mr Leonard said, it goes way beyond this piece of legislation. It is a cross-cutting matter that would require decisions to be made by the Executive. We are taking advice from lawyers on the various aspects of the matter, with a view to making proposals to the Minister on how progress could be made. Assuming that we wished to do something about this, proposals would have to be tabled at an Executive meeting for discussion, because it has implications that go way beyond the Department of the Environment's responsibility.

**The Chairperson:** It has been mentioned on several occasions in the past that failures in action of a Department are treated differently from those of an ordinary citizen. That is not a sustainable position.

**Mr Murphy:** That is a widely-held view, and not just within the Committee. It has been the subject of some discussion at UK level. The possibility of a challenge could be being considered at European level. I do not know whether it is. However, it would not surprise me.

**Mrs Nelis:** I accept your point about crown immunity being cross-cutting. The Committee is aware of that. However, can crown immunity be legally upheld within EU legislation? That issue must be investigated.

**Mr Murphy:** As I have explained, the Department is already examining the issue of crown immunity. It must first seek legal advice.

**The Chairperson:** The issue goes beyond the Department's remit.

**Mr Murphy:** Clause 23 provides the transitional arrangements from the current legislation to the new legislation. There are various requirements. One requirement, which was introduced as a result of consultation, was that management statements would be issued to existing ASSI landowners. That is included as part of the transitional arrangements, which will be applied over a period of five years. Five years seems like a long time. However, the requirements will be labour-intensive, because there are 5,000 landowners.

**Mr Ford:** I am delighted that the Department will manage to complete the review within five years. According to the explanatory and financial memorandum, it believes



that it has the necessary resources. I am not convinced of that. However, I accept its assurance. The Committee wants the Department to live up to that assurance.

**Mr Murphy:** In the present climate, the Department of the Environment's resources are being looked upon

more sympathetically, due to the efforts of both the Department and the Committee.

**The Chairperson:** That is the end of the consultation. Several matters must be considered afresh. Thank you for your assistance.



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## NORTHERN IRELAND ASSEMBLY

*This report was not approved formally by the Committee prior to the suspension of the Assembly on 14 October 2002, but is published by order of the Speaker.*

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### COMMITTEE FOR ENTERPRISE, TRADE AND INVESTMENT

Monday 14 October 2002

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### ENERGY BILL (NIA 9/02)

#### Members present:

Mr P Doherty (Chairperson)  
Mr Neeson (Deputy Chairperson)  
Mr Armstrong  
Mr Clyde  
Mr McClarty  
Dr McDonnell  
Mr McMenamin  
Dr O'Hagan  
Mr Wells

#### Witnesses:

Sir Reg Empey	)
Mr J McKeown	) Department of Enterprise,
Ms H Vaughan	) Trade and Investment
Mr J Wolstencroft	)

**The Chairperson:** I welcome the Minister of Enterprise, Trade and Investment. Mr Jim McKeown, Ms Helen Vaughan and Mr Jim Wolstencroft from the Department of Enterprise, Trade and Investment are also present.

**The Minister of Enterprise, Trade and Investment (Sir Reg Empey):** I will make a few introductory remarks and then answer Member's questions. Bringing the Energy Bill to the Committee represents a milestone for the Department; it has been a huge body of work. Now that the Bill has passed Second Stage, it is appropriate to get on with it. Despite the difficulties of the situation today, it is important that we proceed with this to make clear the will of the Assembly with regard to this legislation.

I will briefly address a few matters that were raised during the Second Stage of the Bill. Afterwards, we can use the time to focus on the relevant issues and on concerns that have been expressed about any of the provisions in the Bill.

It was said that we were slavishly following Westminster legislation, but that is not the case. The Great Britain Utilities Act 2000 has been used as a model, although

only in certain respects, and it has been tailored to best suit Northern Ireland. Although the provisions in the Energy Bill which establish the new authority here follow that model, I have made it clear that the legislative process will not be used to create a structure anything like that in place in GB. My intention is for the authority here to comprise a very small number of energy experts and for the existing regulator to chair it. Therefore we are not talking about the establishment of a huge organisation. The new consumer representation arrangements are totally different from anything in Great Britain. The Committee and the Department agreed on the form of that representation, and there is good support in the community for it.

There is also the renewables obligation, which is to ensure that, once the necessary amendments are made to the legislation in Scotland and Great Britain, trading of renewables obligation certificates can take place on a UK-wide basis. There are provisions in the Bill that are peculiar to Northern Ireland. Those include the postalisation arrangements and the provisions designed to separate out the systems operator function on electricity and, if required, on gas. Furthermore, a number of matters were raised in the debate, such as the abolition of the Government royalty tax on oil and gas; extension of a climate change levy; exemption for natural gas; and the future of the nuclear industry. All those issues fall outside the scope of the Bill, but I have no doubt that we will pursue them at another time.

The other common theme running through the debate was fuel poverty. Primary responsibility for that lies with the Department for Social Development, which is currently preparing a strategy to tackle the problem. The Department has identified no legislative requirements for implementing such a strategy. However, the Energy Bill rightly identifies consumers with low incomes as a vulnerable group. I referred to that on several occasions in response to Members' questions.

Another issue raised in the debate was public appointments and how people become eligible for them. That is a huge issue, and it goes to the core of a number of matters, and we have to examine that closely. There is a prima facie case that in our attempts to be fair and open we may have created hurdles that some people, particularly those from vulnerable groups who suffer from fuel poverty, might find hard to get over. We must remember that 170,000 households in Northern Ireland are in that category. I am guessing, but I suspect that if a trawl were carried out, hardly any applications for public appointment posts would come from those households. We have to examine that issue in general, not specifically in this matter.

Electricity prices have caused the greatest concern, and the Department has been railing against those since devolution. Another issue was bonds and spreading costs of the existing generator contracts over longer

periods, which is a kind of remortgaging. That may have fallen out of favour because of its “save now, pay later” dimension. However, we are being asked to consider the substitute mortgage option — a levy provision — that would enable existing financing arrangements to be substituted by more efficient deals based on security of revenue stream from customer payments. The provision in clause 31 may offer that facility, and the proponents of this option are examining that. However, in the debate I said that the Department would have to examine that area as the Bill passed through the Committee and beyond.

There are other issues with regard to reducing prices. However, until those have developed into specific proposals, we cannot predict what legislative provision may be required. It may be that adjustments to regulatory arrangements would be sought for the oversight of such a body, but it is too early to predict the implications.

I dealt fully in the debate with the difficult decisions ahead concerning the development of renewables, and that goes to the heart of many Members’ concerns. The Department is continuously asked about renewables and about the setting of targets. I am at one with the Committee on the importance of that matter; however, we need to be clear about the distinction between the provisions in the Bill, which I am satisfied provide a flexible platform on which to build, and targets for renewables. No targets have been set for renewables. Some people have said that it is a done deal, but it is not. The Department is looking at the energy strategy. Having looked at that and carried out consultations, the commitment was that a target would be fixed for later in the year, but that was going to be done after further discussion. Nothing is formally concluded in that matter. The targets will be set out as we move through the strategy.

I also mentioned gas postalisation. The Committee knows that those provisions are causing some concern, and has had correspondence to that effect. A balance must be found between the necessity for provisions to implement postalisation — which is an absolute requirement for the gas project to proceed — and the concerns of the industry if those provisions have to be imposed through licence modifications. This is a complicated issue. The regulator and the Department are working with the parties concerned to see if agreement can be reached.

I have written to the Secretary of State to say that I give the highest priority to the Energy Bill, especially to the postalisation provision. I emphasised that the Bill cannot be abandoned during any suspension of the institutions. The gas project and the construction of the power station at over £200 million are critical, and these requirements are necessary to allow that to proceed. I would welcome the Committee’s support for the provisions of the Bill, regrettably proceeding now by Order in Council, to enable that assurance to continue.

Today, our time will be best spent confirming our joint support for the Energy Bill and identifying and discussing the areas where some adjustments may be required.

**Mr Neeson:** Minister, thank you for your briefing. During the debate you emphasised strongly that the Committee was considering putting in an amendment relating to some form of financial mechanism to deal with the long-term contracts. It would be helpful if you were to confirm if such an option would be provided in the Bill, even though the option might never be taken up. The Committee completed its report on industrial derating last week. At lunchtime some Committee members met with a major local company, and one issue that was mentioned, and which keeps cropping up, was the high cost of electricity. Therefore it is important that the legislation contains some mechanism to at least provide the option to deal with that.

**Sir Reg Empey:** There is no ideological problem here. The issue is about finding what works. For a number of years, there has been a linkage and a justification for the industrial derating of the manufacturing sector. Part of the rationale in favour of industrial derating was that electricity prices have traditionally been higher here than they are for our major competitors. Improvements made in the past few years such as interconnection, the Moyle interconnector and gas interconnection have improved the whole structure and environment and will ultimately have a positive impact, as will the construction of new generating plant, which will bring more efficient electricity generation to bear.

Initially, the matter looked pretty simple. A contract extends for “X” amount of years and is financed because a private company must get “X” amounts of return, which therefore adds to the cost. If we bought those contracts at a lower rate we could pass on the savings to the consumer. It looked like a fairly straightforward proposal. However, on closer examination, it is not that simple. I said in the debate that I was open to ideas and that we would consider seriously any of the Committee’s suggestions on the matter. The most important thing is to ensure that consumers are not left with those stranded costs. We have already taken measures to try to avoid that by way of the financial mechanism. We need urgent feedback from members — either in their capacity as former Committee members or as party members — on the provisions in clause 31 because they could go some way towards providing a mechanism. I hoped that we would have had the opportunity to tease ideas out at Committee Stage. Again, there is no ideological problem; it is a question of what will work for us, and more importantly, what will work for the customer.

**Mr Wells:** I want to pick up on the issue of stranded costs. We wanted the provision to be enabling rather than mandatory. Therefore the final decision on whether to trigger it would be down to the Minister — we thought that would be you, but it will obviously be somebody else now. Are you suggesting that if the Committee can reach a conclusion on this matter today, the legislation will proceed as an Order in Council with a note attached stating that the matter has been agreed?



**Sir Reg Empey:** First, I cannot guarantee what any successor will do. When we prepared the legislation we were under the cosh of time — we had limited time to prepare a complicated Bill. It became clear during the debate on Second Stage that the Committee would probably make some amendments. The issue was flagged up by several members, and we heard about those concerns on the grapevine. I expected that the Committee would introduce an amendment to which the Department could respond, or that the Department would introduce one to which the Committee could respond, or, indeed, it could even come up at Consideration Stage. Those options were available. The chances of a successor Minister's including the necessary provision in the legislation would be enhanced if the Committee were clear about what it wants. Such a decision from Committee would be helpful, if that is the direction in which it wishes to move. It is important to get a clear sense of the Committee's view in Hansard as opposed to delivering letters today. That would be adequate — we do not need to run about with bits of paper today.

I am not totally satisfied that there will be a rush of people to fill the void on the financing side. However, clause 31 enables a levy to be applied. My advice is that the Committee should make its views clear in the Hansard report of this meeting. I have no ideological problem with it. It is an enabling clause. Parliamentary draftsmen are nervous about Government accruing enabling powers unless there is a genuine intention to do whatever the powers would prescribe. That is my only issue with the matter.

**Mr Wells:** Can we discuss the mechanics of the Bill and how it will be dealt with? This is the last Committee meeting that will be held in this Building for quite some time. It is clear, therefore, that from midnight the Bill goes into an Order in Council situation, straddling the end of devolution and the resumption of direct rule. We were in Coolkeeragh in Londonderry in June, where it was made abundantly clear to us that if postalisation does not go ahead, the gas pipeline to the north-west is simply a dead duck. One of their experts was flown in to tell us to get it through quickly or Coolkeeragh would be doomed. That is being totally blunt about it.

Is there any indication that moving to an Order in Council could delay the legislation? What are the mechanics of getting it through over the next few months?

**Sir Reg Empey:** No incoming Minister is under any obligation to do anything, Mr Wells. They can leave pieces of legislation half finished if that is what they want. I have emphasised to the Secretary of State the critical nature of the points that you have made. I know that a project that we have all worked on for many years is critically threatened unless there is legislation.

I, therefore, expect and hope, but cannot guarantee, that a successor Minister will wish to take an Order forward. We are in a good position for that to happen because the Second Stage has been completed and the

will of the Assembly on the principle has been established. I am glad that this meeting is taking place today, because it would be helpful for an incoming Minister to see that there is widespread support for such a measure.

Earlier this morning I was given reason to believe that I would be consulted on several matters. I would welcome a clear statement by the Committee along the lines expressed by Mr Wells, because I share that view. The more of the Bill that is deemed to be an agreed position, the more of it is likely to appear in an Order in Council.

Any amendment would have to be accepted by a new Minister before an Order in Council is made. As you well know, from the bad old days to which we are unfortunately returning, once an Order in Council is laid it is not subject to amendment. After a debate of an hour and a half, it is take it or leave it. Everything that we want in that Order, assuming the Government will take it forward, must be agreed now. We must insert those amendments before it becomes an Order and is laid before Parliament. Once it goes onto the Floor of the House of Commons, it cannot be amended.

Therefore I would support the Committee in emphasising that. I have already made that clear to the Secretary of State. I have conveyed my views forcibly to the Chairperson and the Deputy Chairperson of the Committee today. They know where I am coming from, and I urge you to proceed this afternoon to get that onto the record.

**Dr McDonnell:** I welcome the Bill as a good move in the right direction. I wish to digress a little from the content of the Bill. Is there not a strong case for the full-blown energy agency that myself and others have suggested previously? There is a need for aggressive proactivity on the question of energy, as you have shown, Minister. There are questions about the long term, about keeping things going, and about building confidence. Is there not a case to follow that up at some stage? Or is that a bridge too far?

**Sir Reg Empey:** The member may have answered his own question with his last remark. It is a bridge too far at this stage. We have to distil the matter down to the critical issues. We have already mentioned the critical issues in this Bill. The member has raised his suggestion on the Floor once or twice over the last six or nine months, and the idea is not sufficiently firmed up. We were talking about having this Bill introduced into law by early spring 2003. In view of that parliamentary timetable, there is no way that the issue could be incorporated into any piece of legislation, however meritorious the idea may be.

We would therefore be far better to concentrate on what is deliverable. I strongly urge the Committee to focus on that. By putting certain key issues into the record of your proceedings today, you would demonstrate unanimity of support, albeit with possible qualifications and amendments. The Minister will be provided with the Hansard transcript

of today's meeting. That will ensure a better chance of getting the necessary critical pieces of legislation through. I do not believe that any fresh initiatives have the slightest chance of being implemented within the sort of timescale suggested by the member. Indeed, it has been pointed out to me that, if you introduced new provisions, there would have to be an entire consultation process. We certainly do not have time for that.

**Dr McDonnell:** I entirely accept that, and I am quite happy for Hansard to record my unreserved support for what we have done here; it is a very large step in the right direction.

Perhaps you might comment on a point which occurs to me again and again. I have scribbled down some of the issues such as renewable energy and fuel poverty. Those are both very much cross-cutting themes and therefore require some sort of cross-cutting agency to drive them forward. Electricity prices generally and the question of bonds are perhaps easily enough dealt with in the Department, and the same is true of gas postalisation. However, I am concerned at not being able to do enough on renewable energy and fuel poverty.

**Sir Reg Empey:** The Department for Social Development is preparing a strategy; probably no further legislation is required to effect it. Progress is being made, and pilots have already been conducted. One is running in my own constituency. Although I should have preferred the take-up to be better, the outcomes and outputs are extremely positive on an individual level.

I have seen the transformation in people's lives and health for comparatively small sums of money. If those people enjoy better housing conditions and health, they are less likely to be stranded on hospital trolleys with respiratory illnesses, and so on in the winter months. Virtually everyone who spoke in the debate last week mentioned that at one stage or another. Some statistics describe the number of people who die every year as a result of fuel poverty — effectively dying of cold. The figures are greater than for those who died as a result of terrorism in each of the last 30 years. As a general practitioner, the member will know only too well from his own casebook whether I am right or wrong. There is a wonderful opportunity. If the Assembly is reinstated at some point, it will certainly have an opportunity to do that. It would change people's lives very dramatically for comparatively small sums of money, something that, in a cost-benefit analysis, would release public money for other purposes.

**Dr McDonnell:** Is there any way that renewables can be driven forward?

**Sir Reg Empey:** There are several provisions. The question of opening up a trading zone for the United Kingdom as a whole in renewable certificates will require legislative change in Scotland and England, and the request

for that has been put forward to the Scottish Executive and to the Department of Trade and Industry in London. The whole renewables scene is becoming very exciting; however, in the debate we referred to a dilemma. Everyone wants renewable electricity. In fact, more people in Northern Ireland are prepared to pay a premium to get it. Proportionately, more of Northern Ireland Electricity's customers pay a special tariff than in any other part of the United Kingdom. That indicates a desire for that to happen. Moreover, climate changes may be connected with the way in which we provide our energy sources and how we use or abuse energy.

We must take care not to be overly ambitious when setting targets. Wind will be, and will remain, the major source of renewable energy in Northern Ireland for the foreseeable future. The windmills that capture that energy will be in places of prominence — for example, on top of mountains or offshore. In either case they are in, close to, or adjacent to, areas of outstanding natural beauty and will, therefore, run up against people's perceived quality of life with regard to issues such as tourism and amenities.

Those are huge dilemmas that we must resolve as a community. Anyone who thinks that that can be done for nothing is mistaken; it is going to cost. As I tried to point out at the Bill's Second Stage, there are other forms of renewables, such as anaerobic digestion, combined heat and power (CHP) schemes and willow. There are several other issues out there, and they all have their contribution to make. Some of those other forms have the capacity to provide a steady stream of electricity, whereas wind, by definition, is intermittent.

The problem of our ability to distribute wind-generated electricity has not received much attention. That is because its erratic nature — on or off, high or low — requires a huge burden to be placed on the current distribution system. The spillover from the different power plants that produce wind electricity is erratic. That puts a huge strain on the distribution network, which will require reinforcement and a great deal of investment. It could even cost as much to restructure the distribution network as it costs to provide the sources of generation. I cannot stand over that for certain but, as far as I can gather, that is so in the general run of things. We must understand that when setting targets. There is no point in our talking about our uncompetitiveness because of our higher electricity prices if, in the same breath, we impose a significant price increase on our consumers as a result of too high a target for renewables. The balance must be struck. I do not say where that balance is, because we must debate that as a community.

It was my expectation, as we move forward with the development of the strategy, that this debate would take place when we had hard and fast figures on what is involved. I inject that note of caution into the debate because that issue must be dealt with. We are all in favour of renewables, and I am no exception. However, we must take into account what we are asking the consumer to bear.

The Department would argue that the Bill provides a flexible platform so that whatever size of target we set, we have a provision to deal with it. It provides a support mechanism for the renewables obligation so that trading can take place over a much larger area, and it provides an enabling power for even EU trading. We have the geometry much better into place as a result. Basically, the target is a matter of costs and the physical provisions of the grid, rather than with the legislation, and that debate must take place in one form or another. It would have been preferable if we were able to deal with it ourselves. However, we will have to deal with it in a different way.

**Dr O'Hagan:** I met members of the General Consumer Council to discuss representation for the fuel poor. Notwithstanding the difficulties there, has your Department given any thought to how it could represent the fuel poor?

**Sir Reg Empey:** Other members have mentioned that matter too. Six members of the General Consumer Council for Northern Ireland currently work with the fuel poor because of the nature of their occupations, and that is coincidental. When we choose members for that council — indeed, a competition is under way for a chairperson — we try to get a broad range of people who understand. Therefore that is already picked up in the criteria for membership. However, that raises a wider point about whether, in setting out the present Peach-type provisions for public appointments and setting out requirements and qualifications, albeit to have fairness and openness, we are allowing a large slice of the community to fall down the grating. That is a wider debate than just energy. It affects public appointments per se.

I had a meeting with Dame Rennie Fritchie, who currently advises the Government on those matters, and I have a feeling that the pendulum has swung too far in favour of complicated procedures and interviews. Sitting before a panel of senior people, even though they may try to be as independent as possible, is an intimidating process. I wonder how many people who are in those circumstances will get past the initial stages of meeting the minimum criteria. How will they cope with the interview process? Yet those are the people with the experience. Even though there are people on the council who faithfully represent the views of the people they encounter in their day-to-day work, the reality is that we will not have the same genuine response and information — however well meaning those folks are — that we might have from someone who is in that position. As a community, we must examine the whole aspect of public appointments. Maybe we need certain derogations to encourage particular groups to get involved. Maybe we should look across the board to see if we can involve people. It is an intimidating and difficult process, even for senior people, whether from a business, trade union or political background.

It is not an easy job. Nevertheless, it cannot be left to Ministers or senior officials to pick people at random,

however fairly they may try to do that, because they will always be open to allegations of favouritism. As a community, we need to look at all of that and see if we can make it easier for people in those positions to have reasonable expectations of aspiring to hold such a position.

**Dr O'Hagan:** How much do you think the imminent suspension will change the timetable of the Energy Bill? Will it change it at all?

**Sir Reg Empey:** With regard to the previous matter the chairperson of the General Consumer Council for Northern Ireland, Joan Whiteside, is willing to talk to any Committee members about appointments. The General Consumer Council for Northern Ireland has a power of co-option for people with particular expertise, but some steer must be given. That may exist in the case of the General Consumer Council for Northern Ireland, but I am not convinced. It is not just an issue for the Department of Enterprise, Trade and Investment; it is an issue for all Departments. Therefore members will have the opportunity to speak to the General Consumer Council about this.

Dr O'Hagan asked how the suspension will affect the timetable for the Energy Bill and what it will mean for getting legislation through. The current session of Parliament comes to an end later this month, and a new session begins with the Queen's Speech in early November. The Government will not have provisions in their legislative timetable for Northern Ireland business, because they were not anticipating having to do so. However, every Queen's Speech contains the phrase:

"Other measures will be laid before you".

That is a catch-all phrase that means that the Government reserve the right to bring things forward.

An exercise was conducted last week across our Administration to find out what each Department's urgent requirements were. I wrote to the Secretary of State last week and stipulated that the Energy Bill and certain provisions within it are our critical number one issue. Therefore we have laid it before the Government. As Committee members know, an Order in Council process — if it gets onto the Order Paper in the House of Commons — is treated quite brutally. Once it is laid it cannot be amended, and it is given only an hour and a half's debate. It is debated in the House of Commons and the House of Lords, but it is totally inflexible and no amendments are permitted. That is why I said that whatever goes on the Floor is all that can go through. It can either be accepted or rejected, but it cannot be amended.

If I am asked or consulted, I will clearly state that we risk losing, financially, the largest piece of North/South business that has been conducted since partition. Many jobs hang on this, and our future energy demand is critically affected, because we need that power station at Coolkeeragh in the proposed time. The opportunity to get natural gas network distributed to about 72% of the Northern Ireland



population hangs on this decision. If we do not get the power station, we do not get the distribution. As members know, the regulator has asked for expressions of interest from potential distributors as to whether they would be prepared to distribute to towns en route.

That process is ongoing, together with the fact that the Irish Government agreed a substantial contribution towards the cost of the line to enable it to go into County Donegal. That would also fall if the legislation did not go through. I will be stressing to the Government the urgent need for the Bill, and I would be astounded if there were not a positive response. I see no reason why it cannot be dealt with.

We have prepared the legislation. It can be tidied up, and it can also be shortened if desired. However, it would be helpful if today the Committee could put clearly on the record its position on that. That would also strengthen my hand in any consultations that I might have.

**The Chairperson:** Before Billy Armstrong speaks about fuel poverty, I want to inform you that we received a letter today from Fred Cobain, the Chairperson of the Social Development Committee, agreeing to our suggestion to hold a joint Committee seminar. I bring that up to show the widespread concern and support that exists. Mr Cobain also proposed that the Committee Clerks should liaise about a mutually convenient date, so you have a few hours to get that together. *[Laughter]*.

**Mr Armstrong:** Sir Reg, you spoke earlier about health and poverty. The health of our people is important. I return to the issue of renewables and the use of pollutants, which must be disposed of in another direction. It would be good and healthy if those were used in some way to create energy. As we all know, our pollutants are found in highly populated areas; they are not in isolated areas. That does not involve a large expense. I note that clause 58 is entitled "Grants for energy purposes", so I presume that some financial benefits can be obtained for the use of what people call "pollutants" as an energy source.

**Sir Reg Empey:** I presume that Mr Armstrong is referring to such things as slurry discharges from farms. We are not the only Department with an interest in this. The Department of Agriculture and Rural Development is also involved because of EU Regulations and concerns in the countryside over the manner in which some of this material is dealt with. For instance, the outputs of food-processing factories are currently spread on the fields, often in less than desirable circumstances. Particularly in the countryside, undoubtedly the potential exists to kill two birds with the one stone — to get rid of a pollutant and simultaneously produce energy.

There are several applications currently with the Government for such schemes. The Department of Enterprise, Trade and Investment, with the Department of Agriculture and Rural Development, is considering those. Those can be carried out under several European

programmes. I have written to Bríd Rodgers supporting one or two projects in particular that were drawn to my attention, which happen to be in the County Tyrone area. Undoubted potential exists.

During my earlier remarks about wind-powered energy, I went out of my way to stress that just because wind will provide the bulk of renewable energy for us as far as we can currently determine, it will not provide it all. As technologies improve and as we attempt to solve two different problems, which is what you are referring to, there is potential for such schemes.

I know that there are proposals currently with the Administration, and I have written to Bríd Rodgers encouraging and supporting some of those because of the very points that you have made. We get energy and clean up a potential pollutant, so everybody is happy. There is potential for that, and I strongly support it.

**Mr Armstrong:** Urban areas may perhaps have as many pollutants and landfills. As the saying goes, if you sweep something under the carpet, it will come up again later.

**Sir Reg Empey:** I know that a waste management strategy is under review by the Department of the Environment. Local government is involved heavily in that. We are probably the worst performers in Europe at recycling. Less material is recycled here than anywhere else. People talk about the Germans having three or four different bins for their domestic refuse. There are bins of different colours for different items. Our current difficulty is persuading a sufficient number of people to put refuse into one bin. We have huge problems with that.

Indeed, only something like 3% to 5% of our refuse is recycled. We are still using landfill, but what are the alternatives? There are huge problems with incineration. People are concerned about the production of polychlorinated biphenyls (PCBs), and that incinerators will pollute the areas around them. There is a tension between wanting to do something about landfills and the thought of the alternative. There are a limited number of alternatives. However, if we do not examine them, we will just keep filling holes in the ground, which also causes problems such as seepage into waterways.

I made the point that anaerobic digestion has the advantage of a continuous flow of electricity as opposed to the intermittent wind-driven electricity. Several projects are being supported under the pilot energy demonstration scheme, which tests what works and what does not. You have touched on an area that has great potential and which is being supported by Government. Not only does it provide clean electricity, but it also resolves the problem of a major pollutant in the countryside.

**Mr Armstrong:** It is important that legislation is introduced which, instead of fining people for pollutants, ensures that the pollutant product is outlawed in the first place.



**Sir Reg Empey:** The problem is that things are out of kilter. European legislation exists, and we are already in danger of facing infraction proceedings on several issues. Europe's eye is bigger than its belly. I think it has taken on too much too soon, and we are not ready. The legislation relating to issues such as the disposal of refrigerators exists, but the mechanisms to enforce it do not, resulting in mountains of unused and expensive disposal options.

Northern Ireland is behind other regions in several ways, partly because we have not been concentrating on the problems, and partly because of our infrastructure deficit. Nevertheless, we support those projects; they have a contribution to make in finding a solution to those two problems.

**Mr Wells:** It might be useful to return to the Energy Bill. I wish to pick up on two issues that you mentioned. I appreciate that you have told the Northern Ireland Office that you regard the Bill as a priority. Has there been any consensus with other Ministers as to its place in the pecking order? Some might say that the Harbours Bill or the Housing Bill are more important than energy. Is it at the top, the middle or the bottom of the raft of legislation that is passing from the devolved institutions to direct rule tonight?

**Sir Reg Empey:** I cannot answer that, because I have no knowledge of what other Ministers have put forward. The Office of the First Minister and the Deputy First Minister asked for this to be done, and we have provided them with our views. They have sight of the total picture. As far as I am concerned, there are few pieces of legislation in progress that would be more time-critical than the Energy Bill.

I will leave no stone unturned to ensure that that message is clearly expressed to the Government. I have received no undertakings or guarantees, nor do I have a sense of the order of Ministers' priorities. Each Minister was asked to provide a list of his or her priorities, and everyone will have done so. I accept that other Ministers will take the same view of their pieces of legislation. However, the Government and the Secretary of State must determine what the priorities are and the order in which they are advanced.

The further we can take the legislation, the greater the chance that the Government will accept it. If it is clear from today's proceedings that there is broad consensus on the issue, we will have a greater chance of putting that legislation at the top of the list.

**Mr Wells:** Clause 58 deals with grants for energy purposes. There is concern about the large wind farm that was proposed for the area close to Portrush, Portstewart and Castlerock, and there has been much public opposition to it. There is concern that clause 58 will provide the Department with the powers to provide significant grant-aid for that proposal, and that other energy producers would

not have an even playing field if the scheme were to proceed. How much power does the Department have at present to grant-aid that type of proposal, and will clause 58 give it additional powers?

**Sir Reg Empey:** The Department's principal power lies in giving its consent to organisations that want to generate electricity. Under clause 39 of the Electricity (Northern Ireland) Order 1992, the Department's consent must be obtained by anyone who wants to generate electricity in Northern Ireland. The Department must take into account a wide range of issues in determining whether consent will be granted.

However, responsibility is split in the case of that particular project. The Crown Estate owns the seabed from below the low tide mark to the 12-mile limit. It has leased it to the group that wants to build the Tunes Plateau site, and it has given that group an opportunity to produce a feasible proposal. The group must carry out a major environmental impact assessment, which will take 12 months. That assessment must examine a range of issues, such as the impact on fishing and the visual amenities of the area.

That site was chosen because it has the lowest draught — in other words, because there is a plateau, the water is not very deep. Two years ago Kirk McClure Morton conducted a survey of sites around the island of Ireland where offshore wind power was likely to be feasible. Tunes Plateau was the only site off Northern Ireland where it was likely to be successful. It has the highest mean wind speeds in Europe. The site was chosen only because of its geographical advantages.

I understand that the Committee has visited Denmark and has examined the benefits of wind power there. I have not seen such generators in operation on a grand scale; I have only seen them from a plane or the land-based plants, and I have not visited the Danish plants.

Clause 58 could allow the Department to provide grant-aid if it chose to do so. However, the provision of grants for offshore projects is the responsibility of the Department of Trade and Industry in London.

The UK Government provided a sum of money which, at the initial stage, excluded that site because they were trying to encourage offshore developments around UK waters. If the project is viable, and if the impact is deemed to be tolerable, the sponsors would claim from the Department of Trade and Industry in London and not from my Department.

I had a meeting with Patricia Hewitt, the Secretary of State for Trade and Industry, some months ago, and at that stage it was not clear whether this project could be admitted to that scheme. However, it now appears that it can, and the UK Government would pay any grant-aid.

**Mr McClarty:** You said that that area off the north coast had the highest mean wind speeds. Is that such a critical factor, since when the wind reaches a certain speed the turbines would have to be shut down in any case?

**Sir Reg Empey:** It matters because the more consistent the wind speed, the better the return on the investment, and these are very expensive undertakings. Kirk McClure Morton carried out the survey, and a copy is available in the Assembly Library. I understand Mr Clarty's interest in this, which has nothing to do with his question. However, it is an act of God that that site happens to have a wind consistency that makes it best suited to the provision of this type of wind farm. It is the best and only viable site on the shores of Northern Ireland — apart from some localised stuff.

**Mr McClarty:** There is concern in the area about the proposed development. How would you seek to assuage the fears of those who would be less than welcoming of the proposed development?

**Sir Reg Empey:** The Department's role is not to assuage fears: it is to play a regulatory role. The Department will have to make a judgement when all the information is available and the environmental impact surveys are complete.

Leaseholders are required to carry out a consultation exercise with local authorities and other interest groups in the area, and that is ongoing. However, the Department is not taking a pro or negative position at this stage. It must determine the consent according to several issues, and it is not a personal preference. The Department will also examine the environmental impact assessment and judge whether the project would be advisable. There is the question of renewable energy, and without something on this scale it will be exceptionally difficult for Northern Ireland to meet any target along the lines of figures that have been bandied about recently.

Offshore energy from wind is more expensive than onshore energy. However, in this case, if the cables are landed on the north Londonderry coast, they can be tied in with the network reasonably well. Much of the infrastructure is already there, especially from Coolkeeragh, that would have the capacity to cope. The Department will examine the project as a whole, and it will not persuade people one way or the other. The Department will exercise its responsibilities under the Electricity (Northern Ireland) Order 1992 according to well-tried and tested rules.

Having said that, we understand that, for various reasons, it is a unique situation. We would be making Regulations transposing the environmental impact assessment Directives for offshore wind consents into Northern Ireland law. Those will require extensive consultation, something that is already happening. To collate all that information, we shall have to sift through everything. The promoters will have to assess what support they might get from the Department

of Trade and Industry in London, the technical requirements, the feasibility and the cost. There is a range of issues, and it is not a done deal.

**Mr McClarty:** That was going to be my next point. Judging by some of the letters in the local press, it seems that there is such a presumption. I take it from your comments that you would refute that.

**Sir Reg Empey:** Absolutely; I would refute it completely. If we act to carry out our duties under the law, we must examine all the information when it becomes available to us as part of the process of making a judgement under the Electricity (Northern Ireland) Order 1992. We cannot judge that at this stage.

I have seen those letters, and I am aware that people have a natural disposition to think about such matters. However, I can assure you that we have taken the position — as I have done in any answers in the Assembly — that, although it is clearly an exciting prospect, and something of that sort could happen, there are other issues to take into account. I do not know whether it will be physically or financially possible for the developers to do what they must, and they do not know either. That was why the Crown Estate gave them a lease for a period to enable them to carry out all the work. The Department of the Environment also has consents to give under the Food and Environment Protection Act 1985. It seems an odd Act to deal with this matter, but it concerns the environmental aspects. However, that Department has a role in the matter too. We have certain statutory duties to perform, and we shall not take a position at this stage.

**The Chairperson:** Before I allow members to ask any final questions, there are two points which I should like to clarify. The Committee has discussed postalisation on several occasions. I should like to confirm formally that we absolutely agree with your position. In the words which you used today, it is "an absolute requirement". In the take-note debate, you said that postalisation was a "principle". That is the Committee's position, and we did not reach it without much consideration. We put a great deal of thought into the matter and talked it through. We absolutely agree with your position.

As Minister, are you happy with the enabling powers in clauses 31 and 32?

**Sir Reg Empey:** Some companies think that it is over-restrictive; some of the correspondence which we have received has indicated that. That is an area which we planned to discuss with the Committee as the Bill proceeded. It is a complex area, but we were quite prepared to examine other proposals to achieve our objectives without being over-restrictive as far as the companies were concerned. The Department will continue to examine that area over the next few weeks, and we certainly intended to have a major discussion with you on

the matter as the Bill progressed through the Committee Stage. We must keep open minds on that for the moment.

**Mr Neeson:** As I mentioned, last week we took evidence from the Northern Ireland Advisory Committee on Telecommunications.

The Committee shares your concern that Northern Ireland is not represented on the proposed Office of Communications (OFCOM) consumer panel. We have written to Patricia Hewitt and Tessa Jowell on the issue.

**Sir Reg Empey:** I appreciate those comments, and those that you made earlier about postalisation. The Department has fought resolutely for Northern Ireland's representation. Last December, it visited the former Minister of State for e-Commerce and Competitiveness, Douglas Alexander, who had responsibility for it before the Government reshuffle. I believe that the former Financial Secretary at HM Treasury, Stephen Timms, has replaced him. The Department has made those points repeatedly.

I have written to Patricia Hewitt two or three times. I raised the issue with her on her recent visit to Northern Ireland. Douglas Alexander visited the Department earlier this year to examine the satellite scheme that is used for broadband. The Department has, therefore, brought the matter to the attention of the Department of Trade and Investment at both ministerial and departmental level. I do not know what more the Department can do.

The devolved regions are in the same boat as Northern Ireland. The Department is working in conjunction with the other devolved Administrations. A proposal was put forward that we share representation, and take it in turns. We offered several options for regional representation to the Department of Trade and Investment. The Department of Trade and Investment kept repeating the mantra that it wanted a small group of people; that the representation of local Committees would be taken into account; and so on.

The Department has met with continuous opposition from the Department of Trade and Investment. The Scottish and Welsh Departments are in the same position. The Department of Trade and Investment said that if it gave each region representation, it would end up with a cast of thousands. The Department saw shared representation as a possibility and worked with the other regions to determine how it could come about. However, so far that has not been accepted. There are, of course, opportunities for amendments to be made when the Bill goes through. That is a valid point that should be kept in mind. However, I agree with you entirely. I cannot see how having two or three extra people on a body will make such a critical difference.

We know from experience that proposals are made by people who do not understand the Northern Ireland dimension. That was demonstrated in the taxation proposals for quarry tax and the climate change levy, which caused a huge battle. Quarry tax was supposed to be an

environmentally friendly tax. However, all it has done is transfer jobs across the border. It has not achieved its objective. Do people really believe that Customs and Excise should chase after 30-tonne lorries to collect £35 worth of tax, when tankers are flying over the border at a loss of £10,000 worth of duty each time? It is madness to suggest that customs officers should be diverted towards that.

I appealed to the Secretary of State over a year ago. When he visited the Department I asked him whether he could establish a group in Whitehall that would discuss any such proposals with HM Treasury in advance, so that the Northern Ireland dimension would be taken into account at an early stage, before any difficulties arose. I have repeated my request to him to follow that up. I certainly support Mr Neeson's views.

**The Chairperson:** Minister, I believe that you want to discuss Harland & Wolff with the Committee.

**Sir Reg Empey:** Harland & Wolff has caused much concern over a long period of time. The company approached the Department in February 2002. It said that it had not found new work, and believed that it was uncompetitive.

Harland & Wolff had a new proposal, and it wanted to inform us of its intentions, so I said that I would listen. It presented a business plan to us, which involved making a compact yard out of its land. My Department's involvement at that stage was purely consultative, because Harland & Wolff did not ask for any resources. In any case, land is a matter for the Department for Regional Development. I asked that Department for advice and we worked together from that point. The Minister for Regional Development accompanied me to all my meetings with the company, and if my officials held meetings, officials from that Department accompanied them.

The company presented a plan, we examined its arithmetic, and we appointed PricewaterhouseCoopers to advise us. After adding amendments we ended up with a plan to value the land, which the Valuation and Lands Agency carried out. The Department for Regional Development made that decision; the Department of Enterprise, Trade and Investment had no decision to make because we were not asked for any, so we were there simply to give our view on the company's commercial future. Our key role was to ensure that some of the land was used for industrial development, about which we were anxious.

However, I supported the Minister for Regional Development's decision, which he argued was a stand-alone decision on the grounds that if half the yard were derelict and lying idle, it was adding to the costs and would simply not be used or needed again. Therefore the deal went ahead and we were advised a few weeks ago that matters had deteriorated further, the market had softened to the extent that the company did not have any new work, and it would not be able to implement the full plan, but was willing to implement a reduced version. Again, the company did not ask my Department for



anything, so our role was merely to remain informed. As the Department for Regional Development felt that the proposal was stand-alone, it continued to work with the master planning of the new Titanic Quarter area because it said that that was the best way to regenerate that area.

Harland & Wolff has subsequently announced a 90-day consultation period for the 265 people who remain on the workforce. It will also concentrate on project-orientated deals for which it has a fairly strong and profitable design and technical department. It also continues to carry out profitable ship repair work on the Irish Sea routes. It is retaining a sales and a technical team to enable it to apply for new orders, and it wants to concentrate on renewables, which again, was part of its original business plan.

Therefore the company currently occupies just under 100 acres of land in that area, and it says that it wishes to continue to do so. It will continue with those particular aspects of its business, but it says that it is suffering as a result of a major downturn in the offshore sector, which is in severe difficulties across Europe, and many major shipyards in Europe are also feeling the pain.

That is the position. Certainly no departmental funds have been sought or given for a couple of years now, and Europe withdrew intervention aid grant from 1 January 2000, which was the major source of funding for Harland & Wolff over the years. My Department's only involvement would have been at company development programme level, helping with training and so forth; selective financial assistance was not applied to Harland & Wolff.

**The Chairperson:** Thank you, Minister, for all your co-operation when we worked together. It has been a good experience. We have always endeavoured to be constructive and helpful and, at the same time, to retain our capacity to criticise if necessary.

**Sir Reg Empey:** Thank you very much, Chairperson and members. I wish to record my appreciation, and that of all levels of the Department, of the Committee's consistent co-operation. I support the Committee system; powerful Committees such as these are good for democracy in that they can hold Ministers to account. After 30 years of direct rule, we were paranoid about that. We seem to have a predilection for returning to direct rule from time to time; however, that is another matter. Nevertheless, the concept is right. Committees play a role and have consistently taken seriously the part concerning policy development. I have never seen the Committee as the enemy or the opposition but have tried to regard it as a partner, because the Members on the Committee represent the Assembly. If the Assembly cannot be a partner with its own Administration, the system will never work.

We all know that there are personality clashes in all walks of life. However, we have managed to make a difference in the past few years. If and when we get ourselves sorted out again — and I hope that we will — there are many things to do. It has, perhaps, taken a bit longer to get round to those than was wished, and there has been some frustration that we have not gone further

more quickly. We were, however, dealing with a new and complicated system.

The irony is that we have been building momentum, because much major legislation is now coming online. You will remember the criticism that we were not doing enough legislation; now there is a snowstorm of legislation. This is the largest piece of legislation that has been introduced since Assembly operations began. There will be more, because we shall wish to introduce a second Bill after the strategy is determined. I hope that that will give all of us the incentive to ensure that the necessary steps are taken to allow devolution to be re-established. The longer we leave it, the more the grass will grow and the harder it will be to get things going.

I thank every member of the Committee, including those who have moved on to other areas and are no longer members, for the courtesy and co-operation that I have received over the past three years. In the short term, I suspect that when Ministers take office they will be anxious to continue some of the work. That is my hope with regard to this Bill. Your co-operation today in putting these matters on the record will go a long way to strengthening my hand in any advice that I may be asked to give. If I am not asked for advice, I shall offer it in any case. It will be helpful to see Hansard as soon as it is available. I assume that that takes four or five days, and I shall look anxiously for it. I shall make my views known. Thank you very much, Chairperson, Deputy Chairperson and members for your co-operation.

**Dr McDonnell:** I have, at times, damned myself for praising the Minister on radio programmes. His constructive attitude over the past few years has been exemplary. Will the Department maintain that, or will it revert to type?

**Sir Reg Empey:** This side of midnight, yes. They will hedge their bets. I know civil servants receive much criticism, and I have criticised them over the years. However, many of them are talented people who work very hard. I have never asked them to do anything that has not then been done. Sometimes people assume that civil servants will just go ahead and do something. The important thing is that they must be asked to do things, and you must be clear about what you want them to do.

The worst thing that you can do is not to give them any steer or direction, because then what do they do? They have to tolerate the fact that I wander about the corridors and just walk into the room unannounced and so on. Whether Ministers will visit them as frequently in the next few weeks is uncertain, but I hope they will because it is important that Ministers engage with and understand the people and relevant issues. I can tell whoever takes up this role that it will take them three years to get the hang of dealing with energy.

**The Chairperson:** Thank you, Minister. I believe that the Department will be on its best behaviour because we will return.

**Sir Reg Empey:** As McArthur said.



# **Written Answers**



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# NORTHERN IRELAND ASSEMBLY

Friday 13 September 2002

## Written Answers to Questions

### OFFICE OF THE FIRST MINISTER AND DEPUTY FIRST MINISTER

#### PSNI Chief Constable

**Mr McFarland** asked the Office of the First Minister and Deputy First Minister what plans it has to meet the new PSNI Chief Constable. (AQO 15/02)

**Reply:** No meeting with the new Chief Constable has yet been scheduled in our diaries.

#### Obstacles to Mobility Study

**Mr Gallagher** asked the Office of the First Minister and Deputy First Minister what action is being taken on Recommendation 5 of the North/South Obstacles to Mobility Study which considered the implications for Tax Treatment for Frontier Workers. (AQO 42/02)

**Reply:** At the Plenary meeting of the North/South Ministerial Council on 28 June, the Council considered a paper by the Joint Steering Group on the Study of Obstacles to Cross-Border Mobility on the island of Ireland. The paper was drawn up following a widespread consultation exercise involving Government Departments, North and South and, on non-devolved matters, with the responsible Department in London, and with individuals. It summarised and evaluated each of the Consultants' fifty recommendations and placed them into five categories.

Recommendation 5 stated that UK authorities should consider introducing tax relief for NI residents who are frontier workers. This issue is the responsibility of the Inland Revenue which put forward the view that the proposal went beyond removing obstacles to mobility and proposed a tax subsidy to residents of Northern Ireland to work in the Republic. The Council agreed at its previous Plenary in November 2001 that in considering proposals, care should be taken to avoid creating unjustified advantage for cross-border workers beyond that available in the respective jurisdiction. Given these factors the Steering

Group placed recommendation 5 in Category 5 – proposing that no further action be taken at this time.

The Council agreed the Steering Group's evaluation and work is now proceeding at official level on those recommendations contained in Categories Two, Three and Four. The member will wish to note that that work incorporates a number of recommendations related to the provision of information on the actual personal tax position in Northern Ireland and the Republic and the development of guidelines to minimise the impact of differences in North/South tax years. It is hoped that details of the Double Taxation Agreement between the UK and the Republic, which may give rise to adverse implications for some NI residents working in the Republic, can also be made more generally available as part of the implementation of these recommendations.

#### PSI Report on Travelling People

**Ms Lewsley** asked the Office of the First Minister and Deputy First Minister to give an update on the PSI Report on Travelling People. (AQO 45/02)

**Reply:** Work on the Executive's Response to the Promoting Social Inclusion (PSI) Report on Travellers is at an advanced stage. Members of the PSI Working Group have been kept informed of progress.

We are aiming to publish the Executive's Response to the PSI Report on Travelling People in the Autumn of 2002.

#### Needs and Effectiveness Evaluation

**Mr McHugh** asked the Office of the First Minister and Deputy First Minister to initiate a 'Needs and Effectiveness Evaluation' on (a) Agriculture and (b) Rural Development. (AQO 51/02)

**Reply:** Six Needs and Effectiveness Evaluations were launched last year. As the Programme for Government and the Executive's Position Report advised there were also major studies underway in other policy and programme areas, including Agriculture.

The Executive has not yet considered the extension of the programme of needs and effectiveness evaluations. Ministers will wish to take stock of the work to date and learn from the experience of the first six studies. We also need to take into consideration the other major policy reviews which have been underway.

In the case of agriculture and rural development, we will want to consider the impact of reforms to the Common Agricultural Policy as well as the work to implement the Vision report, the response to the O'Hare Report, and the DARD modernisation programme before deciding how best to proceed.

## Reform and Re-Investment Initiative

**Rev Robert Coulter** asked the Office of the First Minister and Deputy First Minister what progress has been made during the summer months with the Reform and Re-Investment Initiative. (AQO 16/02)

**Reply:** Progress on the Re-Investment and Reform Initiative (RRI) has been made on several fronts:

We announced on 2 July 2002 a package of short term financial allocations to tackle the infrastructure deficit that will see £270m spent across Northern Ireland on 29 significant projects over the next two years. Several key infrastructure projects have already been agreed including a new Cancer Centre; strategic road improvement and structural maintenance, including the widening of the M1 approaching Belfast; capital investment in water and sewerage and; the replacement of 20% of mobile classrooms across Northern Ireland with permanent accommodation.

The Project Board met several times during the summer months and brought forward initial proposals to the Executive on 23 July 2002. The Executive agreed that further work should be done to develop these proposals.

Over the past weeks we have been taking forward intensive work on preparation of draft legislation to implement the Reinvestment and Reform Initiative, which is due to be discussed by the Executive shortly. The RRI Project Board has continued to meet and consider the detailed remit of the strategic investment body and has visited the security sites being transferred to the Executive under the initiative.

The Partnership and Regeneration Panel (PRP) for the Ebrington Barracks site has been established to bring forward proposals for the Executive's consideration on: -

- (i) the potential role of the Ebrington Barracks within the wider strategic development of the North West and
- (ii) the most appropriate vehicle to take this forward

During the summer the PRP established offices in the Waterside area, near to Ebrington Barracks, and had its first meeting on 2 September 2002. The Panel, which includes local representatives from central and local government, community and business sectors, has been consulting and involving local community and business groups in developing ideas. It has also established linkages and developed relationships with other initiatives in the North West.

We expect the PRP's recommendations to be delivered to the Executive during December 2002.

## Review of Public Administration

**Dr O'Hagan** asked the Office of the First Minister and Deputy First Minister what criteria were used to

appoint the independent panel of experts for the Review of Public Administration. (AQO 52/02)

**Reply:** The aim of the Executive was to have a strong independent panel with a broad range of skills and backgrounds. Specifically we sought to appoint recognised experts in governance and organizational change, and also wanted some current international expertise in those fields.

We believe we have managed to appoint a well balanced panel of very high caliber experts, and are confident they will make a valuable contribution throughout the Review process.

## Number of Staff

**Dr McDonnell** asked the Office of the First Minister and Deputy First Minister to detail the number of staff working in its office on equality issues in comparison to similar areas in relevant departments in Britain.

(AQO 32/02)

**Reply:** As of 2 September 2002 the Office of the First Minister and Deputy First Minister has 49 staff working on equality issues including a legal assistant. The divisions are supported by the Departmental Solicitor's Office. In Great Britain the work is spread across 4 Departments which have approximately 212 staff with comparable responsibilities who are supported by legal teams in each Department.

## Meetings with Foreign Minister

**Mr Armstrong** asked the Office of the First Minister and Deputy First Minister to outline (a) any meetings held recently with the Foreign Minister and (b) what these meetings entailed. (AQO 50/02)

**Reply:** We jointly met with the Foreign Secretary, Jack Straw, during his visit to Belfast on 27 August. We discussed a range of European Union policy matters including the Convention on the Future of Europe, enlargement and the Northern Ireland Executive's interaction with the United Kingdom Government.

## Review of Community Relations

**Mr A Maginness** asked the Office of the First Minister and Deputy First Minister to give an update on the Review of Community Relations. (AQO 43/02)

**Reply:** A consultation paper covering a wide range of community relations issues is at an advanced stage of drafting. It is anticipated that this will be submitted to the Executive for consideration in the near future and, following Executive approval, it will be published. Respondents will have a period of two months in which to communicate their views to our department.



## AGRICULTURE AND RURAL DEVELOPMENT

### Fodder: Winter Problems

**Mr Bradley** asked the Minister of Agriculture and Rural Development what plans she has to help farmers avoid animal feeding and health-related problems this winter, resulting from the shortage and poor quality of fodder.

(AQW 35/02)

**The Minister of Agriculture and Rural Development (Ms Rodgers):** My Department is working on a range of initiatives to help the industry cope with the effects of the unprecedented weather conditions experienced for much of this year's growing season. Advisory staff have been very active over the summer months, providing advice and information through direct contacts, mailings and the media. As we now head into the autumn, my Department has developed a comprehensive Winter Management Options programme to provide further targeted assistance. The programme comprises a series of local events aimed at providing farmers and growers with research and technical information to help them cope with potential fodder shortages and poor fodder quality this coming winter. The programme will also include workshops for arable producers, addressing issues such as possible storage problems which may arise as a consequence of wet harvesting conditions and crop diseases.

The Winter Management Options programme will commence with Open Days at the Agricultural Research Institute of Northern Ireland on the 25 and 26 September and will roll out to other venues thereafter.

Apart from helping farmers address the practical problems being experienced or which are likely to arise, I am also exploring what adjustments can be made to EU support mechanisms to ease the situation. Last month, we were successful in securing a relaxation from the EU Commission of the grazing restrictions on set-aside land and last week, DEFRA made a formal request on our behalf to the EU Beef Management Committee seeking an increase in the level of advance cattle premia payments in order to assist the cash flow position of livestock farmers. Last month, I also announced a relaxation of the restrictions on the import of unprocessed hay and straw from GB into Northern Ireland as a further measure to help the local industry.

Weather aid is another option which I am exploring. However, any case that we might make to Brussels seeking State Aid approval to provide weather aid must be based on concrete evidence of the losses incurred. State Aid Guidelines lay down strict criteria in this respect which must be met before any proposed assistance can even be considered for approval by the EU Commission. Obviously, we can not make an assessment of these losses until after the end of the growing season. We would then

have to build our case and take it through the EU State Aid approval process. My officials have arranged to meet key Commission personnel in the autumn to explore what may be possible under State Aid rules in light of the available evidence at that point.

Apart from the necessary approval process, there is also the issue of identifying the necessary resources to fund such a measure. There are no central EU funds against which we could bid for this purpose. Therefore, we would have to find the money from within Northern Ireland and, as you will appreciate, there are many competing demands from other areas. I have already alerted the Minister of Finance and Personnel and my other Executive colleagues of the difficulties in the industry and will keep them informed of the developing situation.

### Waterfall Walk, Glenariff

**Mr Paisley Jnr** asked the Minister of Agriculture and Rural Development to outline the timetable and resources allocated for improvements to the Waterfall walk in Glenariff.

(AQW 52/02)

**Ms Rodgers:** My Department has drawn up outline plans for the repair and any necessary re-construction of the Glenariff Forest Park Waterfall Walkway, part of which was closed in autumn 2001 for health and safety reasons. Funding amounting to £300k was allocated at the end of June 2002. My officials are in discussion with Construction Service on the most effective use of the funds. The Forest Service plans to re-establish reasonable and suitable access to the main waterfall feature from the main Glenariff Forest car park by Easter 2003. Work is expected to commence in early October.

### Sheep Annual Premium Scheme

**Mr Bradley** asked the Minister of Agriculture and Rural Development what plans she has to bring forward the date for releasing cheques in respect of the Sheep Annual Premium Scheme (SAPS).

(AQW 67/02)

**Ms Rodgers:** The earliest that 2002 Sheep Annual Premium payments can be made under EC Regulations is from the start of the new FEOGA year, on 16 October. The Department therefore plans to commence payment from that date. Allowing for the time required for the payments to clear through the Department's accounting system and to be transferred into producers' bank accounts or to arrive by post, they should be received from 24 October onwards. If there is any change in the start date of the new FEOGA year, the start of payments will be adjusted accordingly.

Payments will include the basic premium, the Sheep National Envelope funding which is being paid as a top-up

to the basic premium and the Rural World Supplement. Together these will be worth £19.4million to the industry. It is anticipated that all eligible producers (circa 8500) will have received their payments by the end of October.

### Veterinary Medicinal Products

**Mr Hussey** asked the Minister of Agriculture and Rural Development, pursuant to Article 67 of the European Commission's proposal on the directive on veterinary medicinal products and relative to amendments to Commission's proposals PE 293.690/29-115 to be debated and voted on in early September in the European Parliament's Environmental Committee, to consider and make it her policy to support Amendments 109, 110 and 112, and further to inform Northern Ireland's MEPs of her support. (AQW 71/02)

**Ms Rodgers:** Under Article 67 of the European Commission's proposals all veterinary medicines for use in food-producing animals would require a veterinary prescription. A prescription would also be required for any product containing an active substance authorised for less than 7 years. The UK government supports amendments to Article 67 tabled by members of the Committee on the Environment, Public Health and Consumer Policy. These would enable a flexible approach to the distribution of veterinary medicinal products that takes advantage of existing national practices so long as consumer protection and animal welfare can be demonstrably assured. Officials from the Veterinary Medicines Directorate, acting on behalf of the UK Health and Agriculture Ministers, are participating in Council Working Group negotiations and have given presentations and provided information to UK and other MEPs to ensure that they are fully aware of the UK's views and to seek their support in discussions in the European Parliament.

### Flooding

**Mr K Robinson** asked the Minister of Agriculture and Rural Development to detail the progress of the inter-agency approach aimed at addressing the causes of flooding in the Carrickfergus and Newtownabbey areas; and to make a statement. (AQW 101/02)

**Ms Rodgers:** I am pleased to say that the inter-Agency approach between my Department's Rivers Agency and DRD Water and Road Services to flooding, established in 1999, is proving productive in not only improving the response but also tackling the causes. To this end Rivers Agency intends to initiate a debrief of the flooding event of 21 June.

Rivers Agency, in conjunction with other Agencies, has investigated that incident. All Agencies identified that the unexpected intensity and severity of the rainfall was a major factor in the flooding. As a matter of course Rivers Agency is reviewing those flooding incidents which fall within its remit. In addition, in recognition of the inter-related causes of flooding at Whiteabbey village and Carrickfergus DRD Road Service, Water Service and DARD Rivers Agency are jointly commissioning a study of drainage infrastructure in these areas. This study will be led by Rivers Agency who are in the process of engaging a Consulting Engineer. This joined-up approach should result in recommendations for improvement of the drainage infrastructure to alleviate the risk of future flooding.

## CULTURE, ARTS AND LEISURE

### Fishing Rod Licensing: River Bush

**Mr Paisley Jnr** asked the Minister of Culture, Arts and Leisure to outline, in each of the last 3 years, the amount of revenue received from fishing rod licensing on special sections of the River Bush. (AQW 2/02)

**The Minister of Culture, Arts and Leisure (Mr McGimpsey):** As the Fisheries Conservancy Board does not issue separate fishing rod licences to anglers for the special sections of the River Bush, there is no such information available. However, my Department issues day tickets to anglers for fishing on the river. The number of day tickets sold, and the income received, for each of the stretches in the last three years, is set out in the following table. The income is rounded to the nearest pound sterling.

#### RIVER BUSH DAY TICKET SALES

Season	Town Stretch		New Stretch		Leap Stretch		Total	
	No	£	No	£	No	£	No	£
1999	401	10,959	144	3,165	173	2,947	718	17,072
2000	289	7,854	127	2,791	55	1,015	471	11,659
2001	212	7,321	103	2,411	77	1,591	392	11,323

## River Bush

**Mr Kane** asked the Minister of Culture, Arts and Leisure if he has received evidence which would cause him concerns over the continued existence of a permanent barrier on the River Bush at the research station in Bushmills, Co Antrim. (AQW 177/02)

**Mr McGimpsey:** The barrier to which you refer is the means by which salmon are diverted into trapping facilities. The ability to trap and thereby monitor the salmon stock is fundamental to the internationally regarded research work carried out at the salmon station.

I am aware that some anglers contend that this arrangement is harmful to fish and/or affects their ability to ascend the river system to spawn.

No evidence has ever been presented to substantiate this claim. Should such evidence be available I shall of course review the current arrangements.

## EDUCATION

### Irish Language Schools: Research Contract

**Dr Birnie** asked the Minister of Education if the research contract relating to Irish Language Schools: 'outcomes for pupils who receive Irish medium education in Northern Ireland', awarded to Hanna & Co, was subject to an open tendering process. (AQW 26/02)

**The Minister of Education (Mr M McGuinness):** Yes, the research contract was subject to an open tendering process. An advertisement seeking expressions of interest appeared in the Belfast Telegraph, Irish News and News Letter on 6 January 1998.

### School Transport Service

**Mr Bradley** asked the Minister of Education if he will undertake to extend the school transport service the 0.5 miles necessary to assure the safety of children from Lairds Road that attend St Colman's Primary School, Annaclone. (AQW 33/02)

**Mr M McGuinness:** The operation of the home to school transport arrangements in this case is a matter for the Southern Education and Library Board. Pupils living on Lairds Road who travel to St Colman's Primary School, Annaclone do not attend their nearest suitable school. Under current arrangements they are therefore not entitled to transport assistance. In these circumstances responsibility for the safety of the pupils rests with the parents.

## ENTERPRISE, TRADE AND INVESTMENT

### Cellular Phone Charges

**Mr Bradley** asked the Minister of Enterprise, Trade and Investment will he undertake, in conjunction with his Ministerial counterpart in the Republic of Ireland, to open negotiations with the cellular phone operators with the aim of eliminating the international charging rates that currently apply to cross border calls. (AQW 10/02)

**The Minister of Enterprise, Trade and Investment (Sir Reg Empey):** Pricing for mobile calls is a market issue. Introduction of pricing controls would be a regulatory matter and the responsibility of OFTEL. However, because of problems in border regions resulting in international roaming charges for mobile users, my officials have already impressed on both OFTEL and DTI the importance of an early resolution of this matter. There have been a number of studies on this issue, including work undertaken by the Northern Ireland Advisory Committee on Telecommunications (NIACT), the Northern Ireland Centre for Cross Border Studies, and a joint study in April 2002 by OFTEL and the Office of the Director of Telecommunications Regulation (ODTR) in Dublin on consumer awareness of mobile roaming. In January 2002 Europe's Competition Commissioner, Mario Monti, announced a comprehensive investigation into the price of international roaming of mobile calls. My officials will be monitoring progress of this important Commission investigation to ensure that it addresses the need to source a resolution to this international disparity.

### Tourism and Marketing Development Projects

**Mrs Nelis** asked the Minister of Enterprise, Trade and Investment to detail, by constituency, the awards by the NITB for Tourism and Marketing Development Projects. (AQW 23/02)

**Sir Reg Empey:** Based on computer records held, the amount of the selective financial assistance offered by the Northern Ireland Tourist Board to develop accommodation, amenity and visitor attractions and events support in each constituency for the period 1 April 1997 to 31 March 2002 is as follows:

	£
Belfast East	52,500
Belfast North	468,075
Belfast South	4,827,875
Belfast West	771,600
East Antrim	1,347,674
East Londonderry	2,113,601

	£
Fermanagh & South Tyrone	3,690,049
Foyle	8,128,833
Lagan Valley	331,525
Mid Ulster	893,970
Newry & Armagh	5,913,993
North Antrim	2,818,632
North Down	78,725
South Antrim	4,771,259
South Down	5,049,323
Strangford	1,033,192
Upper Bann	459,476
West Tyrone	726,566

- (1) Some events support offered between 1997-1999 not included because data not held on a constituency basis.
- (2) A further £261,107 was offered to projects which were not constituency specific.

In addition an amount totalling £4,390,271 was offered to marketing projects in Northern Ireland during the period in question. Information on these projects is not available on a constituency basis.

### Purpose-Built Guest Houses

**Mr Bradley** asked the Minister of Enterprise, Trade and Investment will he make it his policy to grant aid the provision of purpose-built guest houses in the same way as grant aid is currently offered to new hotels and self-catering establishments. (AQW 36/02)

**Sir Reg Empey:** Entry costs to the guesthouse/bed and breakfast sector are generally low, and new developments may therefore only be considered in the following specific circumstances:

- High quality country house accommodation in existing properties offering typically 6-10 bedrooms with good cuisine.
- Guest inns, typically 6-12 good bedrooms attached to existing well-run pubs or restaurants in areas where hotel accommodation is scarce or commercially non-viable.

Assistance is not provided towards the establishment of guesthouse and bed and breakfast business. Priority is given to those applicants who hold a current NITB Certificate and have operated a property satisfactorily for at least one year with a minimum of 2 letting bedrooms in a bed and breakfast property and 3 letting bedrooms in a guesthouse.

This policy ensures both sustainable development in the sector and value for money in the use of public funding.

## ENVIRONMENT

### Dyslexia: Driving Licences

**Mr Bradley** asked the Minister of the Environment if he will undertake to issue driving licenses to those drivers that pass the practical element of their driving test but fail the written section due to severe Dyslexia. (AQW 31/02)

**The Minister of the Environment (Mr Nesbitt):** The prescribed driving test consists of both theoretical and practical elements. In order to obtain a full driving licence an applicant must pass both elements. A candidate cannot undertake a practical driving test until he/she has passed the theory test.

The theory test is an important road safety measure designed to help to ensure that learner drivers are fully prepared with the necessary knowledge and understanding before they get full licences.

It was recognised that the theory test might present difficulties to some candidates who could take and pass the practical driving test. The intention is that the theory test should discriminate only on the basis of knowledge and understanding of the subject matter, so arrangements are made to ensure that candidates who have special needs are not disadvantaged.

Candidates who have dyslexia or who have difficulties with learning or literacy are allowed extra time to complete the test. In addition, candidates may make use of the audio voiceover facility, which allows them to listen to the test through headphones.

Given that help is already available for those with severe dyslexia I see no need to make changes to the existing requirement.

### Waste Water Treatment Works

**Mr Davis** asked the Minister of the Environment to outline (a) the circumstances that have resulted in recent difficulties regarding Planning and Waste Water Treatment Works and (b) any steps he is taking to rectify the situation. (AQW 73/02)

**Mr Nesbitt:** My Department has a general statutory duty to promote the conservation and cleanliness of water resources and must also take account of the requirements of relevant Directives of the European Community with respect to safeguarding water quality.

This current situation came to attention earlier this year when there was an overall reduction in the compliance of Waste Water Treatment Works with EU and domestic environmental standards. The Environment and Heritage Service of my Department highlighted concerns over the quality of discharges and risks of water pollution from



sewage treatment plants and sewerage networks at a number of locations in Northern Ireland.

In the areas affected, Planning Service is consulting the Water Management Unit, EHS, and the Water Service of Department for Regional Development on current planning applications. Planning applications in the affected areas are being held on a precautionary basis pending the outcome of current discussions between the DOE and DRD.

I, with Peter Robinson, the DRD Minister, have asked that discussions between EHS and Water Service officials be completed and that recommendations be made to us by mid-September. This will clarify locations where EHS has concerns over water quality issues and how these should be dealt with in planning terms.

### **Planning Applications: Moratorium**

**Mr McGrady** asked the Minister of the Environment to state when the moratorium, which was imposed on the processing of planning applications for 60 settlements in NI, will be removed. (AQW 125/02)

**Mr Nesbitt:** I would stress that there is no general moratorium on planning decisions. My Department's position is that the Environment and Heritage Service (EHS) has concerns over the quality of discharges and risks of water pollution from waste water treatment plants and sewerage works at a number of locations in Northern Ireland.

In the areas affected, Planning Service is consulting the Water Management Unit, EHS, and the Water Service of Department for Regional Development on current planning applications. Planning applications in the affected areas are being held on a precautionary basis pending the outcome of current discussions between the DOE and DRD. I, with Peter Robinson, the DRD Minister, have asked that discussions between EHS and Water Service officials be completed and that recommendations be made to us by mid-September. This will clarify locations where EHS has concerns over water quality issues and how these should be dealt with in planning terms.

In the meantime, Divisional Planning Offices have been instructed that no applications at present should be taken to Council for consultation with opinions to refuse on the basis of advice from the Water Management Unit.

### **Station Road, Crossgar**

**Mr McGrady** asked the Minister of the Environment when the planning certificate for the housing development at Station Road, Crossgar will be issued to the developer/applicant. (AQW 126/02)

**Mr Nesbitt:** Down District Council was consulted on 17 June 2002 with an opinion to grant planning permission for the proposed residential development of 54 houses

and 9 apartments on lands to the rear of 65 Downpatrick Street, Crossgar, adjacent to Station Road.

However, a decision on this proposal and a number of other applications is currently being held, on a precautionary basis, pending the outcome of urgent discussions between my Department and the Department for Regional Development regarding concerns over the quality of discharges and risks of water pollution from sewage treatment plants and networks at a number of locations throughout Northern Ireland, including Crossgar.

I, with Peter Robinson, the DRD Minister, have asked that discussions between EHS and Water Service officials be completed and that recommendations be made to us by mid-September. This will clarify locations where EHS has concerns over water quality issues and how these should be dealt with in planning terms.

### **Planning Procedures: Derry City Council Area**

**Mrs Courtney** asked the Minister of the Environment what measures have been put in place to alleviate the pressures experienced by local developers until the EU Directives have been met, given the long-lasting moratorium on planning procedures in the Derry City Council area. (AQO 69/02)

**Mr Nesbitt:** As I have stated, there is not a moratorium on planning approvals in Northern Ireland. There are concerns over the risks of water pollution from sewage treatment plants and sewerage networks in a number of areas, one of which includes the Culmore Water Waste Treatment Works serving Derry City Council and some adjacent areas. These concerns raised complex, legal, environmental and operational issues. As a precautionary measure, Planning Service is holding planning applications in these areas, pending the outcome of urgent discussions between my Department and the Department for Regional Development.

I am acutely aware of the concerns of the development industry and public representatives about the precautionary steps which my Department has taken. Indeed, I met with a delegation from Derry City Council less than 2 weeks ago to hear their concerns.

Balancing the need for development with the need to protect the environment represents a major challenge for my Department and this was accepted by the delegation. I am fully committed to an early, balanced and pragmatic resolution. I recently met with the Minister for Regional Development and we agreed that officials in our Departments should engage in urgent discussions and make recommendations to us by mid September.

In advance of receiving these recommendations, I have acted to release a number of planning applications by agreeing that development proposals that had received

outline approval, but were being held on a precautionary basis, should be processed to decision stage. I have also announced that applications that were being held in relation to seven areas should now be processed to decision stage by the Planning Service.

At my meeting with the representatives from Derry City Council, I gave an undertaking to secure a speedy resolution to this issue.

### Planning Applications: Mobile Telecommunications Masts

**Mr C Murphy** asked the Minister of the Environment what number of planning applications for mobile telecommunications masts were (a) submitted; (b) refused; (c) granted; and (d) withdrawn, in each of the last 5 years. (AQO 53/02)

**Mr Nesbitt:** As the information the Member has requested contains a considerable amount of detail and would take some time to present orally, I have arranged for a copy to be made available in the Assembly library for Members' consideration.

The temporary listing will last for up to 6 months and will equate to 'normal' listing, i.e., protection from damage, alteration or demolition. After this, the building must be formally listed or the temporary listing will lapse. The Bill is currently at Committee Stage and it is anticipated that it will become law early in 2003.

### Development Constraints: Lagan Valley Constituency

**Mr Poots** asked the Minister of the Environment what areas in the Lagan Valley constituency were affected by the announcement of development constraints as a result of inadequate sewerage disposal. (AQO 37/02)

**Mr Nesbitt:** The areas affected in the Lagan Valley constituency are Maghaberry, Glenavy, Upper Ballinderry and Ravernet. However, the Member will be pleased to note that I announced on 3 September seven areas in which the Planning Service would now begin to process these applications to decision stage, and one of those areas is Maghaberry. The reason for this is because after examination there is not sufficient evidence of environmental impact to require related planning applications to be held on a precautionary basis.

#### TELECOMMUNICATIONS APPLICATIONS 1998-2002

Year	1998			1999			2000			2001			2002 (to 31/8/02)		
Applications	F	PA	Total	F	PA	Total	F	PA	Total	F	PA	Total	F	PA	Total
Received	39		39	76	91	167	184	427	611	137	513	650	110	196	306
Approved	96		96	23	60	83	129	301	430	92	402	494	65	180	245
Refused	2		2	2	1	3	19	47	66	23	90	113	8	33	41
Withdrawn	13		13	10	1	11	31	16	47	16	29	45	9	16	25

F – Full PA – Prior Approval

**Footnote:** It is not possible to draw a direct comparison between the number of applications received in a given year and the number determined/withdrawn due to the numbers carried over from the preceding year and into the following year.

### 'Spot-Listing'

**Dr McDonnell** asked the Minister of the Environment what progress has been made towards securing powers of 'spot-listing' in Northern Ireland; and to make a statement. (AQO 33/02)

**Mr Nesbitt:** The Planning (Amendment) Bill contains provisions which will enable the Department to serve a Building Preservation Notice to protect a building considered to be of special architectural or historic interest, which is in danger of demolition or alteration. This will provide a fast track method for the consideration of listing buildings and will enable the Department to respond much more quickly in circumstances where buildings are considered to be at risk.

### Telecommunications Mast: 'The Rocks', Rathfriland

**Mr Bradley** asked the Minister of the Environment what assessment he has made on the planning procedures relating to Crown Castle's application associated with the provision of a proposed telecommunications mast at 'The Rocks', Rathfriland. (AQO 8/02)

**Mr Nesbitt:** I have not been involved in the planning decision relating to this application. I am advised that the development relates to the proposed installation of 4 pole mounted radio antennae at roof level on an out building to the rear of 20 Main Street, Rathfriland. In addition 2 radio equipment housing units and access ladder are to be installed at ground level.

Details of the proposed development were submitted by Crown Castle on behalf of T-Mobile on 20 June 2002. T-Mobile is a licensed Telecommunications Code System Operator. At the time of the submission, works carried out by licensed operators were permitted development under the Planning (General Development) Order (Northern Ireland) 1993 (as amended). The new legislation requiring full planning permission for new telecommunications development came into force on 21 June 2002.

Permitted development was conditional upon the operator applying to the Department for a determination as to whether prior approval was required for the siting and appearance of the proposal. In this instance the Department determined that prior approval for the siting and appearance was required, hence the submission dated 20 June 2002. The Department processed the prior approval application in the normal manner within the 28 days required by the legislation in force at that time and granted prior approval on 16 July 2002.

My assessment on the planning procedures, and the circumstances surrounding this application, indicates clear merit in moving to the new legislation that became operable on 21 June 2002.

### Infrastructure Neglect

**Mr Molloy** asked the Minister of the Environment what assessment he can make in relation to the infrastructure neglect in many council areas, including any plans he has to bring forward legislation on the matter; and to make a statement. (AQO 54/02)

**Mr Nesbitt:** The Regional Development Strategy published in September 2001 by the Department for Regional Development, sets out the Government's strategy for the future development of Northern Ireland to 2025. It contains a Spatial Development Strategy and related Strategic Planning Guidelines which aim to provide long-term policy directions which, in relation to my Department, provide the framework for the preparation of planning policies and development plans.

The aim of the Spatial Development Strategy is to promote a balanced and equitable pattern of sustainable development across all district council areas and to enable all communities to contribute fully to the prosperity of their local area and Northern Ireland as a whole. While this Strategy has regard for existing infrastructure and services it also establishes the need for new investment and informs decisions on related priorities.

Set against this strategic development framework, my Department, through the Planning Service, is responsible for the preparation of development plans for individual or groups of district council areas. The purpose of these statutory documents is to set out the local planning policy framework and land use proposals used to guide develop-

ment decisions within the Plan area. Development plans aim to facilitate sustainable and quality growth and development while protecting and where appropriate enhancing the environment and in turn have regard for existing infrastructure investment and establish the need for new investment.

Overall, however, the responsibilities of my Department lie in the provision of the regulatory framework for development. Other Departments and service providers carry responsibility, for example, for the delivery of water and sewerage, drainage, waste, telecommunications and transportation infrastructure and other necessary services.

### Transportation of Nuclear Material

**Mrs Nelis** asked the Minister of the Environment to make a statement on the transportation of nuclear material through the Irish Sea to Sellafield. (AQO 63/02)

**Mr Nesbitt:** The transportation of nuclear material through the Irish Sea is the responsibility of the Department of Transport, Regions and Local Government in Whitehall. However, during a recent visit to Sellafield, I visited the BNFL marine terminal in Barrow in Furness to discuss relevant safety and security issues and to view the facilities aboard the Pacific Sandpiper, one of a fleet of ships specifically designed to transport nuclear materials. The ship is designed with a double hull to withstand the broadside impact of a fully laden oil tanker. It is equipped with state-of-the art navigation and security measures and is manned by a highly-trained crew. I was informed that to date, the fleet has travelled four and a half million miles without a single incident involving radioactivity.

### Tourist Facilities

**Mr Beggs** asked the Minister of the Environment to detail the number of tourist facilities owned by his department and which are operated in conjunction with District Councils. (AQO 39/02)

**Mr Nesbitt:** My Department's Environment and Heritage Service owns around 235 heritage properties. Some 14 District Councils are involved with my Department's Environment and Heritage Service in aspects of the operation of some 30 of these properties.

10 of these 30 properties include significant tourist facilities. Fermanagh District Council operates a local heritage museum within Enniskillen Castle and provides an information service for our Marlbank reserves. Limavady Borough Council operates a local heritage museum in an Environment and Heritage Service building at Roe Valley Country Park and a car park at Banagher Glen. Derry City Council opens and provides guides to the City Walls. Lisburn City Council opens and operates a Tourism Information Centre at Hillsborough Courthouse and opens a car park at the Giant's Ring. Ards Borough Council opens

and operates a Tourism Information Centre at Portaferry Castle. The Environment and Heritage Service co-operates closely with Carrickfergus Borough Council over the use of Carrickfergus Castle for functions and events.

The Environment and Heritage Service also consults District Councils over the operation of its other major State Care Monuments.

### Road Safety Officers

**Mr McCarthy** asked the Minister of the Environment how many Road Safety Officers are in post now compared to (a) two years ago and (b) the approved complement.

(AQO 49/02)

**Mr Nesbitt:** The Department currently has 21 Road Safety Education Officers in post which compares with:

- (a) 11 in post two years ago; and
- (b) the approved complement of 21.

Increased resources for road safety in 2001/2002 enabled my Department to appoint 10 additional officers in May 2001. As a result my Department is able to provide enhanced support for teachers in promoting road safety in schools and to introduce new initiatives, including practical child pedestrian safety training at the roadside and providing advice to parents and guardians on the proper fitment of child safety restraints in cars.

### Plastic Bag Levy

**Mr O'Neill** asked the Minister of the Environment whether, given the recently announced success of the plastic bag levy in the Republic of Ireland, he has plans to introduce a similar levy.

(AQO 21/02)

**Mr Nesbitt:** In the UK as a whole, around 10 billion plastic bags are given away each year. That constitutes a significant source of landfill and an equally significant source of litter.

The primary issue here is whether our Administration can legislate for a tax or levy in Northern Ireland which would correspond to that deployed so successfully in the Republic of Ireland.

As I indicated to the Assembly in my response to Ms Morrice's question on plastic bags on 30 May 2002, my legal advice is that the Assembly has no legislative competence in this matter. I am, however, seeking further advice on that point.

I am aware that Michael Meacher at the Department for the Environment, Food and Rural Affairs (DEFRA), given the success of the plastic bags levy in the Republic of Ireland, has given notice that he intends to consider among other options the introduction of a similar levy in the UK. It is my intention to support DEFRA in this. I

will raise the issue at meetings of the Environment Sector of the British-Irish Council.

However the objective on this matter can be addressed in other ways. My officials have been exploring options which might have an equivalent effect to the levy. They have already engaged in discussions with representatives from the supermarket sector to look at the possibility of developing a voluntary scheme to encourage consumers to reduce the current excessive use of plastic bags. The idea of 'bags for life' is an example of a possible alternative to a tax on plastic bags.

The experience of the Republic of Ireland has shown that people are willing to act with greater environmental responsibility when given appropriate encouragement. I am hopeful that we can build constructively on the heightened awareness of waste issues brought about by my Department's recent 'Wake up to Waste' campaign.

### Waste Water Treatment Works

**Mr Armstrong** asked the Minister of the Environment what contact he has had with the Department for Regional Development regarding the non-compliance of waste water treatment works with EU environmental regulations.

(AQO 62/02)

**Mr Nesbitt:** I have been working together with Minister Robinson, and my officials with their counterparts in the Department for Regional Development, to seek to resolve the current situation. This involves consideration of complex legal, environmental and operational issues. Most recently I met with Minister Robinson on 22 August following which, in a joint statement, we committed ourselves and our two Departments to giving top priority to seeking a balanced and pragmatic resolution, consistent with our Departments' statutory obligations.

We tasked our officials to bring forward recommendations to us for resolving the difficulties by mid-September. I am meeting Minister Robinson again shortly and anticipate that the necessary balanced and pragmatic resolution will ease the position considerably [and I will make an early statement to the Assembly].

## FINANCE AND PERSONNEL

### Health Centre, Kilkeel

**Mr Bradley** asked the Minister of Finance and Personnel what assessment he has made of the application for funding towards the provision of a new Health Centre in Kilkeel.

(AQW 9/02)

**The Minister of Finance and Personnel (Dr Farren):** I am pleased to confirm that the Executive has already approved the funding of a new Health Centre in Kilkeel



as part of the successful “Essential Hospital Capacity” Reinvestment and Reform Initiative bid. The business case was also approved by my Department in January of this year.

## HEALTH, SOCIAL SERVICES AND PUBLIC SAFETY

### Hearing Aids

**Mr Weir** asked the Minister of Health, Social Services and Public Safety to outline any plans she has to make digital hearing aids available through the Health Service. (AQW 13/02)

**The Minister of Health, Social Services and Public Safety (Ms de Brún):** I am committed to providing digital hearing aids as soon as funding permits.

The necessary funding is not available at this time. A bid for funding has been made in the current Spending Review.

Tá mé geallta le háiseanna digiteacha éisteachta a sholáthar a luaite agus a bheidh an maoiniú ar fáil dóibh.

Níl an maoiniú atá riachtanach ar fáil ag an am seo. Rinneadh tairiscint le haghaidh maoinithe san Athbheithniú láitheach ar Chaiteachas.

### Hearing Aids

**Mr Weir** asked the Minister of Health, Social Services and Public Safety how do analogue hearing aids compare with modern digital hearing aids. (AQW 14/02)

**Ms de Brún:** The nature of an individual’s hearing impairment and the level of residual hearing are key determining factors on whether a hearing aid is prescribed, and the type recommended. The range of analogue hearing aids currently available includes behind-the-ear, in-ear, programmable and belt-worn aids. Current prices for analogue hearing aids range from £18 to £200, whilst digital hearing aids range from £54 to £300. Digital hearing aids offer better sound quality and are more reliable.

Is tosca tábhachtacha iad sórt lag-éisteachta an duine aonair agus leibhéal a n-éisteachta iarmharaí nuair atá cinneadh á dhéanamh ar cé acu a ordaítear nó nach n-ordaítear áis éisteachta, agus ar an sórt áise molta. Sa réimse d’áiseanna analógacha éisteachta ar fáil faoi láthair tá áiseanna cúlchluaise, sa chluas, agus áiseanna inríomhchláraithe agus crios-chaite. Tá na praghasanna láithreacha d’áiseanna analógacha éisteachta sa réimse ó £18 go £200, agus d’áiseanna digiteacha éisteachta sa réimse ó £54 go £300. Táirgíonn áiseanna digiteacha éisteachta caighdeán fuaimne níos fearr agus bíonn siad níos buanseasmhaí.

### Hearing Aids

**Mr Weir** asked the Minister of Health, Social Services and Public Safety to outline (a) the number of people in Northern Ireland who have received digital hearing aids through the Health Service; and (b) how this number compares with the rest of the United Kingdom. (AQW 15/02)

**Ms de Brún:** As digital hearing aids are not currently available through the Health Service here, there is no basis for meaningful comparisons with Great Britain. Digital hearing aids are being introduced on an incremental basis there.

Mar nach bhfuil áiseanna digiteacha éisteachta ar fáil faoi láthair tríd an tSeirbhís Sláinte anseo, níl bunús ar bith le comparáidí fiúntacha a dhéanamh eadrainn agus an Bhreatain Mhór. Tá áiseanna digiteacha éisteachta á dtionscnamh céim ar chéim ansin.

### Hearing Aids

**Mr Weir** asked the Minister of Health, Social Services and Public Safety to outline (a) the number of people in Northern Ireland who have received analogue hearing aids through the health service and (b) how this number compares with the rest of the United Kingdom. (AQW 16/02)

**Ms de Brún:** Information on the numbers of analogue hearing aids supplied through the health service is not held centrally, either here or in Great Britain.

Níl eolas ar líon na n-áiseanna analógacha éisteachta a soláthraíodhar fud na seirbhíse sláinte ar fáil anseo go lárnach nó sa Bhreatain Mhór.

### Hearing Aids

**Mr Gibson** asked the Minister of Health, Social Services and Public Safety to outline her plans to introduce digital hearing aids to replace analogue hearing aids. (AQW 61/02)

**Ms de Brún:** I refer the member to my answer to AQW 13/02.

Treoraím an Comhalta do mo fhreagra a thug mé ar AQW 13/02.

### Waiting Lists: Lagan Valley Hospital

**Mr Davis** asked the Minister of Health, Social Services and Public Safety to detail the number of people currently awaiting their first appointment as an out patient at the Lagan Valley Hospital for the periods (i) 0-6 months, (ii) 6-9 months, (iii) 9 months and over. (AQW 91/02)

**Ms de Brún:** The information requested is not available.

Níl fáil ar an eolas a iarradh.

### **Waiting Lists: Antrim Area Hospital**

**Rev Robert Coulter** asked the Minister of Health, Social Services and Public Safety to detail the number of people currently waiting for their first appointment as an out patient at Antrim Area Hospital for the periods; (i) 0-6 months, (ii) 6-9 months and (iii) 9 months and over.  
(AQW 107/02)

**Ms de Brún:** The information requested is not available.

Níl fáil ar an eolas a iarradh.

## **REGIONAL DEVELOPMENT**

### **Public Car Parking: Warrenpoint**

**Mr Bradley** asked the Minister for Regional Development if he will undertake to provide public car parking spaces to meet the current demands of traders and shoppers in Warrenpoint.  
(AQW 1/02)

**The Minister for Regional Development (Mr P Robinson):** My Department's Roads Service currently provides 275 car parking spaces within 4 car parks in or close to Warrenpoint town centre. A further 500 spaces are available in the town through on-street parking including end-on parking in Church Street and Duke Street. Together these facilities provide a greater than average density of parking close to shops. This parking provision is augmented by Newry & Mourne District Council's substantial marina car park which is situated within easy reach of the town centre.

Roads Service considers that the number of parking spaces available in Warrenpoint is adequate for the demand throughout the majority of the year. I understand that it is only during specific events, such as the Maid of the Mournes Festival, that resources are stretched and, given that these difficulties arise as a result of tourist-related events, their resolution is a matter for the Council.

I can, however, advise that a survey of on-street and off-street parking patterns in Warrenpoint will be carried out during the autumn as a means of assessing the current uptake of the existing car parking spaces.

In addition, I am pleased to inform you that a scheme to provide a new system of signing in the town to highlight the location of car parks will be carried out during the current financial year.

### **Damaged Caused By Tar**

**Mr Bradley** asked the Minister for Regional Development what assessment he has made of (a) the damage to vehicles and property in different locations, during late July and early August, caused by tar following the resurfacing of roads; and (b) the difficulties being experienced by those submitting insurance claims relating to such damage.  
(AQW 7/02)

**Mr P Robinson:** Around 485 compensation claims were received by the Department following the road resurfacing failures at a number of locations in late July. The contract between the Department and Tullyraine Quarries Limited contains a clause indemnifying the Department against third party claims of this nature. All the claims were therefore passed on to the Contractor, Tullyraine Quarries Limited, on 2 August 2002 and are now their responsibility. I have no information about difficulties experienced by those claimants when making an insurance claim.

### **Fort Road, Belfast**

**Mr Davis** asked the Minister for Regional Development in relation to Fort Road, Belfast, to outline any plans he has for (a) the replacement of leaking water pipes and (b) the installation of mains sewers on the road.  
(AQW 45/02)

**Mr P Robinson:** Fort Road is situated within a water pressure managed area, and earlier this year a faulty pressure-reducing valve in the road gave rise to complaints about high pressure, and leakage from internal plumbing fittings and showers. The valve was replaced and the pressure has been restored to normal levels. The watermain in Fort Road is not known to be especially susceptible to leakage, and is performing satisfactorily. Water Service has therefore no plans to replace it. Water Service has been replacing watermains in adjacent roads where there have been problems with the condition of the watermains, and this will improve water quality and standards of service to the customers in Fort Road.

The feasibility of providing sewerage facilities for the Ballycairn area, including Fort Road, was considered some years ago. The cost of the scheme would have significantly exceeded the then reasonable cost allowance of £2,300 per property. The scheme would not have been economically viable without a contribution of some £1,800 per property. However, only 5 of the 98 properties were willing to contribute and the scheme could not proceed. To date, Water Service has not received any further applications for sewerage facilities in the area. The viability of the scheme will now be reassessed in light of the increase in the reasonable cost allowance to £4,000 per property. I will advise you of the outcome of the reassessment.

### **Belfast City Airport: Noise-Monitoring Regime**

**Ms McWilliams** asked the Minister for Regional Development if his Department will carry out a noise-monitoring regime at Belfast City Airport and in the adjoining residential areas. (AQW 59/02)

**Mr P Robinson:** Being aware of the concerns of many residents in east Belfast about noise from Belfast City Airport, I recently announced that my Department would undertake a review of the current arrangements employed in the monitoring of noise pollution at Northern Ireland's three commercial airports.

The review will examine the present arrangements for the reporting, analysis, interpretation and publication of noise pollution data and make recommendations for any improvements considered necessary. This will include the way noise-monitoring information is presented in the future so that it will be in a format that is easier to access and interpret.

An extensive monitoring of noise pollution at Belfast City Airport was conducted in March 2002. The consultant's report on their findings was published at the end of June and is currently being considered by my officials and colleagues in the Department of the Environment.

Professor Callum Thomas of the Centre for Air Transport and the Environment, at Manchester Metropolitan University, who will undertake the review, will meet with the Belfast City Airport Forum, which includes representatives of the NI General Consumer Council, the airport management, the airlines, local residents and District Councils.

### **Flooding: The Avenue, Burren, Warrenpoint**

**Mr Bradley** asked the Minister for Regional Development what steps are being taken to ensure that the historic incidence of flooding at The Avenue, Burren, Warrenpoint, which was eliminated in 2001, will not recur as a result of the current upgrading of the junction of the B7 road and The Avenue. (AQW 133/02)

**Mr P Robinson:** My Department's Roads Service recently undertook a scheme at the section of Milltown Street (B7) and The Avenue, Burren. This included the upgrading of the drainage system on The Avenue with the provision of two new gullies to replace the one old gully, which was located in the centre of the road. The new gullies, with silt-traps, have been located on the northern edge of the road. The road was resurfaced on 9 September 2002 with a continuous fall to the northern side of the road to ensure that all water is caught by the new drainage system.

My Department's Roads Service is fully satisfied that flooding of The Avenue, Burren is less likely to take place following the resurfacing and auxiliary works.

### **Belfast To Newry Road**

**Mr Kennedy** asked the Minister for Regional Development in light of the recent fatal accident at the Tinkers Hill / Sheepbridge section of the A1 Belfast Newry road, if he has any plans to (a) improve and upgrade; and (b) introduce additional safety measures at this section of the road. (AQW 166/02)

**Mr P Robinson:** I was deeply saddened to hear of the recent tragic accident on the A1 at Turmore Road.

I understand that officials from my Department's Roads Service met with you on 10 September 2002, together with Newry & Mourne District Councillors, local residents and representatives of the Police Service of Northern Ireland, to discuss road safety issues relating to Tinker Hill in Newry. I can confirm that Roads Service will investigate the concerns highlighted at the meeting in relation to this stretch of road, as part of an assessment of the road conditions and traffic speeds at this location. Roads Service officials will report on the progress of this assessment at a follow-up meeting which has been arranged for Friday 25 October 2002.

In the longer term, you will be aware that Roads Service commissioned consultants in April 2001 to investigate the feasibility of alternative options to provide a dual carriageway on the A1 between Beech Hill and Cloghogue, which includes the section of road in question. The consultants are considering the upgrading of the existing route or a possible new route from Beech Hill joining the Newry Bypass near Cloghogue.

The approved options were presented to Newry and Mourne Council in August 2002 and a public exhibition will be held before December 2002. The 'preferred option' will be recommended in Spring 2003. This scheme is currently being considered, along with other worthwhile schemes for possible inclusion in the Roads Service Forward Planning Schedule which will be aligned with my Department's 10-year Regional Transportation Strategy.

### **Road Junction: Armagh**

**Mr Kennedy** asked the Minister for Regional Development in light of the recent fatal accident at the Newtownhamilton Road / Keady Road, Armagh junction, if he has any plans to (a) improve and upgrade; and (b) introduce additional safety measures at this section of road. (AQW 167/02)

**Mr P Robinson:** I was deeply saddened to hear of the recent accident that occurred on the A29 Keady Road, at



the junction of the B31 Newtownhamilton Road, Armagh on Thursday 5 September 2002, which, unfortunately, resulted in the death of 3 people. While my Department's Roads Service has not yet received a detailed report on the accident from the police, officials are liaising closely with the local traffic police in this respect.

In response to a number of requests received over recent years, Roads Service has included a scheme for the junction in their Minor Works Programme for 2002/2003. The details of the scheme, which will entail substantial improvements to the junction and bends in the vicinity, were outlined in Roads Service's Spring 2002 Report presented to Armagh City and District Council. At present, Roads Service are finalising a design solution for the scheme, but you will appreciate that implementation of the scheme is subject to acquisition of the necessary land.

As regards additional safety measures, Roads Service carried out an assessment of the nearby bend on the Keady Road in the vicinity of the junction in November 2001. This resulted in the provision of fluorescent yellow-bordered chevron signs and marker posts on the apex of the bend in March 2002.

### Bonfires

**Mr Bradley** asked the Minister for Regional Development to explain (a) what he intends to do about the building and lighting of bonfires on land under his control and (b) how he intends to recover the cost of damages caused by bonfires. (AQO 7/02)

**Mr P Robinson:** I do not condone the siting of bonfires where they will damage property, whether it is public or private property, and I urge those constructing them to act responsibly in that regard.

Roads Service takes whatever action is possible to ensure that public thoroughfares are not obstructed by bonfires and that road safety is not compromised.

The Roads Service policy is to remove any offending material where there is a danger to road users. Where there is no danger, Roads Service will seek the advice of the Police, taking account of the level of support within the local community, before deciding on a course of action.

As to recovering the cost of bonfire damage, the Member will be aware that bonfires are generally built by members of local communities, rather than a single identifiable organisation. In those circumstances it is simply not practical to recover the cost of the damage from the many people responsible. Indeed, I rather suspect that the administrative and legal costs of doing so would far exceed the actual cost of repairs.

### Procurement Policy

**Mr Attwood** asked the Minister for Regional Development to outline (a) how many contracts, to what value, and in what departmental areas, have been forwarded to the Public Procurement Board for consideration and inclusion in the pilot studies for procurement policy; and (b) what measures are being undertaken to assess each departmental contract for inclusion in the pilot studies; and to make a statement. (AQO 60/02)

**Mr P Robinson:** Thank you for your question. I will deal with part (a) first.

My Department has been invited by the Public Procurement Board to participate in the pilot study into the use of procurement contracts to assist the unemployed into work. My Department will be forwarding details of one contract to the Public Procurement Board for consideration and inclusion in this pilot study. This is a Water Service contract for services with a total value of £900,000.

I will now respond to part (b) of your question.

My officials have assessed all Departmental construction and services contracts against the criteria specified for the pilot study by the Public Procurement Board.

I remain to be convinced of the merit of incorporating wider social and economic objectives within public procurement policy. It is essential that the number and spread of contracts considered within this pilot study be of sufficient scale to enable a meaningful analysis of the effectiveness of this policy to be undertaken. Value for money must remain the key determinant for public procurement and contract selection.

### Flooding: Lower Ormeau Road Area

**Dr McDonnell** asked the Minister for Regional Development to outline (a) the extent of the works carried out by the Water Service on the lower Ormeau Road area of Belfast since July 2002 and (b) any future works planned in order to prevent flooding in that area. (AQO 34/02)

**Mr P Robinson:** Since July 2002, my Department's Water Service has continued to progress a flood alleviation scheme for the Lower Ormeau Road area, which was initiated following earlier flooding. The major elements of the scheme involve the replacement of four pumps in the River Terrace Pumping Station, duplication of approximately 150 metres of 2.1 metre diameter trunk sewer between Cooke Place and River Terrace Pumping Station, and the provision of 50 metres of emergency gravity overflow sewer to the River Lagan. The estimated cost of the scheme is in the region of £850,000.

The installation of the four replacement pumps commenced on 18 April 2002 and was completed on 9 July 2002. Progress on laying the final length of the



emergency gravity overflow, the duplicate sewer in Cooke Place, and with the installation of a penstock (valve) to control the operation of the overflow, was delayed by over four months due to difficulties with the relocation of a Northern Ireland Electricity High Voltage cable. Much of this work has now been completed, or is currently ongoing, and the expected completion date for the scheme is December 2002. When all elements of the scheme are completed and are operating together, the risk of flooding in the area will be significantly reduced.

The implementation of the major Belfast sewer network upgrading scheme will further enhance the level of flood protection in the area. The scheme, which includes the construction of a main storm water management sewer along with additional structural and hydraulic upgrade work, is currently programmed to commence in 2004. It is expected to take 5-6 years to complete at an estimated cost in excess of £100 million. As well as the significant reduction to the risk of out of sewer flooding, substantial environmental benefits will accrue from the reduction in discharges from sewer overflows to the River Lagan, during storm conditions.

### Budget Allocation

**Mr McHugh** asked the Minister for Regional Development to detail the split of budget allocation from his (a) capital build programme; (b) road maintenance programme; and (c) overall Departmental Expenditure Limit allocation between areas west and east of the River Bann.

(AQO 64/02)

**Mr P Robinson:** I would refer the Member to a similar question which my predecessor answered on 8th October 2001. As on that occasion and in the absence of a precise definition of the area 'west of the Bann' I have collated what information there is available in relation to the nine Local Government Districts in Counties Fermanagh, Londonderry and Tyrone – an area with 27% of the total NI population.

Of my Department's total DEL Budget for 2001/02, around £120 million (about 23%) cannot be disaggregated on a strictly 'east/west' basis as it relates to general revenue and network based support for public transport, development costs, Agency and Core Headquarters staff salaries and general administration costs. Of the remainder approximately £118 million (29%) was invested 'west of the Bann'.

In respect of the capital budget around £40 million (about 24%), including the bulk of resources for public transport which are allocated on a network basis (e.g. investment on new buses and integrated ticketing), cannot be disaggregated as requested. However, some 28% of the remainder (£48 million), including expenditure on roads and water and sewerage, was invested west of the Bann. Capital allocations can vary considerably from

year to year depending on the particular schemes being undertaken but I can confirm that average allocations 'west of the Bann' have increased over recent years.

Finally, in respect of roads maintenance, allocations 'west of the Bann' amounted to 32% of the total budget in 2001/02 (around £30 million).

### Flooding: East Antrim

**Mr Beggs** asked the Minister for Regional Development to detail (a) the number of claims made against his department as a result of sewage related flooding in the East Antrim area this year and (b) the percentage of these which have been successful to date. (AQO 40/02)

**Mr P Robinson:** It is not possible, easily, to separate sewage related flooding claims from flooding claims from other sources. Since 1 January 2002 there has been 303 flooding claims against the Department from the Newtownabbey and Carrickfergus areas and, while a decision has not yet been made on four, all the others were turned down.

### Election of First Minister and Deputy First Minister

**Mr A Maginness** asked the Minister for Regional Development, in respect of the legal action regarding the election of the First Minister and Deputy First Minister pursued by him in the High Court, Court of Appeal and House of Lords, (a) what costs have been incurred to date; (b) what is the estimate of any further costs not yet billed; (c) whether he intends to instruct his Department to cover any of the costs of this action; and, if so, how much. (AQO 56/02)

**Mr P Robinson:**

- (a) To date the only payment was £4,560 by way of a Judicial Fee.
- (b) No other payment claims have yet been submitted and it is premature to provide estimates of costs at this point in time.
- (c) No instruction will be given to the Department. The decision that both the non-Departmental case initiated by me and the one in the name of the Minister should proceed as one case was taken by Mr Justice Kerr. This was supported by the Departmental Solicitors Office with whom all costs and apportionments will be agreed. No costs order was made in the case, consequently OFMDFM and the Secretary of State will have to cover their own costs which will be in excess of those for the Department. I understand that all arrangements were in line with previous practice for cases taken by other Departmental Ministers. No doubt the Member

will be keen to investigate costs in other cases including those involving party colleagues.

### **B173: Kircubbin to Cloughey**

**Mr McCarthy** asked the Minister for Regional Development if he will make a statement on the state of repair of the B173 from Kircubbin to Cloughey.

(AQO 29/02)

**Mr P Robinson:** The B173 is assessed under my Department's Roads Service cyclic inspection system and remedial action to repair defects is taken as appropriate. My Department's Roads Service is aware of the condition of the stretch of road through Rubane village, which has deteriorated over time resulting in the need to repair many potholes. My Department's Water Service completed a scheme at this location during November/ December 2001 and it would clearly not have been the best use of taxpayer's money to proceed with a resurfacing scheme in the knowledge that the road would be subject to excavations during this contract.

I am pleased to inform you that following discussions between Roads and Water Service in relation to the final reinstatement of the Water Service track, Roads Service will be proceeding with a resurfacing scheme this month.

There are no current plans to resurface other stretches of the B173 between Kircubbin and Cloughey, although they continue to be inspected and repaired regularly by Roads Service.

### **Dual Carriageway: Larne Road Roundabout, Ballymena**

**Rev Robert Coulter** asked the Minister for Regional Development to make a statement on the anticipated completion date for the dual carriageway under the Larne Road roundabout at Ballymena.

(AQO 55/02)

**Mr P Robinson:** Within the context of the Regional Transportation Strategy approved by the Assembly in July, my Department's Roads Service is preparing a Forward Planning Schedule of major road schemes which it is expected could be started within the 10-year period of the Regional Transportation Strategy.

Roads Service is currently carrying out scheme appraisals on a number of schemes for possible inclusion in the Schedule. I can confirm that a dual carriageway under the Larne Road roundabout at Ballymena is among the schemes currently being appraised.

Successful schemes would have to be taken through the statutory procedures of Environmental Assessment, Planning Approval and Land Acquisition but the most critical factor in delivering the Regional Transportation

Strategy will be the availability of additional funds for such schemes.

### **Housing Indicator Numbers**

**Mr Armstrong** asked the Minister for Regional Development if he has assessed the likely impact of Housing Indicator Numbers (obtained through the Regional Development Strategy) on development in areas of NI where growth has been historically high.

(AQO 61/02)

**Mr P Robinson:** The District Housing Growth Indicators in the Regional Development Strategy were set as a result of a robust assessment. That assessment included information on new household formation, vacancy rates in the housing stock, replacement of stock loss due to demolitions, abandonment and changes of use and conversions. In addition, the assessment of regional housing need, relied on the most recently published Government Actuary population projections for the period 1998-2015.

The district housing figures which emerged in the final Regional Development Strategy were agreed by the Assembly on 20 September 2001. I recognise that problems may arise from time to time as a result of the over-provision or under-provision of housing and, accordingly, there is need for continuous monitoring of figures in the RDS.

In the light of concerns expressed about the adequacy of the projections in a small number of areas, my officials have asked the Planning Service for a detailed assessment in each area where development plans are being prepared. That assessment will cover the number of dwellings built since 1998, current planning applications, extant planning permissions, land availability, urban capacity, and the headroom to accommodate the residual housing figure.

On the basis of the assessment I receive from the Department of the Environment and information from the 2001 Census, the first stage tranche of material will be released on 30th September 2002, I will consider whether there is clear evidence to adjust the Housing Growth Indicators in any specific areas.

### **Dual Carriageway: Ballymena to Ballymoney**

**Mr Paisley Jnr** asked the Minister for Regional Development to outline the proposed starting date for a dual carriageway from Ballymena to Ballymoney.

(AQO 2/02)

**Mr P Robinson:** The Regional Transportation Strategy approved by the Assembly in July identified the strategic transportation priorities and necessary investment needed to provide a modern, sustainable and safe transportation system over the next 10 years.

My Department's Roads Service is currently preparing a Forward Planning Schedule of major road schemes, which could be started within that 10-year period. Roads Service is currently carrying out scheme appraisals on a number of schemes for possible inclusion in the Schedule. I can confirm that extending the A26 dual carriageway north as far as the Ballycastle Fork is among the schemes currently being appraised.

Successful schemes would have to be taken through the statutory procedures of Environmental Assessment, Planning Approval and Land Acquisition but the most critical factor in delivering the Regional Transportation Strategy will be the availability of additional funds for such schemes.

### **Culmore Treatment Works**

**Mrs Courtney** asked the Minister for Regional Development to confirm reports that £18 million has been set aside by the Water Service to upgrade Culmore Treatment Works in the Derry City Council area and to give a date as to when work is scheduled to start. (AQO 68/02)

**Mr P Robinson:** Water Service needs to make substantial investment in the water and wastewater infrastructure to satisfy public health requirements, comply with European Union Directives, replace out of date infrastructure and meet the increasing demands for new development. Traditional public expenditure, even with borrowing opportunities such as the Reinvestment and Reform Initiative, are unlikely to meet Water Service's requirements now and in the future. Consequently, Water Service has been actively investigating additional funding opportunities through Public Private Partnerships.

Preliminary studies indicate that there are seven major wastewater treatment projects, totalling some £150 million, that are suitable for progression under a Public Private Partnership programme of work. The upgrading of the Culmore Wastewater Treatment Works, which is estimated to cost £18 million, is one of these projects. These studies are only at an early stage and it will be several months before they can be completed. It will not be possible to give an indication of the likely start date of any of the proposed PPP projects before then.

### **Crieve Road, Newry**

**Mr Fee** asked the Minister for Regional Development what steps were taken by Roads Service to deal with the faulty surfacing of the Crieve Road, Newry. (AQO 57/02)

**Mr P Robinson:** I am aware of the problems experienced by road users following the recent failure of surface dressing on the Crieve Road in Newry. As soon

as Roads Service became aware of the problem, the road was closed to avoid further difficulties and the Contractor treated the surface to absorb the excess bitumen. This helped stabilise the surface and ensured that bitumen was no longer being deposited on passing vehicles. This is a temporary measure, required to make the road safely passable in advance of permanent repairs.

Roads Service in conjunction with its Contractor is currently trying to determine the cause of the surface dressing failure and is awaiting the result of tests carried out on the materials used. There are many possible causes and each has to be fully investigated. The permanent repairs required to make good the road will depend on the outcome of investigations and the identified cause of the failure. Roads Service is committed to resolving this issue and completing permanent repairs as quickly as possible.

### **Free Travel: Senior Citizens**

**Ms Morrice** asked the Minister for Regional Development why retired women between the ages of 60 and 64 have not been offered free travel in line with Great Britain; and to make a statement. (AQO 120/02)

**Mr P Robinson:** The qualifying age for senior citizens' travel concessions was set at 65 for both men and women when the Northern Ireland Scheme was introduced in 1978. The age limit reflected the prevailing average age of retirement at that time and the requirement to comply with equality legislation. Both men and women now enjoy free travel.

Recently the statutory scheme in Great Britain has been amended to offer a minimum half fare to both men and women from age 60. It is the Government's intention that this will be reviewed again whenever the qualifying age for the State Pension for men and women is equalized at age 65.

I am committed to extending the Northern Ireland Scheme to more groups of people in the community. I have considered the costs of offering travel concessions for men and women aged between 60 and 65. To do so would require additional resources from the Assembly's budget.

I have received numerous representations and correspondence suggesting different groups of people who should be eligible for travel concessions. I intend to issue a consultation paper in the autumn outlining a number of options to extending the Northern Ireland Scheme. The consultation process will help me to decide priorities for further concessions.

Any extension to the Scheme will of course, require the allocation of additional resources from the Assembly.

### **Cookstown and Magherafelt Bypasses: Funding**

**Rev Dr William McCrea** asked the Minister for Regional Development what consideration he has given to making funding available for both the Cookstown and Magherafelt bypasses; and to make a statement.

(AQO 12/02)

**Mr P Robinson:** Within the context of the Regional Transportation Strategy, my Department's Roads Service is preparing a Forward Planning Schedule of major road schemes, which it is expected could be started within the 10-year period of the Regional Transportation Strategy.

Roads Service is currently carrying out scheme appraisals on a number of schemes for possible inclusion in the schedule. I can confirm that the Cookstown Eastern Distributor and the Magherafelt ByPass are among the schemes currently being appraised.

Successful schemes would have to be taken through the statutory procedures of Environmental Assessment, Planning Approval and Land Acquisition but the most critical factor in delivering the Regional Transportation Strategy will be the availability of additional funds for such schemes.

### **SOCIAL DEVELOPMENT**

#### **Means Testing for Disabled Facilities Grants**

**Mr McGrady** asked the Minister for Social Development if he will introduce legislation to abolish means testing for disabled facilities grants in respect of disabled children and their families.

(AQW 12/02)

**The Minister for Social Development (Mr Dodds):** My letter of 9 August 2002 to the Member explains the current position on this matter.

### **ASSEMBLY COMMISSION**

#### **Review of Questions**

**Mr Paisley Jnr** asked the Assembly Commission to consider lifting the embargo and limitations on the number of questions a Member can ask.

(AQW 42/02)

**The Representative of the Assembly Commission (Mr J Fee):** The Committee on Procedures is currently reviewing the procedures relating to Assembly questions and I understand that the issues that you have raised will be addressed within the context of this review.

You may wish to raise this further with the Committee on Procedures.



# NORTHERN IRELAND ASSEMBLY

Friday 20 September 2002

## Written Answers to Questions

### OFFICE OF THE FIRST MINISTER AND DEPUTY FIRST MINISTER

#### Community Relations Council

**Mrs Nelis** asked the Office of the First Minister and the Deputy First Minister to outline (a) the annual budget of the Community Relations Council in each of the last seven years; (b) the Community Relations Council's budget since its inception and (c) how the budget has been used to address sectarian problems in Belfast and other areas.

(AQW 25/02)

#### Reply:

- (a) The annual budget of the Community Relations Council in each of the last seven financial years was as follows:

1995/1996	£2,417,000
1996/1997	£2,487,000
1997/1998	£2,531,000
1998/1999	£2,662,909
1999/2000	£2,540,902
2000/2001	£2,758,038
2001/2002	£2,812,004

The Community Relations Council was also the intermediary funding body for a measure under the EU Special Support Programme for Peace and Reconciliation 1995 to 1999 (Peace I) involving total expenditure of some £7.6 million.

- (b) The Community Relations Council was established in 1990. Its total budget from its inception up to and including that for the current financial year amounts to £27.8 million, excluding EU funding. In its role as an intermediary funding body for measures under the EU Special Support Programmes for Peace and Reconciliation 1995 to 1999 and 2000 to 2004 (Peace I and Peace II), a further £10 million has been available over the same period.

- (c) The Community Relations Council provides financial support to community relations groups and projects in the voluntary and community sector, advice and assistance in peace building and reconciliation initiatives, and produces anti-sectarian educational and learning resources. Between 400 and 500 projects are supported financially each year. Details are available in the published annual reports of the Council, copies of which are available in the Assembly Library.

#### Staff Numbers: OFMDFM

**Mrs Courtney** asked the Office of the First Minister and the Deputy First Minister to detail staff numbers in the office, including the respective private offices of the First Minister and the Deputy First Minister.

(AQO 44/02)

**Reply:** As at 2 September 2002 there were 417 staff in post in our Department. Out of these, a total of 31 work in our joint private office. These include our private secretaries, Special Advisers and administrative support as well as a team of staff handling the large volume of correspondence that we receive.

A more detailed summary has been placed in the Assembly Library.

#### Staff Numbers: OFMDFM

**Mr Paisley Jnr** asked the Office of the First Minister and the Deputy First Minister to give a breakdown of the areas of employment of its 424 staff and the total amount of salary paid to them.

(AQO 4/02)

**Reply:** As at 23 September there were 417 staff in post in our Department. Out of these, a total of 31 work in our joint private office.

The areas of employment in our Department are: private offices, Executive Services Directorate, Executive Information Service, North/South Ministerial Council, Equality Directorate, Economic Policy and Public Service Directorate and Corporate Services Division. There is also staff in four associated bodies: International Fund for Ireland, Planning Appeals Commission and Water Appeals Commission, Civic Forum secretariat and the Office of the Public Appointments Commissioner. The current salary provision is £13.2 million per annum.

A more detailed summary has been placed in the Assembly Library.

#### Staff Numbers: OFMDFM

**Mr O'Neill** asked the Office of the First Minister and the Deputy First Minister to outline the main functions

of the Office and the number of staff allocated to each function. (AQO 41/02)

**Reply:** The Office of the First Minister and the Deputy First Minister has a very wide range of functions, many of which have a cross departmental perspective. The work programme of the Department is readily available in the Programme for Government and the Department's Public Service Agreement, Service Delivery Agreement and Corporate and Business Plan.

The table attached illustrates the areas and staffing within our department but a more detailed account of the functions has been placed in the Assembly Library.

**OFFICE OF THE FIRST MINISTER AND DEPUTY FIRST MINISTER  
NUMBER OF STAFF AT 2 SEPTEMBER 2002**

Private Offices	47
Executive Services Directorate	35
Executive Information Service	32
North-South Ministerial Council	16
Equality Directorate	82
Economic Policy and Public Service Directorate	80
Legal Services	3
Office of the Legislative Counsel	18
Corporate Services Division	70
<b>Total</b>	<b>383</b>
<b>Total full-time equivalents</b>	<b>375</b>

**STAFF IN ASSOCIATED BODIES**

<b>International Fund for Ireland</b>	<b>11</b>
Planning Appeals Commission and Water Appeals Commission	15
Civic Forum Secretariat	6
Office of the Public Appointments Commissioner	2
<b>Total</b>	<b>34</b>

## AGRICULTURE AND RURAL DEVELOPMENT

### River Bush

**Mr Paisley Jnr** asked the Minister of Agriculture and Rural Development to detail the outcome of the research conducted on the River Bush by the special scientific unit based in Bushmills. (AQW 89/02)

**The Minister of Agriculture and Rural Development (Ms Rodgers):** The Minister of the Department of Culture, Arts and Leisure has responsibility for the Bushmills salmon station. However, this question has been directed to me because the scientific work on the River Bush, at the behest of DCAL, is carried out by DARD Science Service

Research work on salmon on the River Bush provides the best long-term data on marine survival and freshwater survival and exploitation of salmon in the British Isles. The specific outcomes of research carried out by the special scientific unit based in Bushmills are detailed below.

1. Development of management systems for Northern Ireland salmon stocks:

The River Bush project has identified for the first time the level at which Northern Ireland rivers should be seeded by juvenile salmon to ensure long-term sustainability of stocks:

As a result, spawning targets have been applied to rivers in the Fisheries Conservancy Board (FCB) area under the salmon management plan, as required under the North Atlantic Salmon Conservation Organisation (NASCO) precautionary approach.

If it were not for the DARD work on the River Bush, data would have to be obtained from rivers in other countries and such data would most probably be inapplicable to Northern Ireland, given the range of productivity of salmon stocks in the north Atlantic area.

2. Knowledge of river habitat in relation to salmon production:

DARD work on the River Bush has highlighted the fundamental importance of good river habitat in driving salmon productivity and has quantified the negative impact of habitat degradation on survival during the critical two to three years that juvenile salmon spend in fresh water:

In the River Bush, during the 1990's, average survival during the freshwater phase declined to around 50% of historical levels, approximately 0.5% of juvenile salmon typically surviving to migrate to sea as smolts.

This decline has had a severe impact on numbers of fish produced by the stock and is mainly attributable to loss of spawning and nursery habitat due to silting of the river (siltation).

Siltation is exacerbated by excessive aquatic weed growth, encouraged by changes in water quality caused by diffuse nutrient input from agricultural land.

Evidence is emerging of similar habitat degradation on other Northern Ireland rivers, but it is only on the River Bush that the potential impacts on fish production can be properly quantified and remedial measures fully tested and evaluated.

3. Conservation measures for salmon populations

Studies on the survival of River Bush salmon at sea and the impact of marine exploitation on salmon returns have shown that:

Of the salmon that migrate to sea, around 30% return to home waters (before netting takes place at sea).

In the last three years, natural marine survival of these fish has dropped sharply to less than a half, a trend reflected in salmon stocks across the north Atlantic.

Commercial netting of River Bush salmon returning to home waters has ranged from 25% to 89%, averaging 60%.

Scientific advice resulting from this DARD work is that commercial exploitation rates must be reduced urgently, in order to compensate for the decline in natural marine survival, which is outside management control.

This situation resulted in the FCB introducing new conservation measures on netting and angling and has led directly to the current buyout scheme for coastal nets, the largest salmon conservation measure ever taken in Northern Ireland.

It is only because of the Bush project that such information has come to light and appropriate measures can be recommended and evaluated. For example, DARD scientists have developed a model to quantify the positive outcome of these measures and assess the impact of continuing exploitation that takes place outside the FCB jurisdiction.

#### 4. Technology to other salmon rivers in Northern Ireland:

Among the tangible benefits of the River Bush project to other rivers has been significant technology transfer in the areas of habitat conservation and improvement and fish assessment and stocking techniques. For example;

Throughout Northern Ireland, DARD Rivers Agency is applying habitat restoration techniques developed on the River Bush.

Various fishery agencies (DCAL, FCB and the Foyle, Carlingford and Irish Lights Commission Loughs Agency) are using stock assessment techniques developed on the River Bush to assess juvenile salmonid status in most rivers in Northern Ireland, and

Stocking carried out to enhance stocks or mitigate pollution incidents is carried out using methods developed on the River Bush.

Economic modelling of the value of salmonid habitat and stocks arising from the project have been used extensively in assessing the cost:benefit of schemes which impact on stock or habitat status, and

Life cycle survival and economic data have also been used in compensation claims following pollution incidents on several rivers throughout Northern Ireland.

The recent DARD Salmonid Enhancement Programme funded by the EU has combined many of these

technologies for the benefit of rivers throughout Northern Ireland.

The River Bush project is recognized by the International Council for the Exploration of the Sea (ICES) as an index river, providing long-term data on survival of wild Atlantic salmon. Many countries outside Northern Ireland are using the River Bush technology transfer in stock assessment and enhancement programmes.

### Farmers' "For Profit" Scheme

**Mr McHugh** asked the Minister of Agriculture and Rural Development to state how many applications have been received by the Rural Development Division from farming families, under the "for profit" scheme as of 31 August 2002. (AQW 181/02)

**Ms Rodgers:** The measures currently open under the Rural Development Programme do not apply to individual applications. However, groups or collectives of farmers may bring forward projects for consideration. The measures open are under the Northern Ireland Programme for Building Sustainable Prosperity (BSP) and the Peace II Programme.

To date, 77% of the applications under the "for profit" element of the BSP Programme have come from farmers' groups or collectives and 5% of applications under the Peace II programme are also from farmers' groups or collectives.

### Number of Farmers

**Mr J Kelly** asked the Minister of Agriculture and Rural Development to outline, since May 1998, the number of farmers who have left full-time farming and taken up part-time farming. (AQW 182/02)

**Ms Rodgers:** The information requested is not available.

The annual Agricultural and Horticultural Census collects information on the numbers of persons, including farmers and business partners, who work on farms on 1 June each year. This does not provide the information requested since changes in the total numbers of full- and part-time farmers reflect a number of flows, including farmers leaving the industry entirely, others entering and shifts from full- to part-time and vice versa. However, 'The Agricultural Census in Northern Ireland, Results for June 2001' includes details of the agricultural labour force for the period 1987 to 2001, which you may find useful.

### Farm Related Accidents

**Mr McElduff** asked the Minister of Agriculture and Rural Development to detail measures taken by her Department to reduce the risks of farm related accidents. (AQW 187/02)

**Ms Rodgers:** My Department has policies and procedures in place to safeguard the health and safety of those staff involved in on-farm activities.

In addition, where tuberculosis or brucellosis disease breakdowns occur, my Department issues advice to herdk-keepers highlighting the potential health risks and providing advice on control measures. My Department also includes health and safety as an element of its education, training and lifelong learning provision.

More generally, health and safety legislation places the responsibility on individual farmers to assess risks and introduce control measures to prevent accidents. The Health and Safety Executive (NI) provides advice and guidance to them and enforces the legislation in the Agriculture Industry. If more specific information is required your question should be redirected to that body.

### Aggregates Tax

**Mr Armstrong** asked the Minister of Agriculture and Rural Development what plans she has to meet with the Minister of Finance and Personnel to discuss the alleviation of hardship caused by the extra expense of maintaining laneways and gateways as a result of the aggregates tax. (AQW 224/02)

**Ms Rodgers:** The Executive has already lobbied the Treasury on the issue of the aggregates tax and was successful in obtaining a partial deferment on its introduction in Northern Ireland. Northern Ireland is exempt from the aggregates tax for one year, April 2002 to March 2003, in respect of processed products such as concrete, mortar, asphalt, surface dressings et cetera. From April 2003 the aggregates tax will apply to these products but will be phased in over a five-year period.

However, my Colleague, Dr Farren, is engaged in discussions with the Treasury to try to find an alternative solution that would ameliorate the negative impact of this tax in Northern Ireland. If you can provide evidence that the new aggregates tax is causing hardship for farmers I will bring this to the attention of Dr Farren.

## CULTURE, ARTS AND LEISURE

### Jeanie Johnston Replica Famine Ship

**Mr Bradley** asked the Minister of Culture, Arts and Leisure what plans he has to welcome the Jeanie Johnson Replica Famine Ship when it visits Belfast prior to its American tour. (AQW 8/02)

**The Minister of Culture, Arts and Leisure (Mr McGimpsey):** I have no plans to welcome the Jeanie Johnston to Belfast, as I was not previously aware that the vessel would be visiting the city.

However, it may be the case that the city fathers will wish to stage an event to welcome the ship, as was the case when the Jeanie Johnston visited Cork.

### River Bush

**Mr Paisley Jnr** asked the Minister of Culture, Arts and Leisure to outline the running and management costs of the special scientific station in Bushmills on the River Bush. (AQW 53/02)

**Mr McGimpsey:** The Department of Culture Arts and Leisure manage and run the River Bush salmon station not only to facilitate scientific research but also to support angling development work. We also manage public angling on the river.

Total costs to DCAL in managing and running the station in 2001-02 amounted to £163,921.45

DARD scientific staff conduct the research and bear the management and running costs directly related to this work. For the year 2001-02 these costs were £103,824.24

### Capital Development

**Mrs I Robinson** asked the Minister of Culture, Arts and Leisure to outline funding available to his Department, other than that announced as part of the budget, to progress the South Eastern Education and Library Board's library capital programme of improvement. (AQW 86/02)

**Mr McGimpsey:** As I explained in my letter of 1 July in response to AQW4159/01 my Department has no funding for capital development other than that voted as part of this year's budget. This position remains unchanged.

### Obesity

**Mr Armstrong** asked the Minister of Culture, Arts and Leisure to outline any discussions he has had with the Minister of Education and the Minister of Health, Social Services and Public Safety, in the effort to tackle the growing problem of obesity. (AQW 178/02)

**Mr McGimpsey:** I have to date had no discussions with the Minister of Education or the Minister of Health, Social Services and Public Safety on the issue of obesity. However, I do recognise that sport has an important part to play in tackling a wide range of public health matters including obesity. My Department is therefore participating in the Northern Ireland Physical Activity Implementation Group (NIPAIG) on which the Departments of Education and Health and Social Services and Public Policy are also represented. Under the auspices of this group, a new Northern Ireland physical activity strategy has been developed. A key objective of the strategy is to increase levels of health enhancing physical activity amongst the wider population which should, in turn, help to counteract the growing problem of obesity.



## EDUCATION

### Comber High School

**Mrs I Robinson** asked the Minister of Education to outline, for academic year 2002-2003, (a) the primary schools which have contributed pupils to Year 1 at Comber High School; (b) the number of pupils from each primary school whose first choice was Comber High School, and (c) the number of pupils from each primary school who were successful in their application to Year 1 of Comber High School. (AQW 54/02)

**The Minister of Education (Mr M McGuinness):** (a) The primary schools which contributed pupils to Year 8 at Comber High School, and (b) the number of applicants for whom Comber High School was the first preference and (c) the total number of successful applicants from each primary school are detailed below as follows:

Contributory Primary Schools	Number of first preference applicants	Number of successful applicants
Abbey Primary	1	1
Alexander Dickson	0	1
Andrews Memorial	12	18
Ballykeigle Primary	2	2
Belvoir Primary	0	1
Brooklands Primary	4	5
Comber Primary	20	25
Derryboye Primary	0	1
Dundonald Primary	2	4
Killinchy Primary	0	1
Londonderry Primary	1	2
Newtownards Primary	2	2
<b>Total</b>	<b>44</b>	<b>63</b>

### Ballynahinch High School

**Mrs I Robinson** asked the Minister of Education to outline, for academic year 2002-2003, (a) the primary schools which have contributed pupils to Year 1 at Ballynahinch High School; (b) the number of pupils from each primary school whose first choice was Ballynahinch High School, and (c) the number of pupils from each primary school who were successful in their application to Year 1 of Ballynahinch High School. (AQW 55/02)

**Mr M McGuinness:** (a) The primary schools which contributed pupils to Year 8 at Ballynahinch High School, and (b) the number of applicants for whom Ballynahinch High School was the first preference and (c) the total

number of successful applicants from each primary school are detailed below as follows:

Contributory Primary Schools	Number of first preference applicants	Number of successful applicants
Academy Primary	2	4
Anahilt Primary	1	3
Ballynahinch Primary	13	16
Beechlaw Primary	3	3
Carr Primary	1	5
Carryduff Primary	0	3
Clough Primary	3	4
Derryboye Primary	0	3
Down High Prep	1	1
Downpatrick Primary	1	4
Dromara Primary	1	2
Drumaghlis Primary	1	1
Hunterhouse Prep	0	2
O'Neill Memorial Primary	1	1
Riverdale Primary	0	1
Spa Primary	8	8
Strandtown Primary	1	1
Wallace Prep	0	1
<b>Total</b>	<b>37</b>	<b>63</b>

### Down Academy

**Mrs I Robinson** asked the Minister of Education to outline, for academic year 2002-2003, (a) the primary schools which have contributed pupils to Year 1 at Down Academy; (b) the number of pupils from each primary school whose first choice was Down Academy, and (c) the number of pupils from each primary school who were successful in their application to Year 1 of Down Academy. (AQW 56/02)

**Mr M McGuinness:** (a) The primary schools which contributed pupils to Year 8 at Down Academy, and (b) the number of applicants for whom Down Academy was the first preference, and (c) the total number of successful applicants from each primary school are detailed below as follows:

Contributory Primary Schools	Number of first preference applicants	Number of successful applicants
Abbey Primary	1	1
Academy Primary	0	1
Andrews Memorial	1	3
Ballykeigle Primary	2	2

Contributory Primary Schools	Number of first preference applicants	Number of successful applicants
Carrickmanon Primary	1	2
Carryduff Primary	0	1
Cedar Integrated Primary	2	2
Clough Primary	1	1
Crossgar Primary	0	1
Derryboye Primary	1	2
Downpatrick Primary	5	7
Killinchy Primary	3	6
Killyleagh Primary	6	7
Newcastle Primary	2	2
Sacred Heart Primary	1	1
St Joseph's, Crossgar	2	2
St Mary's Aughlisnafin	1	1
St Mary's Comber	0	1
St Patrick's Ballynahinch	0	1
St Patrick's Legamaddy	1	1
Tyrella Primary	4	4
Portaferry Integrated	0	1
<b>Total</b>	<b>34</b>	<b>50</b>

### Down Academy

**Mrs I Robinson** asked the Minister of Education to outline, for academic year 2002-2003 (a) the enrolment figure agreed for Year 1 at Down Academy and (b) the total number of applications received for Year 1 at Down Academy. (AQW 57/02)

**Mr M McGuinness:** (a) The approved admissions number for Year 8 at Down Academy for the 2002-03 academic year is 60 and (b) the total number of applications received was 50.

### Ballynahinch High School

**Mrs I Robinson** asked the Minister of Education to outline, for academic year 2002-2003 (a) the enrolment figure agreed for Year 1 at Ballynahinch High School and (b) the total number of applications received for Year 1 at Ballynahinch High School. (AQW 58/02)

**Mr M McGuinness:** (a) The approved admissions number for Year 8 at Ballynahinch High School for the 2002-03 school year is 76 and (b) the total number of applications received was 63.

### Schoolchildren Excluded/Expelled

**Mr Paisley Jnr** asked the Minister of Education to outline the number of looked after children who were, in the year, 2000-01, (a) excluded from school; and (b) expelled from school; and to show these figures as a percentage of all school children. (AQW 82/02)

**Mr M McGuinness:** The information sought is not available. Schools are not asked to identify looked-after children in their notifications to the education and library boards about suspensions or proposed expulsions. Research findings indicate that schools frequently are not aware that a pupil is in care, particularly given that the majority of children who are the subject of a care order are being fostered, often by members of their own family.

### Comber High School

**Mrs I Robinson** asked the Minister of Education to outline, for academic year 2002-03, (a) the enrolment figure agreed for Year 1 at Comber High School and (b) the total number of applications received for Year 1 at Comber High School (AQW 84/02)

**Mr M McGuinness:** (a) The approved admissions number for Year 8 at Comber High School for the 2002-03 academic year is 90 and (b) the total number of applications received was 63.

### Grammar School Places: Unsuccessful

**Mr K Robinson** asked the Minister of Education to detail the number of pupils who failed to gain a place in the grammar school of their first choice, at, (a) Ballyclare High School, (b) Carrickfergus High School, (c) Belfast High School, (d) Larne Grammar School and (v) Belfast Royal Academy. (AQW 98/02)

**Mr M McGuinness:** The number of applicants to these schools who were unsuccessful in obtaining a place in their first preference grammar school are detailed below as follows:

School	Number of unsuccessful first preference applicants
Ballyclare High	20
Carrickfergus Grammar	13
Belfast High	32
Larne Grammar	35
Belfast Royal Academy	31

### School Places: Unsuccessful

**Mr K Robinson** asked the Minister of Education to detail the number of pupils who failed to gain a place in

the school of their first choice, at (a) Ballyclare Secondary School; (b) Glengormley High School; (c) Monkstown Community School; and (d) Newtownabbey Community High School. (AQW 99/02)

**Mr M McGuinness:** The number of applicants to these schools who were unsuccessful in obtaining a place in their first preference post-primary school are detailed below as follows:

School	Number of unsuccessful first preference applicants
Ballyclare Secondary	30
Glengormley High	4
Monkstown Community	0
Newtownabbey Community High	0

### School Places: Unsuccessful

**Mr K Robinson** asked the Minister of Education to detail the number of pupils who failed to gain a place in the school of their first choice, at (a) Carrickfergus College; (b) Downshire Community High School; and (c) Ulidia Integrated College. (AQW 100/02)

**Mr M McGuinness:** The number of applicants to these schools who were unsuccessful in obtaining a place in their first preference post-primary school are detailed below as follows:

School	Number of unsuccessful first preference applicants
Carrickfergus College	0
Downshire Community High	0
Ulidia Integrated College	29

### Provision of Nurses: Special Schools

**Mrs E Bell** asked the Minister of Education what discussions he has had with the Minister of Health, Social Services and Public Safety with regard to the provision of nurses in special schools. (AQO 91/02)

**Mr M McGuinness:** The responsibility for the provision of nurses in special schools rests with the Minister for Health, Social Services and Public Safety. Officials from both Departments are members of an inter-departmental group on special education, which has been set up to consider matters of joint concern. One of these relates to a review of the provision of nurses in special schools, on which a report was published in 2000. The inter-departmental group is taking forward consideration of this report, which concluded that there is no one right solution for all special schools. Each case should be considered individually, based upon the identified needs of the children at the school and arrangements made should be flexible enough to enable a fast response to

any change in circumstances. I believe that this is the right approach.

I should add that at a local level, there is a high level of partnership working between trusts, special schools and education and library boards to ensure that the optimum provision is made for these children.

### NEELB Minor Works: Funding

**Mr Paisley Jnr** asked the Minister of Education how the £7.6 million for minor works to the NEELB has been distributed by the board. (AQO 6/02)

**Mr M McGuinness:** Initial funding of £7,611k was made available to the North-Eastern Education and Library Board on 5 February to cover 2002-03 expenditure on existing major work schemes and other capital commitments (excluding the youth service estate). I understand the board will be spending £5,489k of the total allocation on 4 major capital works projects with the remainder (£2,122k) being used as follows:

- £1,400k - completion of 17 minor works schemes started in 2001/02 and 17 new schemes
- £250k - disability access
- £250k - temporary accommodation
- £136k - purchase of vehicles
- £26k - purchase of sites
- £60k - professional fees for future major works

I would also advise that since the initial funding of £7,611k was made available, a further £2,266k has been allocated to the North Eastern Board. This covers the following:

- £728k for major works;
- £224k for specialist accommodation;
- £210k for various earmarked initiatives; and
- £1,104k under the reinvestment and reform initiative to cover major works, replacement of temporary classrooms and improvement to rural schools.

### Review of Post-Primary Education

**Mr Poots** asked the Minister of Education what account will be taken of GCSE and A Level results when making a decision on the review of post-primary education. (AQO 87/02)

**Mr M McGuinness:** I am pleased at the continuing improvement in achievements at GCSE and A level. But I remain concerned at the number of young people who leave school with poor qualifications. My aim is to

develop an education system which will allow all young people to achieve success at school.

### Teachers' Health and Well-Being Survey

**Mr Foster** asked the Minister of Education to outline (a) whether discussions have commenced with teachers' side regarding the findings of the teachers' health and well-being survey; and (b) when the survey findings will be published. (AQO 105/02)

**Mr M McGuinness:** Representatives of management side and teachers' side of the teachers' salaries and conditions of service committee (schools) have arranged to meet on 3 October to discuss the findings of the teachers' health and well-being survey. The report is expected to be published in the next few months after both sides have had the opportunity to complete their discussions.

### School Transfer Procedure

**Mr Fee** asked the Minister of Education to outline the timetable for replacing the school transfer procedure. (AQO 104/02)

**Mr M McGuinness:** No decisions about the future arrangements for the transfer of pupils from primary to secondary education will be made until I have given full consideration to the responses to the recent consultation.

### Council for Catholic Maintained Schools: Maladministration Cases

**Dr McDonnell** asked the Minister of Education to detail (a) the number of investigations of maladministration cases carried out by the Commissioner for Complaints into the Catholic Council for Maintained Schools since its inception in 1988 and (b) the cases which were upheld. (AQO 118/02)

**Mr M McGuinness:**

- (a) The Commissioner for Complaints has investigated a total of 30 maladministration cases regarding the Council for Catholic Maintained Schools.
- (b) 17 cases were upheld. There are also three cases ongoing.

### Principals/Vice-Principals: Salary

**Mr J Wilson** asked the Minister of Education what progress has been made by the Independent Inquiry Team regarding the production of an interim report on salary differentials for Principals and Vice-Principals. (AQO 89/02)

**Mr M McGuinness:** Since starting its work at the beginning of July, the Inquiry Team had separate meetings with the chief executives of the five education and library boards, the Council for Catholic Maintained Schools, Comhairle na Gaelscolaíochta, and the Governing Bodies Association, the Northern Ireland Council for Integrated Education, leaders of the five accredited teacher unions, and senior officials of the Department and the Education and Training Inspectorate.

The oral and written evidence which is being put forward by these key stakeholders will be considered by the Inquiry Team which intends to issue a letter to schools in the near future setting out the timetable for the completion of its interim report.

### AS Level Examinations: Staffing

**Mrs Courtney** asked the Minister of Education to give an assessment as to how staff and pupils are coping with AS Level examinations. (AQO 106/02)

**Mr M McGuinness:** It would appear that staff and pupils are coping well with AS Level examinations, as shown by the excellent results achieved recently at both AS and A Levels. A detailed assessment of the first two-year cycle of the Curriculum 2000 reforms is being conducted by CCEA and a report on this will be sent to me in due course.

### Needs and Effectiveness Evaluation

**Mr McNamee** asked the Minister of Education what assessment he can make on the impact of the needs and effectiveness evaluation findings on the Education budget. (AQO 77/02)

**Mr M McGuinness:** The needs and effectiveness evaluations were commissioned by the Executive as a means of providing an objective factual analysis of major areas of spending, including Education. The findings will be used to inform the Executive in its work for the Programme for Government and on Budget allocations for 2003-04 and beyond.

### Procurement Policy

**Mr Attwood** asked the Minister of Education to outline (a) how many contracts, to what value, and in what departmental areas, have been forwarded to the Public Procurement Board for consideration and inclusion in the pilot studies for procurement policy; and (b) what measures are being undertaken to assess each departmental contract for inclusion in the pilot studies; and to make a statement. (AQO 122/02)

**Mr M McGuinness:** The main procurement activity within the education service rests with the education and



library boards. There are legislative impediments that currently prevent the Boards from taking account of other than purely financial considerations when letting contracts. While it is not therefore possible to include education contracts within the pilot study, the lessons learned from the pilot will be taken into account in determining how to proceed in future.

### Child Poverty

**Mr C Murphy** asked the Minister of Education what assessment can be made on the impact of child poverty on educational attainment, as outlined in recent research on child poverty by Save the Children. (AQO 75/02)

**Mr M McGuinness:** The Save the Children document 'child poverty learning to be poor' makes clear – in many cases using analysis and research conducted or commissioned by my Department – the strong links between poverty and low educational achievement. I endorse the conclusion that "poverty makes it more difficult for children to learn". It is for this reason that my Department has put in place a range of measures aimed at tackling educational underachievement which results from social disadvantage.

### Under-Achievement in Examinations

**Mr McLaughlin** asked the Minister of Education, while welcoming the recent batch of excellent GCSE and A Level examination results for our young people, what action is he taking to address underachievement. (AQO 74/02)

**Mr M McGuinness:** I too welcome the recent excellent examination results and recognise the hard work of teachers, pupils and their parents behind these results. However, I am concerned at the number of our young people who do not reach an adequate level of achievement. Consequently, raising standards generally and especially in literacy and numeracy remains at the top of my agenda. Reviews of a number of school improvement strategies are currently being taken forward.

### Post-Primary Education: German Model

**Mr McHugh** asked the Minister of Education to make a statement on his visit to Germany's education system, particularly academic selection in the German model of post-primary schools. (AQO 117/02)

**Mr M McGuinness:** In Germany, school arrangements vary between Länder but, in general, parental choice and primary school recommendations play a key role in admissions to post-primary schools. There are no distinct academic, technical or vocational schools before age 16 – all schools must by law provide a general education. It

is primarily the pace and intensity of learning and the number of foreign languages taken that distinguishes the different types of post-primary school types which are highly differentiated between Gymnasien (grammar schools), Realschulen and Hauptschulen. There are also Gesamtschulen (comprehensive schools). Entry to academic, technical and vocational pathways takes place at age 16.

### Young People Leaving School

**Mr J Kelly** asked the Minister of Education to outline (a) if an assessment has been made of the adverse impact on disabled young people in full-time education as a result of the difficulties faced after leaving full-time education; and (b) how he intends to address this issue. (AQO 73/02)

**Mr M McGuinness:** I am very aware of the difficulties faced by young people leaving special schools and in particular those leaving schools for children with severe learning difficulties. Special educational needs legislation imposes duties on education and library boards to consult with health and employment sector personnel as regards transition planning at each annual review of a statement, following the child's fourteenth birthday. This requirement is further supported in my Department's Code of Practice on the Identification and Assessment of Special Educational Needs.

In an attempt to achieve a more co-ordinated inter-departmental approach to the whole process of transition planning, I met this month with the Ministers for Health, Social Services and Public Safety, and Employment and Learning. My Department will take the lead in drawing up a pilot project to address difficulties in this area. An inter-departmental group will consult with boards, schools, day centres, parents and pupils and will then report back to the three Ministers in November 2002.

## EMPLOYMENT AND LEARNING

### Education Maintenance Allowance

**Mr Paisley Jnr** asked the Minister for Employment and Learning in respect of an Education Maintenance Allowance [EMA], to detail (a) if and when she will introduce an EMA for 16 and 19 year olds; and (b) if the EMA will be budgeted from her Departmental Budget or a bid to the Executive Programme Fund. (AQW 3/02)

**The Minister for Employment and Learning (Ms Hanna):** Officials are currently examining the evaluation reports of the pilots, which have been running in England and Scotland. I will, in conjunction with the Minister of Education, consider the options which best suit Northern

Ireland and will bring forward joint proposals to the Executive, including proposals for funding, in due course.

### Research Funds: Higher Education

**Mrs Nelis** asked the Minister for Employment and Learning to outline (a) the expenditure, per head of population, of research funds for all categories in higher education; (b) the figure per head of population of such funds in the Foyle constituency; and (c) how this compares with research spending in the East Londonderry constituency. (AQW 27/02)

**Ms Hanna:** The information requested is not available. My Department's grants for research in higher education are made to institutions, not to geographical areas. We therefore do not allocate funding, and do not hold any information on research expenditure in different Northern Ireland constituencies.

### Expenditure: Education and Training

**Mrs Nelis** asked the Minister for Employment and Learning to outline the expenditure, per head of population, in education and training (a) in the Greater Shantallow area of the Foyle constituency; and (b) in the East Londonderry constituency. (AQW 28/02)

**Ms Hanna:** The information requested is not available. My Department does not allocate funding for education and training on the basis of geographical areas. We therefore do not allocate funding, and do not hold any information on education and training in different Northern Ireland constituencies or areas within constituencies.

### Education Maintenance Allowance

**Mr Gibson** asked the Minister for Employment and Learning to outline (a) when she expects to make payments of an Education Maintenance Allowance (for 16 to 19 year olds) and (b) how the allowance will compare with that available in England and Wales. (AQW 60/02)

**Ms Hanna:** Officials are currently examining the evaluation reports of the pilots, which have been running in England and Scotland. I will, in conjunction with the Minister of Education, consider the options which best suit Northern Ireland and will bring forward joint proposals to the Executive in due course.

## ENTERPRISE, TRADE AND INVESTMENT

### Wind Farms

**Mrs Carson** asked the Minister of Enterprise, Trade and Investment to detail the amount of electricity produced via wind farms in Northern Ireland for the years 1999, 2000 and 2001. (AQW 51/02)

**The Minister of Enterprise, Trade and Investment (Sir Reg Empey):** Information is only available for wind generators supplying their output via the transmission and distribution system in Northern Ireland as follows:

Year	Number of Generators	Output	% of total consumption
1999	7	104386 MWh	1.2
2000	8	115913 MWh	1.4
2001	8	113270 MWh	1.3

### Aircraft Industry: Funding

**Mr Shannon** asked the Minister of Enterprise, Trade and Investment what financial assistance is available for modern technology in the aircraft industry. (AQW 111/02)

**Sir Reg Empey:** Invest NI's innovation research and technology division administers a number of programmes that provides financial assistance for research and development and the Northern Ireland aerospace industry has made extensive use of this support. The programmes aim to help Northern Ireland companies become more internationally competitive by providing financial assistance to help the companies develop or acquire new technology and knowledge through research and then commercially exploit this new technology and knowledge by developing new products and processes.

Since 1997, £4.1 million of financial support has been provided to 24 research and development projects in the aerospace sector against total project costs of £12.4 million.

### Needs and Effectiveness Review

**Mr Paisley Jnr** asked the Minister of Enterprise, Trade and Investment, in relation to the findings of the Executive needs and effectiveness review that his Department is over-provided for, to detail (a) where he will be making cutbacks to his budget, and (b) what additional resources he will be seeking via the Executive programme funds and the annual spending round. (AQW 116/02)

**Sir Reg Empey:** The figures contained in the needs section of the needs and effectiveness review relate

solely to comparative figures between Northern Ireland and England. The budget levels set by the Executive go beyond straight line comparison and take account of a wide range of factors. Allocations for Budget 2002 have not yet been set. The Department will continue to seek additional resources via the Executive programme funds and monitoring rounds as appropriate.

### Bombardier Shorts

**Mr Shannon** asked the Minister of Enterprise, Trade and Investment what assistance has he been able to offer Bombardier Shorts in relation to the proposed job losses.

(AQW 138/02)

**Sir Reg Empey:** I have worked very closely with Bombardier since last October when they announced up to 2,000 redundancies by the end of this year. Some 996 jobs went earlier this year and a further 461 redundancies are due to happen over the next three months. The company informs me that the recent situation has arisen due to the continued softening of the regional and business jet markets and the general slowdown in the global economy. My Department continues to work closely with Bombardier to help them to consolidate and strengthen their operations in Northern Ireland, in spite of the present downturn in the aerospace sector.

There is no provision for my Department to offer financial assistance in a situation where job losses result from purely commercial decisions. However, officials from my Department have been liaising with officials in the Department of Employment and Learning, to help ensure that the fullest possible effort is made to assist all of the Bombardier employees who are to be laid off in the coming months, both in terms of training to complete applications for other jobs and in retraining them to be able to undertake alternative forms of work.

### Job Losses: Bombardier Shorts

**Mr Shannon** asked the Minister of Enterprise, Trade and Investment to outline the discussions he has had with Bombardier Shorts in light of the proposed job losses.

(AQW 139/02)

**Sir Reg Empey:** Bombardier and I have maintained close communication over the proposed redundancies. Indeed I have worked closely with the company since last October when up to 2,000 redundancies were announced. Bombardier informs me that the recent situation has arisen due to the continued softening of the regional and business jet market and the general slowdown in the global economy.

I and my Department will continue to work closely with Bombardier to help it through the current downturn in the aerospace sector.

## ENVIRONMENT

### New Equipment: Driver & Vehicle Testing Agencies

**Mrs Nelis** asked the Minister of the Environment when new test equipment will be installed in the Driver and Vehicle Testing Agency centres west of the Bann.

(AQW 30/02)

**The Minister of the Environment (Mr Nesbitt):** The new equipment was first installed in a new extension at Cookstown in October 2001. It is already in operation at Armagh and Enniskillen centres.

Craigavon will be using the new equipment from January 2003, Londonderry from February 2003 and Omagh from June 2003. The remaining test lanes at Cookstown will be completed in September 2003.

Information about centre closures is readily available to the public on the agency's telephone help line on 0845 601 4094.

### Recycling Collection Point

**Mr Bradley** asked the Minister of the Environment if he will undertake to have Newry and Mourne District Council's recycling collection point reinstated at its original location outside the entrance to the vehicle testing centre on the Rathfriland Road.

(AQW 66/02)

**Mr Nesbitt:** The Driver and Vehicle Testing Agency had raised a number of concerns about the council's proposal to site the recycling facilities on its premises. Nevertheless, the council proceeded to place the receptacles at the Newry centre. Having subsequently apologised to the agency for siting the receptacles without permission, the council moved them to another council-owned site a short distance away.

Whilst the agency is committed to providing and supporting a number of other recycling activities it is not convinced that the entrance to its test centre at Newry is the most suitable location for this particular facility and could have an adverse effect on its driver and vehicle testing operations in several areas.

### Landfill Directive

**Mr Hussey** asked the Minister of the Environment what assessment he has made of the implications for Northern Ireland of the European Commission's decision to refer the United Kingdom to the European Court of Justice over its failure to adopt and communicate to the Commission, by 16 July 2001, complete national legislation designed to implement the Landfill Directive; and to make a statement regarding the anticipated date for the

introduction of relevant legislation to cover Northern Ireland. (AQW 68/02)

**Mr Nesbitt:** The infraction proceedings initiated by the European Commission against the United Kingdom covered both the article 5 targets and the regulatory aspects of the Landfill Directive.

Article 5 sets three mandatory targets (to be met in 2010, 2013 and 2020) for the reduction in biodegradable municipal waste sent to landfill. These targets are reflected in the Waste Management Strategy for Northern Ireland, published in March 2000. Giving statutory effect to the targets in order to deal with this part of the infraction will require UK primary legislation and this will be introduced as soon as parliamentary time is available.

Legislation to cover the regulatory aspects has been put in place in England and Wales since the initiation of the infraction proceedings. Scotland is currently consulting on similar legislation. The legislation to be introduced in Northern Ireland will build on the operational structures to be put in place by new legislation to be introduced in the course of 2003 on waste management licensing and integrated pollution prevention and control. It will be necessary therefore to await the introduction of this legislation before introducing the regulations to transpose the requirements of the Landfill Directive later in 2003.

### Waste Management Grant Scheme

**Mrs I Robinson** asked the Minister of the Environment to detail the amount of finance sourced, other than the waste management grant scheme, in order to address the storage and processing of fridges and freezers. (AQW 87/02)

**Mr Nesbitt:** The initial waste management grant scheme was to assist councils implement their waste management plans and did not provide for funding for waste fridges and freezers.

Following end of year monitoring I was able to make available a sum of £230,000 from Environment and Heritage Service programme money to provide assistance to councils for the period January to March 2002. This money was specifically for the storage of waste fridges and was additional to, and allocated through, the waste management grant scheme.

In agreeing budgets for the current financial year, I have identified a further £250,000 to assist councils with the additional costs associated with waste refrigeration equipment.

### Disposal of Refrigerators

**Mr M Robinson** asked the Minister of the Environment where the financial responsibility for the disposal

of refrigerators will lie, once the current backlog of refrigerators has been cleared. (AQW 162/02)

**Mr Nesbitt:** The disposal of waste domestic fridges and freezers remains the responsibility of the district councils under the provisions of the Waste and Contaminated Land (NI) Order 1997.

The inclusion of waste domestic fridges and freezers within EC Regulation 2037/2000 on ozone depleting substances (ODS) prevented councils from disposing of them without removing all the ODS. In recognition of this difficulty I sought to assist councils by contributing to the additional costs of storage pending a solution to the problem of removal of ODS from the foam. For the period from January to March 2002 I was able to make available £230,000 for this purpose and in agreeing the budget for the current financial year I have included a further £250,000 to assist with the costs of dealing with waste fridges and freezers.

Officials from the Department have been working with representatives from the councils to establish a contract for dealing with waste refrigeration equipment and the procurement process is now underway.

A decision on the amount of future funding will be taken when the contract rate and more accurate figures on the number of units are known.

### Radioactive Waste

**Mr McGrady** asked the Minister of the Environment to outline his response to the Secretary of State for Environment, Food and Rural Affairs, Mr Michael Meacher, in relation to the UK-wide consultation process on suitable management solutions for long lived radioactive waste. (AQW 175/02)

**Mr Nesbitt:** The consultation paper, 'Managing Radioactive Waste Safely, Proposals for developing a policy for managing solid radioactive waste in the UK', was launched by the Government and the devolved Administrations in September 2001.

A summary of the consultation responses is available in the Assembly Library, and also in the Environment and Heritage Service, Calvert House, 23 Castle Place, Belfast.

The consultation ended on 12 March 2002. It is now proposed to appoint an independent body to review the available options and bring forward recommendations.

The clear objective is to create a waste management system, which will manage radioactive waste safely and achieve long-term protection for people and the environment.

The new body will be in place by the end of the year. Its members will be appointed jointly by Ministers of the UK Government and the devolved Administrations. The



new body will ensure that the review of options is carried out in an open, transparent and inclusive public manner.

The consultation exercise was the first stage in the process of managing radioactive waste safely. The appointment of the independent body will signal the beginning of stage two, which will also include the process of assessing options and the publication of the final decision.

The third stage, which is scheduled for 2006 will be a public debate on how any recommendation made by the independent body should be implemented, including any site criteria.

The fourth stage, scheduled for 2007 will be the start of the implementation process, including any necessary legislation.

Our priority is to reach a decision, which achieves long-term protection of people and the environment, which inspires public confidence and which is practicable.

### Special Conservation Areas

**Mr Shannon** asked the Minister of the Environment to explain the delay in designating the special conservation areas for NI and to state when he hopes to fulfil the requirements of the EU Directive. (AQW 198/02)

**Mr Nesbitt:** Formal designation cannot take place until a member state's list of candidate special areas of conservation (SACs) has been accepted by the European Commission and, to date, this process of acceptance is not yet complete. Consequently, no SACs have been designated under the Habitats Directive by any member state. Following a meeting between the Commission and a number of member states, in June 2002, to assess the lists already submitted, the UK was asked to consider additional candidate SACs for a small number of conservation features. My Department is currently considering the submission of additional sites for raised bog habitat and the marsh fritillary butterfly, and the River Foyle system together with its principal tributaries for salmon. I anticipate that this work will be completed early next year.

### Special Conservation Areas

**Mr Shannon** asked the Minister of the Environment what penalties the EU could impose for failure to carry out designation of the special conservation areas. (AQW 199/02)

**Mr Nesbitt:** Responsibility for the imposition of penalties for failure to designate SACs ultimately rests with the European Court of Justice. It would therefore be inappropriate for me to speculate on what the penalties might be should the Commission progress with infraction proceedings against the UK.

I understand, however, that it is highly unlikely that the Commission would take such punitive action against a member state at this stage in the SAC designation process.

### Vehicle Checks

**Mr Beggs** asked the Minister of the Environment to outline what checks are made on vehicles which are being re-registered by the Driver Vehicle Licensing Agency to ensure that they have not been reported stolen in other jurisdictions. (AQW 217/02)

**Mr Nesbitt:** The type of stolen vehicle check when a vehicle is being re-registered in Northern Ireland depends on the availability of data, the means of accessing that data and volume of vehicles.

For all vehicles the documents presented at re-registration in Northern Ireland are returned to the country of origin so that the appropriate checks can be made and the vehicle removed from that country's current vehicle database.

In addition:

- all vehicles imported from the Netherlands, Germany, Belgium, Luxemburg and Latvia are checked on the EUCARIS computer which allows access to the vehicles databases of authorities in Europe.
- All vehicles imported from Japan are checked through the police Interpol system.
- For vehicles brought in from GB a percentage check is undertaken along with targeted checks based on information provided by the Criminal Intelligence Service.

### Quarries

**Mr Kennedy** asked the Minister of the Environment what measures his Department is taking to ensure adequate resources for the Planning Service's minerals unit and the Environment and Heritage Service's water management unit so that a level playing field exists for quarry owners. (AQW 225/02)

**Mr Nesbitt:** As the Member will be aware, my predecessor and I have worked tirelessly to secure the necessary resources to strengthen the Planning Service in all its elements, including the minerals unit.

As a result, we have increased staff numbers in Planning Service by approximately 75 in the last year, and strengthened management structures. We are still in the process of recruiting and training new staff. As resources permit, I aim to strengthen Planning Service's enforcement capability generally including the minerals unit.

In its regulation of quarries under the terms of the Water (Northern Ireland) Order 1999, the water management unit of Environment and Heritage Service is

adequately resourced to deal with any enforcement action that may be necessary.

### Planning Policy Statement 10

**Mr Close** asked the Minister of the Environment what assessment he has made on the extent to which Planning Policy Statement 10 has allayed public concerns about health risks. (AQW 272/02)

**Mr Nesbitt:** It is too early to determine whether the Planning Policy Statement and the legislative changes that were introduced through the Planning (General Development) Amendment Order 2002 have allayed public concerns about possible health risks.

Such concerns do remain an issue in the community, as is evidenced by the volume of objections that are received in respect of planning applications for telecommunication masts, as well as the sustained media coverage and, indeed, the regular questions asked by Members of this Assembly.

I must emphasise, however, that it is the responsibility of the Department of Health, Social Services and Public Safety to decide what measures are necessary to protect public health in Northern Ireland. Their advice is reflected fully in the terms of Planning Policy Statement 10.

## FINANCE AND PERSONNEL

### NI Civil Service: Recruitment

**Mr Campbell** asked the Minister of Finance and Personnel, in light of the fourth review of the NI Civil Service, to outline the number of people (by perceived religious affiliation) recruited into the General Service grades in each of the last four years for which figures are available. (AQW 209/02)

**The Minister of Finance and Personnel (Dr Farren):** The numbers recruited by the Recruitment Service are as follows:

Period	Protestant	Roman Catholic	Not Determined
1 April 98 – 31 March 99	791	760	53
1 April 99 – 31 March 00	715	812	63
1 April 00 – 31 March 01*	2,748	2,509	53
1 April 01 – 31 March 02	1,331	1,628	29

Some staff are recruited directly by Departments: these are not included in the above figures.

\* Includes 2,780 people recruited for the NI Statistics and Research Agency to carry out duties connected with the 2001 population census.

At 1 January 2001 the compositional profile of the General Service Group was 51% Protestant, 47% Roman Catholic and 2% not determined.

### Aggregate Tax

**Mr Armstrong** asked the Minister of Finance and Personnel to outline what measures his Department is taking to address the negative financial and other impacts which the aggregate tax is having in Northern Ireland.

(AQW 218/02)

**Dr Farren:** I recently corresponded with the Economic Secretary to the Treasury highlighting the adverse impact the aggregate tax is having in Northern Ireland despite the partial and temporary derogation granted in the pre-Budget report (November 2001). My officials are continuing to discuss proposals with their counterparts in HM Treasury that would further ameliorate the impact of the tax in Northern Ireland. Costs arising from the aggregate tax will continue to be addressed in the normal budgetary context.

### Aggregate Tax

**Mrs Carson** asked the Minister of Finance and Personnel to detail any responses his Department has received from Her Majesty's Treasury to the NI Executive's request for a review of the implementation of the aggregate tax. (AQW 227/02)

**Dr Farren:** Following correspondence with the Financial Secretary to the Treasury (April 2002), my officials met with their counterparts in HM Treasury to highlight the adverse and disproportionate impact the aggregate tax is having on Northern Ireland despite the partial and temporary derogation granted in the pre-Budget report (November 2001). In July 2002 I corresponded with the Economic Secretary to the Treasury outlining proposals on how best to ameliorate the impact of the tax and following a response earlier this month my officials are engaging in further discussions with HM Treasury officials.

### Consultation on Budget

**Mr Dallat** asked the Minister of Finance and Personnel what steps is he taking to ensure that a full and open consultation takes place with the Assembly on the Budget.

(AQO 100/02)

**Dr Farren:** The Budget is developed alongside the Programme for Government and the Executive intend to engage fully with the Assembly on the content of both documents. In my statement on 4 March I set out a detailed timetable for the process, including consultation arrangements. The consultation process began in April when Departments presented position reports to their committees. In June the Executive's position report was presented to the Assembly.

The draft Programme for Government and Budget will be introduced to the Assembly on 23/24 September 2002.

During October and early November the Committee for Finance and Personnel will take evidence from other committees on the draft Budget followed by a "take note" debate on the subject. The revised Budget will be presented to the Assembly for debate and vote in early December.

### Needs and Effectiveness Evaluation

**Mr McHugh** asked the Minister of Finance and Personnel to initiate a needs and effectiveness evaluation on (a) agriculture; and (b) rural development. (AQO 85/02)

**Dr Farren:** Six needs and effectiveness evaluations were launched last year. As the Programme for Government and the Executive position report advised there were also major studies underway in other policy and programme areas, including Agriculture.

The Executive has not yet considered the extension of the programme of needs and effectiveness evaluations. Ministers will wish to take stock of the work and learn from the experience of the first six studies to date. We also need to take into consideration the other major policy reviews which have been underway.

In the case of agriculture and rural development, we will want to consider the impact of reforms to the Common Agricultural Policy as well as the work to implement the vision report and the O'Hare Report and the DARD modernisation programme before deciding how best to proceed.

### Review of Public Administration

**Mr Ford** asked the Minister of Finance and Personnel how the Review of Public Administration impacts on discussions on Civil Service accommodation.

(AQO 97/02)

**Dr Farren:** There was general agreement among respondents during the recent consultation on the Accommodation Review Interim Report, that the Review of Public Administration was an important factor in the determination of any new accommodation strategy for the Civil Service.

### Cross-Border Workers: Taxation

**Mr Fee** asked the Minister of Finance and Personnel what representations he has made to the Chancellor of the Exchequer with respect to the problem of double taxation of cross-border workers. (AQO 111/02)

**Dr Farren:** Taxation is an excepted matter but I have had representations on the problem of double taxation of cross-border workers and this issue has been drawn to the attention of the Inland Revenue and Treasury. The matter is being considered and I will inform the Assembly

should any change take place. It is important to stress that the issue of double taxation is not solely a NI/RoI problem but exists across many countries in Europe.

### Ministerial Transportation Services

**Mr Hamilton** asked the Minister of Finance and Personnel to detail, in each of the last two years, (a) the total cost of transportation for all Ministers in the Executive; (b) the cost of transportation for each individual Minister and (c) what differences there are between the cost of a contracted-in ministerial service and any alternatives being used. (AQW 304/02)

**Dr Farren:** Over the past two years official transport services have been provided to the Deputy First Minister and seven Ministers in the Executive through a combination of contractors and in-house arrangements. Services for other Ministers in the Executive are provided by the Police Service for Northern Ireland or by the Department concerned. For those services provided by DFP, a study in late 2000, which compared the cost of in-house provision with contractor services, found that there were substantial savings to be had from the former arrangement. Since June 2002 the bulk of official transport services, which covers Ministers in the Executive, Junior Minister and senior officials, are delivered by in-house drivers. These drivers also assist courier staff in the delivery of internal mail and parcels. Courier staff substitute for drivers during period of annual leave and sick absences.

Information on the costs of providing Ministerial transport services for the two-year period requested, can only be provided at disproportionate cost. Questions about the cost of services that are provided by arrangements other than the central service for which my Department is responsible, should be directed to the Departments concerned.

### 2001 Census

**Ms Lewsley** asked the Minister of Finance and Personnel to confirm the date of publication of results from the 2001 census. (AQW 315/02)

**Dr Farren:** The first results of the 2001 census will be published at 10 am on 30 September 2002. The 2001 census population report will detail the total population broken down by age and sex for Northern Ireland as a whole and separately for each local government district area, health board, education and library board and NUTS Level III area as of census day (29 April). The Northern Ireland mid-year estimate figures for 30 June will also be published on the same date and for the same administrative areas.

## HEALTH, SOCIAL SERVICES AND PUBLIC SAFETY

### Navigator Blue Ltd

**Mr Dallat** asked the Minister of Health, Social Services and Public Safety, in respect of contracts awarded to Navigator Blue Ltd by (i) her Department; (ii) the Executive agencies of her Department; (iii) NDPBs of her Department [excluding the Fire Authority for Northern Ireland]; and (iv) any other bodies funded by her Department, to outline (a) the date contracts commenced; (b) the value of work carried out in each contract in financial year 2001-02; and (c) the value of work carried out in each contract in the current financial year. (AQW 20/02)

**The Minister of Health, Social Services and Public Safety (Ms de Brún):** Navigator Blue Ltd has undertaken the following advertising campaigns for my Department and bodies funded by my Department:

Body	Year	Campaign	Start Date	Cost
DHSSPS	2001-2002	Public information campaign 'Get the Right Treatment'	November 2001	£71,697.50 exc. VAT
CCETSW (now the NI Social Care Council)	2001-2002	Social work recruitment	March 2001	£123,850.34 exc. VAT
CCETSW (now the NI Social Care Council)	2001-2002	Development of corporate identity for the NI Social Care Council	July 2001	£6,360 exc. VAT
DHSSPS	2001-2002	Materials for launch of NI Social Care Council	September 2001	£2,938 exc. VAT
DHSSPS	2002-2003	Fixed penalty charges scheme	May 2002	£102,367.76 exc. VAT

Ghabh Navigator Blue Ltd i gceann na bhfeachtas fógraíochta seo a leanas don Roinn s'agam agus do chomhlachtaí atá maoinithe ag an Roinn s'agam:

Comhlacht	Bliain	Feachtas	Dáta Tosaigh	Costas
RSSSSP	2001-2002	Feachtas Eolais Phoiblí "Faigh an Chóireáil Cheart"	Samhain 2001	£71,697.50 gan CBL san áireamh.

Comhlacht	Bliain	Feachtas	Dáta Tosaigh	Costas
CLOOOS (Comhairle Cúraim Shóisialta Thuaisceart Éireann a thugtar anois air)	2001-2002	Earcaíocht Oibre Sóisialta	Márta 2001	£123,850.34 gan CBL san áireamh.
CLOOOS (Comhairle Cúraim Shóisialta Thuaisceart Éireann a thugtar anois air)	2001-2002	Forbairt ionannais chorpáidigh do Chomhairle Cúraim Shóisialta Thuaisceart Éireann	Iúil 2001	£6,360 gan CBL san áireamh.
RSSSSP	2001-2002	Ábhair do sheoladh Comhairle Cúraim Shóisialta Thuaisceart Éireann	Meán Fómhair 2001	£2,938 gan CBL san áireamh.
RSSSSP	2002-2003	Scéim um Thailí Pionóis Shocráithe	Bealtaine 2002	£102,367.76 gan CBL san áireamh.

### Hip Replacement Surgery

**Mr Morrow** asked the Minister of Health, Social Services and Public Safety to detail, in both the Southern and Western Health and Social Services Board areas, (a) the number of patients waiting for hip replacement surgery; and (b) how long these patients have been waiting for surgery. (AQW 37/02)

**Ms de Brún:** Information on people waiting for treatment is collected on the basis of specialty rather than the type of operation. The number of patients in the Southern and Western Health and Social Services Boards waiting in the trauma and orthopaedic specialty at 30 June 2002 is detailed in the table below.

Board of Residence	Time Waiting in Months					Total Number of Patients Waiting
	0 - 2	3 - 11	12 - 17	18 - 23	24+	
SHSSB	241	436	108	59	106	950
WHSSB	229	505	153	35	27	949

Bailítear eolas ar dhaoine atá ag fanacht le cóireáil ar bhonn speisialtachta seachas ar an chineál obráide. Léirítear sa tábla thíos líon na ndaoine i mBoird Sláinte agus Seirbhísí Sóisialta an Deiscirt agus an Iarthair atá ag fanacht sa Speisialacht Tráma agus Ortaipéide ar 30 Meitheamh 2002.



Bord Cónaithe	Tréimhse Fheithimh i Míonna					Iomlán Líon na nOthar atá ag Feitheamh
	0 - 2	3 - 11	12 - 17	18 - 23	24+	
BSSS an Deiscirt	241	436	108	59	106	<b>950</b>
BSSS an Iarthair	229	505	153	35	27	<b>949</b>

### Cataract Surgery

**Mr Morrow** asked the Minister of Health, Social Services and Public Safety to detail, in both the Southern and Western Health and Social Services Board areas, (a) the number of patients waiting for cataract surgery and (b) how long these patients have been waiting for surgery. (AQW 38/02)

**Ms de Brún:** Information on people waiting for treatment is collected on the basis of specialty rather than the type of operation. The number of patients in the Southern and Western Health and Social Services Boards waiting in the ophthalmology specialty at 30 June 2002 is detailed in the table below.

Board of Residence	Time Waiting in Months					Total Number of Patients Waiting
	0 - 2	3 - 11	12 - 17	18 - 23	24+	
SHSSB	407	535	124	38	40	<b>1,144</b>
WHSSB	270	170	8	1	5	<b>454</b>

Bailítear eolas ar dhaoine atá ag fanacht le cóireáil ar bhonn speisialtachta seachas ar an chineál obraíde. Léirítear sa tábla thíos líon na ndaoine i mBoird Sláinte agus Seirbhísí Sóisialta an Deiscirt agus an Iarthair atá ag fanacht sa Speisialacht Oftailmeolaíochta ar 30 Meitheamh 2002.

Bord Cónaithe	Tréimhse Fheithimh i Míonna					Iomlán Líon na nOthar atá ag Feitheamh
	0 - 2	3 - 11	12 - 17	18 - 23	24+	
BSSS an Deiscirt	407	535	124	38	40	<b>1,144</b>
BSSS an Iarthair	270	170	8	1	5	<b>454</b>

### Ulster Hospital: Accident and Emergency Department

**Mrs I Robinson** asked the Minister of Health, Social Services and Public Safety to outline, for the last five years, (a) the number of patients processed through the accident and emergency department at the Ulster Hospital; and (b) the recommended throughput for each year. (AQW 44/02)

**Ms de Brún:** a) Information on attendances at the accident and emergency department in the Ulster Hospital is detailed in the table below.

### ATTENDANCES AT THE ACCIDENT AND EMERGENCY DEPARTMENT IN THE ULSTER HOSPITAL OVER THE LAST 5 YEARS.

Financial Year	Attendances
1997/1998	60,143
1998/1999	68,824
1999/2000	68,661
2000/2001	63,777
2001/2002	63,148*

\* Data for 2001/2002 is provisional

b) Information is not available in the form requested.

a) Léirítear eolas ar na freastail ar an Roinn Timpistí agus Éigeandála in Otharlann Uladh sa tábla thíos.

### FREASTAIL AR AN ROINN TIMPISTÍ AGUS ÉIGEANDÁLA IN OTHARLANN ULADH LE 5 BLIAIN ANUAS.

Bliain Airgeadais	Freastail
1997/1998	60,143
1998/1999	68,824
1999/2000	68,661
2000/2001	63,777
2001/2002	63,148*

\* Tá na staitisticí don bhliain 2001/2002 sealadach

b) Níl eolas ar fáil ar an dóigh ar iarradh é.

### Specialists in Hospitals

**Rev Robert Coulter** asked the Minister of Health, Social Services and Public Safety to detail the number of associate specialists employed in each hospital and to provide a breakdown by specialism. (AQW 62/02)

**Ms de Brún:** The information requested is detailed in the table below.

### ASSOCIATE SPECIALISTS BY HOSPITAL BY DEPARTMENT – JUNE 2002

Hospital	Department	Headcount	WTE1
Belfast City Hospital	Dermatology	1	0.6
	Cardiology	1	1.0
	Haematology/Blood Transfusion	1	0.4
	Anatomy	1	1.0
<b>Total Belfast City Hospital</b>		<b>4</b>	<b>3.0</b>
Belvoir Park Hospital	Radiology	1	1.0
	Medical Oncology	1	1.0
<b>Total Belvoir Park Hospital</b>		<b>2</b>	<b>2.0</b>
Knockbracken Healthcare Park	Psychiatry	2	1.5
<b>Total Knockbracken Healthcare Park</b>		<b>2</b>	<b>1.5</b>

Hospital	Department	Headcount	WTE1
Ravara Resource Centre (Ulster Community & Hospitals Group HSS Trust)	General Medicine	1	1.0
	Cardiology	1	1.0
<b>Total Ravara Resource Centre</b>		<b>2</b>	<b>2.0</b>
Royal Maternity Hospital	Obstetrics/ Gynaecology	1	0.5
<b>Total Royal Maternity Hospital</b>		<b>1</b>	<b>0.5</b>
Royal Belfast Hospital for Sick Children	Paediatrics	1	0.6
<b>Total Royal Belfast Hospital for Sick Children</b>		<b>1</b>	<b>0.6</b>
Royal Victoria Hospital	Ophthalmic Surgery	2	1.5
	General Medicine	2	1.1
	Geriatrics	1	1.0
<b>Total Royal Victoria Hospital</b>		<b>5</b>	<b>3.6</b>
Mater Infirmorum Hospital	Accident and Emergency	1	1.0
	Ophthalmic Surgery	1	0.3
	Psychiatry	2	1.0
<b>Total Mater Infirmorum Hospital</b>		<b>4</b>	<b>2.3</b>
Muckamore Abbey Hospital	Mental Handicap	1	1.0
<b>Total Muckamore Abbey Hospital</b>		<b>1</b>	<b>1.0</b>
Downe Hospital	General Medicine	2	1.4
<b>Total Downe Hospital</b>		<b>2</b>	<b>1.4</b>
Coleraine Hospital	Ophthalmic Surgery	1	0.5
<b>Total Coleraine Hospital</b>		<b>1</b>	<b>0.5</b>
Holywell Hospital	Psychiatry	1	1.0
<b>Total Holywell Hospital</b>		<b>1</b>	<b>1.0</b>
Whiteabbey Hospital	Accident and Emergency	1	1.0
	Anaesthetics	1	1.0
<b>Total Whiteabbey Hospital</b>		<b>2</b>	<b>2.0</b>
Antrim Hospital	Obstetrics/ Gynaecology	1	1.0
<b>Total Antrim Hospital</b>		<b>1</b>	<b>1.0</b>
Lurgan Hospital	Dermatology	1	0.6
<b>Total Lurgan Hospital</b>		<b>1</b>	<b>0.6</b>
Craigavon Area Hospital	Dermatology	1	1.0
	Accident and Emergency	1	1.0
<b>Total Craigavon Area Hospital</b>		<b>2</b>	<b>2.0</b>
Daisy Hill Hospital	Accident and Emergency	1	1.0
	Obstetrics/ Gynaecology	1	1.0
<b>Total Daisy Hill Hospital</b>		<b>2</b>	<b>2.0</b>

Hospital	Department	Headcount	WTE1
Altnagelvin Hospital	General Medicine	1	1.0
	Anaesthetics	2	2.0
<b>Total Altnagelvin Hospital</b>		<b>3</b>	<b>3.0</b>
Stradreagh Hospital	Mental Handicap	1	1.0
<b>Total Stradreagh Hospital</b>		<b>1</b>	<b>1.0</b>
<b>Overall Total2</b>		<b>38</b>	<b>30.7</b>

<sup>1</sup> Whole Time Equivalent

<sup>2</sup> WTE figures may not sum to the total due to rounding

Tá an t-eolas a iarradh léirithe sa tábla thíos.

#### SPEISIALTÓIRÍ COMHLACHA DE RÉIR OTHARLAINNE, DE RÉIR ROINNE – MEITHEAMH 2002

Otharlann	Roinn	Líon na nDaoine	CLA1
Otharlann Chathair Bhéal Feirste	Deirmeolaíocht	1	0.6
	Cairdeolaíocht	1	1.0
	Haemaolaíocht/ Fuilaistriú	1	0.4
	Anatamaíocht	1	1.0
<b>Iomlán Otharlann Chathair Bhéal Feirste</b>		<b>4</b>	<b>3.0</b>
Otharlann Pháirc Belvoir	Raideolaíocht	1	1.0
	Oinceolaíocht Mhíochaine	1	1.0
<b>Iomlán Otharlann Pháirc Belvoir</b>		<b>2</b>	<b>2.0</b>
Páirc Chúram Sláinte Knockbracken	Síciatracht	2	1.5
<b>Iomlán Páirc Chúram Sláinte Knockbracken</b>		<b>2</b>	<b>1.5</b>
Ionad Acmhainní Ravara (lontaobhas SSS Grúpa Otharlanna Pobail Uladh)	Míochaine Ghinearálta	1	1.0
	Cairdeolaíocht	1	1.0
<b>Iomlán Ionad Acmhainní Ravara</b>		<b>2</b>	<b>2.0</b>
Otharlann Ríoga Mháithreachais	Cnáimhseachas/ Liacht Bhan	1	0.5
<b>Iomlán Otharlann Ríoga Mháithreachais</b>		<b>1</b>	<b>0.5</b>
Otharlann Ríoga Bhéal Feirste do Pháistí Tinne	Péidiatraic	1	0.6
<b>Iomlán Otharlann Ríoga Bhéal Feirste do Pháistí Tinne</b>		<b>1</b>	<b>0.6</b>
Otharlann Ríoga Vichteoiria	Máinliacht Oftalmach	2	1.5
	Míochaine Ghinearálta	2	1.1
	Geiriatric	1	1.0
<b>Iomlán Otharlann Ríoga Vichteoiria</b>		<b>5</b>	<b>3.6</b>
Otharlann an Mater	Timpistí agus Éigeandáil	1	1.0
	Máinliacht Oftalmach	1	0.3
	Síciatracht	2	1.0
<b>Iomlán Otharlann an Mater</b>		<b>4</b>	<b>2.3</b>

Otharlann Mhainistir Mhaigh Chomair	Bac Meabhrach	1	1.0
<b>Iomlán Otharlann Mhainistir Mhaigh Chomair</b>		<b>1</b>	<b>1.0</b>
Otharlann Downe	Míochaine Ghinearálta	2	1.4
<b>Iomlán Otharlann Downe</b>		<b>2</b>	<b>1.4</b>
Otharlann Chúil Raithin	Máinliacht Oftalmach	1	0.5
<b>Iomlán Otharlann Chúil Raithin</b>		<b>1</b>	<b>0.5</b>
Otharlann Holywell	Siciatracht	1	1.0
<b>Iomlán Otharlann Holywell</b>		<b>1</b>	<b>1.0</b>
Otharlann na Mainistreach Finne	Timpistí agus Éigeandáil	1	1.0
	Ainéistéitic	1	1.0
<b>Iomlán Otharlann na Mainistreach Finne</b>		<b>2</b>	<b>2.0</b>
Otharlann Aontroma	Cnáimhseachas/Liacht Bhan	1	1.0
<b>Iomlán Otharlann Aontroma</b>		<b>1</b>	<b>1.0</b>
Otharlann an Lorgain	Deirmeolaíocht	1	0.6
<b>Iomlán Otharlann na Lorgan</b>		<b>1</b>	<b>0.6</b>
Otharlann Cheantar Craigavon	Deirmeolaíocht	1	1.0
	Timpistí agus Éigeandáil	1	1.0
<b>Iomlán Otharlann Cheantar Craigavon</b>		<b>2</b>	<b>2.0</b>
Otharlann Daisy Hill	Timpistí agus Éigeandáil	1	1.0
	Cnáimhseachas/Liacht Bhan	1	1.0
<b>Iomlán Otharlann Daisy Hill</b>		<b>2</b>	<b>2.0</b>
Otharlann Alt na nGealbhan	Míochaine Ghinearálta	1	1.0
	Ainéistéitic	2	2.0
<b>Iomlán Otharlann Alt na nGealbhan</b>		<b>3</b>	<b>3.0</b>
Otharlann Stradreagh	Bac Meabhrach	1	1.0
<b>Iomlán Otharlann Stradreagh</b>		<b>1</b>	<b>1.0</b>
Foriomlán2		38	30.7

Otharlann	Roinn	Líon na nDaoine	CLA1
Otharlann Chathair Bhéal Feirste	Deirmeolaíocht	1	0.6
	Cairdeolaíocht	1	1.0
	Haemacolaíocht/Fuilaistriú	1	0.4
	Anatamaíocht	1	1.0
<b>Iomlán Otharlann Chathair Bhéal Feirste</b>		<b>4</b>	<b>3.0</b>
Otharlann Pháirc Belvoir	Raideolaíocht	1	1.0
	Oinceolaíocht Mhíochaine	1	1.0
<b>Iomlán Otharlann Pháirc Belvoir</b>		<b>2</b>	<b>2.0</b>
Páirc Chúram Sláinte Knockbracken	Siciatracht	2	1.5

Otharlann	Roinn	Líon na nDaoine	CLA1
<b>Iomlán Páirc Chúram Sláinte Knockbracken</b>		<b>2</b>	<b>1.5</b>
Ionad Acmhainní Ravara (Iontaobhas SSS Grúpa Otharlanna Pobail Uladh)	Míochaine Ghinearálta	1	1.0
	Cairdeolaíocht	1	1.0
<b>Iomlán Ionad Acmhainní Ravara</b>		<b>2</b>	<b>2.0</b>
Otharlann Ríoga Mháithreachais	Cnáimhseachas/Liacht Bhan	1	0.5
<b>Iomlán Otharlann Ríoga Mháithreachais</b>		<b>1</b>	<b>0.5</b>
Otharlann Ríoga Bhéal Feirste do Pháistí Tinne	Péidiatraic	1	0.6
<b>Iomlán Otharlann Ríoga Bhéal Feirste do Pháistí Tinne</b>		<b>1</b>	<b>0.6</b>
Otharlann Ríoga Vichteoiria	Máinliacht Oftalmach	2	1.5
	Míochaine Ghinearálta	2	1.1
	Geiriatric	1	1.0
<b>Iomlán Otharlann Ríoga Vichteoiria</b>		<b>5</b>	<b>3.6</b>

Otharlann an Mater	Timpistí agus Éigeandáil	1	1.0
	Máinliacht Oftalmach	1	0.3
	Siciatracht	2	1.0
<b>Iomlán Otharlann an Mater</b>		<b>4</b>	<b>2.3</b>
Otharlann Mhainistir Mhaigh Chomair	Bac Meabhrach	1	1.0
<b>Iomlán Otharlann Mhainistir Mhaigh Chomair</b>		<b>1</b>	<b>1.0</b>
Otharlann Downe	Míochaine Ghinearálta	2	1.4
<b>Iomlán Otharlann Downe</b>		<b>2</b>	<b>1.4</b>
Otharlann Chúil Raithin	Máinliacht Oftalmach	1	0.5
<b>Iomlán Otharlann Chúil Raithin</b>		<b>1</b>	<b>0.5</b>
Otharlann Holywell	Siciatracht	1	1.0
<b>Iomlán Otharlann Holywell</b>		<b>1</b>	<b>1.0</b>
Otharlann na Mainistreach Finne	Timpistí agus Éigeandáil	1	1.0
	Ainéistéitic	1	1.0
<b>Iomlán Otharlann na Mainistreach Finne</b>		<b>2</b>	<b>2.0</b>
Otharlann Aontroma	Cnáimhseachas/Liacht Bhan	1	1.0
<b>Iomlán Otharlann Aontroma</b>		<b>1</b>	<b>1.0</b>
Otharlann an Lorgain	Deirmeolaíocht	1	0.6
<b>Iomlán Otharlann na Lorgan</b>		<b>1</b>	<b>0.6</b>
Otharlann Cheantar Craigavon	Deirmeolaíocht	1	1.0
	Timpistí agus Éigeandáil	1	1.0
<b>Iomlán Otharlann Cheantar Craigavon</b>		<b>2</b>	<b>2.0</b>

Otharlann an Mater	Timpistí agus Éigeandáil	1	1.0
Otharlann Daisy Hill	Timpistí agus Éigeandáil	1	1.0
	Cnáimhseachas/Liacht Bhan	1	1.0
<b>Iomlán Otharlann Daisy Hill</b>		<b>2</b>	<b>2.0</b>
Otharlann Alt na nGealbhan	Míochaine Ghinearálta	1	1.0
	Ainéistéitic	2	2.0
<b>Iomlán Otharlann Alt na nGealbhan</b>		<b>3</b>	<b>3.0</b>
Otharlann Stradreagh	Bac Meabhrach	1	1.0
<b>Iomlán Otharlann Stradreagh</b>		<b>1</b>	<b>1.0</b>
<b>Foirmlián2</b>		<b>38</b>	<b>30.7</b>

<sup>1</sup> Coibhéis Lánaimseartha

<sup>2</sup> Tá seans ann nach mbeidh staitisticí CLA ag teacht leis an fhoirmlián mar gheall ar shlánú

## Staff Grade Officers in Hospitals

**Rev Robert Coulter** asked the Minister of Health, Social Services and Public Safety to detail the number of staff grade officers are employed in each hospital.  
(AQW 63/02)

**Ms de Brún:** The information requested is detailed in the table below.

### STAFF GRADE OFFICERS BY HOSPITAL – JUNE 2002

Hospital	Headcount	WTE <sup>1</sup>
Belfast City Hospital	9	8.5
Musgrave Park Hospital	5	5.0
Ulster Hospital	13	12.3
Royal Victoria Hospital	18	16.3
Royal Belfast Hospital for Sick Children	3	2.0
Mater Infirmorum Hospital	6	3.6
Muckamore Abbey Hospital	1	1.0
Lagan Valley Hospital	4	3.0
Downshire Hospital	2	2.0
Downe Hospital	5	5.0
Coleraine Hospital	6	6.0
Holywell Hospital	1	1.0
Whiteabbey Hospital	3	3.0
Mid-Ulster Hospital	1	1.0
Antrim Hospital	6	6.0
Longstone Mental Handicap Hospital (Armagh & Dungannon HSS Trust)	1	1.0
Mullinure Geriatric Hospital (Armagh & Dungannon HSS Trust)	1	1.0
South Tyrone Hospital	4	3.8

Hospital	Headcount	WTE <sup>1</sup>
Lurgan Hospital	1	1.0
Craigavon Area Hospital	11	10.5
Daisy Hill Hospital	5	4.8
Altnagelvin Hospital	4	3.8
Erne Hospital	4	4.0
Tyrone Country Hospital	3	3.0
Tyrone & Fermanagh Hospital	1	1.0
<b>Total</b>	<b>118</b>	<b>109.6</b>

<sup>1</sup> Whole Time Equivalent

Tá an t-eolas a iarradh léirithe sa tábla thíos.

### OIFIGIGH GHRÁD FOIRNE DE RÉIR OTHARLAINNE – MEITHEAMH 2002

Otharlann	Líon na nDaoine	CLA <sup>1</sup>
Otharlann Chathair Bhéal Feirste	9	8.5
Otharlann Pháirc Musgrave	5	5.0
Otharlann Uladh	13	12.3
Otharlann Ríoga Vichteoiria	18	16.3
Otharlann Ríoga Bhéal Feirste do Pháistí Tinne	3	2.0
Otharlann an Mater	6	3.6
Otharlann Mhainistir Mhaigh Chomair	1	1.0
Otharlann Ghleann an Lagáin	4	3.0
Otharlann Downshire	2	2.0
Otharlann Downe	5	5.0
Otharlann Chúil Raithin	6	6.0
Otharlann Holywell	1	1.0
Otharlann na Mainistreach Finne	3	3.0
Otharlann Lár-Uladh	1	1.0
Otharlann Aontroma	6	6.0
Otharlann Bhac Meabhrach Longstone (Iontaobhas SSS Ard Mhacha & Dhún Geanainn)	1	1.0
Otharlann Gheiríatrach Mhuileann an Iúir (Iontaobhas SSS Ard Mhacha & Dhún Geanainn)	1	1.0
Otharlann Dheisceart Thír Eoghain	4	3.8
Otharlann na Lorgan	1	1.0
Otharlann Cheantar Craigavon	11	10.5
Otharlann Daisy Hill	5	4.8
Otharlann Alt na nGealbhan	4	3.8
Otharlann na hÉirne	4	4.0
Otharlann Chontae Thír Eoghain	3	3.0
Otharlann Thír Eoghain & Fhear Manach	1	1.0
<b>Foirmlián</b>	<b>118</b>	<b>109.6</b>

<sup>1</sup> Coibhéis Lánaimseartha



## Rheumatology Services

**Mr Bradley** asked the Minister of Health, Social Services and Public Safety to detail the measures she intends to put in place to implement the Royal College of Physicians' guidelines for the provision of rheumatology services. (AQW 65/02)

**Ms de Brún:** I have noted the recommendations of the Royal College of Physicians in relation to the optimum consultant staffing across a range of medical specialties. Such recommendations are helpful and are taken into account, together with many other considerations affecting the health and personal social services, when decisions are made on the investment of scarce resources.

I recognise that the number of consultant rheumatologists here falls short of the college's view of what is required. I have been seeking to increase their numbers. Those currently in training have the potential to produce an increase of 10% in the rheumatologist provision in the next two years. Numbers in training are subject to annual review and adjusted in the light of competing demands.

Thug mé do m'aire moltaí an Choláiste Ríoga Dochtúirí maidir leis an fhoireann chomhairleach is fearr trasna réimse speisialtachtaí míochaine. Tá a leithéid de mholtaí cuidiúil agus cuirfear san áireamh iad, chomh maith le cuid mhór ceistanna eile a bhaineann leis na seirbhísí sláinte agus sóisialta pearsanta, nuair a dhéantar cinn ar infheistíocht acmhainní atá gann.

Aithním go bhfuil líon na réamaiteolaithe comhairleacha gann de réir bharúil an Choláiste ar an méid atá de dhíth. Bhí mé ag iarraidh an líon s'acu a mhéadú. Tá acmhainneacht acu siúd atá faoi oiliúint faoi láthair méadú de 10% a chur le soláthar réamaiteolaíoch sa chéad 2 bliain eile. Bíonn líon na ndaoine faoi oiliúint ag brath ar athbhreithniú bliantúil agus coigeartaítear iad mar gheall ar éilimh iomaíochta.

## Lupus

**Mrs E Bell** asked the Minister of Health, Social Services and Public Safety to make a statement on the incidence of lupus and the geographical location of sufferers. (AQW 70/02)

**Ms de Brún:** Information on the number of people diagnosed as having lupus is not collected centrally.

Ní bhailítear eolas go lárnach ar líon na ndaoine a diagnóisíodh le lúpas .

## NI Diabetes Task Force

**Mr Davis** asked the Minister of Health, Social Services and Public Safety if she has reviewed the draft recommendations of the Northern Ireland diabetes task force. (AQW 72/02)

**Ms de Brún:** I will give full consideration to the recommendations of the task force when it is submitted to me in the autumn.

Déanfaidh mé machnamh iomlán ar mholtaí an Tascfhórsa nuair a chuirfear isteach chugam iad san Fhómhar.

## Waiting List for Operations

**Mr Shannon** asked the Minister of Health, Social Services and Public Safety to detail, in each health board area, the waiting lists for operations in each hospital speciality in the last three years. (AQW 77/02)

**Ms de Brún:** The most recent information available shows the number of people waiting for admission to hospital at 30 June 2002: data has been provided for the same quarter in 2000 and 2001.

**TABLE 1**  
**NUMBER OF PEOPLE WAITING FOR ADMISSION TO THE SURGICAL SPECIALTIES BY BOARD PROVIDER JUNE 2002**

Specialty	Health Board Provider				
	EHSSB	NHSSB	SHSSB	WHSSB	Board Total
General Surgery	6,624	4,595	3,438	1,430	16,087
Urology	2,883	223	1,245	567	4,918
Trauma and Orthopaedics	5,215	-	-	849	6,064
ENT	3,673	1,356	1,807	1,048	7,884
Ophthalmology	4,938	-	408	781	6,127
Oral Surgery	250	-	59	303	612
Paediatric Dentistry	167	-	-	-	167
Neurosurgery	850	-	-	-	850
Plastic Surgery	2,508	-	-	-	2,508
Cardiac Surgery	644	-	-	-	644
Paediatric Surgery	697	-	-	-	697
Thoracic Surgery	293	-	-	-	293
Gynaecology	2,904	1,642	1,169	801	6,516
<b>Total</b>	<b>31,646</b>	<b>7,816</b>	<b>8,126</b>	<b>5,779</b>	<b>53,367</b>

**TABLE 2**  
**NUMBER OF PEOPLE WAITING FOR ADMISSION TO THE**  
**SURGICAL SPECIALTIES BY BOARD PROVIDER JUNE 2001**

Specialty	Health Board Provider				
	EHSSB	NHSSB	SHSSB	WHSSB	Board Total
General Surgery	6,448	3,710	3,156	1,372	41,686
Urology	2,628	185	1,304	526	4,643
Trauma and Orthopaedics	4,807	-	-	826	5,633
ENT	3,781	1,315	1,602	998	7,696
Ophthalmology	4,583	-	255	830	5,668
Oral Surgery	230	-	114	230	574
Restorative Dentistry	1	-	-	-	1
Paediatric Dentistry	149	-	-	-	149
Neurosurgery	629	-	-	-	629
Plastic Surgery	2,478	-	-	-	2,478
Cardiac Surgery	549	-	-	-	549
Paediatric Surgery	679	-	-	-	679
Thoracic Surgery	282	-	-	-	282
Gynaecology	2,473	1,414	903	748	5,538
<b>Total</b>	<b>29,717</b>	<b>6,624</b>	<b>7,334</b>	<b>5,530</b>	<b>49,205</b>

**TABLE 3**  
**NUMBER OF PEOPLE WAITING FOR ADMISSION TO THE**  
**SURGICAL SPECIALTIES BY BOARD PROVIDER JUNE 2000**

Specialty	Health Board Provider				
	EHSSB	NHSSB	SHSSB	WHSSB	Board Total
General Surgery	6,983	2,093	3,131	1,175	13,382
Urology	2,174	75	1,400	452	4,101
Trauma and Orthopaedics	4,606	-	-	556	5,162
ENT	2,856	1,427	1,188	1,082	6,553
Ophthalmology	4,327	-	-	926	5,253
Oral Surgery	278	-	131	275	684
Restorative Dentistry	3	-	-	-	3
Paediatric Dentistry	162	-	-	-	162
Neurosurgery	494	-	-	-	494
Plastic Surgery	2,480	-	-	-	2,480
Cardiac Surgery	593	-	-	-	593
Paediatric Surgery	658	-	-	-	658
Thoracic Surgery	207	-	-	-	207
Gynaecology	2,342	1,417	945	535	5,239
<b>Total</b>	<b>28,163</b>	<b>5,012</b>	<b>6,795</b>	<b>5,001</b>	<b>44,971</b>

Léiríonn an t-eolas is deireanaí atá ar fáil líon na ndaoine ag fanacht ar iontráil chuig otharlann ar 30 Meitheamh 2002: cuireadh sonraí ar fáil maidir leis an ráithe chéanna i 2000 agus 2001.

**TÁBLA 1**  
**LÍON NA NDAOINE AG FANACHT AR IONTRÁIL CHUIG NA**  
**SPEISIALTACHTAÍ MÁINLIACHTA DE RÉIR SOLÁTHRÓIR**  
**BOIRD MEITHEAMH 2002**

Speisialtacht	Soláthróir an Bhoird Sláinte				
	BSSSO	BSSST	BSSSD	BSSSI	Iomlán an Bhoird
Máinliacht Ghinearálta	6,624	4,595	3,438	1,430	16,087
Úireolaíocht	2,883	223	1,245	567	4,918
Tráma agus Ortaipéidic	5,215	-	-	849	6,064
CSS	3,673	1,356	1,807	1,048	7,884
Oftalmaíocht	4,938	-	408	781	6,127
Máinliacht Bhéil	250	-	59	303	612
Fiaclóireacht Phéidiatraiceach	167	-	-	-	167
Néarmháinliacht	850	-	-	-	850
Máinliacht Phlaisteach	2,508	-	-	-	2,508
Máinliacht Chairdiach	644	-	-	-	644
Máinliacht Phéidiatraiceach	697	-	-	-	697
Máinliacht Thóracach	293	-	-	-	293
Gínéiceolaíocht	2,904	1,642	1,169	801	6,516
<b>Iomlán</b>	<b>31,646</b>	<b>7,816</b>	<b>8,126</b>	<b>5,779</b>	<b>53,367</b>

**TÁBLA 2**  
**LÍON NA NDAOINE AG FANACHT AR IONTRÁIL CHUIG NA**  
**SPEISIALTACHTAÍ MÁINLIACHTA DE RÉIR SOLÁTHRÓIR**  
**BOIRD MEITHEAMH 2001**

Speisialtacht	Soláthróir an Bhoird Sláinte				
	BSSSO	BSSST	BSSSD	BSSSI	Iomlán an Bhoird
Máinliacht Ghinearálta	6,448	3,710	3,156	1,372	41,686
Úireolaíocht	2,628	185	1,304	526	4,643
Tráma agus Ortaipéidic	4,807	-	-	826	5,633
CSS	3,781	1,315	1,602	998	7,696
Oftalmaíocht	4,583	-	255	830	5,668
Máinliacht Bhéil	230	-	114	230	574
Fiaclóireacht Athchóiríoch	1	-	-	-	1
Fiaclóireacht Phéidiatraiceach	149	-	-	-	149
Néarmháinliacht	629	-	-	-	629
Máinliacht Phlaisteach	2,478	-	-	-	2,478
Máinliacht Chairdiach	549	-	-	-	549

Máinliacht Phéidiatraiceach	679	-	-	-	679
Máinliacht Thóracach	282	-	-	-	282
Gíniceolaíocht	2,473	1,414	903	748	5,538
<b>Iomlán</b>	<b>29,717</b>	<b>6,624</b>	<b>7,334</b>	<b>5,530</b>	<b>49,205</b>

**TÁBLA 3**  
**LÍON NA NDAOINE AG FANACHT AR IONTRÁIL CHUIG NA**  
**SPEISIALTACHTAÍ MÁINLIACHTA DE RÉIR SOLÁTHRÓIR**  
**BOIRD MEITHEAMH 2000**

Speisialtacht	Soláthróir an Bhoird Sláinte				Iomlán an Bhoird
	BSSSO	BSSST	BSSSD	BSSSI	
Máinliacht Ghinearálta	6,983	2,093	3,131	1,175	13,382
Úireolaíocht	2,174	75	1,400	452	4,101
Tráma agus Ortaipéidic	4,606	-	-	556	5,162
CSS	2,856	1,427	1,188	1,082	6,553
Oftalmaíocht	4,327	-	-	926	5,253
Máinliacht Bhéil	278	-	131	275	684
Fiaclóireacht Athchóiriú	3	-	-	-	3
Fiaclóireacht Phéidiatraiceach	162	-	-	-	162
Néarmháinliacht	494	-	-	-	494
Máinliacht Phlaisteach	2,480	-	-	-	2,480
Máinliacht Chairdiach	593	-	-	-	593
Máinliacht Phéidiatraiceach	658	-	-	-	658
Máinliacht Thóracach	207	-	-	-	207
Gíniceolaíocht	2,342	1,417	945	535	5,239
<b>Iomlán</b>	<b>28,163</b>	<b>5,012</b>	<b>6,795</b>	<b>5,001</b>	<b>44,971</b>

## Hearing Aids

**Mr Shannon** asked the Minister of Health, Social Services and Public Safety to detail the number of people who use hearing aids. (AQW 78/02)

**Ms de Brún:** Information on the numbers of individuals who use hearing aids is not collected centrally.

Ní chruinnítear eolas go lárnach ar líon na ndaoine aonarach a chaitheann áiseanna éisteachta.

## Hearing Aids: Digital

**Mr Shannon** asked the Minister of Health, Social Services and Public Safety to detail the number of people

(a) using digital hearing aids and (b) on waiting lists for a digital hearing aid. (AQW 79/02)

**Ms de Brún:** It is not possible to quantify the number of people using digital hearing aids as they may be purchased privately.

As digital hearing aids are not available through the Health Service here, there are no waiting lists.

Ní féidir líon na ndaoine a cheannaíonn áiseanna éisteachta digiteacha a áireamh mar is féidir iad a cheannacht go príobháideach.

Níl liostaí feithimh anseo, os rud é nach bhfuil áiseanna éisteachta digiteacha ar fáil tríd an tSeirbhís Sláinte anseo.

## Hearing Difficulties

**Mr Shannon** asked the Minister of Health, Social Services and Public Safety how much funding has been set aside, in the current financial year, for allocation to those with hearing difficulties. (AQW 80/02)

**Ms de Brún:** No specific funding allocation has been made for those with hearing difficulties

Ní dhearna dáileadh ar leith maoinithe dóibh siúd le deacrachtaí éisteachta.

## Hearing Aids: Digital

**Mr Shannon** asked the Minister of Health, Social Services and Public Safety what steps is she taking to introduce digital hearing aids to Northern Ireland. (AQW 81/02)

**Ms de Brún:** I refer the Member to my answer to AQW 13/02.

Treoraím an Ball do mo fhreagra a thug mé ar AQW 13/02.

## Homefirst Community Trust

**Mr Paisley Jnr** asked the Minister of Health, Social Services and Public Safety to outline (a) the number of final warnings issued by Homefirst Community Trust to its staff regarding employment-related disputes in the last two years, and (b) how this number compares with other trusts in Northern Ireland. (AQW 83/02)

**Ms de Brún:** Eight staff employed by Homefirst Community Trust have been issued with final warnings in respect of employment related issues in the two year period ended 31.8.02. My Department does not hold such details centrally and a comparison with other trusts could only be made at a disproportionate cost.

Tugadh foláirimh dheiridh d'ochtár den fhoireann atá fostaithe ag Iontaobhas Pobail Homefirst maidir le ceistanna a bhaineann le fostaíocht sa tréimhse dhá bhliain dar chríoch 31.8.02. Níl mionsonraí den sórt sin ag mo Roinnse go lárnach agus ní fhéadfaí comparáid a dhéanamh ach sa chás go bhfaighfí na figiúirí d'Iontaobhais eile ina gceann agus ina gceann ar chostas díreireach.

### Helicopter Emergency Medical Service

**Mrs I Robinson** asked the Minister of Health, Social Services and Public Safety if she has assessed what proportion of costs of an all-island helicopter emergency medical service would fall to her Department.

(AQW 88/02)

**Ms de Brún:** A feasibility study into the costs and benefits of a dedicated helicopter emergency medical service for the island of Ireland is currently underway. The study will produce options for the locations of such a service. The proportion of costs, which would fall to my Department will be determined in the course of the development of these options. The feasibility study should be completed by the end of the year.

Tá staidéar féidearthachta sa siúl faoi láthair ar na costais agus ar na buntáistí a bhaineann le seirbhís dhírithe héilecaptair liachta éigeandála a chur ar fáil d'oileán na hÉireann. Cuirfidh an staidéar roghanna ar fáil le haghaidh suímh dá leithéid de sheirbhís. Cinnteofar céatadán na gcostas, a bheadh le híoc ag an Roinn s'agam, le linn forbairt na roghanna seo. Ba chóir go mbeadh an staidéar féidearthachta curtha i gcrích faoi dheireadh na bliana.

### Emergency Task Force: Waiting Lists

**Mr Paisley Jnr** asked the Minister of Health, Social Services and Public Safety what plans she has to introduce the emergency task force to address health spending and waiting lists, as proposed by the Health Committee.

(AQW 94/02)

**Ms de Brún:** I have no plans to establish the task force proposed.

Níl pleananna ar bith agam an tascfhórsa atá molta a bhunú.

### Maternity Services

**Mrs I Robinson** asked the Minister of Health, Social Services and Public Safety to outline, in the last four years, (a) the number of women from outside Northern Ireland who have given birth at (i) the Royal Jubilee Maternity Hospital, (ii) other hospitals in Northern Ireland; and (b) of these women, the number who were from countries outside the European Union. (AQW 105/02)

### Ms de Brún:

(a) The information requested is set out in the table below.

Hospital	Year			
	1998	1999	2000	2001
Royal Jubilee Maternity Hospital	22	26	27	41
Other Hospitals here	162	170	198	240
<b>Total here</b>	<b>184</b>	<b>196</b>	<b>225</b>	<b>281</b>

(b) Information requested is not available.

(a) Léirítear sa tábla thíos an t-eolas a iarradh.

Otharlann	Bliain			
	1998	1999	2000	2001
Otharlann Mháithreachais Iubhaile Ríoga	22	26	27	41
Otharlanna Eile anseo	162	170	198	240
<b>Iomlán anseo</b>	<b>184</b>	<b>196</b>	<b>225</b>	<b>281</b>

b) Níl eolas a iarradh ar fáil.

### Heart Surgery

**Mr Morrow** asked the Minister of Health, Social Services and Public Safety, pursuant to AQO 1389/01, to detail the number of patients waiting for major heart surgery in both the Southern and Western Health and Social Services Board areas. (AQO 114/02)

**Ms de Brún:** As of 30 June 2002, there were 113 patients from the Southern Health and Social Services Board and 69 patients from the Western Health and Social Services Board on the waiting list for cardiac surgery.

Faoi mar a bhí an 30 Meitheamh 2002, bhí 113 othar ó Bhord Seirbhísí Sóisialta agus Sláinte an Deiscirt agus 69 othar ó Bhord Seirbhísí Sóisialta agus Sláinte an Iarthair ar liostaí feithimh do mháinliacht chairdiach.

### Homeopathic Medicine

**Ms Morrice** asked the Minister of Health, Social Services and Public Safety if she has any plans to recommend homeopathic medicine being made available on the Health Service. (AQO 83/02)

**Ms de Brún:** In relation to the prescribing of homeopathic medicine, individual GPs are free to prescribe any treatment which they consider appropriate for an individual patient. This includes homeopathic medicine.

I dtaca le hoideas míochaine hoiméapaití a ordú de, tá liachleachtóirí in ann cóireáil ar bith a mholadh a shíleann siad a bheadh fóirstineach don othar. Cuimsíonn seo míochaine hoiméapaitéach.



### Down/Lisburn Trust: Under-funding

**Mr Poots** asked the Minister of Health, Social Services and Public Safety what steps is she taking to address the under-funding of the Down/Lisburn Trust under the EHSSB capitation formula. (AQO 116/02)

**Ms de Brún:** The Eastern Health and Social Services Board plans to develop proposals to address the locality equity issue in the Down Lisburn area, and, following a period of public consultation, the strategy produced should begin to be implemented from April 2003. Work will begin shortly to recalculate the locality equity results at District Council level as soon as the 2001 Census of Population estimates are published. The Board is also seeking to confirm the accuracy of the underlying statistical analysis and to examine the expenditure on Family Practitioner Services to confirm the validity of the position in respect of the population of Down Lisburn Area. I am keen to ensure that resources at local level are distributed on an equitable basis and I have asked my officials to maintain close contact with the Eastern HSS Board on this matter.

Tá sé i gceist ag Bord Sláinte agus Seirbhísí Sóisialta an Oirthir tograí a fhorbairt chun aghaidh a thabhairt ar cheist an chothromais áitiúil i limistéar an Dúin Lios na gCearrbhach, agus, tar éis tréimhse de chomhchomhairle phoiblí, ba chóir go dtosfaí ag cur na straitéise a cuireadh ar fáil i bhfeidhm ó Aibreán 2003. Cuirfear tús le hobair go luath ar thorthaí cothromas an cheantair ag leibhéal Comhairle Ceantair a athríomh a luaithe is a bheidh meastacháin Dhaonáireamh 2001 foilsithe. Tá an Bord ag féachaint le cruinneas na hanailíse staitistiúla bunúsaí a dheimhniú agus iniúchadh a dhéanamh ar chaiteachas na Seirbhísí Cleachtóra Teaghlaigh chun bailíocht an tseasaimh maidir le daonra cheantar an Dúin Lios na gCearrbhach a dheimhniú. Táim ag déanamh mo mhíle dícheall lena chinntiú go scaiptear na hacmhainní ag leibhéal áitiúil ar bhonn cothrom agus tá iarrtha agam ar m'oifigigh dlúth-theagmháil a choimeád le Bord SSS an Oirthir ar an ábhar seo.

### Mid-Ulster: Maternity Services

**Rev Dr William McCrea** asked the Minister of Health, Social Services and Public Safety what assurances can she give that acute service provision and maternity services will be retained at the Mid-Ulster Hospital site. (AQO 11/02)

**Ms de Brún:** With your permission, Mr Speaker, I shall take questions 10 and 11 together, since they both relate to the Mid-Ulster Hospital. Under the proposals set out in my consultation paper, 'Developing Better Services', the Mid-Ulster Hospital will be developed as a Local Hospital, networking with acute hospitals and local primary and community care to provide services

that do not need to be delivered in a large acute hospital. Final decisions will be made following the completion of the current consultation process.

I have made it clear that, until longer-term decisions are made, I expect every effort to be made to maintain existing services at all our acute hospitals, including the Mid-Ulster.

Le do chhead, a Cheann Comhairle, tógfaidh mé ceisteanna 10 agus 11 le chéile, mar go mbaineann siad araon le hOspidéal Uladh Láir. Faoi na moltaí atá leagtha amach i mo pháipéar comhchomhairle, 'Developing Better Services', beidh Ospidéal Uladh Láir forbartha mar Ospidéal Áitiúil, ag cruthú líonra le ospidéal géarchúraim agus cúram áitiúil príomhúil agus pobail chun seirbhísí a sholáthar nach gá a sheachadadh in ospidéal mór géarchúraim. Déanfar na cinntí deiridh tar éis an próiseas comhchomhairlithe reatha a thabhairt chun críche.

Tá sé luaite go soiléir agam, nó go ndéantar cinntí ar thréimhse níos faide, go bhfuilim ag súil go ndéanfar gach iarracht na seirbhísí atá cheana ag ár n-ospidéal géarchúraim, lena n-áirítear Ospidéal Uladh Láir, a choinneáil.

### Mid-Ulster: Maternity Services

**Mr Armstrong** asked the Minister of Health, Social Services and Public Safety what steps she will put in place to increase maternity provision in Mid-Ulster. (AQO 82/02)

**Ms de Brún:** With your permission, Mr Speaker, I shall take questions 10 and 11 together, since they both relate to the Mid-Ulster Hospital. Under the proposals set out in my consultation paper, 'Developing Better Services', the Mid-Ulster Hospital will be developed as a local hospital, networking with acute hospitals and local primary and community care to provide services that do not need to be delivered in a large acute hospital. Final decisions will be made following the completion of the current consultation process.

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### Primary Care Groups

**Mr O'Neill** asked the Minister of Health, Social Services and Public Safety to give an update on the creation of the new primary care groups; and to make a statement.

(AQO 24/02)

**Ms de Brún:** The 15 new local health and social care groups have all been formally established. The groups have held their inaugural meetings and have appointed interim chairs. They will elect substantive chairs by the end of September. GPs have not taken up the posts available for them, but apart from these posts, there are only a small number of management board vacancies, including the manager posts, and I expect these to be filled during September.

A learning and development programme has been developed for the groups and will roll out over the coming months. Groups have already received induction training.

Further guidance was issued by my Department on 13 August dealing with the budgetary responsibilities of the groups and I have allocated substantial additional resources in the current year for primary care development. The groups are now in position to develop their agenda for the planning and delivery of primary and community care services.

Bunaíodh na 15 Ghrúpa Cúraim Sóisialta agus Sláinte Áitiúil go foirmiúil. Thionóil na Grúpaí a gcuid cruinnithe bliantúla agus tá Cathaoirligh Eatramhacha ceaptha acu. Toghfaidh siad Caothairligh lárnacha faoi dheireadh Mhéan Fómhair. Níor ghlac gnáthdhochtúirí leis na poist atá ar fáil dóibh, ach seachas na poist sin, níl ach líon beag folúntas Boird Bainistíochta ann, lena n-áirítear poist Bhainisteora, agus táim ag súil go mbeidh siad sin líonta le linn Meán Fómhair.

Tá clár forbartha agus foghlama forbartha do na Grúpaí agus cuirfear i bhfeidhm é de réir a chéile sna míonna atá ag teacht. Tá Oiliúint Induchtúcháin faighte ag grúpaí cheana féin.

D'eisigh mo Roinn breis treorach ar an 13 Lúnasa a bhain le freagrachtaí buiséid na nGrúpaí agus tá acmhainní breise substaintiúla leithroinnte agam d'Fhorbairt Cúraim Phríomhúil don bhliain reatha. Tá na Grúpaí anois in ann a gclár do phleanáil agus do sheachadadh seirbhísí chúram pobail agus cúraim phríomhúil a fhorbairt.

### Ulster Hospital

**Mrs E Bell** asked the Minister of Health, Social Services and Public Safety what steps she has taken to ensure that accident and emergency services at the Ulster Hospital are better able to cope with increasing demand for services this winter than in recent years.

(AQO 108/02)

**Ms de Brún:** The main problems at the Ulster Hospital relate to a shortage of capacity in the face of the increasing levels of demand. The strategic development plan that I announced on 31 July 2001 includes a proposal to extend the accident and emergency department to upgrade to meet statutory standards. I have also allocated £2 million for the reinstatement of 20 adult inpatient beds in the Jaffe Ward. These beds will shortly be operational and will help meet demand for services this winter. As part of its normal planning for winter, the trust will also be considering what additional measures need to be put in place to deal with the exceptional pressures that arise during the winter months.

Baineann na príomhfhadhbanna atá in Ospidéal Uladh le heaspa acmhainní de bharr an méadú ar leibhéil éilimh. Áirítear sa Phlean Forbartha Straitéiseach a d'fhógair mé an 31 Iúil 2001 moladh chun an Roinn Éigeandála agus Taisní agus uasghrádú a dhéanamh uirthi chun caighdeán reachtúla a chomhlíonadh. Tá £2 milliún leithroinnte agam chun 20 leaba othar cónaithe do dhaoine fásta a athchur i mBarda Jaffe. Beidh na leapacha seo in úsáid go luath agus cuideoidh siad le freastal ar an éileamh ar sheirbhísí an geimhreadh seo. Mar chuid dá ghnáthphleanáil don Gheimhreadh, beidh an tIonannas ag breithniú cé na bearta breise nach mór a chur i bhfeidhm chun déileáil le brúnna eisceachtúla a thagann chun cinn le linn míonna an Gheimhridh.

### Residential/Nursing Care

**Rev Robert Coulter** asked the Minister of Health, Social Services and Public Safety to detail the criteria used to determine whether a patient needs nursing or residential care.

(AQO 1/02)

**Ms de Brún:** The principle of ensuring that service provision should, as far as possible, preserve or restore independent living must always be paramount. The aim is to secure the most cost-effective package that meets the person's needs and is, as far as is practicable, consistent with his or her wishes and those of his or her carers.

In general terms, people wishing to be considered for residential care may be assessed as needing it for social, psychological, behavioural or physical reasons and an alternative safe management arrangement is not available in the community.

Similarly, to be considered eligible for nursing home care, an individual should require care from a qualified nurse at intervals throughout the day and night to a level and intensity which cannot be appropriately provided in a community or residential home setting. Among the indicators for nursing home care are high levels of physical dependency, serious deterioration in physical or mental condition or regular incontinence requiring frequent attention throughout the day.

Ní mór go mbeadh ríthábhacht i gcónaí leis an bprionsabal a chinntíonn go ndéanfaidh soláthar seirbhíse, chomh mór agus is féidir, cónaí neamhspleách a chaomhnú agus a thabhairt ar ais. Is é an aidhm ná pacáiste costas-éifeachtach a bhaint amach a dhéanann freastal ar riachtanais an duine agus atá, chomh mór agus is féidir, comhsheasamhach lena m(h)ianta agus le mianta a c(h)úramaithe.

I dtéarmaí ginearálta, d'fhéadfadh go ndéanfaí measúnú ar dhaoine ar mian leo go mbreithneofaí iad do chúram cónaithe go bhfuil an cúram ag teastáil uathu de bharr cúiseanna fisiceacha, iompair, síceolaíochta nó sóisialta agus nach bhfuil socrú bainistíochta sábháilte malartach ar fáil sa phobal.

Ar an gcuma chéanna, le go mbreithneofar go bhfuiltear cáilithe do chúram i dteach altranais, ba chóir go mbeadh cúram ag teastáil ón duine ó altra cáilithe i dtréimhsí le linn an lae agus na hoíche ag leibhéal agus déineacht nach féidir freastal go sásúil orthu sa phobal nó i dteach cónaithe. I measc na dtáscairí do chúram i dteach altranais tá léibhéil arda de spléachas fisiceach, meath mór i mbail inchinne nó fhisiceach nó neamhchoinneálacht rialta a éilíonn freastal minic le linn an lae.

### Kilkeel Health Centre

**Mr Bradley** asked the Minister of Health, Social Services and Public Safety what plans she has to inspect the current facilities at Kilkeel Health Centre; and to make a statement. (AQO 10/02)

**Ms de Brún:** I have no plans at present to visit Kilkeel Health Centre to inspect the facilities there. However, I do recognise that the accommodation there is in need of modernisation.

Níl aon phleananna agam faoi láthair cuairt a thabhairt ar Ionad Sláinte Chill Chaoil chun cigireacht a dhéanamh ar na saoráidí ann. Aithním áfach nach mór an chóiríocht a thabhairt cothrom le dáta.

### Waiting List: Hip Replacement Operations

**Dr McDonnell** asked the Minister of Health, Social Services and Public Safety if she has any plans to

increase the number of orthopaedic surgeons to address the waiting list for hip replacement operations.

(AQO 113/02)

**Ms de Brún:** Currently the specialist medical workforce is reviewed annually and numbers in training adjusted, resources permitting, to take account of the changing situation. Orthopaedics has been accorded a high priority within the limited resources available for medical training over recent years. Specifically, since 1998, there has been an increase of almost 50% in the numbers of specialist trainees in orthopaedics.

In addition, work is underway on a comprehensive review of future medical workforce requirements. The review is expected to be completed within the next few months and will include an assessment of the training places required to meet service needs.

Faoi láthair déantar athbhreithniú bliantúil ar fhórsa saothair na speisialtóirí liachta agus déantar coigeartú ar an líon atá in oiliúint, má cheadaíonn na hacmhainní sin, leis an staid athraitheach a chur san áireamh. Tá tosaíocht ard tugtha d'ortaipéide laistigh de na hacmhainní teoranta atá ar fáil d'oiliúint liachta le blianta beaga anuas. Go sonrach, ó 1998, tá méadú de bheagnach 50% tagtha ar an líon oiliúinóirí speisialtóireachta in ortaipéide.

Chomh maith leis sin, tá obair ar siúl ar athbhreithniú cuimsitheach ar riachtanais an fhórsa saothair liachta sa todhchaí. Táthar ag súil go mbeidh an t-athbhreithniú críochnaithe laistigh de na chéad chúpla mí eile agus áireofar ann measúnú ar áiteanna oiliúna atá riachtanach chun freastal ar riachtanais seirbhíse.

### Diabetes Type 2

**Mr Hamilton** asked the Minister of Health, Social Services and Public Safety to detail progress by the National Screening Committee on its report into a targeted screening programme for diabetes type two, including a date for the publishing of the report. (AQO 107/02)

**Ms de Brún:** The Committee is developing proposals for research into the area of screening for type two diabetes amongst high-risk groups. It is my understanding that they have made a commitment to providing definitive advice on this topic to health departments in 2005.

Tá tograí á bhforbairt ag an gCoiste do thaighde sa réimse scagthástála do chineál 2 diabéitis i measc grúpaí in ard-bhaol. Is é mo thuiscint go bhfuil siad tiomanta le comhairle chinnte a thabhairt ar an ábhar seo do na Ranna Sláinte in 2005.

## Needs and Effectiveness Evaluation Study

**Ms Ramsey** asked the Minister of Health, Social Services and Public Safety to make a statement on the needs and effectiveness evaluation study. (AQO 81/02)

**Ms de Brún:** The needs and effectiveness evaluation has provided a comprehensive assessment of the comparative costs and the effectiveness of the expenditure on health and social care services here. For the first time we have agreed evidence which confirms the very high level of need here relative to England and the fact that many of the problems facing the HPSS reflect funding levels which compare unfavourably with England. The study also confirms the effectiveness of our performance, both in terms of cost and activity, and that it compares well with that achieved elsewhere.

This study has provided important confirmation of the historic levels of underfunding of health and social care services here and the need for further investment to be made to address the problems which this has created. This funding gap is increasing under the current expenditure plans and I will be arguing strongly in the Executive that we should use the present spending review not only to match increases in Great Britain but also to begin to redress the damage to existing services of the many years of significant underfunding.

Chuir Luacháil Éifeachtachta agus Riachtanas measúnú cuimsitheach ar fáil ar chostais chomparáideacha agus ar éifeachtacht an chaiteachais ar sheirbhísí cúraim sóisialta agus sláinte anseo. Don chéad uair, tá fianaise aontaithe againn a chinntíonn an leibhéal ard riachtanais anseo le hais Shasana agus gur de bharr leibhéil mhaoinithe, atá mífhabhrach le hais Shasana, atá go leor de na fadhbanna atá ag an SSSP. Léiríonn an staidéar freisin éifeachtacht ár bhfeidhmíocht, i dtéarmaí costais agus gníomhaíochta, agus gur éirigh go maith linn i gcomparáid lena baineadh amach in áiteanna eile.

Chuir an staidéar cinnteacht thábhachtach ar fáil maidir leis na leibhéil easpa-maoinithe, go stairiúil, i leith seirbhísí chúraim sóisialta agus sláinte anseo agus an riachtanas atá ann do bhreis infheistíocht chun tabhairt faoi fhadhbanna atá tagtha chun cinn dá bharr. Tá an bhearna seo i maoiniú ag méadú faoi na pleananna caiteachais reatha agus beidh mise ag argóint go láidir san Fheidhmeannas go mba chóir dúinn leas a bhaint as an athbhreithniú caiteachais reatha chun arduithe a thabhairt cothrom leo sin sa Bhreatain Mhór agus freisin chun tabhairt faoin dármaiste atá déanta sna seirbhísí atá ann de bharr blianta d'easpa maoinithe shuntasigh.

## Fire Brigade Pay and Conditions

**Mr Hay** asked the Minister of Health, Social Services and Public Safety to detail any meetings she has had with

the Fire Brigades Union in respect of pay and conditions in Northern Ireland; and to make a statement. (AQO 115/02)

**Ms de Brún:** To date, I have not had any meetings to discuss pay and conditions here with the Fire Brigades Union. I have, however, received a request for such a meeting and arrangements are being made for it.

Pay rises for Fire Service personnel are negotiated jointly between the Fire Brigades Union and employers representing brigades here and in Great Britain. Neither I, nor my Department, have been directly involved in these negotiations.

It is in everyone's interest for the employers and the Fire Brigades Union to agree a fair settlement to the pay claim. It is also important, however, that any pay rise for Fire Service staff is affordable given the current pressures on public spending, and that it is set in the context of modernisation and improvement.

I am happy to support the call for a review of pay and conditions for Fire Service personnel to ensure that these reflect the skilled and professional role which they undertake.

Go dtí seo, ní raibh aon chruinnithe agam chun pá agus coinníollacha a phlé le hAontas na mBriogáidí Dóiteáin. Tá iarratas ar a leithéid de chruinniú faighte agam, áfach, agus tá socruithe á ndéanamh don chruinniú.

Déantar idirbheartaíocht ar arduithe pá do phearsanra na Seirbhíse Dóiteáin i gcomhar idir Aontas na mBriogáidí Dóiteáin agus na Fostóirí a dhéanann ionadaíocht thar ceann na mBriogáidí anseo agus sa Bhreatain Mhór. Ní bhíonn baint dhíreach agamsa, ná ag mo Roinnse, leo.

Is chun leasa gach duine é go gcomhaontódh Fostóirí agus Aontas na mBriogáidí Dóiteáin socrú cothrom don éileamh pá. Tá sé tábhachtach chomh maith, áfach, go mbíonn aon ardú pá d'fhoireann na Seirbhíse Dóiteáin réasúnta ag glacadh leis an mbrú reatha atá ar chaiteachas poiblí agus go mbíonn sé socruithe i gcomhthéacs an nuachóirithe agus an fheabhsúcháin.

Táim breá sásta tacú leis an nglaoch d'athbhreithniú ar íocaíocht agus coinníollacha phearsanra na Seirbhíse Dóiteáin lena chinntiú go léiríonn siad an ról gairmiúil le hardscileanna a dhéanann siad.

## REGIONAL DEVELOPMENT

### Credit Cards

**Mr Dallat** asked the Minister for Regional Development to outline (a) the number of credit cards used in (i) his Department, (ii) the Executive agencies of his Department, (iii) the non-departmental public bodies of his Department, and (iv) any other bodies funded by his Department; and



(b) the total expenditure on each card in the financial year ending 31 March 2002. (AQW 19/02)

**The Minister for Regional Development (Mr P Robinson):** My Department has no credit cards, nor has its Executive agencies (Roads Service and Water Service) or its non-departmental public bodies. Its agencies have 10 Government Procurement Cards (GPCs), which operate on the basis of credit in arrears, but in a much more restrictive manner involving a limited number of approved suppliers. This is a pilot scheme.

The Department's Roads Service holds three GPCs and the expenditure on each card in the financial year ending 31 March 2002 was as follows: £20,924; £13,890 and £100,321, a total of £135,135.

Water Service holds seven GPCs and the expenditure on each card in the financial year ending 31 March 2002 was as follows: £58,125; £34,558; £2,826; £21,220; £1,734; £3,206 and £1,834 a total of £123,503 and thus for my Department as a whole £258,638.

In relation to bodies funded by my Department, NITHCo has five credit cards and total expenditure per card over the same period amounted to £4,891; £9,778; £4,793 and £2,598, a total of £22,060 – the remaining card is not in use. The Community Transport Association had two cards with expenditure over the same period being £2,656 and £1,474 totaling £4,130. Only one card is currently in use.

### Residents' Permit Parking

**Mrs Nelis** asked the Minister for Regional Development what plans he has to introduce legislation to address the problems of car owners living in city centre areas where no parking is permitted. (AQW 21/02)

**Mr P Robinson:** The responsibility to provide specific parking accommodation for inner city dwellers does not rest with my Department. Available road space and off-street parking places are managed to cater for the needs of the community as a whole.

However, my Department recognises the difficulties experienced by car owning residents in towns and cities and has the power, in the Road Traffic Regulation (Northern Ireland) Order 1997, to introduce on-street residents' parking schemes. You will appreciate, however, that such schemes would only be of benefit to local residents if they are effectively enforced and in Northern Ireland this responsibility rests with the Police Service of Northern Ireland. Regrettably, during discussions on this issue, the Police Service has advised that it is not in a position to undertake the necessary enforcement work in relation to such schemes.

Northern Ireland remains the only part of the United Kingdom not having the primary legislative power to

decriminalise on-street parking offences. I have therefore initiated a process to rectify this position and, when the legislation is enacted, my Department will become responsible for the enforcement of on-street parking restrictions thus enabling the introduction of residents' parking schemes. This process, necessitating the introduction of new primary legislation, is expected to take several years to complete.

### Residents' Permit Parking

**Mrs E Bell** asked the Minister for Regional Development if he will consider the introduction of residents' permit parking near the town centres of Holywood and Bangor. (AQW 69/02)

**Mr P Robinson:** My Department, recognises the difficulties experienced by car owning residents in towns and cities and has the power, in the Road Traffic Regulation (Northern Ireland) Order 1997 to introduce on-street residents' parking schemes. You will appreciate, however, that such schemes would only be of benefit to local residents if they are effectively enforced and in Northern Ireland this responsibility rests with the Police Service of Northern Ireland. Regrettably, during discussions on this issue the Police Service has advised that it is not in a position to undertake the necessary enforcement work in relation to such schemes.

I have, therefore, initiated a process to introduce the primary legislative power necessary to decriminalise on-street parking offences. When this legislation is enacted, my Department will become responsible for the enforcement of on-street parking restrictions, thus enabling the introduction of residents' parking schemes. It is expected that the process will take several years to complete.

### Flooding

**Mr K Robinson** asked the Minister for Regional Development to detail the progress in establishing an inter-agency response aimed at addressing the causes of recent serious flooding in the Carrickfergus and Newtownabbey areas; and to make a statement. (AQW 102/02)

**Mr P Robinson:** Much of the recent flooding in the Carrickfergus and Newtownabbey areas was caused by a combination of short duration, intense rainfall on already relatively wet catchment areas. Indeed, the Meteorological Office rainfall report for 21 June 2002 described the rainfall as a 50-year event. This resulted in exceptional storm water run-off which overwhelmed the capacity of existing drainage systems.

My Department's Roads and Water Services, together with the Department of Agriculture and Rural Development's Rivers Agency and the Northern Ireland Housing Executive, have carried out extensive investigations into

the circumstances surrounding the flooding which occurred on 21 June 2002 and the effectiveness of their response to the situation. Reports have been prepared and are being carefully considered to establish the key lessons learned and where improvements can be made.

Through the Inter-Agency Flood Liaison Group, my officials have been working closely with their counterparts in the Rivers Agency, with the aim of identifying possible improvements to the infrastructure which may help to prevent or mitigate any similar occurrences in the future. In this context, the group plans to meet within the next few weeks to further discuss the events of 21 June.

The Whiteabbey area and the Joymount district of Carrickfergus have suffered a number of flooding incidents, which have been exacerbated by high tide levels. The Inter-Agency Flood Liaison Group has agreed to initiate a joint study which will consider the flood defences and drainage infrastructure within these two areas and seek to identify opportunities for improvement. The Rivers Agency is taking the lead in this project and is currently in the process of procuring the services of a consultant to carry out the work.

### Roads Service Contracts

**Mr Kennedy** asked the Minister for Regional Development to detail what measures his department has implemented to ensure that companies tendering for road service contracts adhere to (a) planning regulations; (b) paying of aggregate tax; (c) health and safety regulations; (d) the industrial pollution control legislation and (e) environmental legislation. (AQW 226/02)

**Mr P Robinson:** My Department's Roads Service, as part of its normal contract management duties, monitors contractor's compliance with all relevant aspects of any Roads Service contract.

As regards planning legislation, Roads Service takes into account any planning aspects of roads schemes during the design process. Where specific planning conditions regarding any aspect of the scheme have been imposed by the Department of the Environment's Planning Service, these conditions are reflected clearly in Roads Service's contract documentation for the contractor to adhere to during the course of the works.

In relation to aggregate tax, HM Customs and Excise is responsible for the implementation and policing of this tax. Roads Service officials, during the course of the works ensure, as far as is possible, that aggregates come from a reliable source. The contracting industry is of course expected to comply fully with this legislation.

Ensuring compliance with Health and Safety legislation is an integral part of Roads Service contracts at all levels. For the larger contracts, which are awarded through "Restricted Lists", the quality assessment of contractors

wishing to be included on such lists includes health and safety management capabilities as one of the main areas of consideration. Contractor's adherence to health and safety issues is also very much at the forefront of consideration when Term contracts are being awarded in respect of smaller schemes. Performance reports carried out on contractors during and at the end of contracts record adherence to Health and Safety issues for future reference.

As to industrial pollution and environmental matters, environmental impact assessments are carried out for Roads Service capital works schemes. The findings of the assessment and any associated remedial or mitigation measures are reflected in the scheme development. Where impact measures are not all dealt with in the design of the scheme, the requirements on the contractor are detailed in the contract documentation. For smaller schemes, and indeed all roadworks generally, Roads Service adheres to good environmental practice and has developed an environmental handbook as a good practice guide for design and supervisory staff.

## SOCIAL DEVELOPMENT

### Credit Cards

**Mr Dallat** asked the Minister for Social Development to outline (a) the number of credit cards used in (i) his Department, (ii) the Executive agencies of his Department, (iii) the non-departmental public bodies of his Department and (iv) any other bodies funded by his department; and (b) the total expenditure on each card in the financial year ending 31 March 2002. (AQW 18/02)

**The Minister for Social Development (Mr Dodds):** There are no credit cards in use in my Department or its Executive agencies. However there were three credit cards in use by the Laganside Corporation, which is one of my Department's non-departmental public bodies, in the financial year ending 31 March 2002. The total expenditure on each card in this year is as follows, £4,520.95, £8,763.29 and £847.28 respectively. However due to staffing changes two credit cards have been surrendered and there is now only one credit card in use at this moment of time by the Laganside Corporation.

### Test of Resources

**Mrs Nelis** asked the Minister for Social Development what progress has been made in abolishing the test of resources, in respect of the means testing of parents of disabled children applying for benefit, and to make a statement. (AQW 22/02)

**Mr Dodds:** I am keen to ensure that, as far as possible, while observing fairness and equality principles, potential

disability related adaptations are not frustrated as a consequence of unreasonable means test provisions. I have, therefore, asked officials within my Department and the Housing Executive to carry out a review, with the twin aims of firstly, ensuring that the design of the means test takes due consideration of any extraordinary out-goings associated with the care of a disabled child and secondly, exploring the potential for a less complex administrative regime around the means test in DFG cases generally. Mr Brendan McKeever of the Family Information group has agreed to be part of the review group.

I will be in touch again when I have considered the outcome of the review.

### Smoke Alarms

**Mrs Nelis** asked the Minister for Social Development what provision has been made for (a) the installation of smoke alarms; and (b) the installation of fire escapes, in houses of multiple occupation. (AQW 29/02)

**Mr Dodds:** Responsibility for the installation of smoke alarms and fire escapes in houses in multiple occupation falls to the owner of the property. The standards to which these must adhere are established by the Housing Executive whose powers, including those to enforce and prosecute for non-compliance, are set out in the 1992 Housing Order. The Housing Executive in conjunction with appropriate agencies including the Fire Brigade, has produced a comprehensive fire safety guide which sets out the relevant standards in detail.

### Bonfires

**Mr Bradley** asked the Minister for Social Development what action is he taking to (a) prevent the building and lighting of bonfires on Housing Executive land and (b) recover the cost of damages caused by bonfires. (AQW 32/02)

**Mr Dodds:** The information you requested is as follows:

- (a) The Housing Executive works closely with communities through its district offices to ensure that bonfires are not built on Housing Executive land, particularly sites where environmental improvements have taken place. It also works closely with environmental health officers of the local councils to ensure that any bonfires which contravene health and safety requirements are taken down. Additionally, it liaises with the PSNI with regard to any public safety implications which may arise.
- (b) The Housing Executive does not attempt to recover the cost of damages, as it is not possible to attribute liability to individuals. However, the Housing Executive seeks to minimise damage to open spaces

and in conjunction with local councils, district office staff endeavour to reinstate all open spaces as quickly as possible.

### Housing: Foyle Constituency

**Mrs Nelis** asked the Minister for Social Development to outline the expenditure per head of population on housing in the Foyle constituency, in (a) the Creggan Estate; (b) Bogside and Brandywell; (c) the Fountain; (d) Gobnascale and (e) Ballymagroarty. (AQW 34/02)

**Mr Dodds:** The information is not available in the format requested.

### Vacant Housing Executive Properties

**Mr Paisley Jnr** asked the Minister for Social Development to provide the numbers of Housing Executive properties lying vacant in each parliamentary constituency. (AQW 41/02)

**Mr Dodds:** The information requested is not available by constituency. However the following table sets out the information by district council area at August 2002. The Housing Executive has developed a range of measures to deal with voids and their blight effects. These include selective demolition, disposal and installation of security measures such as alarms and use of neighbourhood wardens.

District Council Area	Lettable	Operational	Long Term	Pending Demolition	Total
Belfast	26	378	379	1,257	2,040
North Down	0	127	5	74	206
Ards	3	147	3	41	194
Castlereagh	1	241	14	51	307
Lisburn	10	253	0	45	308
Down	4	69	0	1	74
Banbridge	2	55	4	14	75
Newry and Mourne	14	87	24	58	183
Armagh	5	74	46	12	137
Craigavon	4	168	194	144	510
Dungannon	1	38	105	4	148
Fermanagh	0	21	14	0	35
Ballymena	0	130	47	127	304
Antrim	1	117	0	20	138
Newtown-abbey	7	184	42	79	312

District Council Area	Lettable	Operational	Long Term	Pending Demolition	Total
Carrick	46	71	28	136	281
Larne	0	57	135	92	284
Moyle	3	9	1	5	18
Ballymoney	2	27	0	0	29
Coleraine	0	57	85	93	235
Derry	26	156	16	7	205
Limavady	3	37	0	0	40
Magherafelt	3	9	17	0	29
Strabane	1	12	21	2	36
Omagh	1	33	123	3	160
Cookstown	0	34	19	0	53
<b>Total</b>	<b>163</b>	<b>2591</b>	<b>1322</b>	<b>2,265</b>	<b>6,341</b>

**Lettable** voids are dwellings which are either in the process of being allocated or undergoing urgent change of tenancy repairs.

**Operational** voids are dwellings which are being held vacant to facilitate major works or in advance of being sold on the open market.

**Long Term** voids are dwellings which are difficult to let due to lack of demand. Included within this category are dwellings which have been secured to prevent vandalism and properties that have been fire damaged.

Voids **Pending Demolition** are properties located in redevelopment areas or purpose built stock which have received Board approval to be demolished.

### Public Building Sites

**Mr Paisley Jnr** asked the Minister for Social Development to make a statement on the level of paramilitary extortion on housing executive and related building projects, and the level of theft from public building sites. (AQW 43/02)

**Mr Dodds:** The Housing Executive has no records on the level of paramilitary extortion or theft from public building sites.

### Sporting Clubs

**Mr Bradley** asked the Minister for Social Development if he will undertake to review the Registration of

Clubs (Northern Ireland) Order 1996 and Accounts Regulations in an effort to differentiate between authentic sporting clubs and clubs with paramilitary connections. (AQW 64/02)

**Mr Dodds:** The aims of the Registration of Clubs Order and the Accounts Regulations are to regulate the supply of intoxicating liquor in clubs and to place their accounting arrangements on a statutory footing. These apply equally to all clubs and it would be inappropriate, therefore, to differentiate between different types of clubs.

### Public Sector Houses Built

**Mr Paisley Jnr** asked the Minister for Social Development to detail (a) the number of public sector houses built in the last five years; (b) the location of these houses by constituency and (c) the building costs. (AQW 75/02)

**Mr Dodds:** In order to reconcile budget provision with the number of houses built, figures are compiled on the basis of starts rather than completions. The number of houses started by registered housing associations and the Housing Executive, over the five-year period 1997-98 to 2001-02, is as detailed in the attached appendices A and B.

The costs associated with the housing association schemes include the purchase price of the land, the construction costs and a percentage on-cost. The on-cost figure covers a range of items such as legal and consultants fees, home loss and disturbance payments, furniture provision (where appropriate in schemes for people with special needs) and a contribution towards the association's development and administration costs.

The cost of the actual construction work cannot be disaggregated except at disproportionate cost.

The Housing Executive does not hold its statistical data by constituency and the information is therefore provided by District Council area. The information can only be provided by constituency at disproportionate cost.

The costs associated with the Housing Executive figures relate only to construction costs.

#### APPENDIX A - HOUSING ASSOCIATION STARTS 1997-2002

Constituency	1997/98		1998/99		1999/00		2000/01		2001/02	
	Units	Costs (£k)	Units	Costs (£k)	Units	Costs (£k)	Units	Costs (£k)	Units	Costs (£k)
East Antrim	40	1363	113	5096	66	4400	0	0	15	724
North Antrim	38	1472	97	4395	12	582	46	3070	6	368
South Antrim	17	689	20	787	4	117	28	1423	9	569
Upper Bann	77	4512	140	4968	26	716	11	345	0	0
East Belfast	157	7489	182	10096	111	7209	90	5741	97	4780
North Belfast	151	6335	197	9322	380	25214	105	7575	218	17073



Constituency	1997/98		1998/99		1999/00		2000/01		2001/02	
	Units	Costs (£k)	Units	Costs (£k)	Units	Costs (£k)	Units	Costs (£k)	Units	Costs (£k)
South Belfast	104	3870	129	7653	40	2430	65	3440	131	12375
West Belfast	108	5144	203	10571	103	5592	124	8646	183	11632
North Down	93	3693	48	1752	22	946	0	0	100	3305
South Down	45	1820	143	6527	59	2678	24	743	67	4779
Ferm & Sth Tyrone	99	4354	62	2950	22	1155	64	3600	8	562
Foyle	261	11511	214	10433	420	26274	334	20970	103	5655
Lagan Valley	170	6890	137	6213	229	11720	73	6091	9	639
East Londonderry	103	4190	85	3142	31	1406	47	2852	7	481
Mid Ulster	16	657	28	1266	0	0	7	179	5	623
Newry & Armagh	89	3118	114	4606	84	3564	16	960	26	1570
Strangford	0	0	30	1377	47	2620	14	896	18	1074
West Tyrone	32	747	166	6922	88	6441	56	3697	3	220
<b>Totals</b>	<b>1600</b>	<b>67854</b>	<b>2108</b>	<b>98076</b>	<b>1744</b>	<b>103064</b>	<b>1104</b>	<b>70228</b>	<b>1005</b>	<b>66429</b>

## APPENDIX B - NIHE STARTS (NOTE – “NIL” DURING 2001/02)

District Council	1997/98		1998/99		1999/00		2000/01	
	Units	Costs (£k)	Units	Costs (£k)	Units	Costs (£k)	Units	Costs (£k)
Ards	12	355	9	234	7	283	1	31
Armagh	34	1293						
Ballymoney	9	270			2	90		
Banbridge	16	638						
Belfast	142	6017	14	600				
Cookstown	6	150						
Craigavon	22	798						
Derry	46	1618						
Down			27	903	12	483	22	1112
Dungannon	17	530						
Fermanagh	29	907	13	470				
Larne							15	635
Limavady							4	200
Lisburn	17	700	2	69				
Magherafelt					10	458		
Moyle	21	752						
Newry & Mourne	34	1248						
Newtownabbey	34	1323						
North Down	2	69						
Omagh			10	250				
Strabane	7	268			18	655		
<b>Total</b>	<b>448</b>	<b>16936</b>	<b>75</b>	<b>2526</b>	<b>49</b>	<b>1969</b>	<b>42</b>	<b>1978</b>

### Cost of Public Housing

**Mr Paisley Jnr** asked the Minister for Social Development to explain why the cost of public housing rose by 78% in the last six years when the comparative rise in England was 18%. (AQW 115/02)

**Mr Dodds:** These figures are taken from a Needs and Effectiveness Evaluation which was leaked and there has been some misplaced and misguided commenting on them by the media. Comparisons with the cost of providing new social housing in England are misleading for a number of reasons. For example, land costs, particularly around Belfast, have risen sharply in recent years and our social housing is built to higher standards and lower density. My Department is always conscious of the need to deliver value for money and has commissioned detailed research into a number of issues arising from the evaluation, including the reasons why house prices have risen so dramatically, to ensure that we continue to get the best possible value for investment in the housing programmes.

### Public Consumption of Alcohol: Prosecutions

**The Lord Kilclooney** asked the Minister for Social Development, during the past 12 months, how many persons have been successfully prosecuted for the public consumption of alcohol in areas designated by the 26 district councils as prohibited locations for the public consumption of alcohol; and to make a statement regarding the designation of such areas. (AQW 201/02)

**Mr Dodds:** Bye-laws made by district councils make it an offence to drink alcohol in designated places. Under current policy, areas designated by a district council should be confined to those areas where there is a recognised problem associated with the public consumption of alcohol.

District councils are responsible for prosecution proceedings. The number of persons successfully prosecuted in the last 12 months for breaches of the bye-laws is not held centrally by my Department and, therefore, I am unable to provide the information requested.

## ASSEMBLY COMMISSION

### Committee Clerks

**Mr Paisley Jnr** asked the Assembly Commission if it will put in place the two proposals concerning appointment of Committee Clerks outlined by the Chairman of the Public Accounts Committee in his letter to the Speaker dated 13 August 2002. (AQW 74/02)

**The Representative of the Assembly Commission (Mrs E Bell):** Following the Assembly Commission meeting on 17 September it has been agreed that the Clerk to the Assembly will consider issues surrounding the movement of staff and report back to the Commission at the earliest opportunity.

I will write to you further as and when the revised procedures are agreed.

# NORTHERN IRELAND ASSEMBLY

Friday 27 September 2002

## Written Answers to Questions

### OFFICE OF THE FIRST MINISTER AND DEPUTY FIRST MINISTER

#### Private Office: Staffing

**Mr Fee** asked the Office of the First Minister and Deputy First Minister to detail (a) the number working in their Private Offices and (b) the total number of staff working in each main function of the office.

(AQO 152/02)

**Reply:** We welcome this opportunity to clarify the distinction between a private office and a department.

There are 31 staff currently employed in our Joint Private Office. These include our Private Secretaries, Special Advisers and administrative support as well as a team handling the large volume of correspondence we receive.

Our Department has a wide range of functions which have been conferred on it by statute or added to by the Assembly from time to time. The Department's responsibilities go far beyond that of the Prime Minister's office or the Taoiseach's office.

Our Department has a unique role and remit covering equality and community relations policies and programmes, economic policy and European matters it supports the Executive as a whole. Indeed much of the work carried out by our Department facilitates the business of all the other individual Ministers and their Departments in servicing the North South Ministerial Council, the British Irish Council, the Executive Secretariat, the Economic Policy Unit and the Executive Information Service.

As at 2 September there were 417 staff in post in our Department. Some 383 are directly engaged in the work of the Department. The remainder are posted to independent bodies for which the Department has responsibility to provide staffing support such as the Planning Appeals Commission and the International Fund for Ireland.

A detailed summary has been placed in the Assembly Library.

### Former RAF Base: Bishopscourt and Ballyhornan, Co Down

**Mr McGrady** asked the Office of the First Minister and Deputy First Minister what funds will be made available out of the Reform and Reinvestment package for the regeneration and revitalisation of the former RAF base at Bishopscourt and Ballyhornan, Co Down.

(AQO 150/02)

**Reply:** Most of the former site was sold to private developers when the base was closed by the MoD in 1990 and so is not eligible for consideration under the RRI package. However, the Department of Agriculture and Rural Development officials have agreed to meet with the Ballyhornan District and Community Association group to explore what help may be available to them under that Department's Rural Development Programme. In addition, proposals are being developed by the Water Service to upgrade the wastewater treatment facilities in the villages along the coast from Strangford to Ardglass, including Ballyhornan.

### AGRICULTURE AND RURAL DEVELOPMENT

#### Cattle: Strangford Constituency

**Mr Shannon** asked the Minister of Agriculture and Rural Development to outline, in the last 3 years, (a) the number of cattle produced within the Strangford constituency and (b) the number killed in abattoirs outside of this area.

(AQW 109/02)

**The Minister of Agriculture and Rural Development (Ms Rodgers):** Please see table below. The information has been extracted from the Department's Animal & Public Health Information System (APHIS) and shows the numbers of animals from within the Strangford constituency which were slaughtered in Newtownards abattoir and in other abattoirs in each year since 1999. In 1999, for example it can be seen that 13,816 cattle were produced within the Strangford constituency of which 2,934 were killed in abattoirs outside this area.

#### TOTAL SLAUGHTERINGS FROM THE STRANGFORD CONSTITUENCY

Year	Total Number of Animals Produced From Strangford	Number of animals killed outside area	%
1999	13,816	2,934	21.2
2000	13,384	2,186	16.3
2001	10,982	1,326	12.1
2002	6,374	1,099	17.2
<b>Total</b>	<b>44,556</b>	<b>7,545</b>	<b>16.9</b>

I hope that this provides the information you are seeking as it is not possible within APHIS to recreate historic information to show the numbers of animals on farms in preceding years.

### **Cattle: Strangford Constituency**

**Mr Shannon** asked the Minister of Agriculture and Rural Development to outline the number of cattle born and finished within the Strangford constituency, in each of the last 3 years. (AQW 151/02)

**Ms Rodgers:** Please see table below. The information has been extracted from the Department's Animal & Public Health Information System (APHIS) and shows the numbers of animals from within the Strangford constituency which were slaughtered in Newtownards abattoir and in other abattoirs in each year since 1999. In 1999, for example it can be seen that 13,816 cattle which had been born in the Strangford constituency were also reared to finished stage there. Most of these cattle (10,882) were slaughtered at Newtownards abattoir within the constituency.

#### **TOTAL SLAUGHTERINGS FROM THE STRANGFORD CONSTITUENCY**

Year	Total Number of Animals Produced from Strangford	Total Number of Animals Slaughtered at Newtownards Abattoir	%
1999	13,816	10,882	78.8
2000	13,384	11,198	83.7
2001	10,982	9,656	87.9
2002	6,374	5,275	82.8
<b>Total</b>	<b>44,556</b>	<b>37,011</b>	<b>83.1</b>

I hope that this provides the information you are seeking as it is not possible within APHIS to recreate historic information to show the numbers of animals on farms in preceeding years.

### **Farmers: West Tyrone**

**Mr Gibson** asked the Minister of Agriculture and Rural Development in light of the poor summer weather, what financial measures she proposes to assist the 5000 farmers in West Tyrone. (AQW 170/02)

**Ms Rodgers:** The possibility of a financial scheme to offset the affects of this year's adverse weather conditions remains open. However, any such scheme must first secure both EU State Aid approval and the agreement of the Executive to release the necessary funds. In both cases, concrete evidence will be required to support the

argument for financial assistance. Such evidence can not be gathered until after the end of the growing season. My officials have made arrangements to meet with the EU Commission in due course to explore the options in light of the available evidence and I have written to the Executive to brief them on the situation.

In the meantime, I am actively seeking an increase in the level of advance payments of cattle premia to assist the cashflow position of farmers. A formal request has been made to the EU Commission in this respect.

### **Farmers: West Tyrone**

**Mr Gibson** asked the Minister of Agriculture and Rural Development if she plans to make any policy announcement that would assist with and alleviate the debt accumulated by the 5000 farmers in West Tyrone. (AQW 171/02)

**Ms Rodgers:** The existence of debt on a farm, or any other business, does not necessarily imply the existence of a problem. To a large extent, debt is incurred as farms and businesses invest in their future. Debt becomes a problem in individual cases where there are insufficient profits to service the level of debt incurred or debt is incurred to meet day-to-day running costs or living expenses. I know that some farmers will find themselves in this latter situation and I would strongly advise them to seek urgent advice from DARD's Agricultural Advisors and from financial professionals and to speak to the organisations from which they acquired this debt.

I have no plans, nor do I have the means, nor would it to permissible under EU law, to subsidise general debt. However, much of what my Department does will assist the financial wellbeing of the industry. Examples of this include the prompt payment of subsidies, the creation of opportunities under the various strands of rural development (such as agri-environment measures), research and development and technology transfer, training and education, the opening up of beef export markets, the control of animal disease and the production of a Vision Action Plan (which I will release later this year) to take forward the work of the Vision Exercise in creating a strategic development pathway for the industry.

### **Farmers: West Tyrone**

**Mr Gibson** asked the Minister of Agriculture and Rural Development what discussions she has had with banks, financial institutions and meal firms to urge them to extend credit to help the farmers of West Tyrone avoid bankruptcy, financial ruin and family hardship. (AQW 172/02)



**Ms Rodgers:** On 10 September, I wrote to the Northern Ireland Bankers' Association and the Northern Ireland Grain Trade Association seeking a meeting to discuss the potential cashflow difficulties which may arise on Northern Ireland farms this autumn and winter as a consequence of the unprecedented wet weather conditions and the resulting increase in input costs (for example, purchased feed) and reduced levels of output. Both organisations agreed to this request and a meeting with the Northern Ireland Grain Trade Association was held on 24 September. I hope to meet with the Northern Ireland Bankers' Association in the very near future.

### Transfer of Farms

**Mr Gibson** asked the Minister of Agriculture and Rural Development when she plans to announce a premium scheme that will encourage elderly farmers to favour transfer to the younger generation. (AQW 174/02)

**Ms Rodgers:** I am aware of the interest in early retirement and new entrants schemes, which are permitted under the EU Rural Development Regulation. However, I am also conscious that questions have been raised over the value for money of such schemes and, for that reason, I commissioned a research project by Queen's University Belfast, in association with University College Dublin, to examine the economic, social and environmental arguments for and against new entrants and early retirement schemes.

I have just received the report on this research project and am considering its conclusions. I will very shortly be sending it to the Assembly Committee on Agriculture and Rural Development together with an indication of my intentions in this matter.

### Civil Servants

**Mr McHugh** asked the Minister of Agriculture and Rural Development to detail the number of civil servants employed by her Department in each of the last 4 years. (AQW 180/02)

**Ms Rodgers:** The overall total of staff employed by my Department at 31 March in each of the last 4 years is set out in the table below.

Year	Total Number of Staff
2002	3927
2001	3737
2000	3685
1999	3656

### Irish Language: Expenditure

**Mr Paisley Jnr** asked the Minister of Agriculture and Rural Development to give a breakdown of expenditure,

for each year from 1998 to date, on translations and interpretations of (i) publications and (ii) stationery from and into the Irish language. (AQW 256/02)

**Ms Rodgers:** My Department has not incurred any expenditure in respect of translations and interpretations of publications and stationery from and into the Irish Language.

### Re-seeding Scheme

**Mr Savage** asked the Minister of Agriculture and Rural Development in light of the damage inflicted by wet weather to grazing land in the past year, if she would consider establishing a re-seeding scheme. (AQW 357/02)

**Ms Rodgers:** The possibility of a financial scheme to offset the affects of this year's adverse weather conditions remains open. You are aware of the need for EU State Aid approval and Executive funding provision before I could commit to such a scheme and you are also aware of the strong evidence base which would be required to support the case. I can not, at this stage, indicate what might or might not be covered by any possible package. However, it is clear that the EU Commission will wish to be assured that any assistance is accurately targeted at addressing the losses incurred relative to an established baseline. The difficulty I can foresee with a re-seeding scheme would be the establishment of that baseline and showing that the level of re-seeding carried this autumn, or in the coming spring, was higher than normal. The Commission would also be keen to prevent any opportunistic behaviour whereby farmers might be encouraged, as a consequence of, or in expectation of, a re-seeding scheme, to re-seed areas which, although not damaged significantly by poaching, would, nevertheless, benefit agronomically from this rejuvenation. These are the types of issues my officials would wish to explore with the EU Commission in light of the available evidence.

### Bulls

**Mr Savage** asked the Minister of Agriculture and Rural Development to define the age of a young bull. (AQW 358/02)

**Ms Rodgers:** "Young bull" is defined in an EU Council Regulation, which deals with cattle price reporting as an "uncastrated young male animal of less than two years of age".

Bulls aged between 2 years and 30 months of age can still be slaughtered for human consumption under BSE provisions.

### Sheep: North Antrim

**Mr Kane** asked the Minister of Agriculture and Rural Development in relation to a particular case of 170

sheep in North Antrim currently waiting to return to Scotland at the farmer's own expense, to outline (a) how, if there were flaws in documentation, these sheep where allowed into Northern Ireland by her Harbour Officials; (b) if she can offer a practical solution of testing these animals for suspected diseases on the farm where they are currently being held; (c) whether she can give assurances that there will be no repetition of this situation; and (d) how re-exporting these sheep complies with the 30 day rule on movement. (AQW 396/02)

**Ms Rodgers:** The documentation accompanying these sheep was invalid in two respects. Firstly, the official health certificate signed by a veterinary surgeon in Scotland stated that the sheep belonged to a flock which was fully accredited under a scheme for the eradication of Maedi/Visna. This was in fact not the case although there was no way Portal staff could have known this at the time the consignment entered Northern Ireland. The factual inaccuracy only came to light when checks were made with Scottish officials subsequent to the sheep arriving at point of destination in Northern Ireland. Secondly there was a failure of the veterinarian to sign the supplementary certificate although the certificate was completed and stamped as if he had been about to sign it. The lack of signature on this document was not spotted by Portal staff.

It is not possible to test the sheep for all the diseases for which guarantees are sought. In the case of CLA and Scrapie what is needed are veterinary guarantees regarding the status of the flock of origin. In light of what appears to be very unsatisfactory certification, I feel there is good reason for my Department's lack of confidence in the animal health status of this importation.

There is always a worry that inappropriate certification will enable animals or products which should not enter Northern Ireland to enter. This is why the Royal College of Veterinary Surgeons takes a serious view of false or misleading veterinary certification. With respect to the missing signature at the portal check, my Chief Veterinary Officer has already assured me that provisions for documentary checks have already been tightened at the Portal Office.

Under EU equivalent conditions, when a re-exportation is agreed with the country of origin, it is not usually considered necessary to comply with additional certification conditions providing the animals have been kept in isolation and have not commingled with other animals in the meantime. The standstill period rules therefore are not appropriate in the Northern Ireland isolation facility in this case.

### Farmers: West Tyrone

**Mr Gibson** asked the Minister of Agriculture and Rural Development what actions she proposes to enable

West Tyrone farmers to obtain a financial return which is commensurate with their labour and capital investment. (AQO 142/02)

**Ms Rodgers:** The difficulty of obtaining a financial return commensurate with the labour and capital investment in agriculture is a problem with which I am very familiar and it is a concern of farmers throughout Northern Ireland. In large part, external factors such as exchange rates and developments in international commodity markets determine returns. However, my Department has a comprehensive programme of R&D, technology transfer, technical advice, training and education to help maximise returns. I would urge farmers to avail of this assistance. The Vision Action Plan will chart a way forward for the industry to underpin future viability.

### Stakeholder Forum

**Mr Fee** asked the Minister of Agriculture and Rural Development to make a statement regarding the purpose and remit of the recently established stakeholder forum. (AQO 153/02)

**Ms Rodgers:** The purpose of the Rural Stakeholder Forum is to bring together those individuals and organisations with an interest in the role and development of the agri-food industry and wider rural society to consider the strategic issues that we must address. Its formal remit is to advise me about strategic issues in the agri-food sector and rural economy generally. I have deliberately kept this remit very broad as I do not wish to constrain the deliberations of the Forum.

### Seasonal Agricultural Workers' Scheme

**Mr J Kelly** asked the Minister of Agriculture and Rural Development to outline her Department's role in the operation and promotion of the Seasonal Agricultural Workers' Scheme and to state whether she has assessed the visa conditions and employments rights of eastern European students who avail of that scheme. (AQO 136/02)

**Ms Rodgers:** The Seasonal Agricultural Workers' Scheme is intended to allow students on 3rd level courses to broaden their knowledge and earn money in their university vacation time. It is operated by the Home Office and the only involvement of my Department has been in arranging to have the Scheme extended to Northern Ireland last year.

Two sponsoring organisations - Concordia and HOPS (GB) are involved in the actual operation of the scheme in Northern Ireland. Their role is to liaise with contact universities, to vet student applications, to place students with employers, to look after the interests of students, to

ensure that their accommodation is of a reasonable standard, and to ensure that wage rates are properly applied.

My Department is not involved in assessing the visa conditions and employment rights of the students – this is carried out by the sponsoring organisations.

### **Flooding: Taylor's Avenue, Carrickfergus**

**Mr Hilditch** asked the Minister of Agriculture and Rural Development what steps the Rivers Agency has taken to alleviate the flooding of homes in the Taylor's Avenue area of Carrickfergus. (AQO 165/02)

**Ms Rodgers:** I can understand the distress caused to residents affected in Taylor's Avenue by the recent flooding. I can assure you that the Rivers Agency has carried out a full investigation of the problem and the scope for remedial action.

Rivers Agency, as the lead Agency, in conjunction with the Department of Regional Development Water and Roads Services, is commissioning a wider study of drainage infrastructure in the Carrickfergus urban area. This will include Taylor's Avenue, which is in the Sullatober Water Catchment.

Separately, the Rivers Agency intends to undertake interim flood alleviation measures in the Sullatober Water catchment.

### **Centre for Cross Border Studies: Foot and Mouth Disease Report**

**Mr C Murphy** asked the Minister of Agriculture and Rural Development if she will implement the recommendations contained in the report by the Centre for Cross Border Studies into Foot and Mouth Disease. (AQO 172/02)

**Ms Rodgers:** When welcoming the publication of the Centre for Cross Border Studies Report, 'The Foot and Mouth Crisis and the Irish Border' earlier this year I highlighted the work of the North South Ministerial Council in developing closer co-operation on animal health issues for the island as a whole.

Many of the recommendations contained in the Centre for Cross Border Studies Report will be addressed through the development of an All-Island Animal Health Strategy under the auspices of the NSMC.

The independent review of our handling of the Foot and Mouth Disease outbreak in 2001 which I commissioned in February was published 26 July 2002. I will be reporting to the Assembly on my response to the recommendations contained in the review in the coming weeks. I am aware that the review team draw heavily on the work of the Centre for Cross Border Studies as part of

their examination of the outbreak and have carried forward some of the recommendations into their own report.

I am content that the work of the NSMC alongside action emanating from the review of the Foot and Mouth Disease outbreak in Northern Ireland is the best way to deliver the mutual benefits and advantages that can accrue from developing an All-Island approach to Animal Health and related issues. As the Centre for Cross Border Studies Report acknowledges, this work was started in November 2000, three months before the Foot and Mouth Disease outbreak.

### **Agri-Food Sector: Distribution of Profits**

**Mr Savage** asked the Minister of Agriculture and Rural Development, given that farmers receive only £11 for an average basket of farm produce which typically sells for £37 in the shops, will she establish a Fair Price Commission to examine the distribution of profits within the Agri-food sector. (AQO 129/02)

**Ms Rodgers:** Currently there is ability at UK level to consider such matters and in these circumstances I am not sure what remit a Fair Price Commission would have. I nevertheless agree that the prices paid to farmers at present are causing great concern. I would also ask you to note that under the Northern Ireland Act 1998 the regulation of anti-competitive practices and agreements, abuse of dominant position, monopolies and mergers are all reserved matters.

### **Farmers: New Entrants/Early Retirement Scheme**

**Ms Lewsley** asked the Minister of Agriculture and Rural Development to outline (a) if she has received the report into the feasibility of a new entrants/ early retirement scheme for farmers and (b) when she expects to reach a decision on the way forward. (AQO 158/02)

**Ms Rodgers:** I received the research report into the feasibility of a new entrants scheme/early retirement scheme for farmers on 16 September 2002.

I am studying this report and, in a week or so, I will send a copy to the Committee on Agriculture and Rural Development together with a letter outlining my initial reactions.

### **Common Fisheries Policy**

**Mr McGrady** asked the Minister of Agriculture and Rural Development what efforts will be made to sustain the local fishing industry through the review of the Common Fisheries Policy. (AQO 151/02)

**Ms Rodgers:** In the review of the Common Fisheries Policy, my over-riding aim is to balance fisheries management with measures to exercise a viable fisheries industry for Northern Ireland.

We embarked on an extensive consultation exercise with interested parties on the Commission's proposals for the review of the Common Fisheries Policy. This included both written consultation and roadshows in Portstewart and Newcastle where there was the opportunity of those participating to make their views known, and to meet further with officials. The views of those who have commented will inform my negotiating position throughout the Review. To ensure local interests are taken on board, I have opened early discussions with senior Commission Officials and with my Ministerial colleagues in Great Britain. I have attended, and will be present during the autumn at Fisheries Council meetings where this subject is on the agenda. It is my intention to continue to work hard on behalf of the local industry. Whilst we support measures to assist the decline in fish stocks, we must balance this with support for fishery-dependent communities to address the socio-economic impact of current and future policies.

## CULTURE, ARTS AND LEISURE

### Irish Football Association

**Mr J Kelly** asked the Minister of Culture, Arts and Leisure whether, in light of the events at the International Soccer match at Windsor Park on Wednesday 21 August 2002, he proposes to change his policy or financial support to the Irish Football Association.

(AQW 17/02)

**The Minister of Culture, Arts and Leisure (Mr McGimpsey):** I was appalled by what happened before the Soccer match at Windsor Park on Wednesday 21 August 2002 and, most particularly, the sectarian death threat against Neil Lennon, which I have publicly condemned. The episode is symptomatic of wider problems confronting, not just Soccer, but society in Northern Ireland as a whole. I believe that the most constructive way of dealing with the issue, as it affects football, is through the present Soccer Strategy process under which concerted efforts are being made to address all the difficulties facing the game, including sectarianism.

Finally, I would point out that the Sports Council is responsible for the development of sport in Northern Ireland including financial support to governing bodies such as the Irish Football Association (IFA). The IFA itself has already publicly denounced what happened to Neil Lennon on 21 August. In addition, it is strongly committed to an anti-sectarian policy and has made good progress through its 'Football for All' campaign which is, in turn, supported by the Sports Council.

## National Lottery Funding

**Mr M Robinson** asked the Minister of Culture, Arts and Leisure what steps are being taken to ensure equitable distribution of National Lottery funding. (AQW 160/02)

**Mr McGimpsey:** The National Lottery is a reserved matter and overall responsibility rests with the Secretary of State for the Department of Culture, Media and Sport in London (DCMS). The National Lottery Act 1998 sets out the good causes, which may receive money from the National Lottery Distribution Fund (NLDF) and the percentage of the total due to them.

My Department is however concerned that Arts and Sport do not receive an equitable share of the National Lottery Distribution balance - a view shared by the devolved administrations in Wales and Scotland. Accordingly, in conjunction with the Scottish and Welsh offices, my Department is currently working on the final draft of a paper which sets out the case to DCMS for increasing the percentage share to Arts and Sport from 2.8% and 2.6% respectively to 4.5%. The recently launched review of the National Lottery will also present an opportunity for the devolved administrations to press forward this case.

## Public Libraries

**Mr M Robinson** asked the Minister of Culture, Arts and Leisure what steps are being taken to ensure that public libraries continue to provide valuable information resources to communities. (AQW 161/02)

**Mr McGimpsey:** The provision of quality information resources to communities is core to the Public Library Service. Libraries provide a range of services, both within the library and in the community, to satisfy their users' needs. The range and depth of provision depends on the size of the library and the community it serves.

I am pleased to say that the Public Library Service has risen to the challenge of the electronic revolution and, through the Electronic Libraries project, has taken the opportunity to develop services in a new and exciting way. The project aims to create a modernised public service that will deliver cost-effective services to meet present and future needs. It will enhance the provision of information resources to communities and help bridge the digital divide between the information rich and the information poor.

The project will provide personal computers for public use in all branch libraries; a computerised library management system to operate in all libraries including mobile libraries; an electronic libraries portal or gateway to a wide range of quality-assured information sources; modern IT systems for use by the staff in libraries; and a range of associated services, e.g. fax services.



Library users will have access to the same range of library services in every public library in Northern Ireland, regardless of size or location, including the ability to request books held by any branch and have them delivered to their local library. They will have access to the world wide web and information on CD ROMs and have the use of office software such as word processing.

You may be aware that a Review of the Public Library Service has also been ongoing and has been examining the extent to which the Service is currently fulfilling its aims and to create an agreed vision for the future. A Report on the Review is nearing completion.

### **European Capital of Culture 2008: Belfast Bid**

**Mr M Robinson** asked the Minister of Culture, Arts and Leisure if his department has made any estimate of the increase in visitor spending which may result should Belfast's bid to become European Capital of Culture 2008 be successful. (AQW 190/02)

**Mr McGimpsey:** There has been no detailed analysis carried out to estimate the increase in visitor spending which may result should Belfast's Capital of Culture bid be successful. However one of the key objectives within the bid is to increase tourism to Belfast and Northern Ireland by at least 1.6 million visitors (based on 2000 visitor figures of 1.6 million) i.e. to double visitor numbers to 3.2 million by 2008. In addition there is also a target to increase discretionary overnight stays by 10%.

Visitor spend is currently £88m per annum in Belfast alone and we would therefore expect this to double in line with visitor numbers.

### **Ulster-Scots Societies: West Tyrone**

**Mr Gibson** asked the Minister of Culture, Arts and Leisure what assistance, financial and other, has been made to the Ulster-Scots societies in West Tyrone. (AQO 141/02)

**Mr McGimpsey:** Promoting awareness of Ullans and Ulster-Scots cultural issues throughout the island of Ireland is primarily a matter for Tha Boord o Ulstèr-Scotch. Tha Boord's work includes liaising with groups to promote development and capacity building.

I understand that to date Tha Boord has provided £32,177 and offered an additional £34,112 to groups in West Tyrone with an Ulster-Scots language or cultural dimension.

### **Leisure Facilities: Free Access For The Elderly**

**Mr McCarthy** asked the Minister of Culture, Arts and Leisure what steps is he taking to encourage all local

councils to provide free access for the elderly to their leisure facilities. (AQO 138/02)

**Mr McGimpsey:** District Councils have a statutory responsibility under the Recreation and Youth Service (NI) Order 1986 to secure the provision of adequate facilities for recreational, social, physical and cultural activities in their respective areas. The Order allows them to make by-laws to regulate admission charges to such facilities. My Department has no direct responsibility over the admission charges applied by District Councils.

### **NI Events Company: Festival Attractions**

**Mr J Kelly** asked the Minister of Culture, Arts and Leisure to make an assessment of the criteria used by the NI Events Company in awarding support to festival attractions. (AQO 171/02)

**Mr McGimpsey:** The NI Events Company does not have specific criteria relating to festival events. Each event is assessed on its merits in relation to the overall criteria with particular emphasise on the applicant providing 50% of project funding, international media coverage, as a measure of positive image, social cohesion and generating economic benefits. A number of other factors are also taken into consideration such as tourism potential, jobs created and level of other public funding.

It is not the role of the Events Company to provide funding for core costs or local performers for festivals. Where funding has been provided for Festivals it has been specifically to enhance the international profile of the event through internationally renowned performers and subsequent media coverage.

### **Community Arts Festivals**

**Ms Ramsey** asked the Minister of Culture, Arts and Leisure to make a statement on the success of this year's Féile An Phobail and on its reputation in terms of Europe's community arts festivals. (AQO 135/02)

**Mr McGimpsey:** I cannot comment on the success of this year's festival as the organisers final report has not been received by the Arts Council. I am led to believe from previous festivals that Féile An Phobail is regarded as one of the most successful community festivals in Europe.

### **European Capital of Culture 2008: Belfast Bid**

**Mr M Murphy** asked the Minister of Culture, Arts and Leisure if he has assessed whether the 2008 City of Culture bid by Belfast will result in the loss of funds for arts projects in counties Down and Armagh; and to make a statement. (AQO 174/02)

**Mr McGimpsey:** It is not anticipated that the Belfast bid will result in the loss of funds for arts projects in counties Down and Armagh or indeed any other county. While the rules governing the competition for designation as European Capital of Culture require a bid from a city it has always been recognised that the Belfast bid should be considered within the context of a region of culture. Indeed a successful bid would be a tremendous boost for the development of arts and culture throughout Northern Ireland.

## EDUCATION

### Expenditure on Legal Action

**Mr Paisley Jnr** asked the Minister of Education to outline, in the last 3 years, (a) the expenditure on any legal action taken and defended by his department and (b) the breakdown of those costs per case. (AQW 6/02)

**The Minister of Education (Mr M McGuinness):** Details of expenditure by case in respect of legal action taken and defended by my Department in the financial years 1999/2000, 2000/2001 and 2001/2002 are attached.

#### 1999-2000

Case	Costs	Description
<b>Judicial Reviews</b>		
Case A	£3,449	Department's decision to allow an appeal for placement in Holy Trinity Primary School.
Case B	£6,046	Case re: Decision to merge St Mary's Primary School and St Patrick's Primary School Donaghmore
Case C	£1,545	Result of not being awarded a Catholic Grammar/Secondary School place by the WELB
Case D	£20	Judicial review regarding provision of transport to pupils attending Bunscoil Dhal Riada, an independent Irish Medium Primary School in Dunloy.
Case E	£62	Decision to amalgamate Cambridge House Boys' and Cambridge House Girls' Grammar Schools.
Case F	£550	Case re: Architect being unsuccessful in obtaining work at Christ The Redeemer Primary School, Lagmore
Case G	£531	Result of Department's refusal to vary the admissions number of St Brigid's High School. Application withdrawn, pupil subsequently admitted to Templemore Secondary School.
Case H	£1,061	Result of the Department's refusal to vary the admissions number of St Brigid's High School. Due to very exceptional circumstances Department approved additional place.

#### 2000-2001

Case	Costs	Description
<b>Judicial Reviews</b>		
Case A	£1,000	Result of the Department's refusal to vary the admissions number of St Brigid's High School. Due to very exceptional circumstances Department approved additional place.
Case B	£750	Result of Department's refusal to vary the admissions number of St Brigid's High School. Application withdrawn, pupil subsequently admitted to Templemore Secondary School.
Case C	£9,559	Decision to amalgamate Cambridge House Boys' and Cambridge House Girls' Grammar Schools.
Case D	£7,900	Judicial review regarding provision of transport to pupils attending Bunscoil Dhal Riada, an independent Irish Medium Primary School in Dunloy.
Case E	£7	Case re: A father challenging the policy of Strangford Integrated College to undertake a particular course.
Case F	£4,000	Dyslexic child seeking special arrangements in additional time in the transfer test
<b>Defended Civil Bills</b>		
Four Civil Cases	£12,590	

#### 2001-2002

Case	Costs	Description
<b>Judicial Reviews</b>		
Case A	£3,059	Decision to amalgamate Cambridge House Boy's and Cambridge House Girl's Grammar Schools.
Case B	£4,559	Case re: A father challenging the policy of Strangford Integrated College to undertake a particular course.
Case C	£7,657	Case re: Unsatisfactory performance of a teacher.
Case D	£28,127	Case re: A teacher who was deemed to be medically unfit for teaching.
Case E	£4,564	Case re: transport assistance.
Case F	£4,699	Decision of Board of Governors of Rathmore Grammar School not to admit a child.
Case G	£4,454	Case re: transport assistance.
Case H	£753	Case re: A child did not get into the school of their choice.
CASE I	£103	Dyslexic child seeking special arrangements in additional time in the transfer test
Case J	£26	Cases re: transport assistance for pupils.
Case K	£51,298	Case re: Appeal against the Minister's exclusion from the attendance at the North/South Council.

Defended Civil Bills		
Three Civil Cases	£26,007	
Breach of Race Relations Order		
Case A	£1,000	Case re: An action for alleged racial discrimination.
Industrial Tribunal		
Case A	£850	Case re: Teacher alleging discrimination through non-payment of SMP and OMP.

### Castle Gardens Primary School

**Mrs I Robinson** asked the Minister of Education whether under current lease and other arrangements, the former Castle Gardens Primary School building in New-townards could be used as a public library. (AQW 85/02)

**Mr M McGuinness:** The major part of the former Castle Gardens Primary School campus is currently held under a trust document which confines its use to school purposes.

Any change to this trust, including possible alternative use as a library, will require a decision by the Chancery Court, to which I understand the South-Eastern Education and Library Board has recently made an application.

### Looked After Children: Educational Needs

**Mr Paisley Jnr** asked the Minister of Education what additional funding will be allocated in this current financial year to meet the educational needs of looked after children. (AQW 90/02)

**Mr M McGuinness:** At present, my Department has no plans to allocate any additional funding in the current financial year. The educational needs of the majority of looked after children are covered from within the Boards' Block Grant or through ear-marked allocation to meet the needs of specified groups of pupils.

### Ministerial Transport

**Mr Foster** asked the Minister of Education to outline (a) whether or not the method of appointing his ministerial driver is consistent with other Ministers in the Executive; (b) if not, the reasons for any inconsistencies and (c) whether or not all transport regulations in relation to the ministerial vehicle and driver are being adhered to. (AQW 127/02)

**Mr M McGuinness:**

(a) and (b): I refer the Member to my answers AQW 3362/01 and AQW 3973/01.

(c) I am content that all relevant transport regulations are being adhered to.

### School Transport: Rural Areas

**Mr Bradley** asked the Minister of Education if he will undertake to provide school transport for primary school children residing in rural areas, who are currently obliged to walk along A Class and B Class routes which have no footpaths provided. (AQW 132/02)

**Mr M McGuinness:** The approved home to school transport arrangements require Education and Library Boards to make such arrangements as they consider necessary to facilitate the attendance of pupils at grant-aided schools. The current arrangements restrict transport provision to pupils who have been unable to gain a place in all suitable schools within statutory walking distance of their home (3 miles for secondary/2 miles for primary school age pupils).

Responsibility for the safety of pupils who are not entitled to transport assistance is a matter for parents.

### Educational Psychologists

**Mr Shannon** asked the Minister of Education what steps are being taken to employ more educational psychologists per Board area. (AQW 152/02)

**Mr M McGuinness:** Since the introduction of the Special Educational Needs Code of Practice in 1998, my Department has made available additional funding each year to enable more Educational Psychologists to be employed in each Education and Library Board (ELB) area. As a result, total numbers have risen from 118 in the year 2000 to 133 in 2002.

In addition, the number of teachers supported by the ELB's on the MSc in Educational Psychology at Queens University Belfast has risen from 5 in 1998 to the present complement of 12.

### Educational Psychologists

**Mr Shannon** asked the Minister of Education how many educational psychologists are employed per board area, in each of the last 3 years. (AQW 153/02)

**Mr M McGuinness:** The number of Educational Psychologists full-time and part-time, employed per Board area, in each of the last 3 years is:

Board	May 2000	January 2001	January 2002
BELB	27	29	29
WELB	17	24	26
NEELB	23	25	25

Board	May 2000	January 2001	January 2002
SEELB	24	27	27
SELB (Sept)	27	24.8 (fte)	26.3 (fte)
<b>Total</b>	<b>118</b>	<b>129.8</b>	<b>133.3</b>

### Educational Psychologists: Referrals

**Mr Shannon** asked the Minister of Education to outline the number of referrals to the educational psychologists per board area, in each of the last 3 years.

(AQW 154/02)

**Mr M McGuinness:** I have been informed by the Education and Library Boards that the numbers of referrals for statutory assessment (Stage 4 of the Code of Practice) in the last three years are as follows. (The figures of the SEELB are approximations.)

	1999/00	2000/01	2001/02
BELB	245	330	237
WELB	368	313	314
NEELB	299	299	309
SEELB	460	493	482
SELB	299	376	376

### Educational Psychologists: Referrals

**Mr Shannon** asked the Minister of Education to outline, per board area, the timescale between referral to an educational psychologist and the actual appointment, in each of the last 3 years.

(AQW 155/02)

**Mr M McGuinness:** As at January 2002, figures for the timescale between referral to an educational psychologist for statutory assessment of special educational needs (at Stage 4 of the Code of Practice) and the actual appointment are as follows:

Belfast	89.5% assessed within six weeks
Western	90% assessed within six weeks
North Eastern	average time is 41 days
South Eastern	95% assessed within six weeks
Southern	92% assessed within six weeks

Figures for the previous two years are not available for all Education and Library Boards.

### Graduate Teachers: Unemployment Levels

**Mrs Carson** asked the Minister of Education how his department proposes to address the high unemployment levels in fresh graduate teachers.

(AQW 195/02)

**Mr M McGuinness:** The Department annually determines intakes to initial teacher education courses, the aim

being to broadly match vacancies with projected needs of schools in Northern Ireland.

Research commissioned by the Department from the Northern Ireland Council for Educational Research shows that almost all teachers starting out on their careers obtain either permanent or temporary teaching posts and that 93% obtain permanent contracts by the second year.

Statistics from the Department of Employment, Trade and Investment show that while there were 60 teachers aged 22 and 23 years of age registered as unemployed at the beginning of the last school year, this number had reduced to 11 only by February 2002.

### Special Educational Initiatives: Funding

**Mr Gibson** asked the Minister of Education to detail how much finance his Department presently contributes, per annum, to special educational initiatives.

(AQW 210/02)

**Mr M McGuinness:** In 2000/01 finance, made available by my Department for the education of children with special educational needs, was £106.1m. This breaks down as follows:

- £83.3m, centrally managed by the Education and Library Boards, on special schools and units, on statemented pupils in mainstream schools, administration, Educational Psychology, training, EOTAS and the Peripatetic Service.
- £13m, delegated to controlled and maintained schools, under the LMS formula to support children with SEN who are not statemented.
- £1.9m and £0.7m respectively delegated to Voluntary Grammar and Grant Maintained Integrated schools.
- £7.2m, made available to the Boards to support the introduction of the Code of Practice.

In addition, since 2001/02, extra earmarked funds have become available through the Executive Programme Funds for initiatives in Special Education:

2001/2002	£0.1m
2002/2003	£0.5m
2003/2004	£2.0m

### Indirect Educational Activity: Funding

**Mr Gibson** asked the Minister of Education to detail how much finance his Department presently contributes to indirect educational activity such as Targeting Social Need, transportation of pupils and community relations.

(AQW 211/02)

**Mr M McGuinness:** The Department's budget for 2002/03 includes £53.1m for home to school transport, £29.6m for the school meals service, and £3.6m for



community relations. As there is a close link between social need and educational need, action to Target Social Need is considered to be a direct and integral part of mainstream educational provision.

### Finance

**Mr Gibson** asked the Minister of Education to detail how much finance is made available to his Department from sources other than budgetary provision, such as the European Union. (AQW 212/02)

**Mr M McGuinness:** The Department's budget for 2002/03 includes £4.2m from sources other than budgetary provision. This relates to grant from the European Union.

### Free Pre-School Education: Eligibility

**Mr Beggs** asked the Minister of Education to outline the number and percentage of 2 year olds who have been eligible for free pre-school education. (AQW 237/02)

**Mr M McGuinness:** Pre-school places in the statutory sector are, as has been the case since the early 1970s, open to children from 2 years old to the lower limit of compulsory school age. In all cases, however, applications from children in their immediate pre-school year are given priority ahead of younger children. Children in their penultimate pre-school year who attend nursery schools and units are therefore occupying places that would otherwise be unfilled.

In the 2001/02 academic year, 1,423 children attending statutory nursery schools and units had not attained the age of 3 by the date of the School Census. This number represents 11% of children in statutory settings at that time and 7% of the children in all types of funded pre-school education.

### A-Level Examinations

**Mr Hamilton** asked the Minister of Education, in light of current allegations against English Examination Boards relating to marking of 'A' Level exams, to outline (a) the number of local students who have taken exams through these Boards; (b) what action he is taking to protect the interests of students who may be affected, including those already admitted to universities on the basis of the A2 GCE grades; and (c) steps he is taking to ensure that such problems do not extend to the local Examination Board. (AQW 378/02)

**Mr M McGuinness:** There were some 12,436 subject entries from Northern Ireland to GCE A Level examinations run by Examination Boards other than CCEA, representing approximately 45% of all subject entries

from local candidates. Information on the number of candidates who took these examinations is not available.

The independent inquiry ordered by the Secretary of State for Education and Skills will have implications for the National Qualifications Framework, and so will be of direct relevance both here and in Wales as well as in England. I will consider the report carefully and the implications that any recommendations may have for students here.

CCEA have not been involved in the marking and grading problems in England, and I am not aware of any concerns having been raised about CCEA's 2002 examinations service. I have every confidence that CCEA will continue to provide a robust and reliable examinations service for our young people.

### A-Level Examinations

**Mr Hamilton** asked the Minister of Education to outline (a) the criteria used for the allocation and adjustment of marks in coursework of A2 level GCE examinations; and (b) his assessment of the potential for the allocation of an individual's coursework mark to be unfairly depressed as a result of the sampling procedure used to adjust marks for coursework. (AQW 379/02)

**Mr M McGuinness:** The criteria used are laid down in the GCSE, GCE, VCE and GNVQ Code of Practice 2001/02 (Second Edition), which is issued by the 3 Regulatory Authorities (CCEA, ACCAC in Wales and QCA in England), and is available on CCEA's website ([www.ccea.org.uk/gce.htm](http://www.ccea.org.uk/gce.htm)). All the awarding bodies have agreed to implement the Code in full.

While there is potential for human error in any marking procedure, I am advised that the sampling procedure used to adjust marks for coursework is subject to stringent scrutiny and checking procedures, ensuring that the level of errors is negligible.

### A-Level Examinations

**Mr Kennedy** asked the Minister of Education to outline (a) his assessment of the impact on Northern Ireland students following the apparent serious errors in A2 grades awarded by English Examination Boards; (b) the number of cases brought to the attention of his Department; and (c) what action he is taking to address these problems and to ensure that no student is unfairly disadvantaged. (AQW 381/02)

**Mr M McGuinness:** Although in summer 2002 some 45% of A level entries from candidates here were to examining boards in England, these were in the main to Edexcel and AQA examining boards: the Oxford and Cambridge examining board, where most of the problems in England seem to have arisen, was used by only a very

few centres here for a limited number of low-entry subjects. I am advised therefore that our candidates have been affected by the English problems only to a very minor extent.

CCEA, as regulatory body, and my Department are monitoring the situation closely and are aware of a small number of examination centres where some problems have arisen, although it is not clear at this stage the circumstances involved. The examination centres in each case are taking the matter up with the examining board concerned.

The independent inquiry ordered by the Secretary of State for Education and Skills will have implications for the National Qualifications Framework, and so will be of direct relevance both here and in Wales as well as in England. I will consider the report carefully and the implications that any recommendations may have for students here.

## EMPLOYMENT AND LEARNING

### Springvale Outreach Centre

**Mrs Nelis** asked the Minister for Employment and Learning to outline (a) why the official opening of the Springvale Outreach Centre has been postponed and (b) why the Centre was not available for use by Community Groups during the school holiday period. (AQW 24/02)

**The Minister for Employment and Learning (Ms Hanna):** I have visited the Community Outreach Centre and regard it as an excellent new resource for North and West Belfast. In discussion between my officials and the Springvale Board it was agreed that a better time for the official opening would be the early Autumn. I look forward to performing the ceremony in the near future.

The management of the Centre of the Springvale project is the responsibility of Springvale Educational Village; they have assured the Department that the Centre was open and available for use by Community Groups throughout the school holiday period.

### Aircraft Industry: Apprenticeships

**Mr Shannon** asked the Minister for Employment and Learning what help is available, in this financial year, for apprenticeships in the aircraft industry. (AQW 112/02)

**Ms Hanna:** My Department currently contracts with Bombardier Shorts to offer 55 Modern Apprenticeships in the aircraft industry. As engineering is classified as a priority skills sector the number of allocated training places can be increased to meet the demands of this industry. In addition, within the Greater Belfast Area there are a number

of Training Organisations offering a further 200 Modern Apprenticeships in affiliated engineering disciplines.

### Asperger's Syndrome

**Mr M Robinson** asked the Minister for Employment and Learning how many people diagnosed with Asperger's syndrome have entered further education since 1999.

(AQW 158/02)

**Ms Hanna:** Information on the number of people, diagnosed as having Asperger's Syndrome who have entered further education since 1999 is not held by the Department.

### Student Accommodation/ Housing Rights

**Mr McElduff** asked the Minister for Employment and Learning in respect of the Housing Bill, what representation she has made to the Minister for Social Development regarding unfit student accommodation and student housing rights. (AQW 247/02)

**Ms Hanna:** Student accommodation and student housing rights are matters for the Department for Social Development and are outside the remit of my Department.

It would therefore, be inappropriate for me to make representation to the Minister for Social Development regarding student accommodation and student housing rights in respect of the new Housing Bill.

### Student Grants Systems

**Mrs Carson** asked the Minister for Employment and Learning in relation to non-repayable bursaries, has she considered reimbursing those students who have completed higher education since the removal of the Students Grants system. (AQW 259/02)

**Ms Hanna:** No. It is not normal practice when new policy is announced to introduce arrangements retrospectively.

### Academic Medical Staff: Queen's University, Belfast

**Mrs Courtney** asked the Minister for Employment and Learning to outline, in each year from 1997 to 2002, the number of full-time and part-time academic medical staff employed at Queen's University, Belfast.

(AQW 402/02)

**Ms Hanna:** The number of academic staff employed at Queen's University, Belfast, whose principal subject of academic discipline is either medicine or subjects

allied to medicine, from 1997/98 to 2000/01 is provided in the table below:

Year	Pre-clinical and clinical medicine <sup>1</sup>	Subjects allied to medicine <sup>2</sup>
1997/98	89	19
1998/99	80	30
1999/00	84	42
2000/01	82	70

Source: HESA

<sup>1</sup> Refers to pre-clinical (A1) and clinical medicine (A3) subjects, taken from the HESA medicine and dentistry subject group.

<sup>2</sup> The HESA subject group including anatomy & physiology, pharmacology, pharmacy, ophthalmics, audiology, nursing and other medical subjects.

### Medical Students: Queen's University, Belfast

**Mrs Courtney** asked the Minister for Employment and Learning to outline, in each year since 1997, the number of medical students enrolled at Queen's University, Belfast. (AQW 403/02)

**Ms Hanna:** The number of students enrolled on Medicine<sup>1</sup> courses at Queen's University, Belfast from 1997/98 to the 2001/02 academic year is provided in the table below:

Year	Number of students
1997/98	1,014
1998/99	1,036
1999/00	1,055
2000/01	1,100
2001/02 <sup>2</sup>	1,127

Source: HESA

<sup>1</sup> Refers to students enrolled on pre-clinical (A1) and clinical medicine (A3) courses, taken from the HESA medicine and dentistry subject group.

<sup>2</sup> 2001/02 figures are provisional.

## ENTERPRISE, TRADE AND INVESTMENT

### Railway Preservation Society of Ireland: Whitehead

**Mr K Robinson** asked the Minister of Enterprise, Trade and Investment to outline (a) any measures he proposes to build upon the tourist potential surrounding the activities of the Railway Preservation Society of Ireland's operations based at Whitehead and (b) recent or planned discussions with the Society. (AQW 122/02)

### The Minister of Enterprise, Trade and Investment (Sir Reg Empey):

(a) The Northern Ireland Tourist Board (NITB) has already provided funding towards the development of the Railway Preservation Society of Ireland's facilities at Whitehead and would be happy to consider any further proposals the Society may have. In the wider context, the Department of Culture, Arts and Leisure (DCAL) is giving consideration to the development of a sustainable support infrastructure for the heritage sector generally.

(b) Neither NITB or DCAL have had any recent discussions with the Society nor are any currently planned.

### Northern Ireland Tourist Board: BA Publishing Services

**Mr Dallat** asked the Minister of Enterprise, Trade and Investment whether and when the Northern Ireland Tourist Board became aware that its Chairman's printing company had initiated a commercial partnership with BA Publishing Services and of the date the two companies later merged. (AQW 136/02)

**Sir Reg Empey:** The Northern Ireland Tourist Board had no knowledge of a company called BA Publishing Services and has never awarded any contracts to that company. As already stated in information supplied in May 2002 to the Public Accounts Committee W G Baird Group acquired Corporate Document Services Ltd (CDS) in December 2000. We now understand that this company had been previously called BA Publishing Services (The name change occurred in May 1998). NITB's first contract with CDS was awarded in August 2000.

### Northern Ireland Tourist Board: BA Publishing Services

**Mr Dallat** asked the Minister of Enterprise, Trade and Investment to list any NITB contracts awarded to the firm BA Publishing Services between 1997 and 2002. (AQW 137/02)

**Sir Reg Empey:** NITB has never awarded any contracts to BA Publishing Services. We understand that BA Publishing Services was renamed as Corporate Document Services Ltd in May 1998. The share capital of CDS Ltd was bought by the Baird Group in December 2000.

NITB's first contract with CDS Ltd was in August 2000 (Details of NITB's contracts with CDS were provided to the PAC in May 2002).

### Co Antrim Coastline: Protection of Sensitive Areas

**Mr K Robinson** asked the Minister of Enterprise, Trade and Investment what discussions have taken place

between his Department and the Department of Agriculture and Rural Development and the Department of Environment, in relation to the need to protect sensitive areas of the County Antrim coast line; and to make a statement. (AQW 142/02)

**Sir Reg Empey:** My Department has worked with our colleagues in the Department of Agriculture and Rural Development (DARD) and the Department of the Environment (DOE) to develop and implement policy that capitalizes on the unique qualities of the County Antrim coastline, while protecting those same resources for the benefit and enjoyment of future generations.

My Department, through the Northern Ireland Tourist Board (NITB), will continue to work with DARD and DoE both directly and in partnership with others such as the Causeway Coast and Glens Heritage Trust, which is actively involved in tourism product development, environmental and visitor management, and research and education in the area.

The NITB is also represented on the Working Group for the Management Plan for the Causeway Coast Area of Outstanding Natural Beauty, a study being undertaken by the Department of the Environment's Environment and Heritage Service.

### Rural Tourism

**Mr Armstrong** asked the Minister of Enterprise, Trade and Investment to detail funding which has been awarded to promote rural tourism, in particular the establishment of farmhouse B&B's, in each of the last 5 years. (AQW 179/02)

**Sir Reg Empey:** DETI through the Northern Ireland Tourist Board and Invest NI provides support for the promotion and development of rural accommodation businesses. Support available ranges from the provision of business advice and mentoring through to the provision of financial assistance for the establishment, development and marketing of B&B's.

In the 5-year period to 31 March 2002 the Department offered financial support of £567k to B&B's located in rural Northern Ireland. £145k was offered specifically to the farmhouse B&B sector of which £54k was offered to assist with capital development and upgrading and £91k to assist with strategic and tactical marketing through the Northern Ireland Farm Country Holidays Association (NIFCHA). The annual breakdown of this is contained in the table below.

Year	Capital Offer	Marketing (via N.I.F.C.H.A)	Total
1997-98	£6,084	£28,216	£34,300
1998-99	£5,000	£26,104	£31,104
1999-2000	£42,667	£8,103	£50,770

Year	Capital Offer	Marketing (via N.I.F.C.H.A)	Total
2000-2001	-	£28,791	£28,791
2001-2002	-	-	-
<b>Total</b>	<b>£53,751</b>	<b>£91,214</b>	<b>£144,965</b>

### NI Businesses: Online

**Mr M Robinson** asked the Minister of Enterprise, Trade and Investment to outline (a) what percentage of companies conduct the majority of their business on the internet and (b) how does this percentage compare with (i) the rest of Europe and (ii) countries in the rest of the world. (AQW 191/02)

**Sir Reg Empey:** Figures are not available for the percentage of companies conducting "the majority of their business" on the Internet. However, in its International Benchmarking Report (2001), DTI provides UK regional results which are weighted by company size. On this basis, 30% of NI businesses facilitate either online orders or payments (which is close to the UK average); 24% of NI companies trade electronically by interacting with their supplier base online. This is the lowest proportion of all UK regions.

At international level, statistics are based on a simple count of businesses. On this basis, 24% of UK companies are both ordering and paying online. Germany, Canada and Australia are comparable at 23 - 25%. Ireland (21%), USA (20%), Sweden (18%), Italy (11%), France (10%) and Japan (9%) lag behind.

### NI Businesses: Websites

**Mr M Robinson** asked the Minister of Enterprise, Trade and Investment (a) what percentage of businesses have websites and (b) how this percentage compares with businesses in (i) the rest of Europe and (ii) countries in the rest of the world. (AQW 192/02)

**Sir Reg Empey:** 65% of Northern Ireland businesses have websites. This figure is 15% below the UK national average, which is reported at 80% in the 2001 DTI International Benchmarking Report. The Report also shows that the figure of 65% places Northern Ireland in a central position between the world's leaders and laggards. The leaders - UK, Sweden, Germany, US and Canada - report that 73-80% of businesses have websites whilst Ireland, Australia, Italy, Japan and France lag with 56-64% of their businesses having websites.

### Health and Safety Executive: Resources

**Mr Foster** asked the Minister of Enterprise, Trade and Investment to outline (a) the resources available for the



Health and Safety Executive and (b) any plans he has to increase such resources. (AQW 245/02)

**Sir Reg Empey:**

- (a) The budget allocated to the Health and Safety Executive for Northern Ireland (HSENI) for the financial year 2002/03 is £3,166,000. HSENI also has a complement of 87 professional and administrative staff.
- (b) The resources allocated to HSENI will continue to be kept under review and any decision to allocate additional funding will be taken in the context of the overall public expenditure situation.

**Bombardier Shorts:  
Independent Financial Audit**

**Mr Shannon** asked the Minister of Enterprise, Trade and Investment if he will implement an independent financial audit of Bombardier Shorts in relation to public finances received, the commitment given to employment levels and the future of the company. (AQW 268/02)

**Sir Reg Empey:** Following September 11 last year, the entire global airline industry has suffered a severe crisis. Faced with excess capacity many airlines have mothballed aircraft, reduced flights, cancelled orders, cut staff and reined in non-essential work, in an attempt to control costs. Many airlines had substantial debt even before September 11 and events since then have further contributed to a financial crisis within the industry, leading to potential bankruptcy in some major U S airlines. This has a severe knock on effect for aircraft manufacturers and firms servicing the airline industry, including Bombardier. In August this year the company received cancellations for four Challenger wide-body aircraft and four Learjet 45 aircraft.

In these circumstances, I believe that it would be inappropriate for me to implement an independent financial audit along the lines suggested.

I have been working closely with Bombardier since last October when, as a result of current market conditions, they announced the likelihood of up to 2000 redundancies by the end of this year. My Department and I will continue to work closely with the company to help them to consolidate and strengthen their operations in Northern Ireland, in spite of the current crisis facing the aerospace sector.

**Bombardier Shorts: Financial Assistance**

**Mr Shannon** asked the Minister of Enterprise, Trade and Investment to outline (a) the level of financial assistance that has been provided to Bombardier Shorts in relation to their application for export credit guarantees

and (b) any guarantees regarding employment levels which have been sought in return. (AQW 269/02)

**Sir Reg Empey:** My Department does not provide financial assistance for export guarantees. This is administered by the Export Credits Guarantee Department, which is part of British Trade International under the Department of Trade & Industry. Any questions on this matter should be addressed to the Rt Hon Baroness Symons of Vernham Dean, Minister of State for Trade and Investment, 1 Victoria Street, London, SW1H 0ET, or to the Export Credits Guarantee Department, PO Box 2200, 2 Exchange Tower, Harbour Exchange Square, London, E14 9GS.

**NI Companies Register:  
e-Government Service**

**Mr Close** asked the Minister of Enterprise, Trade and Investment how many responses were received by 30 August 2002 to the consultation paper on proposals for converting the NI Companies Register to an e-Government service. (AQW 271/02)

**Sir Reg Empey:** The Department of Enterprise, Trade and Investment received nine responses by 30 August 2002 to the consultation paper on proposals for converting the NI Companies Register to an e-Government service.

**Killyleagh Plastics**

**Lord Kilclooney** asked the Minister of Enterprise, Trade and Investment to outline, in relation to Killyleagh Plastics, (a) any recent contact he has had with the company (b) the present employment position there and (c) if he will consider giving support to protect employment at the company; and to make a statement.

(AQW 279/02)

**Sir Reg Empey:** I am aware of the situation at the Northern Ireland Plastics plant at Killyleagh. Invest NI officials met with Mr Bill Chambers, NI Plastics' Managing Director, on 2 September 2002 and have agreed to fund an external review of the company's financial position with a view to assessing what assistance may be available to help the company. I understand that the present employment at the company is 61.

**Bombardier Shorts: Audit**

**Mr Weir** asked the Minister of Enterprise, Trade and Investment if he will conduct an audit of (a) finances received; and (b) employment commitments made by Bombardier Shorts. (AQW 333/02)

**Sir Reg Empey:** Following September 11th last year, the entire global airline industry has suffered a severe crisis. Faced with excess capacity many airlines have

mothballed aircraft, reduced flights, cancelled orders, cut staff and reined in non-essential work, in an attempt to control costs. Many airlines had substantial debt even before September 11th and events since then have further contributed to a financial crisis within the industry, leading to potential bankruptcy in some major U S airlines. This has had a severe knock on effect for aircraft manufacturers and firms servicing the airline industry, including Bombardier.

In August this year the company received cancellations for four Challenger wide-body aircraft and four Learjet 45 aircraft. In spite of this, Bombardier remains fully committed to its aerospace and manufacturing operation in Northern Ireland, which is part of its core business and an integral part of Bombardier Aerospace Inc. In the circumstances, I believe that it would be inappropriate for my Department to implement an audit along the lines suggested.

I have been working closely with Bombardier since October last year, when, as a result of current market conditions, the company announced the potential of up to 2000 redundancies by the end of this year. My Department and I will continue to work closely with the company to help it consolidate and strengthen its operations in Northern Ireland.

## ENVIRONMENT

### Telecommunication Masts/Wind Turbines

**Mrs Carson** asked the Minister of the Environment to state his department's strategy as regards planning regulations for the erection of telecommunication masts and wind turbines in the Fermanagh and South Tyrone constituency. (AQW 194/02)

**The Minister of the Environment (Mr Nesbitt):** Applications for the erection of telecommunication masts and wind turbines throughout Northern Ireland are processed under existing planning regulations and are considered on their individual merits against prevailing planning policies, taking account of representations received following normal advertising and consultation arrangements. There is no specific strategy for the Fermanagh and South Tyrone constituency.

Under existing planning regulations all proposals for the erection of telecommunication masts and wind turbines require planning permission. Where appropriate, under the provisions of the Planning (Environmental Impact Assessment) Regulations (NI) 1999, an Environmental Statement may be required to accompany planning applications for such development.

My Department's prevailing policy guidance for the development of telecommunication masts is set out in Planning Policy Statement 10 Telecommunications, while the main policy guidance for the development of wind turbines is currently set out in Policy PSU 12 of 'A Planning Strategy for Rural Northern Ireland'.

I can assure you that my Department gives careful and detailed consideration to all proposals for telecommunications and wind turbine development within the context of the policies and regulations outlined above.

### Planning Applications

**Mr Shannon** asked the Minister of the Environment, pursuant to AQO 66/02, in relation to new planning applications which have been stopped, to detail when the applications will be cleared in each of the following Ards Borough Council areas: (1) Newtownards; (2) Comber; (3) Donaghadee; (4) Millisle; (5) Ballywalter; (6) Ballyhalbert; (7) Portavogie; (8) Cloughey; (9) Killinchy; (10) Ballygowan; (11) Portaferry; (12) Ballydrain; (13) Ballywhiskin; and (14) Carrowdore. (AQW 215/02)

**Mr Nesbitt:** In recent months, concerns were raised by the Environment and Heritage Service about the quality of discharges and risks of water pollution from sewage treatment plants and sewerage networks at a number of locations in Northern Ireland. This raised complex legal, environmental and operational issues.

Consequently, a number of planning applications in the areas affected have been held, on a precautionary basis, while urgent discussions are taken forward between my Department and the Department for Regional Development, which is the Department responsible for waste water treatment.

Planning applications which do not require connection to the sewerage network, for example, some house extensions or garages, continue to be processed to a conclusion by Planning Service.

While I am not in a position to say when the 136 cases in the Ards Borough Council area, which are affected by this precautionary measure, will be processed to decision stage, I am determined, working with my Ministerial colleagues, to find an early resolution which will meet Northern Ireland's development needs while at the same time protecting the environment.

### Council Allotments

**Mr M Robinson** asked the Minister of the Environment to outline (a) existing laws and regulations which govern allotments and their use and (b) any plans to review these regulations. (AQW 262/02)

**Mr Nesbitt:** The Allotments Act (Northern Ireland) 1932, as amended, enables district councils to provide, at their discretion, allotments for use by residents in their areas. In providing allotments, district councils are required, under the 1932 Act, to make regulations concerning the control and management of these facilities. My Department, therefore, has no role in either the making or the review of regulations governing the use of council allotments.

## Zebra Mussels

**Mr Shannon** asked the Minister of the Environment what action, other than giving advice, his Department is taking to prevent the movement of Zebra Mussels from Lough Erne to Lough Neagh; and to detail any discussions held with other Departments on the subject.

(AQW 276/02)

**Mr Nesbitt:** My Department is working through an inter-departmental control group to stop the spread of zebra mussels from Lough Erne to other lakes. The group is led by the Environment and Heritage Service of DOE, and includes representatives of DARD, DRD, DCAL and Waterways Ireland. The natural heritage agency in the Republic of Ireland, Duchas, has been invited to join the group to provide cross-border links.

Through an awareness campaign we are asking people to do several things:

- Steam clean boats after immersion in infected waterways.
- Remove bilge water from their vessels before leaving infected waterways.
- Steam clean and drain engines.
- Clean boat transporting trailers.
- Ensure that all fishing tackle is cleaned or placed in freezers for an adequate period of time to kill any attached zebra mussel larvae.

My Department, in partnership with DARD, is also carrying out research to predict possible ecological impacts, improve the effectiveness of control measures, identify vulnerable lakes and put in place a system to provide early warning should other major lakes become colonised. Further preventative measures may follow when the research findings are available next year.

## FINANCE AND PERSONNEL

### Cold Stores

**Mr Molloy** asked the Minister of Finance and Personnel to investigate the advice currently provided on the building of cold stores and cold walls, particularly regarding the

use of polyester, and its effect on the cost of insurance for small business. (AQW 185/02)

### The Minister of Finance and Personnel (Dr Farren):

Internal structures such as cold stores and walk-in refrigerated enclosures are usually formed by using insulating core panels. These panels are used for this purpose because they provide good thermal insulation, allow for a high degree of prefabrication, have low assembly costs and have a degree of reusability. Moreover, the panel systems can provide surface finishes that are beneficial where food hygiene is important. One such surface finish is a polyester coating.

There are many sources of advice specifically related to the building of cold stores that are available to designers, some of which are listed below: -

Design, construction, specification and fire management of insulated envelopes for temperature controlled environments - International Association of Cold Storage Contractors (European Division)

RFIC Guide to the management and control of the fire risks in temperature controlled structures of the refrigerated food industry - Cold Storage and Distribution Federation

The Loss Prevention Council Design Guide for the Fire Protection of Buildings

List of Approved Fire and Security Products and Services - Loss Prevention Certification Board

BS 5588 Part 11

England and Wales Approved Document B, 2000 Edition (Appendix F)

Other advice is available from the technical service departments of the various insulating core panel manufacturers.

The current Technical Booklets that support the Northern Ireland Building Regulations do not include any specific provisions in respect of the building of cold stores or the particular use of polyester finishes.

As a result of fires over recent years the insurance industry has incurred a number of large scale losses. It is now very wary about providing insurance cover for buildings using insulating core panels and insurance premiums have risen as a consequence. This concern includes cold stores.

Insurance companies seek the opinion of their own surveyors on all aspects of the risk in determining insurance premiums or indeed whether insurance is provided at all. They make reference to internal guidance relating to the type of panel and manufacturer.

Members of the British Rigid Urethane Foam Manufacturer's Association have been working with the insurance industry and some have products accredited by

the Loss Prevention Certification Board. This accreditation has a bearing on whether insurance is provided.

## HEALTH, SOCIAL SERVICES AND PUBLIC SAFETY

### Nurse-Led Minor Injuries Unit

**Mr A Maginness** asked the Minister of Health, Social Services and Public Safety what type of clinical cases can be treated in a nurse-led minor injuries unit.

(AQW 49/02)

**The Minister of Health, Social Services and Public Safety (Ms de Brún):** I would expect nurse-led minor injuries units to treat around 80% of patients currently attending A&E units. They will treat a wide range of clinical conditions, excluding conditions that are life threatening or the result of major trauma. In addition, staff will have necessary training and support to provide immediate resuscitation and facilitate the urgent transfer of seriously ill patients, should they inappropriately present themselves at the unit.

The minor injuries units will be networked with major A&E facilities, and will be supported by telemedicine and teleradiology linkages to clinical advice from A&E specialists.

Bhéinn ag súil go gcóiríú aonaid mionghortaithe faoi threoir altra thart ar 80% ochar atá ag freastal ar aonaid T&É. Cóireoidh siad raon leathan de dhálaí clínicíúla, gan dálaí atá saol-bhagartha nó atá ina dtoradh ar mór-sceimhle a chur san áireamh. Ina theannta sin, beidh oiliúint agus tacaíocht riachtanach ag an fhoireann oibre chun athbheochan láithreach a chur ar fáil agus chun aistriú práinneach ochar atá go dona tinn a éascaíocht, dá dtiocfadh siad i láthair go mí-chuí ag an Aonad.

Beidh an t-aonad mionghortaithe a líonrú le príomh achmhainní T&É, agus beifear a dtacú trí cheangail teili-leighis agus teili-raideolaíochta chuig comhairle chliniciúil ó speisialtóirí T&É.

### Contraceptive Treatment

**Mr Paisley Jnr** asked the Minister of Health, Social Services and Public Safety to confirm (a) if the pill RU486 is available in Northern Ireland; (b) the numbers which have been prescribed to date; and (c) if young females can obtain the drug without parental consent.

(AQW 106/02)

**Ms de Brún:** The use of mifepristone (RU486) is permitted here only in the treatment of intra-uterine fetal death. It is not used in the community and should only be prescribed by obstetricians for this licensed indication.

Prescribing of this medicine, through the hospital sector, is very low. Exact figures are not available centrally.

This medicine should only be accessed as part of a medical procedure for which consent is obtained in the normal way.

Níl úsáid mifipriostón (RU486) ceadaithe anseo ach amháin i gcóireáil bás féatais ionútaraigh. Ní úsáidtear é sa phobal agus níor chóir ach do Lianna Ban é a ordú don chóireáil ceadaithe seo. Tá ordú an chóigais seo, tríd an earnáil otharlainne, iontach íseal. Níl figiúirí cruinne ar fáil go lárnach.

Níor chóir teacht ar an chógas seo ach amháin mar pháirt de gnáthamh míochaine trí chead a fháil ar an ghnáth-bhealach.

### Hospital Waiting Lists

**Mr Shannon** asked the Minister of Health, Social Services and Public Safety to describe the steps is she taking to reduce the number of people waiting for operations through the health service. (AQW 108/02)

**Ms de Brún:** A wide range of measures to tackle waiting lists are being implemented at present. These include the provision of additional hospital inpatient procedures, including the purchase of procedures outside the health and social services where appropriate; the development of community provision as an alternative to hospital admission; more efficient management of the process of diagnosis, hospital admission, treatment and discharge; the validation of waiting list information; and improved management of waiting lists.

To underpin this work, a regional service improvement leader has been appointed and additional resources for waiting lists have been allocated. I have also recently announced plans for significant expansion in hospital capacity at the Mater, Antrim, Ulster and Craigavon Hospitals, for a new day procedure unit for the Erne, and for new modular theatres at Musgrave Park. A number of protected elective facilities are being developed. When these come on stream, they will be a major factor in getting more people treated more quickly.

Táthar ag cur réimse leathan bearta i bhfeidhm faoi láthair le dul i ngleic le liostaí feithimh. Is é atá san áireamh ná gnáthaimh bhreise othar cónaitheach otharlainne a sholáthar, ar a bhfuil ceannach gnáthamh lasmuigh de na seirbhísí sláinte agus sóisialta nuair is cuí; forbairt soláthar pobail mar mhalairt ar iontráil chuig an otharlann; bainistiú níos éifeachtaí de phróiseas na diagnóise, iontrála chuig an otharlann, cóireála agus scaoilte amach; daingniú eolas liostaí feithimh; agus bainistiú feabhsaithe de liostaí feithimh.

Le tacaíocht a thabhairt don obair seo, ceapadh ceannaire feabhsaithe seirbhísí réigiúnacha agus áimsíodh



acmhainní breise do liostaí feithimh. D'fhógair mé pleananna ar na mallaibh chomh maith i leith acmhainn otharlainne in Otharlanna an Mater, Aontroma, Uladh agus Craigavon a leathnú go suntasach, i leith ionad úr gnáthaimh lae d'Otharlann na hÉirne, agus d'obrádlanna úra modúlacha in Otharlann Pháirc Musgrave. Táthar ag forbairt roinnt áiseanna roghnacha cosanta. Nuair a thagann siad i bhfeidhm, is iad siúd is mhórchúis le cinntiú go gcuirfear cóireáil ar dhaoine níos gasta.

### Hospital Waiting Times: MRI Scans

**Mr Shannon** asked the Minister of Health, Social Services and Public Safety to outline (a) the current waiting times for MRI scans at Musgrave Hospital and (b) any steps she is taking to address waiting times.

(AQW 110/02)

#### Ms de Brún:

- (a) For routine scans, the waiting time is usually 8 to 9 months, urgent scans are carried out in under four weeks and emergency scans are usually carried out on the day of request.
- (b) A number of measures have been taken to reduce waiting times for MRI scans: MRI provision is being enhanced in order to reduce waiting times for patients. In line with this, the new MRI scanner at Altnagelvin Hospital is now operational and MRI scanners are also planned for the Belfast City Hospital, Antrim Area Hospital, Craigavon Area Hospital and the Ulster Hospital. A new replacement scanner will also be installed at the Royal Group of Hospitals. In the meantime, mobile scanners are being used to reduce waiting times.
- (a) Do ghnáthscantaí, is é an ghnáthaga feithimh 8 go 9 mí de ghnáth, déantar scantaí práinneacha laistigh de níos lú ná ceithre seachtaine agus de ghnáth déantar scantaí éigeandála ar an lá a iarrtar iad.
- (b) Rinneadh roinnt beart le hagaí feithimh scantaí MRI a laghdú: táthar ag cur le soláthar MRI le hagaí feithimh a laghdú d'othair. Ag cloí leis seo, tá an scanóir úr MRI in Otharlann Alt na nGealbhan i bhfeidhm anois agus tá scanóirí MRI pleanáilte chomh maith d'Otharlann Chathair Bhéal Feirste, d'Otharlann Cheantar Aontroma, d'Otharlann Cheantar Craigavon agus d'Otharlann Uladh. Cuirfear athsholáthar úr de scanóir chomh maith isteach sa Ghrúpa Ríoga Otharlann. Idir an dá linn, táthar ag baint úsáide as scanóirí soghluaiste le hagaí feithimh a laghdú.

### Orthopaedic Waiting List

**Mr Beggs** asked the Minister of Health, Social Services and Public Safety to outline (a) the current number of patients listed on the Orthopaedic waiting list at Green

Park Healthcare Trust and (b) the current maximum wait for a patient on the Orthopaedic Slot System waiting list.

(AQW 113/02)

#### Ms de Brún:

- (a) There were 5,077 patients waiting for inpatient admission to the Trauma and Orthopaedic Specialty at Green Park Healthcare Trust at 30th June 2002 (the most up to date figures available). The number of people waiting for a first outpatient appointment was 5,794.
- (b) The current maximum waiting time for slot system patients is 7 months.
- (c) Bhí 5,077 othar ag fanacht le hiontráil othair chónaithigh chuig an Speisialtacht Tráma agus Ortaipéide ag Iontaobhas Cúram Sláinte na Páirce Glaise ar 30<sup>ú</sup> Meitheamh 2002 (an staitistic is deireanaí atá ar fáil). Ba é 5,794 duine liúon na ndaoine ag fanacht lena gcéad choinne éisoithair.
- (d) Is é 7 mí an t-uasaga feithimh faoi láthair d'uairanta coinní otharlann dáilte.

### Hospital Waiting Lists

**Mr Beggs** asked the Minister of Health, Social Services and Public Safety to list all specialist services, such as those similar to the Orthopaedic Slot System, which restrict the length of waiting lists.

(AQW 114/02)

**Ms de Brún:** There are no specialist services in which the length of waiting lists is restricted.

Níl sainseirbhísí ar bith ina bhfuil fad na liostaí feithimh teoranta.

### Hospitals: Winter Pressures

**Mr K Robinson** asked the Minister of Health, Social Services and Public Safety what measures are in place to address winter pressures at (i) Whiteabbey, (ii) Antrim and (iii) the Belfast Hospitals, so that routine patient admissions are not disrupted; and to make a statement.

(AQW 119/02)

**Ms de Brún:** Health and Social Services Boards and Trusts are currently putting in place detailed plans for dealing with the peaks in demand for services which occur over the winter months. Board plans for the winter are due to be submitted to my Department by 30 September 2002 and, once these have been assessed, I shall be making a statement about the preparations for winter.

Faoi láthair, tá Boird agus Iontaobhais Sláinte agus Seirbhísí Poiblí ag cur mionphleananna i bhfeidhm le deileáil leis na buaiceanna in éileamh seirbhísí a tharlaíonn le linn mhíonna an gheimhridh. Tá pleananna na mBord don gheimhreadh le bheith curtha faoi bhráid na Roinne

s'agam roimh 30 Meán Fómhair 2002 agus, a luaithé a mheastar iad, beidh mé ag déanamh ráitis faoi na hullmhúcháin don gheimhreadh.

### Barnardo's Therapeutic Project

**Mr Paisley Jnr** asked the Minister of Health, Social Services and Public Safety to make a statement on the report by Barnardo's Therapeutic Project. (AQW 123/02)

**Ms de Brún:** I welcome the evaluation report on the Barnardo's Young People's Therapeutic Project. Officials are currently considering the report and I look forward to receiving their assessment of the pilot project, which received financial support from my Department.

It is likely that the report will inform future work by my Department in relation to young people who display behaviour which is sexually concerning or harmful. Work, which will involve the development of policy guidelines, is planned to commence early next year.

Cuirim fáilte roimh an tuarascáil mheasúnaithe ar Thionscadal Teiripeach Daoine Óga de chuid Barnardo's. Tá Feidhmeannaigh faoi láthair ag machnamh ar an tuarascáil agus tá mé ag súil lena measúnú a fháil ar an treoirthionscadal a fuair tacaíocht airgeadais ón Roinn s'agam.

Is dócha go gcuirfidh an tuarascáil obair na Roinne s'agam ar an eolas amach anseo maidir le daoine óga a léiríonn iompar atá inníoch nó díobhálach ar bhonn gnéasach. Tá sé beartaithe obair a bhainfidh le forbairt treoirlínte polasaí a thosú go luath sa bhliain seo chugainn.

### Heroin Abuse

**Mr Paisley Jnr** asked the Minister of Health, Social Services and Public Safety how many people presented themselves for treatment for heroin abuse between (i) 1999-2000, (ii) 2000-2001 and (iii) 2001-2002. (AQW 124/02)

**Ms de Brún:** The figures for people reporting heroin as their main drug of misuse are:

Period	No. of referrals for Heroin Misuse
1999-2000	217
2000-2001	245
2001-2002	247

Is iad na figiúirí ar dhaoine a chur in iúl gur héaróin an príomhdhruaga mí-úsáide s'acu ná:

Tréimhse	Líon na n-atreoraithe le haghaidh Mí-úsáid Héaróine
1999-2000	217
2000-2001	245
2001-2002	247

### Ministerial Transport

**Mr Foster** asked the Minister of Health, Social Services and Public Safety to outline (a) whether or not the method of appointing her ministerial driver is consistent with other Ministers in the Executive; (b) if not, the reasons for any inconsistencies and (c) whether or not all transport regulations in relation to the ministerial vehicle and driver are being adhered to. (AQW 128/02)

**Ms de Brún:** I have not appointed a ministerial driver. Instead, Sinn Féin provides me with a driver who can be called upon as required and I consider this the most appropriate arrangement. I understand that other ministers have different arrangements. I believe that all transport regulations in relation to the ministerial vehicle and driver are being adhered to.

Níl tiománaí aireachta ceaptha agam. Ina áit, cuireann Sinn Féin tiománaí ar fáil ar féidir a iarraidh nuair is gá agus measaim gur seo an socrú is fóirsteanaí. Creidim go bhfuiltear ag cloí leis na rialacha iompair uile maidir leis an fheithicil agus an tiománaí aireachta.

### Hospital Security Guards

**Mr Paisley Jnr** asked the Minister of Health, Social Services and Public Safety to outline (a) the instructions and guidelines under which Security Guards in hospital Accident and Emergency Departments operate, and (b) if their responsibilities include 'breaking up' disorder in casualty rooms. (AQW 130/02)

**Ms de Brún:**

- In line with my Department's policy, individual Trusts have developed procedural guidelines in relation to the management of violent and threatening situations. However, not all Trusts employ Security Guards in their Accident and Emergency Departments.
  - In the event of a disturbance, Trust personnel are required to make an assessment of the situation and decide whether or not it can be dealt with safely within their own resources. No member of staff is required to undertake any task for which they have not received the appropriate training.
- (a) De réir polasaí na Roinne s'agam, d'fhorbair Iontaobhais aonarach treorlínte gnáthamh maidir le cásanna foiréigneach agus bagartha a bhainistiú. Ní fhostaíonn gach Iontaobhas, áfach, Gardaí Slándála ina Ranna Timpiste agus Éigeandála.
- (b) I gcás coiscrithe, teastaíonn uaidh phearsanra Iontaobhais an chás a mheasúnú agus socrú ar féidir é a réiteach laistigh dena acmhainní féin ná nár féidir. Ní theastaíonn uaidh ball ar bith den fhoireann tasc a ghlacadh orthu féin nach bhfuil an oiliúint chuí faighte acu.

### ‘Prevalence of Problem Heroin Use in NI’

**Mr Paisley Jnr** asked the Minister of Health, Social Services and Public Safety to outline how and when she will respond to, and act upon, the six recommendations of the ‘Prevalence of Problem Heroin Use in Northern Ireland’ by Karen McElrath. (AQW 131/02)

**Ms de Brún:** This report was publicly launched on 13 June 2002 and will help inform policy decisions. In relation to the six recommendations:

1. My department has commissioned a review of the literature on substitute prescribing for opiate dependence, including consideration of the effectiveness of interventions elsewhere.
- 2&6. A number of research initiatives are planned by my department over the next eighteen months.
3. Work is ongoing to develop the Drug Misuse Database and statistics from the Drug Misuse Database will be published shortly.
4. The Addicts Register is being retained for the foreseeable future.
5. The training needs of those workers dealing with heroin users are being addressed as part of a wider review of training needs of health and social care workers.

Seoladh an tuarascáil seo go poiblí ar 13 Meitheamh 2002 agus cuideoidh sé le cinní ar pholasaí a chur ar an eolas. I dtaca leis na sé moltaí de:

1. Choimisiúnaigh an Roinn s’agam athbhreithniú ar an eolas scríofa ar mhalartúcháin a ordú do spleáchas drugaí a bhfuil oipiam iontu, mar aon le héifeacht na n-idirghabhálacha in áiteanna eile a chur san áireamh.
- 2&6. Tá roinnt tionscnaimh thaighde beartaithe ag an Roinn s’agam sa chéad ocht mí dhéag eile.
3. Tá obair idir lámha chun an Bunachar Sonraí ar Mhi-úsáid Drugaí a fhorbairt agus foilseofar staitisticí ón Bhunachar Sonraí ar Mhi-úsáid Drugaí roimh i bhfad.
4. Tá Clár na nAndúileach a choimeád go ceann i bhfad.
5. Táthar ag dul i ngleis leis na riachtanais oiliúna do na hoibrithe sin atá ag deileáil le húsáideoirí héaróine mar pháirt d’athbhreithniú níos leithne ar riachtanais oiliúna oibrithe sláinte agus cúraim shóisialta.

### Patient and Client Charter

**Mr Shannon** asked the Minister of Health, Social Services and Public Safety how, in light of the Patient and Client Charter, her department is addressing the delays in hospital operations. (AQW 134/02)

**Ms de Brún:** I refer the Member to my answer to AQW 108/2002.

Treoraím an Ball do mo fhreagra a thug mé ar AQW 108/02.

### Pituitary Gland Malfunction

**Mr Shannon** asked the Minister of Health, Social Services and Public Safety to outline, in each of the last 3 years, the number of people diagnosed with ‘pituitary gland’ malfunction, in each Board area. (AQW 141/02)

**Ms de Brún:** The information requested is as follows:

**NUMBER OF ADMISSIONS TO HOSPITAL WITH A PRIMARY DIAGNOSIS OF ‘PITUITARY GLAND MALFUNCTION’ 1999/2000 – 2001/2002\***

Financial Year	Board of Residence				
	Eastern	Northern	Southern	Western	Total
1999/2000	140	78	49	62	329
2000/2001	160	70	44	39	313
2001/2002*	140	59	69	30	298

\*2001/2002 data is provisional and may be subject to change.

Is é a leanann an t-eolas a iarradh:

**LÍON IONTRÁLACHA CHUIG AN OTHARLANN LE PRÍOMHDHIAGNÓIS DE ‘MHÍFHEIDHM NA FAIREOIGE PITIÚTAÍ’ 1999/2000 – 2001/2002\***

Bliain Airgeadais	Bord Cónaithe				
	Bord An Oirthir	Bord An Tuaiscirt	Bord An Deiscirt	Bord An Iarthair	Iomlán
1999/2000	140	78	49	62	329
2000/2001	160	70	44	39	313
2001/2002*	140	59	69	30	298

\*Tá staitisticí 2001/2002 sealadach agus b’fhéidir mar sin go ndéanfaidh athruithe orthu.

### Diabetes

**Mr Paisley Jnr** asked the Minister of Health, Social Services and Public Safety to outline (a) the current resources allocated to combating diabetes, and (b) if she intends to increase this resource allocation.

(AQW 143/02)

**Ms de Brún:** The information requested in the first part of the question is not available. Regarding the second part, I can confirm that I sought additional resources in the budget process to improve diabetes services.

The outcome of these bids was, of course, made known in this morning’s statement on the draft Budget to the Assembly by my colleague the Minister for Finance and Personnel and I regret to note that my Department’s bids in respect of diabetes services were not met.

Níl an t-eolas a iarradh sa chéad chuid den cheist ar fáil. Maidir leis an dara cuid, thig liom a chinntiú gur iarr mé acmhainní breise sa phróiseas cáinainéise le seirbhísí diaibéitis a fheabhsú.

Thug an comhoibri s'agam, an tAire Airgeadais agus Pearsanra torthaí na n-iarrachtaí seo le fios, ar ndóigh, i ráiteas na maidine seo ar dhréacht na Cáinainéise don Tionól agus is oth liom tabhairt faoi deara nár chomhlíonadh tairiscintí na Roinne s'agam maidir le seirbhísí diaibéitis.

### 'Developing Better Services' Report

**Mr Paisley Jnr** asked the Minister of Health, Social Services and Public Safety in light of the 'Developing Better Services Report' to give a breakdown of cost implications of the report's proposals in each of the following areas (a) Primary Care; (b) Administration; (c) Acute Care; (d) Maternity; (e) Mental Health and (f) Supply of (i) nursing, (ii) medical staff. (AQW 144/02)

**Ms de Brún:** The estimated financial costs of the proposals in my consultation paper *Developing Better Services: Modernising Hospitals and Reforming Structures* is set out in Appendix 3 of the paper. They cover the capital costs of buildings, backlog maintenance and equipment, as well as the revenue costs of the additional staff required (consultants, nurses, GPs, therapists and education) over a 10 year period. The estimated capital costs of the hospital modernisation proposals are around £1.2bn and the revenue costs needed to provide the new staffing levels proposed will, by 2012, be approximately £165m, at today's prices.

The estimated costs cover service development and modernisation which are a direct consequence of my proposals and costs of service development more generally in areas such as primary care are not included in the projected costs.

Tá na costais airgeadais measta ar na moltaí i mo pháipéar comhairle *Seirbhísí Níos Fearr A Fhorbairt: Otharlanna A Nuachóiriú agus Struchtúir a Leasú* leagtha amach in Aguisín 3 den pháipéar. Cuireann siad san áireamh costais caipitiúla na bhfoirgneamh, trealamh agus cothabháil riaráiste, chomh maith le costais ioncaim na foirne breise atá ag teastáil (comhairligh, altraí, Gnáth dhochtúirí, teiripeoirí agus oideachas) thar thréimhse 10 bliain. Tá costais airgeadais measta na moltaí otharlainne nua-aimseartha thart ar £1.2bn agus de réir costais an lae inniu, beidh na costais ioncaim atá de dhíth leis na leibhéil foirne úir atá molta a chur ar fáil, faoi 2012, timpeall is £165m.

Cuireann na costais measta forbairt agus nua-aimsearachta seirbhísí san áireamh atá ina dtoradh díreach ar mo chuid moltaí agus ní chuirtear costais forbartha seirbhísí in áiteacha amhail príomhchúram go h-iondúil san áireamh sna costais beartaithe.

### Day Surgery Units

**Mr M Robinson** asked the Minister of Health, Social Services and Public Safety what plans she has to expand the number of day surgery units in hospitals.

(AQW 145/02)

**Ms de Brún:** I have taken a number of actions to expand day surgery capacity. A dedicated day procedures unit is being developed at the Erne Hospital and the existing day case unit at Altnagelvin Hospital is also being expanded to include Urology, Orthopaedics and ENT. I have also approved the development of day surgery services at South Tyrone Hospital. A new unit concentrating on the provision of day surgery procedures is being developed at the Mater Hospital and proposals for similar facilities at the Lagan Valley Hospital are also being taken forward.

Thug mé faoi roinnt ghníomhartha le toilleadh máinliacht lae a leathnú. Táthar ag forbairt aonad diongbháilte gnáthaimh lae in Otharlann na hÉirne agus táthar ag leathnú chomh maith an t-aonad cás lae atá ann cheana féin in Otharlann Alt na nGealbhan le hÚreolaíocht, Ortaipéidic agus CSS a áireamh. Ghlac mé chomh maith le forbairt seirbhísí máinliacht lae in Otharlann Dheisceart Thír Eoghain. Táthar ag forbairt aonad úr ag díriú ar sholáthar gnáthaimh mháinliacht lae in Otharlann an Mater agus táthar ag tabhairt moltaí d'áiseanna cosúil leo in Otharlann Ghleann an Lagáin chun tosaigh chomh maith.

### Health Inequalities

**Mr M Robinson** asked the Minister of Health, Social Services and Public Safety what progress is being made in addressing health inequalities between different social groups, with particular reference to cancer.

(AQW 146/02)

**Ms de Brún:** My Department is taking a number of steps to address health inequalities. These include co-ordinating action across all sectors through the "Investing for Health" strategy which aims to reduce inequalities in health by targeting action in the most deprived areas, and the implementation of new TSN action plans by my Department and by HPSS bodies aimed at tackling social need and social exclusion by targeting efforts and resources at those in greatest social need.

In relation to cancer, a number of actions have been undertaken. My Department has recently published a Tobacco Action Plan, under which action will be directed at those most in need. A strategy on food and nutrition has also been put in place to tackle factors underlying the incidence of cancer, particularly in areas of greatest social need. The Health Promotion Agency has issued nutritional guidelines promoting healthy eating early in life and produced a community based nutrition education programme targeted at low income families and Health



and Social Services Boards are taking action to raise awareness of and subsequent uptake of breast and cervical cancer screening programmes.

Tá an Roinn s'agam ag tabhairt roinnt céimeanna le dul i ngleic le héagorthromaíochtaí sláinte. Orthu sin tá gníomh a chomhordú ar fud na n-earnálacha go léir tríd an tsraithéis "*Infheistíocht sa tSláinte*" a bhfuil sé de rún aici éagorthromaíochtaí sa tsláinte a laghdú trí dhíriú ar ghníomh sna ceantair a bhfuil an díothacht shóisialta agus eacnamúil ann, agus cur i bhfeidhm pleananna gníomhaíochta ARS nua ag an Roinn s'agam agus ag comhlachtaí SSSP a bhfuil sé mar aidhm acu tabhairt faoi riachtanais shóisialta agus eisiámh sóisialta trí iarrachtaí agus acmhainní a dhíriú orthu siúd a bhfuil na riachtanais shóisialta is mó acu.

Maidir leis an ailse, tugadh faoi roinnt gníomhartha. D'fhoilsigh an Roinn s'agam Plean Gnín ar Thobac ar na mallaibh, beidh gníomh dírithe dá réir orthu siúd a bhfuil na riachtanais is mó acu. Cuireadh straitéis ar bhia agus ar chothú i bhfeidhm chomh maith le tabhairt faoi fhachtóirí is cúis le minicíocht na hailse, go háirithe sna ceantair is mó riachtanais shóisialta. D'eisigh an Ghníomhaíocht um Chothú Sláinte treoirlinnte cothaithe ag cur itheachán sláintiúil go luath sa saol chun cinn agus sholáthraigh siad clár oideachas cothuithe bunaithe sa phobal atá dírithe ar theaghlaigh ar ioncam íseal agus tá Boird Sláinte agus Seirbhísí Sóisialta ag dul i mbun gnímh le feachtas a spreagadh agus le piocúlacht ina dhiaidh sinde na cláir scagthástála ailse chéice agus mhuineál na broinne a mhéadú.

### Hospice Provision: Funding

**Mr M Robinson** asked the Minister of Health, Social Services and Public Safety whether there are any plans to review the funding for hospice provision. (AQW 147/02)

**Ms de Brún:** The commissioning of hospice services is primarily a matter for Health and Social Services Boards and Trusts. The level of hospice funding is determined following contractual negotiations between Boards, Trusts and hospices. I have no plans to review these arrangements.

Baineann coimisiúnú na seirbhísí ospíse go príomha é le hIonataobhais agus Boird Sláinte agus Seirbhísí Sóisialta. Tá an leibhéal maoinithe ospíse cinntithe i ndiaidh idirbheartaíochtaí conarthacha idir Boird, Ionataobhais agus ospísí. Níl sé ar intinn agam na socruithe seo a athbhreithniú.

### NI Ambulance Service

**Mr M Robinson** asked the Minister of Health, Social Services and Public Safety what support she plans to give to the Northern Ireland Ambulance service to help them overcome their current problems. (AQW 148/02)

**Ms de Brún:** The Implementation Action Plan of the Strategic Review of the Ambulance Service detailed the measures to be put in place for the provision of a more effective and responsive service.

The significant resources invested in ambulance services in recent years has already enabled considerable progress to be made in taking forward a number of these measures, including the purchase of over 100 replacement vehicles, upgraded medical equipment, improved training, the piloting of a Medical Priority Despatch System and the development of Rapid Responder Schemes in each Board area.

The significant additional resources announced in July from the Reinvestment and Reform Initiative will allow for further improvements including fleet replacement, the provision of additional ambulances and crews and support for training initiatives.

These are all positive developments which ultimately will result in improved response times and a better quality service. However, more resources are needed to fully implement the full range of measures needed to enhance ambulance services. I will continue to press for these additional resources.

Léirigh Plean Cur i bhFeidhm Gníomhaíochta den Athbhreithniú Straitéiseach ar an tSeirbhís Otharchair na bearta atá le cur i bhfeidhm le haghaidh seirbhís níos éifeachtaí agus níos freagraí a sholáthar.

Chuir na hacmhainní suntasacha a infheistíodh sna seirbhísí otharchair le blianta beaga anuas ar ár gcumas dul chun cinn fiúntach a dhéanamh cheana ag tabhairt roinnt de na bearta sin chun tosaigh, ina measc bhí ceannach níos mó ná 100 feithicil athsholáthair, trealamh feabhsaithe míochaine, oiliúint feabhsaithe, treorú Córas Seolta de réir Tosaíochta Míochaine agus forbairt Scéimeanna Luath-Fhreagartha i ngach Bordcheantar.

Ceadóidh na hacmhainní suntasacha breise ón Tionscnamh Athinfheistíochta agus Athchóirithe a fógraíodh i mí Iúil d'fheabhsuithe breise, soláthar otharcharranna agus foirne bhreise mar aon le tacú le tionscnaimh oiliúna curtha san áireamh.

Is forbairtí dearfacha iad seo go léir a mbeidh agat freagartha feabhsaithe agus cáilíocht seirbhíse níos fearr mar thoradh orthu ar deireadh. Tá níos mó acmhainní de dhíth, áfach, le réimse iomlán beart atá de dhíth a chur i bhfeidhm le cur le seirbhísí otharchair. Leanfaidh mé orm leis na hacmhainní breise seo a éileamh.

### Ambulance Paramedics

**Mr M Robinson** asked the Minister of Health, Social Services and Public Safety to detail the number of ambulance paramedics that have been trained in each of the last 5 years. (AQW 149/02)

**Ms de Brún:** A total of 37 paramedics have been trained in the last 5 years as follows:

Year	Numbers trained
1997	9
1998	22
1999	6
2000	0
2001	0
<b>Total</b>	<b>37</b>

A further 12 paramedics have been trained to date this year and a programme due to commence on 30 September will provide training for an additional 36.

Cuireadh oiliúint ar 37 paraimhíochaineoir san iomlán le 5 bliain anuas mar a leanas:

Bliain	Líon a bhí oilte
1997	9
1998	22
1999	6
2000	0
2001	0
<b>Iomlán</b>	<b>37</b>

Cuireadh oiliúint ar 12 paraimhíochaineoir de bhreis go dtí seo i mbliana agus soláthróidh clár atá le tosú ar 30 Meán Fómhair oiliúint do 36 breise.

## Royal College of Nursing Manifesto

**Mr Paisley Jnr** asked the Minister of Health, Social Services and Public Safety what aspects of the Royal College of Nursing manifesto she will (a) accept; (b) implement and (c) reject. (AQW 157/02)

**Ms de Brún:** I have asked Departmental officials to review The Royal College of Nursing's Health Manifesto and to advise me on it. I will be giving careful consideration to all of the points made in the Manifesto.

D'iarr mé ar fheidhmeannaigh na Roinne Forógra Sláinte an Choláiste Ríoga Altranais a athbhreithniú agus comhairle a chur orm i dtaca leis. Beidh machnamh gearr á dhéanamh agam ar na pointí go léir a rinneadh san Fhorógra.

## Heart Bypass Operations

**Mr M Robinson** asked the Minister of Health, Social Services and Public Safety to outline, in each of the Health Trusts Areas, the median waiting times for heart by-pass operations (a) currently; and (b) in each of the last 3 years. (AQW 159/02)

**Ms de Brún:** The information requested is not available at Health Trust Area level. Information is

available at Board of Residence level and is given in the table below. The latest information available is for the year 2001/2002.

### MEDIAN WAITING TIMES (IN DAYS WAITING) FOR HEART BYPASS OPERATIONS BY BOARD OF RESIDENCE.

Financial Year	Board of Residence				
	Eastern	Northern	Southern	Western	Total
1998/1999	133.0	129.5	178.5	152.5	<b>148.0</b>
1999/2000	58.0	69.0	134.5	91.0	<b>78.0</b>
2000/2001	34.5	72.0	128.0	32.0	<b>70.0</b>
2001/2002*	28.0	30.0	63.0	28.5	<b>33.0</b>

\*2001/2002 data is provisional and may be subject to change

Níl an t-eolas a iarrtar ar fáil ag leibhéal Ceantar Iontaobhas Sláinte. Tá eolas ar fáil ag leibhéal Bord Cónaithe agus léirítear sa tábla thíos é. Is iad staitisticí na bliana 2001/2002 an t-eolas is déanaí atá ar fáil.

### AGAÍ AIRMHÉAIN FHEITHIMH (I LAETHANTA FEITHIMH) D'OBRÁIDÍ SEACH-CHONAIR CHROÍ DE RÉIR BHORD CÓNAITHE.

Bliain Airgeadais	Bord Cónaithe				
	BC an Oirthir	BC an Tuaiscirt	BC an Deiscirt	BC an Iarthair	Iomlán
1998/1999	133.0	129.5	178.5	152.5	<b>148.0</b>
1999/2000	58.0	69.0	134.5	91.0	<b>78.0</b>
2000/2001	34.5	72.0	128.0	32.0	<b>70.0</b>
2001/2002*	28.0	30.0	63.0	28.5	<b>33.0</b>

\* Tá staitisticí 2001/2002 sealadach agus b'fhéidir mar sin go ndéanfadh athruithe orthu.

## NHS Direct

**Mr Beggs** asked the Minister of Health, Social Services and Public Safety, pursuant to AQW 115/99, to confirm that NHS Direct has been successfully evaluated in terms of quality of service, and in terms of freeing other health care professionals to deal with more urgent treatment and care. (AQW 163/02)

**Ms de Brún:** NHS Direct has been evaluated in England and Officials in my Department have read and analysed the review. The assessment indicates that the NHS Direct project had begun to achieve the policy objectives for which it was designed. One of the objectives for NHS Direct is 'to help improve quality, increase cost effectiveness and reduce unnecessary demands on other NHS services by providing a more appropriate response to the needs of the public.'

NHS Direct has since merged with GP Out of Hours Services in England to provide a combined service which maximise the benefits of both, it is also linked to the ambulance service and local hospitals.

Rinneadh meastóireacht ar SNS Díreach i Sasana agus tá an léirmheas léite agus anailís déanta air ag Feidhmeannaigh sa Roinn s'agam. Léiríonn an meastóireacht gur thosaigh an tionscadal SNS Díreach ag baint amach cuspóirí an Pholasaí ar a raibh sé leagtha amach. Is é ceann de na cuspóirí atá an SNS Díreach ná 'cuidiú chun caighdeán a fheabhsú, éifeacht chostais a mhéadú agus éilimh nach gá ar seirbhísí eile SNS a laghdú trí fhreagairt níos foirsteanaigh a chur ar fáil do riachtanais an phobail'.

Déanamh comhchuid den SNS Díreach agus na Seirbhísí Gnáth Dhochtúra Seachuaireanta i Sasana ó shin le seirbhís comhcheangailte a chur ar fáil a mhéadaíonn sochar na beirte, tá sé ceangailte leis an tseirbhís otharchairr agus otharlanna áitiúla chomh maith.

### NHS Direct

**Mr Beggs** asked the Minister of Health, Social Services and Public Safety, pursuant to AWQ 115/99, what plans has she to introduce NHS Direct. (AQW 164/02)

**Ms de Brún:** The Department of Health has recently merged the NHS Direct and GP Out of Hours Services in England to provide a combined service which maximises the benefits of both, it is also linked to the ambulance service and local hospitals. Scotland is introducing NHS24 along similar lines.

My Department has recognised that such a combined service could offer service users here significant benefits and has sought to introduce a pilot project in the Western Board area to test the system locally. Two bids were made for Executive Programme Funds to support this initiative but these were unsuccessful.

Rinne an Roinn Sláinte comhchuid den SNS Díreach agus na Seirbhísí Gnáth Dhochtúra Seachuaireanta i Sasana le déanaí le seirbhís comhcheangailte a chur ar fáil a mhéadaíonn sochar na beirte, tá sé ceangailte leis an tseirbhís otharchairr agus otharlanna áitiúla chomh maith.

Tá Albain ag tabhairt isteach SNS24 ar bhealaí macasamhail sin.

Thug an Roinn s'agam faoi deara go dtiocfadh le leithéid de sheirbhís comhcheangailte buntaistí ar leith a chur ar fáil do h-úsáideoirí na seirbhíse anseo agus chuairtí chun treoirhionscadal a thabhairt isteach i mBordcheantair an Iarthar chun an córas a thriail go háitiúil. Fuarthas dhá thairiscint do Chistí Chlár an Fheidhmiúcháin chun an tionscnamh seo a thacú ach níor éirigh leo.

### Belfast Rape Crisis and Sexual Abuse Centre

**Mrs Carson** asked the Minister of Health, Social Services and Public Safety to make a statement on the

current level of resources for the Rape Crisis Centre and any future proposals for the development of its work.

(AQW 169/02)

**Ms de Brún:** The Belfast Rape Crisis and Sexual Abuse Centre have not made application for funding for 2002/03. My Department issued an application form for 2002/03 and associated guidance notes to the organisation in October 2001 and again in June 2002. Should this be returned it will be considered in line with Departmental priorities and criteria for funding voluntary organisations.

Ní dhearna Ionad Éignithe agus Drochíde Gnéasaí Bhéal Feirste iarratas ar mhaoiniú don bhliain 2002/03. D'eisigh an Roinn s'agam foirm iarratais don bhliain 2002/03 agus nótaí treoracha a bhaineann léi chuig an eagraíocht i mí Dheireadh Fómhair 2001 agus arís i mí Meithimh 2002. Má chuirtear seo ar ais measfar í de réir tosaíochtaí Roinne agus na gcritéar i leith eagraíochtaí deonacha a mhaoiniú.

### Attacks on NI Ambulance Service Crews

**Mr Beggs** asked the Minister of Health, Social Services and Public Safety to outline the costs associated with attacks on Northern Ireland Ambulance Service crews in terms of (a) numbers of injured personnel; and (b) damage to equipment. (AQW 183/02)

**Ms de Brún:** The information requested is not available. However, costs associated with attacks on Fire Service crews has been provided in AQW 184/02.

Níl fáil ar an eolas a iarradh. Níl an t-eolas a iarradh ar fáil. Cuireadh costais a bhí bainteach le hionsaithe ar fhoirme na Seirbhíse Dóiteáin, áfach, ar fáil i AQW 184/02.

### Attacks on NI Fire Brigade Crews

**Mr Beggs** asked the Minister of Health, Social Services and Public Safety to give an assessment of the costs associated with attacks on Northern Ireland Fire Brigade crews in terms of (a) number of injured personnel; and (b) damage to equipment. (AQW 184/02)

**Ms de Brún:** From 1 January to 11 September 2002, a total of 14 firefighters were injured attending civil disturbance calls and the cost of the subsequent days lost due to sickness was £6,253.18.

During the same period, 86 fire appliances sustained damage but, at present, costs are not directly attributed to equipment damage resulting from such attacks.

Ón 1 Eanáir go dtí Meán Fómhair 2002, gortaíodh 14 comhraiceoir dóiteáin san iomlán agus iad ag freastal ar scairteanna chuig suaitheadh cathartha agus ba é £6,253.18 an costas ar laethanta caillte mar gheall ar thinneas ina dhiaidh sin.

Le linn na tréimhse céanna, baineadh dochar do 86 gléas dóiteáin ach, faoi láthair, ach, faoi láthair, níl na costais a bhaineann go díreach le damáiste don trealamh mar gheall ar a leithéid d'ionsaithe léirithe mar sin.

### All Island Food and Nutrition Forum

**Mr Beggs** asked the Minister of Health, Social Services and Public Safety to give an assessment of the expected cost and remit of an 'All Island Food and Nutrition Forum'.

(AQW 186/02)

**Ms de Brún:** A Working Group has been set up to take forward the establishment of an 'All Island Food and Nutrition Forum'. The Working Group is considering the Terms of Reference of the Forum and it is too early to give an assessment of the expected cost and remit at this stage.

Bunaíodh Grúpa Oibre le bunú 'Fóram Uile-Oileán Bia agus Cothaithe' a thabhairt chun tosaigh. Tá an Grúpa Oibre ag déanamh machnaimh ar Choinníollacha Tagartha an Fhóraithe agus tá sé i bhfad róluath le measúnú a thabhairt ar an chostas ionchais agus ar fhreagrachtaí ag an phointe seo.

### Employment of Health Professionals from within the EU

**Mr M Robinson** asked the Minister of Health, Social Services and Public Safety what guidelines have been given to Health Boards and Trusts regarding the employment of doctors, nurses and other health professionals from within the EU.

(AQW 189/02)

**Ms de Brún:** My Department has issued no specific guidelines regarding the employment of doctors, nurses and other health professionals from within the EU.

The free movement of doctors, nurses and other professionals around the EU is underpinned by a complex legislative framework which sets down minimum standards of training and guarantees mutual recognition of formal qualifications.

Níor eisigh an Roinn s'agam treoirilínte sainiúla ar bith maidir le fostaíocht dochtúirí, banaltraí agus gairmithe sláinte eile ó laistigh den AE.

Tugann creatlach choimpléasc reachtaíochta a leagann amach íoschaighdeáin oiliúna agus a chinntíonn comh-aitheantas cáilíochtaí foirmiúla tacaíocht do bhogadh saor dochtúirí, banaltraí agus gairmithe eile thart ar an AE.

### Trained Paramedics: Ambulance Emergency Calls

**Mr M Robinson** asked the Minister of Health, Social Services and Public Safety to detail, by health board area,

(a) how many and (b) what percentage of ambulances responding to emergency calls do not have a trained paramedic on board.

(AQW 193/02)

**Ms de Brún:** Information is not available in the form requested.

Níl an t-eolas ar fáil ar an dóigh iarrtha.

### Single Vaccines For MMR

**Mr Shannon** asked the Minister of Health, Social Services and Public Safety to detail, by Health Board area, how many children received single vaccines for Measles, Mumps and Rubella in each of the last three years.

(AQW 200/02)

**Ms de Brún:** The information is detailed in the tables below.

#### (A) NUMBER OF CHILDREN RECEIVING SINGLE VACCINE FOR MEASLES, BY FINANCIAL YEAR

Board Area	1999-2000	2000-2001	2001-2002
Eastern	10	8	8
Northern	3	6	3
Southern <sup>1</sup>	<5	7	<5
Western	0	0	1

#### (B) NUMBER OF CHILDREN RECEIVING SINGLE VACCINE FOR MUMPS, BY FINANCIAL YEAR

Board Area	1999-2000	2000-2001	2001-2002
Eastern	0	0	3
Northern	2	2	2
Southern	0	0	0
Western	0	0	0

#### (C) NUMBER OF CHILDREN RECEIVING SINGLE VACCINE FOR RUBELLA, BY FINANCIAL YEAR

Board Area	1999-2000	2000-2001	2001-2002
Eastern	9	5	14
Northern	6	1	2
Southern <sup>1</sup>	<5	<5	<5
Western	2	4	2

<sup>1</sup> <5 = less than 5. The Southern Health and Social Services Board did not provide an exact figure due to their policy on patient confidentiality

Léirítear an t-eolas sna táblaí thíos.

#### (A) LÍON PÁISTÍ A FHAIGHEANN VACSAÍN AONAIR DON BHRUITÍNEACH, DE RÉIR NA BLIANA AIRGEADAIS

Ceantar Boird	1999-2000	2000-2001	2001-2002
Bord an Oirthir	10	8	8
Bord an Tuaiscirt	3	6	3
Bord an Deiscirt <sup>1</sup>	<5	7	<5
Bord an Iarthair	0	0	1



**(B) LÍON PÁISTÍ A FHAIGHEANN VACSAÍN AONAIR DON LEICNEACH, DE RÉIR NA BLIANA AIRGEADAIS**

Ceantar Boird	1999-2000	2000-2001	2001-2002
Bord an Oirthir	0	0	3
Bord an Tuaiscirt	2	2	2
Bord an Deiscirt	0	0	0
Bord an Iarthair	0	0	0

**(C) LÍON PÁISTÍ A FHAIGHEANN VACSAÍN AONAIR DON BHRUITÍNEACH DHEARG, DE RÉIR NA BLIANA AIRGEADAIS**

Ceantar Boird	1999-2000	2000-2001	2001-2002
Bord an Oirthir	9	5	14
Bord an Tuaiscirt	6	1	2
Bord an Deiscirt <sup>1</sup>	<5	<5	<5
Bord an Iarthair	2	4	2

<sup>1</sup> <5 = níos lú ná 5. Níor sholáthair Bord Sláinte agus Seirbhísí Sóisialta an Deiscirt staitistic bheacht mar gheall ar a pholasaí rúndacht othar

**Ambulance Station, Newtownards**

**Mr Shannon** asked the Minister of Health, Social Services and Public Safety, in light of the new funding allocation announced by the Chancellor of the Exchequer, to detail how much money, for Health Service improvements, will be allocated to the Ambulance Station in Newtownards and, in particular, (i) how many new staff will be employed; (ii) how many new ambulances will be provided; and (iii) how many ambulances will be upgraded at this Station. (AQW 203/02)

**Ms de Brún:** My Department's budget for the 2003-04 financial year will not be finalised until December 2002. In the meantime, the Ambulance Service has no plans to increase the staff complement at Newtownards Station or to expand the size of the existing fleet. Three of the nine ambulances based at Newtownards have been replaced within the past two years and as additional resources become available the Ambulance Service will continue to replace vehicles which are outside the recommended 140,000 miles or 7 years in service.

Ní bheidh buiséad na Roinne s'agam don bhliain airgeadais 2003-04 tugtha chun críche go dtí Nollaig 2002. Idir an dá linn, níl pleananna ar bith ag an tSeirbhís Otharchairr an fhoireann iomlán i Staisiún Bhaile Nua na hArda a mhéadú nó le méid an chabhlaigh atá ann cheana féin a leathnú. Athsholáthraíodh trí den naoi n-otharcharr atá lonnaithe i mBaile Nua na hArda le dhá bhliain anuas agus de réir mar a thagann acmhainní breise ar fáil leanfaidh an tSeirbhís Otharchairr uirthi ag athsholáthar feithiclí atá lasmuigh den 140,000 míle molta nó den 7 bliain molta i seirbhís.

**Fire Fighters: Pay Review**

**Mr Shannon** asked the Minister of Health, Social Services and Public Safety to detail any discussions she has had with Westminster on the pay review for fire fighters. (AQW 204/02)

**Ms de Brún:** I have had no discussions with Westminster on the pay review for fire fighters.

Ní raibh caibidlí ar bith agam le Westminster ar an athbhreithniú tuarastail do chomhraiceoirí dóiteáin.

**Fire Fighters: Pay Review**

**Mr Shannon** asked the Minister of Health, Social Services and Public Safety to outline any discussion she has had with the NI Fire Service Union in relation to the pay review for fire fighters. (AQW 205/02)

**Ms de Brún:** To date I have not had any meetings with representatives of the Fire Brigades Union to discuss fire-fighters pay. However, I have agreed to meet with local representatives of the Union to discuss the pay claim and other current issues.

Go dtí seo ní raibh cruinnithe ar bith agam le hionadaithe ó Cheardchumann na mBriogáidí Dóiteáin le tuarastal comhraiceoirí dóiteáin a phlé. D'aontaigh mé, áfach, go mbuailfinn le hionadaithe áitiúla den Cheardchumann leis an éileamh tuarastail agus ceistanna reatha eile a phlé.

**Myalgic Encephalomyelitis/Chronic Fatigue Syndrome**

**Mr M Robinson** asked the Minister of Health, Social Services and Public Safety to detail how many children have been diagnosed with myalgic encephalomyelitis/chronic fatigue syndrome in hospitals in each of the last 5 years. (AQW 207/02)

**Ms de Brún:** The table below shows the number of children (a child is defined here as a person aged under 18 years) admitted to hospital with primary or secondary diagnoses of myalgic encephalomyelitis/chronic fatigue syndrome (CFS/ME) over the last 5 years.

Financial Year	Number of Children Admitted to Hospital
1997/1998	1
1998/1999	8
1999/2000	13
2000/2001	12
2001/2002*	11

\*Data is provisional and may be subject to change

These figures do not refer to individuals because it is possible to be admitted to hospital more than once in the course of the year.

Source: Hospital Inpatients System

Léiríonn an tábla thíos líon na bpáistí (sainmhínítear páiste mar dhuine faoi 18 bliain d'aois) a tugadh isteach chuig an otharlann le príomhghiagnóisí nó le diagnóisí tánaisteacha d'einceifilimíailíteas mialgeach/siondróm tuirse ainsealach (CSF/ME) le 5 bliain anuas.

Bliain Airgeadais	Líon na bPáistí a tugadh isteach chuig an Otharlann
1997/1998	1
1998/1999	8
1999/2000	13
2000/2001	12
2001/2002*	11

\*Tá na staitisticí sealadach agus b'fhéidir mar sin go ndéanadh athruithe orthu.

Ní dhéanann na staitisticí seo tagairt do dhaoine aonair mar is féidir bheith tugtha isteach chuig an otharlann níos mó ná uair amháin le linn na bliana.

Foinse: Córas Otharlainne Othar Cónaitheach

## General Dental Practitioners

**Mr M Robinson** asked the Minister of Health, Social Services and Public Safety to detail how many full-time equivalent salaried general dental practitioners there are in each HSS Board area. (AQW 208/02)

**Ms de Brún:** Details of the number of full-time equivalent salaried general dental practitioners in each HSS board area are detailed in the table below.

Board Area	Full-Time Equivalent
Eastern	24.9
Northern	11.7
Southern	9.7
Western	11.1

Tá líon coibhéis lánaimseartha na ngnáthlianna fiacloireachta atá ar thuarastal i ngach ceantar bord SSS léirithe sa tábla thíos.

Bordcheantar	Coibhéis Lánaimseartha
Bordcheantar an Oirthir	24.9
Bordcheantaran Tuaiscirt	11.7
Bordcheantaran Deiscirt	9.7
Bordcheantaran Iarthair	11.1

## Hospital A & E Departments

**Mrs I Robinson** asked the Minister of Health, Social Services and Public Safety to detail the number of patients processed through A&E Departments at (a) The Royal Victoria Hospital and (b) Belfast City Hospital in each of the last 5 years, and how these compare with the recommended numbers for the same period. (AQW 216/02)

**Ms de Brún:** Information on attendances at the A&E departments in the Royal Victoria Hospital and Belfast City Hospital is detailed in the table below.

### ATTENDANCES AT THE A&E DEPARTMENTS IN THE ROYAL VICTORIA HOSPITAL AND BELFAST CITY HOSPITAL IN EACH OF THE LAST 5 YEARS

Financial Year	Royal Victoria Hospital	Belfast City Hospital
1997/1998	75,969	53,210
1998/1999	77,650	51,956
1999/2000	76,805	50,823
2000/2001	76,044	49,360
2001/2002*	72,991	48,287

\* Data for 2001/2002 is provisional

Information is not available in the form requested in respect of the recommended number of A&E attendances.

Léirítear sa tábla thíos eolas ar fhreastail ar na Ranna T&É in Otharlann Ríoga Vichteoiria agus in Otharlann Chathair Bhéal Feirste.

### FREASTAIL AR NA RANNA T&É IN OTHARLANN RÍOGA VICTEOIRIA AGUS IN OTHARLANN CHATHAIR BHÉAL FEIRSTE GACH BLIAIN LE 5 BLIAIN ANUAS

Bliain Airgeadais	Otharlann Ríoga Vichteoiria	Otharlann Chathair Bhéal Feirste
1997/1998	75,969	53,210
1998/1999	77,650	51,956
1999/2000	76,805	50,823
2000/2001	76,044	49,360
2001/2002*	72,991	48,287

\* Tá sonraí don bhliain 2001/2002 sealadach

Níl an t-eolas ar fáil ar an dóigh ar iarradh é maidir le líon molta an fhreastail ar T&É.

## Homefirst Trust: Industrial Tribunals

**Mr Paisley Jnr** asked the Minister of Health, Social Services and Public Safety to detail the amount of money spent by Homefirst Trust at industrial tribunals during (a) 1999-2000; (b) 2000-01 and (c) 2001-02. (AQW 219/02)

**Ms de Brún:** The amount of money spent by Homefirst Community HSS Trust at industrial tribunals was:

- (a) 1999 – 2000, £15,372;
- (b) 2000 – 2001, £25,540; and
- (c) 2001 – 2002, £3,250.

Ba é seo méid an airgid a caith Iontaobhas SSS Phobal Homefirst ar Bhinsí Tionsclaíochta:

- (a) 1999 – 2000, £15,372;
- (b) 2000 – 2001, £25,540; agus
- (c) 2001 – 2002, £3,250.

### Homefirst Trust: Performance Related Pay

**Mr Paisley Jnr** asked the Minister of Health, Social Services and Public Safety how many employees at the Homefirst Community Trust are entitled, as part of their contract, to receive performance related pay.

(AQW 221/02)

**Ms de Brún:** 82 employees at Homefirst Trust are eligible to be considered for performance related pay under their current employment contracts. The range of staff includes senior managers in the social work, nursing, allied health professions and support services disciplines.

Tá 82 fostaí ag Iontaobhas Homefirst i dteideal a bheith curtha san áireamh do thuarastal bunaithe ar fheidhmiú faoina gconarthaí reatha fostaíochta. Áiríonn réimse na foirne bainisteoirí sinsearach sna disciplíní oibre sóisialta, altranais, gairmeacha bainteach le sláinte agus seirbhísí tacaíochta.

### Homefirst Trust: Performance Related Pay

**Mr Paisley Jnr** asked the Minister of Health, Social Services and Public Safety how many of those entitled to receive performance related pay (PRP) at Homefirst Trust received their maximum PRP.

(AQW 222/02)

**Ms de Brún:** There is no automatic entitlement to the maximum increase available for performance related pay, awards are made at the discretion of the Trust and are subject to the satisfactory completion of agreed objectives. In 2001/2002 none of the 82 employees at Homefirst Trust eligible for performance payments received the maximum increase available, which is 6% of salary.

Níl duine ar bith i dteideal láithreach don uasmhéadú atá ar fáil don tuarastal bunaithe ar fheidhmiú, déantar dámhachtainí de réir rogha an Iontaobhais agus tá siad faoi réir críochnú sásúil na cuspóirí socraithe. I 2001/2002 ní bhfuair duine ar bith de 82 fostaí an Iontaobhais Homefirst a bhí i dteideal tuarastail bunaithe ar an fheidhmiú an uasmhéadú a bhí ar fáil, is é sin 6% de thuarastal.

### Homefirst Trust: Performance Related Pay

**Mr Paisley Jnr** asked the Minister of Health, Social Services and Public Safety how many employees at Homefirst Trust entitled to performance related pay (PRP) received less than their maximum entitlement to PRP.

(AQW 223/02)

**Ms de Brún:** I refer the Member to my answer to AQW 222/02.

Treoraím an Ball do mo fhreagra a thug mé ar AQW 222/02.

### Health Trusts' Staff: Time Off To Attend Appointments

**Mr Paisley Jnr** asked the Minister of Health, Social Services and Public Safety to outline the number of Health Trusts that permit staff time off work to attend doctor, dentist and hospital appointments without having to make up the time taken at a later date.

(AQW 230/02)

**Ms de Brún:** 17 HSS Trusts allow staff time away from work to attend medical and dental appointments without having to make-up the time taken at a later date.

Tugann 17 Iontaobhas SSS cead dá gcuid foirne am a ghhlacadh amach ón obair le freastal ar choinní míochaine agus fiacloireachta gan iachall a chur orthu leis an bhris a thabhairt isteach níos moille anonn.

### Homefirst Trust: Staff Blood Donations

**Mr Paisley Jnr** asked the Minister of Health, Social Services and Public Safety if the staff of Homefirst Trust are required to make up any time taken off when donating blood.

(AQW 231/02)

**Ms de Brún:** The Trust does not have a specific policy to cover attendance at blood donation sessions. However, it is the Trust's view that the times the sessions are held would allow most staff to attend in their own time.

Níl polasaí ar leith ag an Iontaobhas le freastal ar sheisiúin dheonachán fola a chlúdach. Is é barúil an Iontaobhais, áfach, ná go gceadófaí na hamanna a mbíonn na seisiúin ar siúl do mhórchuid na foirne dul le linn a g

### Chemotherapy: New Cancer Drug

**Mr Shannon** asked the Minister of Health, Social Services and Public Safety what proposals she has to introduce a new cancer drug with the aim of improving the success rate of chemotherapy.

(AQW 278/02)

**Ms de Brún:** I am aware that scientists have recently discovered a new mechanism for repairing damaged DNA that could bring important advances in the effectiveness of chemotherapy. Further research will be necessary to translate this work into possible new therapeutic approaches which could be evaluated in clinical trials for evidence of safety and efficacy. However, it would not be appropriate to consider introducing this particular chemical process widely until the research is fully completed and evaluated.

Is eol dom gur tháinig eolaithe ar na mallaibh ar mheicníocht úr le DNA damáiste a dheisiú a d'fhéadfadh forbairtí tábhachtacha a dhéanamh in éifeacht cheimiteiripe. Beidh gá le taighde breise le cur chuige úr teiripeach a dhéanamh den obair a d'fhéadfadh a bheith measta i dtastálacha cliniciúla ar mhaithe le fianaise ar an

tsábháilteacht agus ar an éifeacht. Ní bheadh sé fóirsteanach, áfach, machnamh ar an phróiseas cheimiceach ar leith seo a thabhairt isteach go forleathan go dtí go bhfuil críoch iomlán curtha leis an taighde agus go dtí go bhfuil meastóireacht iomlán déanta air.

### Ambulance Service: Categories

**Rev Robert Coulter** asked the Minister of Health, Social Services and Public Safety to detail the total cost of providing the different categories of ambulance which are currently in service with (a) the Ambulance Service and (b) the Health Service. (AQW 303/02)

**Ms de Brún:** The Ambulance Service Trust, as the Health Service provider of ambulance services currently operates three different categories of ambulance:

- (1) the Accident & Emergency vehicle which costs around £100,000 to buy and £300,000 per annum to run 24 hours a day, 7 days a week;
- (2) the Intermediate Care vehicle which costs around £40,000 to buy and £170,000 per annum to run 16 hours a day, 7 days a week; and
- (3) the Patient Care Service vehicle which costs around £36,000 to buy and £90,000 per annum to run 16 hours a day, 7 days a week.

Oibríonn Iontaobhas Seirbhís Otharchairr, mar sholáthraí seirbhísí otharchairr an tSeirbhís Sláinte, trí chatagóir dhifriúla otharchairr:

- (1) An fheithicil Timpistí agus Éigeandála a chosnaíonn tuairim is £100,000 le ceannach agus £300,000 in aghaidh na bliana le bheith i seirbhís 24 uair in aghaidh an lae, 7 lá in aghaidh na seachtaine;
- (2) An fheithicil Cúraim Idirmheánaigh a chosnaíonn tuairim is £40,000 le ceannach agus £170,000 in aghaidh na bliana le bheith i seirbhís 16 uair in aghaidh an lae, 7 lá in aghaidh na seachtaine; agus
- (3) An fheithicil Sheirbhís Cúram Othar a chosnaíonn tuairim is £36,000 le ceannach agus £90,000 in aghaidh na bliana le bheith i seirbhís 16 uair in aghaidh an lae, 7 lá in aghaidh na seachtaine.

### Rheumatologists

**Mr K Robinson** asked the Minister of Health, Social Services and Public Safety what plans she has to (a) improve the ratio of Rheumatologists per head of population in Northern Ireland compared to other regions of the United Kingdom; and (b) introduce a strategy for Rheumatoid Arthritis similar to the recently announced Welsh strategy. (AQW 349/02)

**Ms de Brún:** I have been seeking to increase the number of Rheumatologists here. Those currently in training

have the potential to produce an increase of 10% in Rheumatology provision in the next two years. The Consultant medical workforce, across all hospital-based specialties, is reviewed by my Department annually and this informs decisions on the numbers in training.

I am aware that the National Assembly of Wales has announced their intention to develop a strategy for Rheumatoid Arthritis. I have asked my Departmental officials to keep me informed of developments.

Bhí mé ag iarraidh líon na Réamaiteolaithe anseo a mhéadú. Tá acmhainneacht acu siúd atá faoi oiliúint faoi láthair méadú de 10% a chur le soláthar Réamaiteolaíoch sa chéad dá bhliain eile. Déanann an Roinn s'agam athbhreithniú bliantúil ar an mheitheal oibre míochaine Comhairleach, ar fud na speisialtachtaí otharlannbhunaithe go léir, agus cuireann seo an cinneadh s'agam ar an eolas faoin líon atá faoi oiliúint.

Is eol dom gur fhógair Tionól Náisiúnta na Breataine Bige go bhfuil rún acu straitéis a fhorbairt d'Airtríteas Réamatóideach. D'iarr mé ar oifigigh na Roinne s'agam mé a choinneáil ar an eolas maidir le forbairtí.

## REGIONAL DEVELOPMENT

### Planning Policy

**Mr Ford** asked the Minister for Regional Development whether current planning policy, with regard to retail, is in accordance with that in the rest of the United Kingdom. (AQW 97/02)

**The Minister for Regional Development (Mr P Robinson):** The current retail planning policy for Northern Ireland is set out in Planning Policy Statement 5 - "Retailing and Town Centres", published by DOE in 1996.

In England and Wales the policy on retailing is set out in PPG 6. In Scotland the policy is set out in NPPG 8.

While the precise content of each planning policy policies differ, the core of all three is to sustain and enhance the vitality and viability of town centres as the most appropriate location for retail and other related activities.

The Department for Regional Development is currently preparing a new planning policy statement on retailing in response to the rapidly changing retail situation in Northern Ireland. The new retail planning policy will draw heavily from the evidence-based research on retailing in Northern Ireland which will be completed at the beginning of October by Roger Tym and Partners.

I hope to present a draft of the new planning policy statement on retailing to the Regional Development Committee over the next few months before it is subjected to a full public consultation.



## Upgrade of Larne Line

**Mr K Robinson** asked the Minister for Regional Development to outline what steps are being taken to upgrade the track and infrastructure on the Larne line, thereby reducing journey times. (AQW 117/02)

**Mr P Robinson:** Translink advise that work has recently been completed on signalling at Whitehead and Jordanstown crossings and that work will commence soon to upgrade the level crossings at the Jordanstown and Trooperslane Junction from Automatic Half Barriers to Manually Controlled Barriers with Closed Circuit Television.

Significant work is also planned, subject to securing the necessary funding, to upgrade the track between Bleach Green Junction and Whitehead. This will include upgrading sea defences, repairing the Whitehead tunnel, and the relay of the twin track. Upon completion of the track relay, line speed will be raised to 70mph between Belfast and Whitehead.

It is anticipated that, as well as enhancing safety on the line, these planned improvements and other minor works will lead to reduced journey times between Belfast and Larne.

## Speed Cameras

**Mrs I Robinson** asked the Minister for Regional Development to outline (a) when the trial period for speed cameras will end and (b) when he proposes to introduce appropriate legislation. (AQW 118/02)

**Mr P Robinson:** In cooperation with the Association of Chief Police Officers, my Department's Roads Service has been facilitating the testing of the latest fixed site digital camera technology, which allows the transfer of images of speeding or traffic signal offences directly to a central processing office. The testing has been ongoing in both Essex and here in Northern Ireland, where it is expected to continue into early October 2002.

This type of equipment has not yet been approved for use in the United Kingdom and the purpose of these tests is to provide the necessary information to gain Home Office approval. The portable camera laser equipment presently used by the Police, is the only camera equipment for the detection of speed offences that is presently approved for use in Northern Ireland.

Departmental approval for the use of fixed site digital cameras in Northern Ireland will be granted by the Department of the Environment, subsequent to Home Office approval being obtained. The timing for this remains unclear, but approval is unlikely to be granted before the end of this current year.

With regard to introducing new legislation, I should explain that, Article 23 of The Road Traffic Offenders (NI) Order 1996 presently permits a photographic record from a prescribed device to be produced in evidence in prosecutions for contravention of a speed limit and for failure to comply with a red traffic signal. New primary legislation will not therefore be required to facilitate the introduction of new equipment. Each specific item will be prescribed by regulations as and when Home Office approval is given.

## NI Railways: New Rolling Stock

**Mr K Robinson** asked the Minister for Regional Development to detail the progress made so far in providing new rolling stock for Northern Ireland Railways; and to make a statement. (AQW 121/02)

**Mr P Robinson:** After an intensive and rigorous tendering process the contract for the provision of 23 new three car trains to Northern Ireland Railways was awarded in February 2002 to CAF, a Spanish Company with previous experience of building similar trains that are in operation in Great Britain, with Northern Spirit and the Heathrow Express. The first train should be delivered to Northern Ireland Railways by December 2003 and delivery of all 23 trains should be complete one year later in December 2004. Each new train should enter into scheduled passenger service 3 to 4 months after delivery, following a commissioning period by Northern Ireland Railways.

This new rolling stock should provide much greater passenger comfort and reliability as well as reducing journey times.

## Cullybackey Bypass

**Mr Paisley Jnr** asked the Minister for Regional Development to outline (a) the criteria which will be applied by the department for the proposed Cullybackey by-pass, and (b) the current estimated costs for the by-pass. (AQW 156/02)

**Mr P Robinson:** In July of this year, the House unanimously approved the strategic direction and underlying principles of my Regional Transportation Strategy. This identified the strategic transportation priorities and necessary investment needed to provide a modern, sustainable and safe transportation system over the next 10 years.

My Department's Roads Service is preparing a 10-Year Forward Planning Schedule of major road schemes, which it is expected could be started within the 10-year period of the Strategy. Roads Service is currently carrying out scheme appraisals on a number of schemes for possible inclusion in the schedule. I can confirm that the Cullybackey Throughpass, which is estimated to

cost £2 million, is among the schemes currently being appraised against the five criteria of environment, safety, economy, accessibility and integration as set out in the Northern Ireland Transport Policy Statement, 'Moving Forward', published in November 1998.

You will appreciate that there are many competing pressures on the finite resources available for the roads programme and not all schemes will be successful. Successful schemes will then be taken through the statutory procedures of Environmental Assessment, Planning Approval and Land Acquisition.

### Cycling Officers

**Mr Beggs** asked the Minister for Regional Development to outline the number of cycling officers employed in each divisional roads area. (AQW 188/02)

**Mr P Robinson:**

MY DEPARTMENT'S ROADS SERVICE HAS CYCLING OFFICERS BASED IN EACH DIVISIONAL ROADS AREA AS DETAILED BELOW.

Eastern Division	1 full-time cycling officer
Northern Division	3 part-time cycling officers
Southern Division	2 part-time cycling officers
Western Division	1 part-time cycling officer

## SOCIAL DEVELOPMENT

### Central Heating Conversions

**Mr Shannon** asked the Minister for Social Development how many extra staff have been allocated to the NIHE to deal with applications for central heating conversions due to ill-health and disability. (AQW 196/02)

**The Minister for Social Development (Mr Dodds):** Five extra staff have been recruited one in each Housing Executive area to deal with applications for central heating conversions due to ill-health and disability.

### Central Heating Conversions

**Mr Shannon** asked the Minister for Social Development what steps he is taking to address the backlog of those awaiting central heating conversions due to ill-health and disability. (AQW 197/02)

**Mr Dodds:** Following a review of adaptations in April 2001, it was agreed that the Housing Executive would process central heating conversions requested due to ill-health and disability. As a result of this, performance improved to the extent that:

- 50% started within 5 months;
- 75% started within 8 months;
- 95% started within a year.

Prior to this arrangement a tenant had to wait for an assessment by an Occupational Therapist, which could have taken as long as 2 years before the application was processed by the Housing Executive.

In the private sector, my Department is discussing with the Housing Executive the possibility of assessing applications for changes of heating within Disabled Facilities Grants (DFGs) directly rather than asking Occupational Therapists to conduct assessments. However, the impact of such a change may not be significant as in most cases applicants for DFGs require more work than a change of heating and would therefore still have to wait for an assessment by an Occupational Therapist.

## ASSEMBLY COMMISSION

### Credit Cards

**Mr Dallat** asked the Assembly Commission to outline (a) controls in place regarding the use of Assembly credit cards by Assembly staff members and (b) if any problems have been identified over inappropriate use of the cards. (AQW 95/02)

**The Representative of the Assembly Commission (Rev Robert Coulter):** The Assembly does not use a credit card, but rather the HM Treasury Government Procurement (GPC) card. The GPC card has been specifically designed to allow public sector organisations greater control over the range of goods and services that can be purchased using a GPC card than is currently available under a normal corporate credit card scheme. For example it is possible to exclude specific suppliers under the GPC scheme.

Procurement cards are issued to staff only at the request of senior line management and each application must be authorised by a member of the Senior Management Board - (Clerk to the Assembly, Deputy Clerk or Deputy Chief Executive). Each card is specifically tailored to the user setting an individual monthly credit limit and the merchant categories/suppliers that can be used. In addition there are a range of categories including, cash, financial services, mail order, automotive fuel and other services which are blocked to all users and others relating to centrally provided services within the Assembly - eg office equipment, stationery, IT which are blocked to all but appropriate staff.

Individual monthly statements are received for each card and cardholder is required to present receipts and reconcile each transaction, the monthly reconciliation is then authorised by the card holders line management. In

addition the Finance Office receives a number of summary reports from Ulster Bank, the GPC card provider, which allows oversight and supervision of procurement cards at the global level.

A review of GPC card usage is currently underway with a view to further tailoring the service to the Assembly's needs and also reviewing and revising GPC controls in light of improved management information being developed by Ulster Bank in partnership with the Government Purchasing Agency.

In relation to problems identified over inappropriate use of the cards. There has been one incident where a member of staff used their GPC for personal expenses in error, on realising the error the member of staff immediately

reported the matter to senior staff and made arrangement to repay the amount in full.

### **Credit Cards**

**Mr Dallat** asked the Assembly Commission to list any sums of money repaid following personal use of Assembly credit cards. (AQW 96/02)

**The Representative of the Assembly Commission (Rev Robert Coulter):** Following the accidental use of a procurement card for personal expenses an amount of £29.83 was repaid. On realising the error, the member of staff immediately reported the matter to senior staff and made arrangements for the amount in question to be repaid in full.





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# NORTHERN IRELAND ASSEMBLY

Friday 4 October 2002

## Written Answers to Questions

### OFFICE OF THE FIRST MINISTER AND DEPUTY FIRST MINISTER

#### Litigation Costs

**Mr Paisley Jnr** asked the Office of the First Minister and Deputy First Minister to outline, in the last 3 years, (a) the expenditure on any legal action taken and defended by the office and (b) the breakdown of those costs per case. (AQW 5/02)

**Reply:** The legal costs in the three cases in which the First Minister and Deputy First Minister have been involved have either not yet been finalised or have not yet been submitted to the Office of the First Minister and Deputy First Minister for payment.

#### Chairman: Community Relations Council

**Mr Paisley Jnr** asked the Office of the First Minister and Deputy First Minister to outline (a) when the vacant position of Chairman of the Community Relations Council will be filled and (b) what temporary measures are currently in place until this vacancy is filled. (AQW 129/02)

**Reply:** The position of Chairman of the Community Relations Council is not vacant; however the Chief Executive Officer relinquished his post on 10 September to take up another appointment. A new Chief Executive Officer will take up post on 2 October, pending which the Community Relations Council's Director of Communications, who is its next most senior member of staff, will take lead responsibility for day to day management.

#### E-Government

**Dr Birnie** asked the Office of the First Minister and Deputy First Minister to outline (a) if its approach to e-government is based on a portal strategy; and (b) if so, what progress is being made in its implementation. (AQW 319/02)

**Reply:** The Office of the First Minister and Deputy First Minister, in common with the other Northern Ireland Departments, is developing its e-Government plans based on a multi-channel approach to service delivery.

The use of a portal to access government services online will be one element of that strategy: other important avenues of service delivery will include, but will not be limited to, face to face interactions and call and contact centres.

OFMDFM has commissioned the development of a new e-Government Strategy and early indications are that it will confirm the multi-channel approach as sound.

A special study detailing the scope for a Northern Ireland Government Portal has also been completed, the terms of reference for which included making recommendations on the organisational structures required to deliver the portal. Consideration is currently being given by this Department on how this can best be taken forward.

### AGRICULTURE AND RURAL DEVELOPMENT

#### Asbestos

**Mrs I Robinson** asked the Minister of Agriculture and Rural Development to detail (a) the number of buildings owned by her Department which currently contain asbestos as a component of their construction; (b) the number of staff employed in these buildings; and (c) any plans she has for the removal of asbestos. (AQW 343/02)

**The Minister of Agriculture and Rural Development (Ms Rodgers):**

- (a) My Department owns some 145 Specialised Buildings such as Agricultural Colleges and Science Service laboratories which are known to contain asbestos.
- (b) Some 800 staff are employed at those locations.
- (c) At present, I have no plans to remove asbestos from any of these buildings. There is no requirement under current legislation to do so where it is deemed to be in good condition, is not likely to be damaged and will not be regularly worked on.

You may wish to note that my Department has an asbestos management system in place to routinely inspect locations known to contain asbestos materials in its Specialised Buildings estate. The purpose of this system is to monitor the condition of the asbestos material. Where deterioration or damage has been observed, steps are taken to remove or repair.

## Asbestos

**Mrs I Robinson** asked the Minister of Agriculture and Rural Development to detail (a) the number of buildings leased by her Department that have asbestos as a component of their construction; (b) the number of staff employed in these buildings; and (c) any plans she has for the removal of asbestos. (AQW 401/02)

### Ms Rodgers:

- (a) My Department currently does not have any buildings within its estate which are directly leased from 3rd parties. However, there is a legal requirement for a (small) number of DARD Staff to be in attendance at some specialist facilities such as livestock markets, meat plants etc. The accommodation utilised in such instances would tend to be limited to washing/changing facilities and similar office accommodation space. Subject to each building owner's consent, our specialist advisors in Construction Service of DFP have been asked to survey this accommodation, and where asbestos-containing particles are proven to be present, to establish an effective asbestos management plan similar to the comprehensive system currently in place within the rest of the DARD estate.
- (b) Some 227 staff are employed at those locations.
- (c) At present, I have no plans to remove asbestos from any of those buildings. However, this may change depending on the findings from the survey referred to at (a) above.

## Rivers Agency: Performance Targets

**Mrs Courtney** asked the Minister of Agriculture and Rural Development to detail the performance targets set for the Rivers Agency for the financial year 2001/2002. (AQW 506/02)

**Ms Rodgers:** The following Key Targets were set for the Rivers Agency for 2001/2002:

- To construct or refurbish 2.25 km of urban flood defences.
- To accommodate increased storm run-off from 77 hectares of development land.
- To replace/refurbish 2.9 km of dangerous culverts.
- To complete identified maintenance works on 960 of the 1187 designated open watercourses included in the Notice of Annual Maintenance as part of a 6-year scheduled maintenance programme.
- To issue substantive replies to 80% of written enquiries within 15 working days of receipt.
- To respond to 98% of Schedule 6 applications within 3 months.
- To control programme expenditure to within 0.5% shortfall of the final control total.

- To control DRC expenditure to within 1% shortfall of the final control total.

You may also be interested to note that the following Key Targets have been set for the Rivers Agency for 2002/03:

- To construct or refurbish 540 metres of urban flood defences.
- To accommodate increased storm run-off from 93 hectares of development land.
- To replace/refurbish 1.527 km of dangerous culverts.
- To complete identified maintenance works on 1230 of the 1510 designated open watercourses included in the Notice of Annual Maintenance as part of a 6-year scheduled maintenance programme.
- To issue substantive replies to 80% of written enquiries within 15 working days of receipt.
- To respond to 98% of Schedule 6 applications within 3 months.
- To control programme expenditure to within 0.5% shortfall of the final control total.
- To control DRC expenditure to within 1% shortfall of the final control total.

The Rivers Agency Business Plan for 2002/2003 will be placed in the Assembly Library at a later date.

## CULTURE, ARTS AND LEISURE

### Draft Communications Bill

**Mr McGrady** asked the Minister of Culture, Arts and Leisure to outline any discussions he has had with the Department of Culture, Media and Sport, regarding the impact of the draft Communications Bill on broadcasting in Northern Ireland. (AQW 239/02)

**The Minister of Culture, Arts and Leisure (Mr McGimpsey):** Discussions, led by the Office of the First Minister and Deputy First Minister, have been ongoing with the Department of Culture, Media and Sport (DCMS) and the Department of Trade and Industry (DTI) for over a year regarding the impact of the draft Communications Bill on broadcasting and telecommunications in Northern Ireland.

The First Minister and the Deputy First Minister responded formally on behalf of the Northern Ireland Executive to the consultation on the draft Bill on 1 August 2002. A copy of that response has been placed in the library. The First Minister and the Deputy First Minister have twice requested a meeting with the Secretaries of State for Trade and Industry and for Culture, Media and Sport but have yet to receive a reply.

The issue of Northern Ireland representation on the Board of the new regulator, OFCOM, has been raised in telephone conversations between Dermot Nesbitt and Dr Kim Howells, Minister for Broadcasting at DCMS; between myself and Tessa Jowell, Secretary of State for Culture, Media and Sport; and in the margins of a meeting between Douglas Alexander, Telecommunications Minister in DTI, and Sir Reg Empey. The lines taken in the response of 1 August have also been rehearsed several times by officials of Northern Ireland Departments in discussions with the Joint DTI/DCMS Bill Team both before and since 1 August. A further meeting is planned in October between DCAL and DCMS officials.

### Ulster Museum: Visitors

**Mr M Robinson** asked the Minister of Culture, Arts and Leisure to detail (a) the total visitor attendance figures at the Ulster Museum for (i) 1999-2000, (ii) 2001-02 and (b) the estimated figures for 2002-03.

(AQW 260/02)

**Mr McGimpsey:** The figures you requested are detailed below.

1999/2000	2001/2002	2002/2003 (Estimated)
206,056	191,465	195,290

### Special Educational Needs: Leisure Schemes

**Mr M Robinson** asked the Minister of Culture, Arts and Leisure to detail current and proposed initiatives to assist local district councils in providing sporting and leisure schemes for children and young adults with disabilities and/or special educational needs.

(AQW 261/02)

**Mr McGimpsey:** Each district council takes account of the needs of the disabled when providing facilities in its area for recreational, social and cultural activities. My Department has issued guidance to each district council and has sponsored workshops for district councils on the development of local cultural strategies to promote the cultural well-being of its area and its people. This guidance will serve as a planning tool to help councils to plan strategically for culture, arts and leisure in such a way as to improve services and maximise funding opportunities.

In addition, the Sports Council is currently undertaking a review of the sporting opportunities available to disabled people as a whole in Northern Ireland, to enable it to determine appropriate initiatives for the future, including sporting and leisure schemes for children and young adults with disabilities and special needs.

### Ulster Scots: Staff

**Mr Shannon** asked the Minister of Culture, Arts and Leisure to outline (a) the number of staff employed by the Ulster-Scots body and (b) any steps being taken to ensure parity of treatment.

(AQW 265/02)

**Mr McGimpsey:** Tha Boord o Ulstèr-Scotch (the Ulster-Scots Agency) currently has four staff. Two of these are seconded civil servants and two are recruitment agency staff. Foras na Gaeilge (the Irish Language Agency) currently employs forty-five staff. The North South Ministerial Council noted at its meeting on December 2001 the Agency's proposal to appoint seven staff and work is in hand to complete the recruitment process.

I am committed to ensuring fair treatment for all the bodies and organisations that my Department deals with.

### Waterways Ireland

**Mr Shannon** asked the Minister of Culture, Arts and Leisure to outline the number of staff employed by Waterways Ireland who originate from, (i) government departments in Northern Ireland, (ii) government departments in the Republic of Ireland.

(AQW 266/02)

**Mr McGimpsey:** 10 members of staff transferred from the Rivers Agency in Northern Ireland and 269 members of staff transferred from the Waterways Service of the Department of Arts, Heritage, Gaeltacht and the Islands in the Republic of Ireland.

Some 62 new posts were advertised and filled by open competition, 53 of these based in Northern Ireland, and 9 based in the Republic of Ireland.

Information regarding the previous employment of staff recruited through open competition is confidential.

### Irish Language

**Mr Shannon** asked the Minister of Culture, Arts and Leisure, in respect of the Irish Language, what funding has been made available in each of the last two years for (i) linguistics; (ii) culture; (iii) education; (iv) public relations; (v) Board fees and expenses; (vi) administration and (vii) projects.

(AQW 274/02)

**Mr McGimpsey:** As Foras na Gaeilge (the Irish Language Agency) does not yet have an office in Northern Ireland, the expenditure in the North is for project support. I can, however, advise you that in 2001 assistance totalling £2,413,820 was provided to groups and organisations in Northern Ireland. Between January and August of this year assistance totalling £1,090,753 has been provided.

The various groups are involved in projects and activities which include language, culture and education.

The information in respect of Tha Boord o Ulstèr-Scotch (the Ulster-Scots Agency) is given below.

	2001 £	2002 to 26/09/02 £
Language	3,000	1,000
Culture	249,489	256,196
Education	116,514	88,196
PR	167,051	97,358
Board Expenses	67,082	39,660
Administration	262,660	129,255
<b>Total</b>	<b>865,796</b>	<b>611,665</b>

Assistance to activities undertaken by groups and organisations is included in the language, culture and education totals.

### Ulster-Scots Language

**Mr Shannon** asked the Minister of Culture, Arts and Leisure, in respect of the Ulster-Scots Language, what funding has been made available in each of the last two years for (i) linguistics; (ii) culture; (iii) education; (iv) public relations; (v) Board fees and expenses; (vi) administration and (vii) projects. (AQW 275/02)

**Mr McGimpsey:** As Foras na Gaeilge (the Irish Language Agency) does not yet have an office in Northern Ireland, the expenditure in the North is for project support. I can, however, advise you that in 2001 assistance totalling £2,413,820 was provided to groups and organisations in Northern Ireland. Between January and August of this year assistance totalling £1,090,753 has been provided.

The various groups are involved in projects and activities which include language, culture and education. The information in respect of Tha Boord o Ulstèr-Scotch (the Ulster-Scots Agency) is given below.

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<b>Total</b>	<b>865,796</b>	<b>611,665</b>

Assistance to activities undertaken by groups and organisations is included in the language, culture and education totals.

### Asbestos

**Mrs I Robinson** asked the Minister of Culture, Arts and Leisure to detail (a) the number of buildings owned

by his Department which currently contain asbestos as a component of their construction; (b) the number of staff employed in these buildings; and (c) any plans he has for the removal of asbestos. (AQW 308/02)

**Mr McGimpsey:** The Department currently owns five of the buildings which it occupies and of the five, one of the buildings currently contains asbestos as a component of its construction. This is the Public Record Office for Northern Ireland (PRONI) which is situated at 66 Balmoral Avenue, Belfast. There are currently 70 staff working on this site.

The PRONI site and outbuildings have been subjected to periodic inspection and survey by the Construction Service of the Department of Finance and Personnel (DFP) - the most recent in March 2000. Following a survey, asbestos based materials which are deemed in poor condition will normally be recommended for removal. DFP Construction Service are responsible for implementing such work. During refurbishment work undertaken in November 2000 to convert the Exhibition Hall within PRONI to a microfilm room, asbestos based material was removed. A specialist company removed this material under the supervision of Construction.

PRONI keeps three Asbestos Registers which have been periodically managed and reviewed in partnership with Construction Service. All three registers were last up-dated in March 2000 following inspection by Construction Service. These inspections revealed a number of areas where asbestos based materials were either confirmed to be present or assumed to be present. However, because it was not deemed to be potentially injurious to the health of either staff or the public, Construction Service recommended no action, other than labelling and further review.

Construction Service has been requested to put a management system in place to routinely inspect the known asbestos materials within the PRONI estate. This system will include a facility to implement adequate control measures in accordance with current legislation, where such materials are deemed to be potentially injurious to the health of both staff and the visiting public.

### Ulster Scots/Irish Language: Staff

**Mr Shannon** asked the Minister of Culture, Arts and Leisure how many staff are employed by (i) the Ulster-Scots Agency; and (ii) the Irish Language Agency. (AQW 332/02)

**Mr McGimpsey:** Tha Boord o Ulstèr-Scotch (The Ulster-Scots Agency) currently employs four staff. Two are seconded Civil Servants and two are Recruitment Agency staff. Foras na Gaeilge (The Irish Language Agency) currently has thirty-four staff.



## Canoeing

**Mr Shannon** asked the Minister of Culture, Arts and Leisure to outline (a) the number of people involved in canoeing; and (b) the number of sporting bodies representing those involved. (AQW 385/02)

**Mr McGimpsey:** The number of people involved in canoeing through the Canoe Association of Northern Ireland (CANI), the official body responsible for canoe sport in Northern Ireland, is as follows:

Male Coaches	397
Female Coaches	103
Male Officials	1
Male Participation	461
Female Participation	141

A total of 17 clubs, affiliated to CANI, represent those involved. However, there are a number of organisations involved in unaffiliated participation in canoeing e.g. Outdoor Education Centres, Education and Library Boards, District Councils, and youth and community organisations such as the Boys Brigade, Scouts, Duke of Edinburgh. Unfortunately there are no statistics available on the numbers involved in unaffiliated canoeing.

## EDUCATION

### Administration Costs

**Mr Gibson** asked the Minister of Education to detail the current costs of administration (a) per Education and Library Board and (b) in the Department. (AQW 213/02)

**The Minister of Education (Mr M McGuinness):** My Department has been allocated a budget of £19.11 m in the 2002/2003 financial year to meet its administration costs.

I regret that the information regarding the Education and Library Boards is not available at present. I will write to you regarding these figures as soon as possible.

### Employment Numbers

**Mr Gibson** asked the Minister of Education to detail the numbers employed in an administrative and advisory capacity by (a) each Education and Library Board and (b) his Department. (AQW 214/02)

**Mr M McGuinness:** My Department currently has a total of 609 staff employed in an administrative and advisory capacity (which equates to a full-time equivalent of 578 staff).

I regret that the information regarding the Education and Library Boards is not available at present. I will write to you regarding these figures as soon as possible.

### Pre-School Funding

**Mr Beggs** asked the Minister of Education to outline the number and percentage of children in their immediate pre-school year who have not received departmental funding. (AQW 238/02)

**Mr M McGuinness:** The Pre-school Education Expansion Programme aims to provide a place for every child whose parents wish it by March 2003. This school year the overall level of provision will be considerably greater than 90%, which is in excess of our expected level of demand. At present my Department is working closely with each education and library board's Pre-School Education Advisory Group in order to ensure that the most effective allocation of funded places has been achieved.

### Scrabo High School, Newtownards

**Mrs I Robinson** asked the Minister of Education to detail the projects in Newtownards that will benefit from the sale of the former Scrabo High School site. (AQW 240/02)

**Mr M McGuinness:** Any receipts realised from the sale of the former Scrabo High School are to be used to offset the expenditure incurred on the capital development of Regent House Grammar School in Newtownards.

### Home Tuition

**Rev Dr William McCrea** asked the Minister of Education to detail, in each of the last 3 years, the number of pupils who have been on home tuition in the North Eastern Education and Library Board area. (AQW 250/02)

**Mr M McGuinness:** The North Eastern Education and Library Board has advised that the number of pupils on home tuition was as follows:

School Year	Number of Pupils
1999/2000	175
2000/2001	215
2001/2002	201

### Special Educational Needs

**Rev Dr William McCrea** asked the Minister of Education to outline any plans he has to encourage mainstream schools to accept children with special educational

needs, especially those with emotional and behavioural difficulties. (AQW 251/02)

**Mr M McGuinness:** My Department has the principle enshrined in legislation that, subject to certain provisos, young people should be educated in a mainstream setting. The Code of Practice on the Identification and Assessment of Special Educational Needs builds upon this and we have allocated substantial resources to support this provision. This right to a mainstream education will be further strengthened by the introduction, in the current Assembly session, of the Special Educational Needs and Disability Bill for Northern Ireland, broadly equivalent to the Special Educational Needs and Disability Act 2001.

To enable children with Emotional and Behavioural Difficulties to receive an education in a mainstream setting the education and library boards may provide additional teacher support, classroom assistance, help from the behaviour support services and part-time or full-time placement in the behaviour support units attached to these services, both at primary and secondary level.

The Regional Strategy Group for Special Educational Needs is currently examining the issue of Inclusion, including the identification of effective practice. This will help ensure that all children are provided with a range of options and are treated equally and fairly.

### Special Educational Needs

**Rev Dr William McCrea** asked the Minister of Education whether the transfer of a pupil from a mainstream school to a special needs school during a school year, as a result of a statement being issued, will also include the transfer of the “attached” funding. (AQW 252/02)

**Mr M McGuinness:** At present, if a pupil transfers from a mainstream school to a special school, as a result of a statement being issued, no associated funding transfers with the pupil. However the Common Funding Scheme, which is due to come into effect in April 2003, proposes that funding adjustments will be made where a pupil transfers from a grant-aided school to a special school.

### Special Educational Needs

**Rev Dr William McCrea** asked the Minister of Education to detail, by management type, the number of children with a special educational needs statement that are in mainstream education in the primary sector and grammar schools sector. (AQW 253/02)

**Mr M McGuinness:** The 2001/02 total number of statemented pupils in primary and grammar schools are as follows:

Management Type	Primary and Preparatory Pupils	Grammar Pupils (Post Primary)
Controlled	1,389	49
Voluntary	10	144
Catholic Maintained	1,280	N/A
Other Maintained	10	N/A
Controlled Integrated	47	N/A
Grant-Maintained Integrated	50	N/A
<b>Total</b>	<b>2,786</b>	<b>193</b>

### Irish Language

**Mr Paisley Jnr** asked the Minister of Education to give a breakdown of expenditure, for each year from 1998 to date, on translations and interpretations of (i) publications and (ii) stationery from and into the Irish language. (AQW 254/02)

**Mr M McGuinness:** The breakdown of translations and interpretations of publications and stationery is as follows:

	1999/2000 £	2000/2001 £	2001/2002 £	2002/2003 £
<b>Publications</b>				
Press Releases	328	7,273.04	15,895.55	7,302.84
Stationery	1,351	Nil	Nil	Nil
Advertisement	1,249	190.00	192.96	539.53

### Special Educational Needs

**Rev Dr William McCrea** asked the Minister of Education to detail by gender, in each of the last 3 years, the number of children with a statement of special educational needs in the NEELB area. (AQW 282/02)

**Mr M McGuinness:** The information requested is as follows:

	1999/00	2000/01	2001/02
Male	N/A <sup>1</sup>	1029	1,137
Female	N/A <sup>1</sup>	551	574
<b>Total</b>	<b>1,210</b>	<b>1,580</b>	<b>1,711</b>

<sup>1</sup> In 1999/00 information on the gender of statemented pupils in nursery and primary schools was not collected.

### Facilities for Children with Speech/Language Impairments

**Rev Dr William McCrea** asked the Minister of Education to detail the range of educational facilities available to children with speech and language impairments in the NEELB area. (AQW 283/02)

**Mr M McGuinness:** The range of educational facilities available to children with speech and language impairments in the NEELB area is as follows:

- Thornfield House – a special school for children with severe speech and language difficulties;
- Ballymoney Model Primary School Unit – a unit attached to a mainstream primary school;
- Outreach support available to pupils and teachers in mainstream schools from a Speech and Language Support Teacher; and
- Speech and Language Therapists with dedicated time at the 11 Special Schools in the NEELB area.

### Special Educational Needs

**Mr K Robinson** asked the Minister of Education to detail, for each board area, (a) the number of education psychologists employed; (b) the number of special education advisors in post; and (c) the number of pupils who are currently awaiting a formal statement of special educational need. (AQW 292/02)

**Mr M McGuinness:** The number of Educational Psychologists full-time and part-time, employed per Board area, is:

Board	January 2002
BELB	29
WELB	26
NEELB	25
SEELB	27
Board	September 2002
SELB	26.3 (fte)

Boards employ a wide range of officers who advise on many aspects in the field of special educational needs. I will write separately to you with this information.

(c) The number of pupils who are currently at stage 4 of the Code of Practice, per Board area, is:

Board	September 2002
BELB	349
WELB	227
NEELB	243
SEELB	393
SELB	377

The above figures relate to children who are currently undergoing statutory assessment procedures (Stage 4 of the Code of Practice) and do not yet have a final statement of special educational needs (Stage 5 of the Code of Practice). The statutory assessment process determines whether or not a statement is appropriate and therefore does not lead to the issue of a statement on every case.

### Burns Report

**Mr K Robinson** asked the Minister of Education to detail how he proposes to consult with key stake-holders after the results of the public consultation on the Burns proposals are made known; and to make a statement.

(AQW 295/02)

**Mr M McGuinness:** I will outline the next stages of the Post-Primary review on 8 October when I publish a report on the responses to consultation. I will be engaging with key interests to build on emerging consensus and to develop new arrangements which are fair, give every child the opportunity to fulfil their potential and raise standards for all children.

### Asbestos

**Mrs I Robinson** asked the Minister of Education what steps are being taken to attract funding to assist in the disposal of asbestos from all departmental buildings. (AQW 297/02)

**Mr M McGuinness:** My Department does not own or lease any buildings and responsibility for the buildings occupied by Departmental staff rests with the Department of Finance and Personnel.

Departmental staff occupy buildings at two locations, Rathgael House, Bangor and Waterside House, Londonderry. The number of staff employed in Rathgael House is 482 and in Waterside House 126.

### Asbestos

**Mrs I Robinson** asked the Minister of Education to detail those buildings in the South Eastern Education and Library Board that currently have asbestos as a component of their construction. (AQW 298/02)

**Mr M McGuinness:** The South Eastern and Library Board has advised that it will soon be commencing a survey of its buildings in order to compile an asbestos register, which will be required under the new Control of Asbestos at Work Regulations which are to come into force in 2004. At this time the Board is unable to provide details of schools that have asbestos in their buildings.

### Asbestos

**Mrs I Robinson** asked the Minister of Education to detail, by Board area, (a) the number of buildings owned by his Department which currently contain asbestos as a component of their construction; (b) the number of staff employed in these buildings; and (c) any plans he has for the removal of asbestos. (AQW 309/02)

**Mr M McGuinness:** My Department does not own or lease any buildings and responsibility for the buildings occupied by Departmental staff rests with the Department of Finance and Personnel.

Departmental staff occupy buildings at two locations, Rathgael House, Bangor and Waterside House, Londonderry. The number of staff employed in Rathgael House is 482 and in Waterside House 126.

### Special Educational Needs

**Rev Dr William McCrea** asked the Minister of Education to detail, in the last 3 years, the number of children referred to the Northern Health & Social Services Board for assessment for the purposes of special educational needs statements. (AQW 339/02)

**Mr M McGuinness:** Children are not referred to Health and Social Services Boards for statutory assessment purposes, they are referred to Health and Social Services Trusts. The numbers of children referred to Trusts in the Northern Health Board area over the last three years (September 1999 to 31 August 2002) are as follows;

Referring Education and Library Board	Numbers of children referred to Trusts in The Northern Health & Social Services area 1999 to 2002
North Eastern	1142
Southern	174

### Special Educational Needs

**Rev Dr William McCrea** asked the Minister of Education how many children in residential care, in the Northern Health & Social Services Board area have been awarded special educational needs statements in each of the last 3 years. (AQW 340/02)

**Mr M McGuinness:** There are currently 13 children in residential care in the Northern Health and Social Services area with statements of special educational needs. Two of these statements have been issued whilst the child was in care. All other statements pre-date the residential component of care packages. Information is not available for earlier years

### Statement of Needs

**Mr M Robinson** asked the Minister of Education how many secondary school pupils currently have a statement of needs within the (a) Belfast Education and Library Board; and (b) South Eastern Education and Library Board. (AQW 383/02)

**Mr M McGuinness:** The information for 2001/02 (non grammar schools only) is as follows:

(a)	Belfast Education and Library Board	238
(b)	South-Eastern Education and Library Board	567

### Secondary Education: Newtownards

**Mr Shannon** asked the Minister of Education to outline the number of pupils applying for places in secondary education in the Ards town area, in each of the last three years. (AQW 388/02)

**Mr M McGuinness:** The number of pupils applying for places in secondary education in the Ards town area in each of the last three years is detailed below:

School Year	Total Applications
2000/2001	473
2001/2002	412
2002/2003	393

### Asbestos

**Mrs I Robinson** asked the Minister of Education if he will make it his policy to provide funding to local education authorities to assist in the removal of asbestos from properties belonging to, or leased by, the respective Education Boards. (AQW 397/02)

**Mr M McGuinness:** Where expenditure associated with the removal or isolation of asbestos that is causing a health and safety risk cannot be met within existing Education and Library Boards' maintenance budgets, my Department is prepared to consider requests for additional funding from within the resources available to the education sector.

### Asbestos

**Mrs I Robinson** asked the Minister of Education to detail (a) the number of buildings leased by his Department that have asbestos as a component of their construction; (b) the number of staff employed in these buildings; and (c) any plans he has for the removal of asbestos. (AQW 398/02)

**Mr M McGuinness:** My Department does not own or lease any buildings and responsibility for the buildings occupied by Departmental staff rests with the Department of Finance and Personnel.

Departmental staff occupy buildings at two locations, Rathgael House, Bangor and Waterside House, Londonderry. The number of staff employed in Rathgael House is 482 and in Waterside House 126.

### Regent House School, Newtownards

**Mr Shannon** asked the Minister of Education to outline, in the last 3 years, (a) the number of pupils who applied for a secondary school place at Regent House School in Newtownards; and (b) the number who were



not successful in their applications and the list of schools where they were eventually accepted. (AQW 407/02)

**Mr M McGuinness:** The number of pupils who applied for a secondary school place at Regent House and the number who were unsuccessful in obtaining a place and a list of the schools where they were placed is detailed below:

#### REGENT HOUSE SCHOOL

School Year	Total Applications	Total Admissions	Total not Admitted	Unsuccessful Pupils Placed in:
2000/2001	277	210	67	10 Bangor Grammar 8 Bangor High 2 Campbell College 6 Comber High 1 Down Academy 2 Dundonald High 9 Glashy College 4 Glenlola Collegiate 3 Hunterhouse College 1 Lagan College 1 Limavady High 14 Movilla High 1 Rockport School 1 Strangford College 4 Wellington College
2001/2002	239	212	27	5 Bangor Academy 4 Bangor Grammar 1 Bloomfield Collegiate 4 Campbell College 5 Comber High 2 Glashy College 3 Movilla High 1 to school in BELB area 1 Newtownbreda High 1 Strangford College
2002/2003	237	210	27	2 Bangor Academy 2 Bangor Grammar 3 Campbell College 2 Comber High 2 Dundonald High 3 Glashy College 2 Glenlola Collegiate 1 Hunterhouse College 8 Movilla High 1 Strangford College 1 Wellington College

#### Movilla High School, Newtownards

**Mr Shannon** asked the Minister of Education to outline, in the last 3 years, (a) the number of pupils who applied for a secondary school place at Movilla High School in Newtownards; and (b) the number who were not successful in their applications and the list of schools where they were eventually accepted. (AQW 408/02)

**Mr M McGuinness:** The number of pupils who applied for a secondary school place at Movilla High School and the number who were unsuccessful in obtaining a place and a list of the schools where they were placed is detailed below:

#### MOVILLA HIGH SCHOOL

School Year	Total Applications	Total Admissions	Total not Admitted	Unsuccessful Pupils Placed in:
2000/2001	196	180	16	2 Bangor High 1 to school in BELB area 3 Comber High 1 Donaghadee 1 Dundonald 5 Glashy College 1 Lisnasharragh 1 Priory College 1 St Columbanus
2001/2002	173	173	0	
2002/2003	156	156	0	

## EMPLOYMENT AND LEARNING

### Educational Guidance Service for Adults

**Mr Beggs** asked the Minister for Employment and Learning to outline any plans she has to develop the Educational Guidance Service for adults within the East Antrim constituency. (AQW 236/02)

**The Minister for Employment and Learning (Ms Hanna):** I have been advised that EGSA are currently seeking premises in the Larne town centre area and several locations are currently under consideration. In the interim period, an EGSA presence in the Larne area will continue to be supported by the Belfast Office staff, in collaboration with staff in both the statutory and voluntary agencies in the Larne area.

### Walsh Visa Programme

**Mr McElduff** asked the Minister for Employment and Learning to (a) detail the number of people from West Tyrone who have availed of the Walsh-Visa Programme in the last 3 years; and (b) evaluate the benefits of the Walsh-Visa Programme. (AQW 248/02)

**Ms Hanna:** Records of participants are not collated on an Assembly constituency basis. To date 70 participants from County Tyrone have progressed to the US phase and have received financial support from the Department.

An Interim Evaluation of the Walsh Visa Programme has been conducted by DTZ Pida Consultants. A final report is expected shortly.

### Individual Learning Accounts

**Mr M Robinson** asked the Minister for Employment and Learning to detail (a) any progress being made in identifying a successor to the individual learning accounts scheme and (b) when she plans to announce details of such a scheme. (AQW 290/02)

**Ms Hanna:** Following on from the announcement of the draft spending allocations for my Department I am considering the affordability of re-introducing Individual Learning Accounts. My priority is to ensure that the funding available to the Department for adult learning is targeted on those in greatest need either because of social disadvantage or low skills levels. When I have considered the impact of the draft budget allocations for 2003/04 on my Department I will make a decision in respect of Individual Learning Accounts. I would expect to make that decision over the next few weeks when spending allocations are confirmed.

### Third Level Students: Financial Support

**Mrs E Bell** asked the Minister for Employment and Learning what action is she taking to follow the Scottish system and to increase financial support for third level students. (AQW 305/02)

**Ms Hanna:** I do not intend to follow the Scottish system. I do intend, however, to provide support, within the resources available, to students who come from low income families. To this effect my Department has introduced a means tested, non-repayable Higher Education Bursary for students from low income families, worth up to £1,500 per year. I have also recently announced that this will increase to £2000 with effect from September 2003. The income threshold for these bursaries will also rise from £15,000 to £20,000.

### Hi-tech/Telecommunications Sector: Job Losses

**Mr K Robinson** asked the Minister for Employment and Learning what steps she intends to take to build upon the expertise of those made redundant in East Antrim/South Antrim and North Belfast as a result of the downturn in the hi-tech/telecommunications sector; and to make a statement. (AQW 310/02)

**Ms Hanna:** The New Deal Programme and Bridge to Employment are particularly suited to those about to be made redundant. Both enable individuals to re-train and enter employment in areas other than that which they

have just left. Contact between INI and my Department means that JobCentre staff are alert to forthcoming redundancies. A series of models have been developed which enables companies and individuals to be provided with a range of options ranging from re-training to self-employment. The models also include the facility to inform local businesses not facing redundancies, about the availability of potential staff and training programmes.

### Hi-tech/Telecommunications Sector: Job Losses

**Mr K Robinson** asked the Minister for Employment and Learning what co-operation has occurred, or is planned, between her Department and the Department of Enterprise, Trade and Investment to address the impact of job losses in East Antrim due to the continuing downturn in the hi-tech/telecommunications sector.

(AQW 311/02)

**Ms Hanna:** My Department's Regional staff maintain ongoing links with colleagues in INI, local economic development groups and Strategic Partnerships in order to work pro-actively with inward investment and indigenous businesses. Their local knowledge and the range of options on offer including Bridge to Employment and New Deal mean that businesses can be offered potential staff and training as a composite package. These will be tailored to suit the needs of both the company and individuals concerned.

### Labour Market Regulations: Small Businesses

**Mr Shannon** asked the Minister for Employment and Learning what steps she is taking to address the financial implications, for small businesses, of the labour market regulations. (AQW 330/02)

**Ms Hanna:** Regulatory Impact Assessments (RIAs) have been carried out on all pieces of proposed employment legislation since devolution. These assessments are forecasts, made prior to implementation, of the risks, costs and benefits likely to arise as a result of the legislation and are used to inform public debate. Some employment legislation may result in additional costs for business, including small businesses, but I believe there will also be real benefits for firms, through, for example, more harmonious employee relations, reduced pressures on working parents, clarification of rights and the spread of good practice.

### Desmonds, Dungannon

**Mrs Carson** asked the Minister for Employment and Learning, in light of the experience at Desmonds in Dungannon, what action she proposes to ensure businesses are not forced to close because of recruitment difficulties. (AQW 346/02)

**Ms Hanna:** The Employability Taskforce, which I chair on behalf of the Executive, has been examining how barriers to employment can be overcome and more people assisted to engage with the labour market. I expect the Report to be published shortly.

In addition, my Department is introducing a new process whereby all jobseekers are required to address their training and employment needs as part of their benefit claiming process. This service is being rolled out through joint Jobs and Benefits offices.

Finally, job vacancies notified by employers to my Department are displayed on jobcentreonline, our new web site, giving instant access to jobseekers.

### Review of Further Education

**Mr A Maginness** asked the Minister for Employment and Learning to make a statement on the review of the Further Education sector. (AQO 199/02)

**Ms Hanna:** My Department is making steady progress with the re-consideration of the Further Education Strategy. Given the importance of further education to the economy and social fabric of Northern Ireland, the outcomes of this review will be very important.

The first stage, which is due for completion around the beginning of December, is a consultation on the role of the statutory FE sector. This exercise will serve as the starting point for a consideration of wider issues in four key areas:

- the arrangements for the planning, management, governance and funding of the statutory further education sector;
- relationships between the statutory FE sector and other relevant parties including universities, schools, training organisations, voluntary providers and economic development bodies;
- the relationship between by my Department's policy for FE and other policies such as lifelong learning and vocational training; and
- the appropriateness of the current size and structure of the sector for the effective delivery of its role and aims.

### Student Debt

**Mrs Carson** asked the Minister for Employment and Learning to comment upon the recent estimates, made by the NUS-USI, that students from Northern Ireland may leave universities with debts amounting to £15,000.

(AQO 191/02)

**Ms Hanna:** While student loans, which are highly subsidised, offer students a method of funding their living costs, with very favourable repayment terms, it

was recognised during my predecessor's review of student support, that specific groups of students are experiencing particular difficulties. Consequently, means tested non-repayable bursaries of up to £1,500 per year were introduced from the beginning of this month, which will reduce the amount of loans that students need to borrow.

I intend to increase the maximum bursary to £2000 with effect from September 2003, while simultaneously increasing the income threshold from £15,000 to £20,000.

### Further and Higher Education: Disabled Young People

**Ms Gildernew** asked the Minister for Employment and Learning to outline (a) her assessment of the difficulties faced by disabled young adults in accessing further and higher education; and (b) how she intends to address this issue. (AQO 225/02)

**Ms Hanna:** Disabled young people face a range of difficulties in accessing services including further and higher education. My Department is committed to removing and addressing any difficulties disabled young people have in accessing further and higher education. Already Universities have carried out "disability audits", while further education colleges are currently being audited, to identify essential capital works needed to improve physical access. Skill NI has also been commissioned to develop an audit tool to help institutions improve access to the curriculum. In addition, my Department has, in conjunction with the Department of Education, recently published proposals for a Special Educational Needs and Disability Bill for Northern Ireland.

### Departmental Expenditure Limit

**Mr M Murphy** asked the Minister for Employment and Learning to detail the percentage increase in the Departmental Expenditure Limit (DEL) between 2000-01 and 2001-02. (AQO 223/02)

**Ms Hanna:** Between 2000-01 and 2001-02 the Departmental Expenditure Limit budget for my Department, excluding ring-fenced provision for the EU Peace Programme, increased by 2.9%. For comparison purposes the 2000/01 base on which the percentage is calculated includes Welfare to Work provision which was outside the Departmental Expenditure Limit budget in 2000/01 but included in it, in 2001/02.

### Research: Funding

**Mr Attwood** asked the Minister for Employment and Learning to explain how research is funded in Northern

Ireland and how this compares with funding in Great Britain. (AQO 198/02)

**Ms Hanna:** I understand your question concerns my Department's funding of university research here. The bulk of my Department's funding is through the annual recurrent mainstream grant which is essentially related to research quality and volume as is the case in Great Britain. Otherwise there are separate funding streams for specific initiatives which are generally local derivations of initiatives in England, although the Support Programme for University Research is a notable local exception. I should point out that my Department's grants are only part of the picture as the Universities can attract funds from other sources such as Research Councils, other Government Departments and the private sector.

### Individual Learning Accounts

**Ms Ramsey** asked the Minister for Employment and Learning to detail, in each of the last 4 years, allocations made to the Individual Learning Accounts; and to make a statement on the efficiency, effectiveness and value for money of the scheme. (AQO 221/02)

**Ms Hanna:** From their introduction in September 2000, expenditure on Individual Learning Accounts was £1.3 million in 2000/01; £7.2 million in 2001/02; and £0.4m to date in 2002/03.

A recent survey has shown that the great majority of Northern Ireland users had improved their skills, were fully satisfied with their courses and the value for money. However, it also indicated the scheme's limited impact on those who are educationally and economically disadvantaged.

### Teacher Training

**Ms Morrice** asked the Minister for Employment and Learning to confirm that she provides funding for segregated teacher training; and to outline any plans she has to fund an integrated teacher training college. (AQO 202/02)

**Ms Hanna:** My Department provides funding for teacher education in Queen's University, Belfast, the University of Ulster, St Mary's University College and Stranmillis University College. These institutions' recruitment and admissions policies are subject to the requirements of equality legislation.

I have no plans to add to this provision.

## ENTERPRISE, TRADE AND INVESTMENT

### Northern Ireland Tourist Board Print Contracts

**Mr Dallat** asked the Minister of Enterprise, Trade and Investment to list, on an annual basis between 1990 and 2000, the monetary value of NITB print contracts awarded to the following companies: (a) Nicholson and Bass; (b) Universities Press (Belfast); (c) W & G Baird, and (d) Graham and Heslip. (AQW 92/02)

**The Minister of Enterprise, Trade and Investment (Sir Reg Empey)** [*holding answer 20 September 2002*]: The table below sets out information relating to payments to each of the Companies. The notes explain the basis for the information supplied.

Financial Year	Nicholson and Bass (£)	Universities Press (£)	W&G Baird (£)*	Graham & Heslip (£)
	Note 3	Note 3	Note 2	Note 3
91/92	30,790	120,881	128,000	1,315
92/93	141,273	51,047	206,000	6,394
93/94	75,614	61,386	183,300	38,414
94/95	86,190	51,883	263,771	60,664
95/96	142,673	94,565	306,890	96,241
96/97	32,374	36,144	306,006	84,349
97/98	55,916	64,752	243,058	27,485
98/99	29,928	1,485	125,305	47,038
99/00	44,345	15,950	169,408	28,797

\* Including associated companies

Note 1: Records for the 1990/91 year are no longer available.

Note 2: The 1991/92 figure is based on contract information currently available in NITB. Figures for 1992/93 to 1999/00 are as previously supplied on AQW 2788/01.

Note 3: Figures for 1991/92 to 1995/96 have been based on contract information currently available in NITB. Figures for 1996/97 to 1999/00 have been extracted from NITB's financial accounting records of actual payments made to the companies in those years.

### Northern Ireland Tourist Board Print Contracts

**Mr Dallat** asked the Minister of Enterprise, Trade and Investment to detail, on an annual basis between 1990 and 2000, the percentage of NITB print contracts awarded to the following companies: (a) Nicholson and Bass; (b) Universities Press (Belfast); (c) W & G Baird, and (d) Graham and Heslip. (AQW 93/02)

**Sir Reg Empey** [*holding answer 20 September 2002*]:



Financial Year	Nicholson and Bass (%)	Universities Press (%)	W&G Baird (%)*	Graham & Heslip (%)
91/92	9	37	39	0
92/93	30	11	44	1
93/94	18	15	44	9
94/95	13	8	41	9
95/96	19	13	42	13
96/97	6	7	60	17
97/98	12	14	52	6
98/99	8	0	32	12
99/00	10	4	38	6

\*Including associated companies.

Note 1: Records for the 1990/91 year are no longer available.

Note 2: Percentages have been based on total contract information for each year currently held in NITB.

### Bombardier Shorts

**Mr Shannon** asked the Minister of Enterprise, Trade and Investment if Bombardier Shorts have repaid, in full, all launch aid financing provided by local government or Westminster. (AQW 267/02)

**Sir Reg Empey:** My Department does not provide such financing to industry in Northern Ireland.

As launch aid (now termed Launch Investment) is a "reserved matter" administered by DTI, the Member should put his query to the Secretary of State for DTI, Rt Hon Patricia Hewitt, MP, at 1 Victoria Street, London, SW1H 0ET.

### Moyle District Council Area

**Mr Paisley Jnr** asked the Minister of Enterprise, Trade and Investment if he will undertake to (a) carry out an economic appraisal of the Moyle Council area; (b) publish the results of this appraisal and (c) put in place a strategy to address any economic decline identified. (AQW 273/02)

**Sir Reg Empey:** The Moyle District Council area is heavily dependent on the rural economy and the retail sector is a significant employer. Moyle also has a low manufacturing base. These structural issues are significant when considering economic development plans for the region.

Invest NI is engaged with its enterprise partners within Moyle including Moyle Local Strategic Partnership to address the economic development issues facing the region. A number of appraisals have been completed on economic development issues and consultations have taken place within the community and with key influencers to identify the key local economic develop-

ment needs. These consultations resulted in a number of significant actions aimed at promoting economic development within Moyle.

Moyle District Council has an agreed Local Economic Development plan in place. This plan was drawn up with input from Invest NI and sets out priorities for the region until 2005.

It is the view of Invest NI that an additional economic appraisal at this time is not necessary. A number of appraisals have taken place over the last year and the Moyle Local Strategy Partnership has consulted widely in order to determine the priorities for the region. The key economic points of this have been captured within the Moyle District Council Local Economic Development Plan.

Invest NI is now working with its partners within Moyle to ensure the targets set out in these plans are met.

### Asbestos

**Mrs I Robinson** asked the Minister of Enterprise, Trade and Investment to detail (a) the number of buildings owned by his department which currently contain asbestos as a component of their construction; (b) the number of staff employed in these buildings and (c) what plans he has to remove any asbestos. (AQW 301/02)

**Sir Reg Empey:** In each case, the answer is none.

### Job Losses

**Mr K Robinson** asked the Minister of Enterprise, Trade and Investment to outline (a) the number of job losses in East Antrim which are associated with the hi-tech/telecommunications sector; and (b) any plans he has to ensure that the critical mass of research and development employees is retained/re-deployed in potential new sectors. (AQW 312/02)

**Sir Reg Empey:** In the last 2 years East Antrim area has seen the loss of around 2250 jobs in the hi-tech and telecommunications sector.

I recognise the key role that such employees play in achieving economic prosperity and the importance of retaining them in the sector, particularly those with technological skills. For this reason my Department liaises closely with the Department of Employment and Learning and local companies to help find new employment opportunities for any employees being made redundant. In addition, Invest NI has a range of support available to encourage people to use their skills in developing businesses. For example, in the East Antrim area, Invest NI has approved support for the Enterprise Agency in Larne to run the Fresh Start Redundancy Programme. This programme is aimed at people being made

redundant, who may consider Self Employment. The programme will cover,

What's involved in self-employment?

Ideas Generation

Role model stories

Market Research

Invest NI is currently considering a proposal to run a 'Managers into Enterprise Programme' (MINE). This programme would seek to encourage managers in companies to consider setting up their own business.

Invest NI also has a Growth Start Programme, which is aimed at supporting people to set up businesses with potential to expand in export markets.

This scheme can provide financial support for product development, marketing and revenue costs.

I am very much aware of the difficulties currently faced by the East Antrim area and officials will consider if additional measures are needed to encourage alternative employment opportunities or to allow highly skilled people to start their own businesses.

### Bombardier Shorts

**Mr Weir** asked the Minister of Enterprise, Trade and Investment what representations have been made to Bombardier Shorts in relation to the recent announcement of redundancies and in light of Bombardier Montreal recruiting new staff. (AQW 334/02)

**Sir Reg Empey:** I have impressed upon Bombardier senior management, both in Belfast and in Montreal, the critical importance of continuing investment in people skills and research and development in Belfast and I have expressed my deep concerns about these most recent redundancies. On the ground Invest NI seeks to influence this through selective financial support for investment in research capability and training and development, which will strengthen Shorts' position as a centre of excellence within the Bombardier group.

As regards additional recruitment in Montreal as far as I have been made aware, Bombardier Montreal has only been recruiting a limited number of highly specialised posts over the past few months, including in its Defence Services facility at Mirabel.

### Bombardier Shorts

**Mr Weir** asked the Minister of Enterprise, Trade and Investment to give his assessment of Bombardier Shorts' recent public statement and assurances from the President regarding the retention of a strong integrated design and

manufacturing facility, particularly in light of experience since 1998. (AQW 335/02)

**Sir Reg Empey:** The recent public statement made by Bombardier underlines the previous assurances given by senior Bombardier management in both Belfast and Montreal about their commitment to retain a strong integrated design and engineering function in Belfast. It also reaffirms Belfast as a core part of Bombardier's aerospace business. The aerospace industry has witnessed significant contraction over the past year as the result of the global downturn and the unprecedented events of September 11. Major international players in the sector, including Bombardier, have had to review their operations and make commercial judgements on an ongoing basis to ensure they can continue to compete in a rapidly changing and fiercely competitive environment.

### Bombardier Shorts

**Mr Weir** asked the Minister of Enterprise, Trade and Investment in light of the large investment of public money in Bombardier Shorts, what pressure he intends to apply to safeguard employment levels and the pensions of current and former employees of the company. (AQW 336/02)

**Sir Reg Empey:** I have expressed to Bombardier senior management my deep disappointment at the recent announcement of job losses. The public statement made by Bombardier underlines the previous assurances given to me by senior Bombardier management in response to my previous representations, to retain a strong design and engineering capability in Belfast and also reaffirms Belfast as a core part of Bombardier's aerospace business. Invest NI will also seek through support for investment in research and engineering capability and training to maximise employment opportunities.

In regard to pensions, this is not a matter for my Department and I would advise the Assembly Member that any questions he has on this should be taken up with the company; the Occupational Pensions Regulatory Authority (Opra) at: Invicta House, Trafalgar Place, Brighton, BN1 4DW, Phone: 01273 627600, e-mail: [helpdesk@opra.gov.uk](mailto:helpdesk@opra.gov.uk) website: [www.opra.gov.uk](http://www.opra.gov.uk) or ultimately with the Pensions Ombudsman, at: OPAS 11 Belgrave Road, London SW1 V1RB, Phone: 020 7233 8080, website: [www.opas.org.uk](http://www.opas.org.uk)

### Bombardier Shorts

**Mr Weir** asked the Minister of Enterprise, Trade and Investment to outline (a) any action he has taken to ensure that the interests of local families and the local economy are safeguarded in relation to the public funding of Bombardier Shorts; and (b) what quantifiable commitments he has received in relation to the future of the company. (AQW 337/02)

**Sir Reg Empey:** The Member will be aware that I have worked very closely with senior management of Bombardier both in Belfast and in Montreal since last October when they announced up to 2000 potential redundancies by the end of this year. Officials of Invest NI have also been in touch with colleagues in the Department of Employment and Learning to ensure that the fullest possible effort would be made to alleviate the difficulties that are facing those employees and their families who will be affected by the recent announcement, both in terms of offering assistance and in identifying specific needs including alternative employment and retraining.

In relation to assurances about the future of the company I have expressed my deep concerns about the recent job losses with senior Bombardier Shorts management. I have been told that these were made very reluctantly but were forced upon the company due to the continued softening of the regional and business jet markets and the general slowdown in the global economy. In its recent public statement the company has given assurances that it is committed to retaining a strong integrated design and engineering function in Belfast. It is continuing to invest to a significant degree in both capital and in skills training, in order to ensure that Belfast retains its core position as a centre of excellence within the Bombardier group and is well placed to compete for new aircraft programmes when the market recovers.

Invest NI is also in close discussions with the company about current programmes which will maximise employment opportunities in Belfast.

### Local Enterprise Agencies

**Mr K Robinson** asked the Minister of Enterprise, Trade and Investment to assess the possibilities for enhancing the current service provided by Local Enterprise Agencies in (i) Larne; (ii) Carrickfergus; and (iii) Newtownabbey; and to make a statement. (AQW 347/02)

**Sir Reg Empey:** Invest NI is committed to working in close partnership with the Local Enterprise Agencies in Larne, Carrickfergus and Newtownabbey. Each Agency delivers the Business Start Programme in their respective areas and a range of specific programmes have been developed and delivered. Examples of these include the Business Start Aftercare Programme through Mallusk Enterprise Agency, the Business Support Programme through Carrickfergus Enterprise Agency and the Fresh Start Enterprise Programme through Larne Enterprise Development Company Limited (LEDCOM).

Invest NI is keen to consider programme proposals from the Local Enterprise Agencies and to support these where they provide a positive contribution to the region, and are complementary with other programmes and schemes already available. In this way, the Local Enterprise

Agencies in Larne, Carrickfergus and Newtownabbey could enhance the current services they provide.

Invest NI is also committed to ensuring that there is an integrated and coordinated approach to local economic development and to this end is working closely with Enterprise NI, of which the 3 East Antrim LEAs are members, to develop an approach whereby the LEA's provide an enhanced service to companies in the local market place and encourage a more enterprising culture.

My recent visit to East Antrim highlighted the real difficulties being faced in the area and I will ensure that our resources are harnessed to meet areas of greatest need.

### Global Point, Newtownabbey

**Mr K Robinson** asked the Minister of Enterprise, Trade and Investment to outline progress in finding tenants for the former IDB site at Global Point, Newtownabbey; and to make a statement. (AQW 348/02)

**Sir Reg Empey:** Invest NI are actively pursuing tenants to invest and locate at the Global Point site Newtownabbey. Some interest has been received from inward and indigenous companies and negotiations are well advanced with a local development consortium in respect of the provision on a speculative basis of a 40,000 sq ft light industrial customer contact centre.

### Insurance Costs

**Mr McGrady** asked the Minister of Enterprise, Trade and Investment, pursuant to AQW 4411/01, to outline (a) the outcome of research undertaken by his department into the causes of high insurance costs; and (b) any steps he is taking to help stabilise or reduce the rate of increase in premiums. (AQW 351/02)

**Sir Reg Empey:** My Departmental research, which still continues, has identified a formidable complex of reasons for current difficulties. These include the combined impact of long term unprofitability in the industry; the particular problems of insuring industrial diseases; the need for some level of cyclical market readjustment; the current stock market downturn and the difficulty of raising capital in these circumstances; the re-insurance problems caused by September 11, increasing societal expectations and consequent litigation. Both Government and the insurance industry have set up Working Groups to examine the scope for addressing present difficulties. My officials are closely involved in both; and I propose to discuss the issue soon with the Economic Secretary to the Treasury.

## Bombardier Shorts

**Mr Shannon** asked the Minister of Enterprise, Trade and Investment, in light of commitments made by Bombardier when purchasing Shorts, regarding development of its three main divisions, to outline any action he will be taking to safeguard public funding provided to this company.

(AQW 377/02)

**Sir Reg Empey:** Invest NI and before it, IDB has been and is continuing to closely monitor Bombardier's performance, including the investment of public funding provided to the company. The best way of protecting public investment in Shorts is to ensure that the business takes the necessary actions in order to ensure its international competitiveness in a rapidly changing and fiercely competitive marketplace. Invest NI will continue to seek to influence this through the provision of support to encourage investment by the company in research capability and training, which are the essential factors which will enable the company to compete effectively for new work as the market recovers.

## Bombardier Shorts

**Mr Shannon** asked the Minister of Enterprise, Trade and Investment what guarantees he, or the IDB, has sought in regard to Bombardier Shorts' commitment to the future of the company and the protection of its capital structure, particularly in view of the company's record regarding asset sales.

(AQW 384/02)

**Sir Reg Empey:** Bombardier regards its core business in Belfast to be the development of fuselages, engine nacelles and composites. To enable it to focus resources on, and release funds for the development of the core business, the company has sold off non-core activities such as its missiles division.

The recent public statement by the company in relation to the recent job losses emphasised Bombardier's commitment to retaining Belfast as a core part of the Bombardier group and ensuring a strong integrated design and manufacturing capability here. I and Invest NI will continue to work closely with Bombardier Shorts' senior management to see how we can leverage further research development and investment in these areas, which will strengthen the core business and secure the future competitiveness of the company.

## Breaching Machinery Laws: Penalties

**Mrs Carson** asked the Minister of Enterprise, Trade and Investment if he would consider introducing stiffer penalties for those breaching machinery laws, referring specifically to underage driving of farmyard vehicles.

(AQW 422/02)

**Sir Reg Empey:** No. Failures to comply with the relevant legislation are offences under the Health and Safety at Work (Northern Ireland) Order 1978 which may attract fines not exceeding £5,000 on summary conviction. The offences are also triable on indictment in the Crown Court, where they may attract unlimited fines. The actual penalty imposed in any particular case is, of course, a matter for the judiciary.

## Asbestos

**Mrs I Robinson** asked the Minister of Enterprise, Trade and Investment to detail (a) the number of buildings leased by his Department that have asbestos as a component of their construction; (b) the number of staff employed in these buildings; and (c) any plans he has for the removal of asbestos.

(AQW 430/02)

**Sir Reg Empey:** The answer in all three cases is none.

## Job Losses

**Mr Beggs** asked the Minister of Enterprise, Trade and Investment to detail the number of job losses that have occurred in each of the last two years, by constituency and district council area.

(AQW 501/02)

**Sir Reg Empey:** It is not currently possible to provide information on redundancies by constituency and district council area. However, the number of redundancies in Northern Ireland confirmed to the Department of Enterprise, Trade and Investment by Job Centre Area for each of the last two years is shown in Table 1.

**TABLE 1.**  
**TOTAL CONFIRMED REDUNDANCIES BY JOB CENTRE AREA\***

Job Centre Area	Total Confirmed Redundancies by Job Centre Area		
	Year ending 31/12/2000	Year ending 31/12/2001	Year to date 1 <sup>st</sup> Oct 2002
Antrim	83	61	307
Armagh	419	219	0
Ballymena	373	184	7
Ballymoney	10	0	19
Ballynahinch	0	86	36
Banbridge	5	36	35
Bangor	399	20	91
Belfast	1,746	735	596
Carrickfergus	61	411	179
Coleraine	136	232	5
Cookstown	0	0	0
Craigavon	0	307	0



Job Centre Area	Total Confirmed Redundancies by Job Centre Area		
	Year ending 31/12/2000	Year ending 31/12/2001	Year to date 1 <sup>st</sup> Oct 2002
Downpatrick	27	0	0
Dromore	29	0	0
Dungannon	90	35	25
Enniskillen	379	303	20
Islandmagee	0	19	2
Kilkeel	53	0	192
Larne	190	89	154
Limavady	59	0	0
Lisburn	862	310	80
Londonderry	894	502	57
Lurgan	167	248	75
Magherafelt	141	48	0
Newcastle	0	0	0
Newry	91	196	4
Newtownabbey	0	788	278
Newtownards	603	15	100
Omagh	173	22	2
Portadown	42	212	164
Strabane	79	85	29
<b>Northern Ireland</b>	<b>7,111</b>	<b>5,163</b>	<b>2,457</b>

\* A Job Centre Area is the nearest Job Centre office associated with the company making redundancies.

## Review of New TSN Action Plan

**Mr Beggs** asked the Minister of Enterprise, Trade and Investment, pursuant to AQO 1459/01, and in light of the recent announcement of additional job losses in East Antrim Constituency, to outline when the results of the review of the Department's New TSN Action Plan will be announced. (AQW 502/02)

**Sir Reg Empey:** Work to finalise DETI's revised New TSN area maps is almost complete. The revised maps, which will be informed by the Noble report, *Measures of Deprivation in Northern Ireland*, and current unemployment levels, are due to be published before the end of October 2002.

## Attracting Tourism

**Mr Paisley Jnr** asked the Minister of Enterprise, Trade and Investment to detail his strategy to attract more tourists to (i) the Giant's Causeway, (ii) North Antrim Coast, (iii) The Glens of Antrim. (AQO 186/02)

**Sir Reg Empey:** All three areas are the subject of a number of strategies being developed and implemented by my Department through the Northern Ireland Tourist Board in conjunction with relevant partners. These strategies aim to ensure that this area continues to attract visitors and that accruing benefits are spread throughout the region while preserving the integrity of the tourism resource.

## Tourism Sector

**Mr McElduff** asked the Minister of Enterprise, Trade and Investment to make a statement on the performance of the Tourism Sector in Ireland, both North and South, during the months of June, July and August 2002, including comment on any difficulties posed by inclement weather. (AQO 183/02)

**Sir Reg Empey:** Initial indications would suggest that there continues to be growth in tourism to Northern Ireland and to the Republic of Ireland from our near markets. However there is continuing uncertainty regarding medium and long haul markets, in particular North America.

Inclement weather is more likely to influence the performance of domestic tourism rather than booking patterns in our overseas markets.

## Electricity Prices

**Mr Molloy** asked the Minister of Enterprise, Trade and Investment to make a statement on discussions involving Northern Ireland Electricity and OFREG aimed at reducing electricity bills. (AQO 192/02)

**Sir Reg Empey:** OFREG regularly meets NIE and electricity generators to discuss a wide range of aspects of their operations. I understand that OFREG and NIE are currently discussing several options to reduce electricity prices further.

## Financial Assistance to Industry

**Ms Gildernew** asked the Minister of Enterprise, Trade and Investment what assessment he has made of the value for money of the Department's financial assistance to industry. (AQO 214/02)

**Sir Reg Empey:** An evaluation of the effectiveness of Selective Financial Assistance (SFA) to industry was undertaken as part of the NI Executive's Needs and Effectiveness evaluations. The study found that SFA had a significant impact on employment and productivity within Northern Ireland manufacturing and was also successful at promoting enterprise and innovation.

## Farm Accidents

**Mrs Courtney** asked the Minister of Enterprise, Trade and Investment to detail the number of farm accidents, in the last year, involving farm workers and children; and to make a statement. (AQO 181/02)

**Sir Reg Empey:** In 2001/02, there were 57 statutory reports of farm accidents received by Health and Safety Executive for Northern Ireland. However, it is believed that there is gross under-reporting of accidents in this sector. The recent Department of Agriculture and Rural Development Social Survey of Farmers and Farm Families 2001/02 found that 2% of those interviewed had suffered from a work-related injury necessitating medical attention in the preceding year as a result of a farm accident. This equates to 1,800 farmers across Northern Ireland.

## ENVIRONMENT

### Northern Ireland Beaches

**Mr M Robinson** asked the Minister of the Environment to detail the investment already committed and planned to improve the quality of Northern Ireland beaches. (AQW 263/02)

**The Minister of the Environment (Mr Nesbitt):** The Environment and Heritage Service of my Department monitors the quality of bathing waters at Northern Ireland's beaches. This programme has identified deficiencies in the existing sewer systems as a contributory cause of failure to meet European bathing water standards. This reinforces the need for investment and improvement to the sewerage infrastructure in order to improve the quality of Northern Ireland's bathing waters.

Responsibility for the capital investment required to achieve the much needed improvements to coastal sewerage systems and waste water treatment works lies with the Minister for Regional Development. I understand from his Department that over the past 10 years, his Department's Water Service has invested £44 million in upgrading a number of Wastewater Treatment Works and sewerage systems, discharging to coastal waters, in order to meet the required discharge standards.

Over the next 5 years investment of £50 million is planned, within Water Service's publicly funded Capital Works Programme, to upgrade or provide new Wastewater Treatment Works at 24 coastal locations and to improve 9 sewerage networks. The upgrading or provision of new Wastewater Treatment Works at a further 5 major coastal locations are currently being considered for procurement under a proposed Public Private Partnership (PPP) programme of work. The costs involved are £117 million. However, I understand that the PPP programme

of work is the subject of a detailed appraisal study. It will be several months before this is complete and it will not be possible to give an indication of the likely start dates of any of these projects before then.

In the longer term, Water Service proposes to refurbish several sewer networks at major coastal locations.

## Asbestos

**Mrs I Robinson** asked the Minister of the Environment to detail (a) the number of buildings owned by his Department which currently contain asbestos as a component of their construction; (b) the number of staff employed in these buildings; and (c) any plans he has for the removal of asbestos. (AQW 313/02)

**Mr Nesbitt:**

- (a) Fourteen specialised buildings owned by Executive Agencies of my Department contain asbestos as a component part of their construction. Asbestos Registers have been compiled and are being maintained at all properties.
- (b) 335 staff are employed in these buildings. In none of the buildings in which staff are employed is the asbestos considered to be in a dangerous condition.
- (c) In accordance with the advice of the Health and Safety Executive (NI), the Department does not remove asbestos-containing materials where they are in a good condition. Instead, the asbestos is left undisturbed and its presence managed until it can be removed safely (eg prior to refurbishment or demolition). One unoccupied building is due to have asbestos/cement roofing replaced with natural slates in October/November 2002.

## "Wake up to Waste" Campaign

**Mr Armstrong** asked the Minister of the Environment to outline the proposed timetable for District Councils to distribute an additional bin to households, for recycling purposes, in line with the 'Wake up to Waste Campaign'. (AQW 391/02)

**Mr Nesbitt:** The time-scale for the introduction of recycling schemes remains the responsibility of the District Councils.

My Department has provided grant aid to District Councils to assist the development of their Waste Management Plans. These Plans set the framework for the development of an integrated network of waste management facilities by identifying the number and type of facility, together with general locations, that will be required to deal with the projected quantities of waste. The first phase of the Department's 'Wake Up to Waste' Campaign succeeded in raising public awareness

and generated significant public participation in the consultations on Waste Management Plans.

The results of the Campaign have shown clearly that people want to be involved, and welcome the opportunity to take personal action to enhance their environment.

In the last year some 60,000 new bins have been purchased with grant aid from my Department to further the involvement of householders in reducing the amount of domestic waste disposed of to landfill.

While some Councils have already initiated recycling schemes, by providing additional bins to householders for the segregation of recyclable materials, others are currently in the process of rolling out their schemes.

### Asbestos

**Mrs I Robinson** asked the Minister of the Environment to detail (a) the number of buildings leased by his Department that have asbestos as a component of their construction; (b) the number of staff employed in these buildings; and (c) any plans he has for the removal of asbestos. (AQW 427/02)

**Mr Nesbitt:** There are no buildings leased by my Department that have asbestos as a component of their construction.

## FINANCE AND PERSONNEL

### BA Publishing Services

**Mr Dallat** asked the Minister of Finance and Personnel to list the number and nature of any publishing contracts awarded by the Government Purchasing Agency to the firm BA Publishing Services between 1997 and 2002. (AQW 135/02)

**The Minister of Finance and Personnel (Dr Farren):** Government Purchasing Agency has not awarded any publishing contracts to BA Publishing Services between 1997 and 2002.

BA Publishing Services are however one of four suppliers currently on contract to provide the Social Services Agency with printing, storage & distribution of forms. This contract was awarded on behalf of the Social Services Agency by the Government Purchasing Agency and is due for renewal later this year.

### Civil Servants Residing In Omagh

**Mr McElduff** asked the Minister of Finance and Personnel to detail the number and location of public sector

employees, by department, who live in the Omagh District and travel to work outside Omagh; and to make a statement. (AQW 246/02)

**Dr Farren:** The Department of Finance and Personnel holds figures relating solely to the Northern Ireland Civil Service. I attach a table [page 106] that illustrates the number of civil servants in each of the 11 departments who live in the Omagh District Council area and who travel to work in one of the other district areas.

As the Strategic Review of Civil Service Office Accommodation, which includes an examination of the scope for decentralisation of Civil Service jobs, is currently ongoing, it would be inappropriate for me to comment further on this issue at present. However I can confirm that pending the outcome of the review, opportunities to relocate Civil Service jobs are continuing to be examined on a case by case basis, as particular needs and issues arise. Where there are considered to be pressing accommodation needs or where short-term decisions are required, business cases are prepared taking full account of the current relocation policy.

NICS STAFF LIVING IN OMAGH DCA AS AT JANUARY 2002<sup>1,2,3</sup>

(AQW 246/02)

DCA of work location	NICS Department										
	DARD	DCAL	DE	DETI	DFP	DEL	DHSSPS	DOE	DRD	DSD	Total
Antrim	2										2
Ballymena	2								1		3
Belfast	20	1		1	12	8	3	4	4	46	99
Castlereagh					1				2	2	5
Coleraine	7								1		8
Cookstown	4							1	1	1	7
Craigavon								2	2		4
Derry	2		2		4	1	2	2	11	4	28
Down	2										2
Dungannon	3					3			5	1	12
Fermanagh	30	1				3		2	5	11	52
Newry & Mourne	6								3		9
Omagh	79	6			20	11		33	164	74	387
Strabane						2			4		6
Unknown										1	1
<b>Total</b>	<b>157</b>	<b>8</b>	<b>2</b>	<b>1</b>	<b>37</b>	<b>28</b>	<b>5</b>	<b>44</b>	<b>203</b>	<b>140</b>	<b>625</b>

<sup>1</sup> excludes NICS staff on career break<sup>2</sup> includes NICS staff employed in the 11 Ministerial Departments only<sup>3</sup> includes both permanent and casual, and industrial and non-industrial NICS staff**Irish Language: Expenditure**

**Mr Paisley Jnr** asked the Minister of Finance and Personnel to give a breakdown of expenditure, for each year from 1998 to date, on translations and interpretations of (i) publications and (ii) stationery from and into the Irish language. (AQW 255/02)

**Dr Farren:** Please find detailed below the information as requested:

	2000/2001 £	2001/2002 £
Publications	2080	159
Stationery	-	-
<b>Total</b>	<b>2080</b>	<b>159</b>

No expenditure was incurred for the 1998/99 and 1999/2000 financial years.

may be paid in respect of additional distance travelled and in accordance with the terms of the NICS Staff Handbook.

Excess fares are paid at the public transport rate (currently 25.7p per mile) and are normally paid for a period of 3 years following the permanent transfer. They are subject to deductions in respect of Income Tax and National Insurance Contributions.

Transfers made at the officer's own request do not qualify for excess fares allowance.

Records of excess fares paid are not collated according to the work (or home) locations of the recipients. As manual extraction of the information requested, by examination of each individual's record would involve disproportionate expense, it is not possible to provide the details requested.

**Civil Servants: Travelling Expenses**

**Mrs Nelis** asked the Minister of Finance and Personnel to detail, in each of the past 4 years, the cost to the NICS of travelling expenses for employees living outside the Belfast area and working in Belfast. (AQW 281/02)

**Dr Farren:** The NICS does not pay travelling expenses from home to work except in cases where an individual is transferred by their employing department or agency for business reasons. In these cases excess fares allowances

**Rates: High Street Shops**

**Mr K Robinson** asked the Minister of Finance and Personnel what action he will take to help relieve High Street shops from their current high rates, to enable them to compete effectively with out of town shopping complexes; and to make a statement. (AQW 293/02)

**Dr Farren:** A Revaluation of Non-Domestic property is underway and a new valuation list will be introduced in April 2003. This will take into account economic and



social changes that have taken place since the last revaluation in 1997 and will restore the link between rateable values and open market rental values, thus ensuring a more equitable distribution of the rate burden. It is too early to speculate on its full impact until the exercise is complete and the precise effect on individual properties, business sectors and locations is known, but it is quite possible that the revaluation will ease the rate burden on many businesses located in town centres that have been in decline. Sectors of the market that have fared better, such as many of our out of town shopping centres, are likely to experience an increase.

Furthermore, the public consultation stage of the Review of Rating Policy, launched on 27 May 2002, is almost complete. Existing rating legislation in Northern Ireland does not provide for the type of rate relief sought. However, the questions of small business relief and urban regeneration are two of the policy matters being considered in the Review and are relevant to this issue. Additionally, the option of moving to a capital value system for commercial properties is covered and such a system would have a positive effect on many of our High Streets.

No decisions on any changes to the current rating system will be taken until after the Consultation period closes and the responses have been analysed and considered by the Executive in the autumn.

### Asbestos

**Mrs I Robinson** asked the Minister of Finance and Personnel to detail (a) the number of buildings owned by his Department which currently contain asbestos as a component of their construction; (b) the number of staff employed in these buildings; and (c) any plans he has for the removal of asbestos. (AQW 314/02)

**Dr Farren:** The information you requested is as follows:

- (a) There are 67 buildings owned by the Department of Finance and Personnel which currently contain asbestos as a component of their construction;
- (b) Approximately 10,400 staff are employed in these buildings; and
- (c) The Department does not have a general plan to remove asbestos from its buildings.

### Peace II: Ards Borough Council Area

**Mr Shannon** asked the Minister of Finance and Personnel to explain the delay in the allocation of Peace II funding for projects in the Ards Borough Council Area. (AQW 352/02)

**Dr Farren:** The Special EU Programmes Body (SEUPB) in its role as Managing Authority for the PEACE II Programme is responsible for all aspects of the Programme. The SEUPB has confirmed to me that, while the process of establishing LSPs and agreeing all of the necessary contractual arrangements took longer than intended, since then the Ards Local Strategy Partnership Ltd has made good progress to implement the PEACE II measures for which they are responsible.

Ards' Interim Integrated Strategy and Action Plan were agreed and a global grant of £1,778,000 was approved on the 12th February 2002. Between February and May 2002, the LSP Board met regularly to establish the office, set the criteria and devise the Programme. During early May 2002 Ards LSP advertised the first part of their programme. Thirty-three applications have been assessed and nineteen are still under consideration. Applicants will receive decisions by early October 2002. Good progress has also been made with other elements of the programme.

## HEALTH, SOCIAL SERVICES AND PUBLIC SAFETY

### Mater Hospital

**Mr A Maginness** asked the Minister of Health, Social Services and Public Safety whether the Mater Hospital is to be downgraded, and, if so, when this downgrading will commence and when it will be considered a local hospital. (AQW 47/02)

**The Minister of Health, Social Services and Public Safety (Ms de Brún):** In my consultation paper *Developing Better Services: Modernising Hospitals and Reforming Structures*, I have proposed that the role of the Mater Hospital should change to become a Local Hospital. A change of role to a modern Local Hospital would enable the Mater to provide a wide range of services, including sophisticated methods of investigation, diagnosis and day procedures, and it will continue to provide the vast majority of services that people get in hospital settings, and which do not need to be delivered in an acute hospital. As the consultation paper also makes clear, I am proposing that the Mater should continue to provide a range of acute services for much of the period leading to the establishment of a new pattern of hospital services.

No decisions on any of the proposals in the consultation paper have, or will be taken, until after the consultation period ends on 31 October 2002 and the responses to the consultation have been fully analysed and considered. Following discussion at the Executive, it is hoped that final decisions can be taken in the course of 2002.

I mo pháipéar comhairliúcháin Seirbhísí Is Fearr A Fhorbairt: Otharlanna A Nuachóiriú agus Struchtúir a Leasú, mhol mé gur chóir ról Otharlann an Mater a athrú go hOtharlann Áitiúil. Chuirfeadh athrú ról an Mater go hOtharlann Áitiúil nua-aimseartha ar a cumas réimse leathan seirbhísí a sholáthar, modhanna sofaisticiúla fiosraithe, diagnóise agus gnáthaimh lae curtha san áireamh, agus leanfaidh sí uirthi ag soláthar mhóorthromlach na seirbhísí a fhaigheann daoine i suímh otharlainne, seirbhísí nach gá a sholáthar i ngéarotharlann. Mar a shoiléiríonn an páipéar comhairliúcháin chomh maith, tá mé ag moladh gur chóir go leanfadh an Mater uirthi ag soláthar raon géarsheirbhísí ar feadh cuid mhaith den tréimhse ina mbeidh bunú gréasán úr seirbhísí otharlainne mar thoradh air.

Ní dhearnadh agus ní dhéanfar aon chinneadh ar cheann ar bith de na moltaí sa pháipéar chomhairliúcháin go dtí go gcricnóidh an tréimhse chomhairliúcháin ar 31 Deireadh Fómhair 2002 agus go dtí go measfar agus go ndéanfar anailís iomlán ar fhreagairtí an chomhairliúcháin. I ndiaidh plé a dhéanamh ag an Choiste Feidhmiúcháin táthar ag súil gur féidir na cinntí deireannacha a ghlacadh le linn 2002.

### Responses to Consultation: Acute Hospitals Review Group Report

**Mr A Maginness** asked the Minister of Health, Social Services and Public Safety if the consultation documents received following the publication of the Acute Hospitals Review Report will be made public, given that, as a result of this process, the Developing Better Services consultation paper recommended the downgrading of the Mater Hospital. (AQW 50/02)

**Ms de Brún:** In keeping with my Department's policy on openness, responses to the consultation on the Acute Hospitals Review Group report can be made available, on request, subject to the consent of the consultee. A short summary of the responses received and a list of respondees is available from my Department and has been placed in the Assembly library. My proposal is that the Mater Hospital will be a modern hospital providing a wide range of services including sophisticated methods of investigation, diagnosis and day procedures. This proposed change of role to a local hospital is not a "down-grading", but is designed to ensure that the network of hospital services available to the population here is modern, effective and of a high quality.

Ag cloí le polasaí mo Roinne ar oscailteacht, is féidir freagraí an chomhairliúcháin ar thuairisc an Ghrúpa Athbhreithnithe ar Ghéarotharlanna a chur ar fáil, ach iad a iarraidh, ag brath ar chead a fháil ón té na comhairle. Tá achoimre ghairid na freagraí agus liosta freagróirí a fuarthas ar fáil ón Roinn s'agam agus cuireadh i leabharlann an Tionóil iad. Is é mo mholadh ná go mbeidh Otharlann

an Mater ina hotharlann nua-aimseartha ag soláthar réimse leathan seirbhísí ar a mbeidh modhanna sofaisticiúla fiosraithe, diagnóise agus gnáthaimh lae. Ní "íosghradú" é an t-athrú ról chuig otharlann áitiúil atá molta, ach tá sé deartha le cinntiú gur nua-aimseartha, éifeachtach agus d'ardchaighdeán an gréasán seirbhísí otharlainne a bheidh ar fáil don phobal.

### MRI Scans

**Mr Bradley** asked the Minister of Health, Social Services and Public Safety to detail (a) the number of patients awaiting MRI scans and (b) the current waiting times for these patients. (AQW 103/02)

**Ms de Brún:** This information is not routinely collected centrally.

A one-off exercise undertaken in May of this year found that 3,341 people were waiting for MRI scans here. The waiting times were between 3 and 10 months.

Ní bhailítear an t-eolas seo go lárnach ar bhonn rialta.

D'aimsigh cleachtadh aonuaire a tugadh faoi i mBealtaine i mbliana go raibh 3,341 duine ag fanacht le scantaí MRI anseo. Ba idir 3 agus 10 mí na hagaí feithimh.

### Procurement Policy

**Mr Attwood** asked the Minister of Health, Social Services and Public Safety to outline (a) how many contracts, to what value, and in what departmental areas, have been forwarded to the Public Procurement Board for consideration and inclusion in the pilot studies for procurement policy; and (b) what measures are being undertaken to assess each departmental contract for inclusion in the pilot studies; and to make a statement. (AQW 104/02)

**Ms de Brún:** As yet, no contracts have been forwarded to the Procurement Board for consideration.

This pilot project, by its very nature, is breaking new ground and as a consequence, the identification of suitable contracts will require careful consideration. My Department is currently exploring projects within the capital programme, including those secured under the Reinvestment and Reform Initiative, to identify suitable contracts for the Procurement Board's consideration.

I hope to be able to put forward suitable contracts shortly.

Níor cuireadh conarthaí ar bith chun tosaigh chuig an Bhord Soláthair le machnamh a dhéanamh orthu, go dtí seo.

Tá an threoirthionscadal seo, toisc an cineál tionscnaimh é, ag treabhadh talamh úr agus mar thoradh air, teastóidh machnamh géar ar aimsiú conarthaí oiriúnacha. Tá an Roinn s'agam ag scrúdú tionscadail sa chlár chaipitiúil,

mar aon leo siúd faighte de réir an Tionscnaimh Athinfheistíochta agus Athchóirithe, chun go n-aimseofar conarthaí oiriúnach a ndéanfaidh an Bord Soláthair machnamh orthu.

Tá súil agam conarthaí oiriúnacha a chur chun tosaigh roimh i bhfad.

### Health Service: Funding

**Mr Shannon** asked the Minister of Health, Social Services and Public Safety how much of the new funding allocation announced by the Chancellor of the Exchequer will be used for the improvement of the NI Health Service. (AQW 202/02)

**Ms de Brún:** As set out in the Executive's draft Budget for 2003-04, announced to the Assembly earlier this week by the Minister of Finance and Personnel, it is proposed to allocate some £3.06billion to my Department in the 2003-04 financial year. Most of these resources will be required to maintain existing services and meet the costs of developments already announced, including the construction of the Cancer Centre, increased hospital capacity and additional child care places. Some £27million will be available next year for new service development. This will allow for some modest development in hospital community and children's services but falls far short of what is needed to address need and to close the funding gap between here and England.

Mar atá leagtha amach i ndréacht-bhuiséad an Choiste Feidmiúcháin do 2003-04, a d'fhógair an tAire Airgeadais agus Pearsanra don Tionól níos luaithe sa tseachtain seo, moltar tuairim is £3.06billiún a dháileadh ar an Roinn s'agam sa bhliain airgeadais 2003-04. Beidh mórchuid na n-acmhainní seo de dhíth le seirbhísí atá ann cheana féin a choinneáil agus le híoc as costais na bhforbairtí atá fógartha chéana féin, tógáil Ionad Ailse, méadú in acmhainní otharlainne agus áiteanna breise cúram páistí curtha san áireamh. Beidh tuairim is £27milliún ar fáil ar an bhliain seo chugainn d'fhorbairt seirbhíse úra. Tabharfaidh seo faill le haghaidh roinnt forbartha measartha i seirbhísí otharlainne pobail agus páistí ach titeann sé faoin méid atá de dhíth le tabhairt faoi riachtanas agus leis an bhearna mhaoinithe idir an áit seo agus Sasana a líonadh.

### Homefirst Trust

**Mr Paisley Jnr** asked the Minister of Health, Social Services and Public Safety how much of the Homefirst Trust's resources were used to fund performance related pay to senior managers during (a) 1999-2000; (b) 2000-01; and (c) 2001-02. (AQW 220/02)

**Ms de Brún:** The total performance related pay made by Homefirst Community HSS Trust to its senior managers was as follows:

- (a) 1999/2000 £32,345;
- (b) 2000/2001 £38,757; and
- (c) 2001/2002 £47,914.

Is é a leanann ná tuarastal iomlán bunaithe ar fheidhmiú a d'íoc Iontaobhas SSS Phobal Homefirst chuig a bhainisteoirí sinsearach:

- (a) 1999/2000 £32,345;
- (b) 2000/2001 £38,757; agus
- (c) 2001/2002 £47,914.

### Diabetes UK

**Mr Paisley Jnr** asked the Minister of Health, Social Services and Public Safety in light of the 'Diabetes UK Northern Ireland' response to the Executive's Position Report: Programme for Government and Budget, what steps is she taking to respond to that organisation's concerns. (AQW 229/02)

**Ms de Brún:** I am aware of the serious threat to health and to healthcare resources posed by the rapid increase in the incidence of diabetes, and I welcome the Diabetes UK response to the Executive's Position Report: Programme for Government and Budget.

My Department is represented on the Joint Taskforce on Diabetes, which aims to work towards a framework for diabetes care here. The Taskforce will publish its findings in the Autumn, and any recommendations made will be carefully considered along side the prioritisation of available resources.

Is eol dom an bhagairt thromchúiseach do shláinte agus d'acmhainní cúram sláinte a thagann as an mhéadú ghasa i minicíocht dhiaibéitis, agus cuirim fáilte roimh fhreagairt Dhiaibéiteas na Ríochta Aontaithe ar Thuairisc Sheasaimh an Choiste Feidhmiúcháin: Clár um Rialtas agus Buiséad an Choiste Feidhmiúcháin.

Déantar ionadaíocht don Roinn s'agam ar an Chomhthascfhórsa ar an Diaibéiteas, a bhfuil sé mar aidhm aige obair i dtreo creatlaigh do chúram diaibéitis anseo. Eiseoidh an Tascfhórsa a chuid cinní san Fhómhar, agus déanfar machnamh géar ar mholtaí ar bith a dhéanfar taobh le tosaíochtacht na n-acmhainní atá ar fáil.

### Drug/Alcohol Abuse

**Mr M Robinson** asked the Minister of Health, Social Services and Public Safety to detail, in each of the last 5 years, the amount of funding given to the Voluntary

Sector to support and advise people with drug and alcohol problems. (AQW 233/02)

**Ms de Brún:** It is difficult to assess the level of resources expended on support and advice as a number of Departments and independent funders contribute to this area.

My Department, which has lead responsibility for the Drug Strategy and the Strategy for Reducing Alcohol Related Harm, has provided funding either directly or through the Health Boards to voluntary sector agencies engaged in tackling drug and alcohol misuse as follows:

Year	Amount (£)
1997/1998	835,287
1998/1999	955,805
1999/2000	973,104
2000/2001	1,607,120
2001/2002	2,278,560

Tá sé deacair leibhéal na n-acmhainní a caitheadh ar thacaíocht agus ar chomhairle a mheas mar go dtugann roinnt Ranna agus maoinitheoirí neamhspleácha don réimse seo.

Chuir an Roinn s'agam, a threoraigh freagracht don Straitéis Drugaí agus don Straitéis Chun An Dochar A Bhaineann le hAlcól a Laghdú, maoiniú ar fáil go díreach nó trí na Boird Sláinte chuig eagraíochtaí earnála deonacha atá páirteach i dtabhairt faoi mhí-úsáid drugaí agus alcóil mar a leanas:

Bliain	Méid (£)
1997/1998	835,287
1998/1999	955,805
1999/2000	973,104
2000/2001	1,607,120
2001/2002	2,278,560

### Irish Language: Expenditure

**Mr Paisley Jnr** asked the Minister of Health, Social Services and Public Safety to give a breakdown of expenditure, for each year from 1998 to date, on translations and interpretations of (i) publications and (ii) stationery from and into the Irish language. (AQW 257/02)

**Ms de Brún:** Expenditure on the translation of Departmental publications into Irish from December 1999 to date is as follows.

Year	Expenditure
1999/00	Nil
2000/01	£2586
2001/02	£14952
2002/03	£5460

The name of my Department appears on letter headed stationery in English and Irish. The cost of translating the name of the Department into Irish for this purpose was negligible.

Is é a leanann ná caiteachas ar aistriúchán foilsíúcháin na Roinne go Gaeilge ó Nollaig 1999 go dtí seo.

Bliain	Caiteachas
1999/00	Náid
2000/01	£2586
2001/02	£14952
2002/03	£5460

Bíonn ainm na Roinne s'agam ar pháipéarachas ceannteidil i mBéarla agus i nGaeilge. Bhí costas fánach ar aistriúchán ainm na Roinne go Gaeilge don úsáid seo.

### Health Professionals: EU Member States

**Mr M Robinson** asked the Minister of Health, Social Services and Public Safety whether any action has been taken to attract doctors, nurses or other health professionals into the health service from other EU member states.

(AQW 264/02)

**Ms de Brún:** My Department has taken no action to attract doctors, nurses or other health professionals from other EU member states.

Níor thug an Roinn s'agam faoi ghníomh ar bith le dochtúirí, le haltraí nó le gairmithe sláinte eile a mhealladh ó bhallstáit eile an AE.

### Fire Brigade

**Rev Dr William McCrea** asked the Minister of Health, Social Services and Public Safety to detail, in each month from September 2001, the number of call outs attended by the Northern Ireland Fire Brigade that were due to civil disturbance. (AQW 284/02)

**Ms de Brún:** The following table refers to the number of calls, classed as civil disturbance calls, attended from September 2001 to August 2002.

Month	Number of calls
September 2001	63
October 2001	61
November 2001	52
December 2001	18
January 2002	40
February 2002	32
March 2002	49
April 2002	73
May 2002	63



Month	Number of calls
June 2002	71
July 2002	85
August 2002	60

Baineann an tábla seo a leanas le líon na scairteanna, rangaithe mar shuaitheadh sibhialta, a ndearnadh freastal orthu ó Mheán Fómhair 2001 go Lúnasa 2002.

Mí	Líon na Scairteanna
Meán Fómhair 2001	63
Deireadh Fómhair 2001	61
Samhain 2001	52
Nollaig 2001	18
Eanáir 2002	40
Feabhra 2002	32
Márta 2002	49
Aibreán 2002	73
Bealtaine 2002	63
Meitheamh 2002	71
Iúil 2002	85
Lúnasa 2002	60

### Fire Related Deaths

**Rev Dr William McCrea** asked the Minister of Health, Social Services and Public Safety to outline, in each of the last 3 years, the number of (a) fire related deaths and (b) non-fatal casualties recorded in the Mid Ulster constituency. (AQW 285/02)

**Ms de Brún:** The number of fire related deaths and non fatal casualties for the Mid Ulster constituency for the three years to 31 August 2002 were as follows:

Period	Deaths	Non fatal casualties
1 Sept 1999 – 31 August 2000	Nil	7
1 Sept 2000 – 31 August 2001	1	28
1 Sept 2001 – 31 August 2002	3	13

Is é a leanas líon na mbásanna a bhí bainteach le dóiteán agus líon na dtaismeach neamh-mharfach do dháilcheantar Uladh Láir do na trí bliana go dtí 31 Lúnasa 2002:

Tréimhse	Básanna	Taismigh neamh-mharfacha
1 Meán Fómhair 1999 – 31 Lúnasa 2000	Náid	7
1 Meán Fómhair 2000 – 31 Lúnasa 2001	1	28
1 Meán Fómhair 2001 – 31 Lúnasa 2002	3	13

### Fire Brigade: False Calls

**Rev Dr William McCrea** asked the Minister of Health, Social Services and Public Safety to detail, in each of the last 3 years, the number of malicious false alarm call outs in the Mid Ulster constituency.

(AQW 286/02)

**Ms de Brún:** The number of malicious false alarm call outs to the fire service in the Mid Ulster constituency for the three years to 31 August 2002 were as follows:

Period	Malicious false alarm call outs
1 Sept 1999 – 31 August 2000	31
1 Sept 2000 – 31 August 2001	31
1 Sept 2001 – 31 August 2002	20

Is é a leanann ná líon na scairteanna bréagacha mailiseacha a cuireadh ar an tseirbhís dóiteáin i ndáilcheantar Lár-Uladh ar feadh trí bliana go dtí 31 Lúnasa 2002:

Tréimhse	Scairteanna bréagacha mailiseacha
1 Meán Fómhair 1999 – 31 Lúnasa 2000	31
1 Meán Fómhair 2000 – 31 Lúnasa 2001	31
1 Meán Fómhair 2001 – 31 Lúnasa 2002	20

### Home Help Clients

**Mr M Robinson** asked the Minister of Health, Social Services and Public Safety to outline, in each of the last 5 years, the number of home help clients in each health board area. (AQW 287/02)

**Ms de Brún:** The information is detailed in the table below.

#### NUMBER OF PERSONS IN RECEIPT OF HOME HELP<sup>1</sup>

Board Area	1998	1999	2000	2001	2002
Eastern	12,106	11,697	11,557	11,130	10,643
Northern	5,435	5,224	5,188	5,450	5,327
Southern	5,788	5,760	6,070	5,731	5,552
Western	4,687	5,434	5,029	5,090	5,426
<b>Total</b>	<b>28,016</b>	<b>28,115</b>	<b>27,844</b>	<b>27,401</b>	<b>26,948</b>

<sup>1</sup> The figures refer to the position at 31 March each year. They include persons in receipt of home care as well as home help, as the service provided by Trusts normally includes both components. Persons who receive home help/home care as part of an intensive domiciliary care package are excluded from the figures.

Léirítear an t-eolas sa tábla thíos.

#### LÍON DAOINE ATÁ AG FÁIL CUIDIÚ BAILE<sup>1</sup>

Bord Ceantair	1998	1999	2000	2001	2002
BC an Oirthir	12,106	11,697	11,557	11,130	10,643
BC an Tuaiscirt	5,435	5,224	5,188	5,450	5,327
BC an Deiscirt	5,788	5,760	6,070	5,731	5,552
BC an Iarthair	4,687	5,434	5,029	5,090	5,426
<b>Iomlán</b>	<b>28,016</b>	<b>28,115</b>	<b>27,844</b>	<b>27,401</b>	<b>26,948</b>

<sup>1</sup> Tagraíonn na staitisticí don staid ar 31 Márta gach bliain. Is é atá san áireamh daoine atá ag fáil cúram baile chomh maith le cuidiú baile, mar de ghnáth áiríonn an tseirbhís a sholáthraíonn na hIontaobhais an dá chomhpháirt. Ní chuirtear daoine a fhaigheann cuidiú baile/cúram baile mar chuid de dhianbheart cúram baile san áireamh sna staitisticí.

### Cancer/Heart & Stroke Research: Funding

**Mr M Robinson** asked the Minister of Health, Social Services and Public Safety to detail, in each of the last 3 years, funding allocated for (a) cancer research and (b) heart and stroke research. (AQW 288/02)

#### Ms de Brún:

##### (a) Cancer

In 2000/01 the Research and Development (R&D) Office established a Cancer Recognised Research Group with a £3 million five-year research programme. This comprises 13 research programmes in the prevention, diagnosis and treatment of cancers.

There was one commissioned research project ‘A collaborative study on oral and pharyngeal cancer’ with expenditure in 2000/01 of £4,023

The R&D Office is currently funding the following Education and Training and Career Development awards and North/South Grants in the area of cancer:

Award	1999/00	2000/01	2001/02	Total
Studentships	£43,035	£32,778	£56,515	£132,328
Fellowships	none	£97,618	£131,879	£229,497
Career Development		£15,778	£66,311	£82,089
North/South		£6,637	£44,430	£51,067

Funding for cancer research may be available from sources outside the Department of Health, Social Services and Public Safety, for example the Medical Research Council, the Cancer Research Council and the Imperial Cancer Research Foundation.

##### (b) Heart and Stroke

Research on heart and stroke falls across Recognised Research Groups in Epidemiology and Endocrinology and Diabetes with a spend of £310,249.00 for the year

2001/02. There was one commissioned research project ‘Evaluation of models of delivery of mobile coronary care’ with expenditure in 2001/02 of £9,300.

The following Education and Training awards are in the area of heart and stroke:

Award	1999/00	2000/01	2001/02	Total
Studentships	£5,191	£23,712	£43,770	£72,673
Fellowships	£46,730	£112,315	£171,416	£330,461

##### (a) Ailse

I 2000/01 bhunaigh an Oifig Thaighde agus Forbartha (T&F) Grúpa Taighde ar Aimsiú Ailsí le clár taighde cúig bliana ar fiú £3 milliún é. Is é atá ann 13 clár taighde i gcosc, i ndiagnóis agus i cóireáil ailsí.

Bhí tionscnamh taighde coimisiúnaithe amháin ann ‘Staidir comhoibrithe ar ailse bhéil agus ar ailse farainge’ le caiteachas de £4,023 i 2000/01.

Faoi láthair tá Oifig T&F ag maoiniú na nduaiseanna Oideachais agus Oiliúna agus Forbairt Ghairme agus Deontais Tuaiscirt/ Deiscirt i réimse na hailse seo:

Duais	1999/00	2000/01	2001/02	Iomlán
Scoláireacht	£43,035	£32,778	£56,515	£132,328
Comhaltachtaí	Ceann ar bith	£97,618	£131,879	£229,497
Forbairt Ghairme		£15,778	£66,311	£82,089
Tuaiseart/ Deisceart		£6,637	£44,430	£51,067

Is féidir go mbeidh maoiniú do thaighde ar ailse ar fháil ó fhoinsí lasmuigh den Roinn Sláinte, Seirbhísí Sóisialta agus Sábháilteachta Poiblí, mar shampla an Chomhairle um Thaighde Míochaine, an Chomhairle um Thaighde Ailse agus an Fhondúireacht Impiriúil ar Thaighde Ailse.

##### (b) Croí agus Stróc

Baineann taighde ar an chroí agus ar stróc le Grúpaí Taighde ar Aimsiú san Éipidéimeolaíocht agus Inchríneolaíocht agus Diaibéiteas le caiteachas de £310,249.00 don bhliain 2001/02. Bhí tionscnamh taighde coimisiúnaithe amháin ann ‘Meastóireacht ar mhodhanna soláthair do chúram croí soghluaiste’ le caiteachas i 2001/02 de £9,300.

Tá na duaiseanna Oideachais agus Oiliúna a leanas i réimse an chroí agus stróc:

Duais	1999/00	2000/01	2001/02	Iomlán
Scoláireachtaí	£5,191	£23,712	£43,770	£72,673
Comhaltachtaí	£46,730	£112,315	£171,416	£330,461

## Acute Hospitals: Bed Occupancy

**Mr M Robinson** asked the Minister of Health, Social Services and Public Safety to outline, in the last 2 years, the bed occupancy rates at acute hospitals by (a) medical and (b) surgical admissions. (AQW 289/02)

### Ms de Brún:

(a) and (b) This information is detailed in the tables below. This information is also published in the annual Hospital Statistics publication, which is available in the Assembly Library and on my Department's website.

#### (A) PERCENTAGE BED OCCUPANCY RATES IN MEDICAL SPECIALTIES AT ACUTE HOSPITALS

Hospital	2000-2001	2001-2002
Altnagelvin Area	76.3	76.8
Antrim	85.8	87.3
Belfast City Hospital	87.7	87.2
Causeway <sup>1</sup>	N/A	85.5
Coleraine	85.1	85.1
Craigavon Area	83.4	86.0
Daisy Hill	80.5	84.4
Downe	88.2	89.6
Erne	67.2	65.4
Lagan Valley	87.0	89.7
Mater	94.8	94.5
Mid-Ulster	86.7	86.7
Musgrave	65.9	67.0
Route	8.0	0.0
RVH	83.7	86.7
South Tyrone <sup>2</sup>	82.2	N/A
Tyrone County	75.0	82.8
Ulster	86.8	88.2
Whiteabbey	95.1	95.6
<b>Total</b>	<b>83.8</b>	<b>85.4</b>

#### (B) PERCENTAGE BED OCCUPANCY RATES IN SURGICAL SPECIALTIES AT ACUTE HOSPITALS

Hospital	2000-2001	2001-2002
Altnagelvin Area	77.6	78.2
Antrim	79.6	83.8
Belfast City Hospital	81.3	78.6
Causeway <sup>1</sup>	N/A	79.9
Coleraine	64.2	71.0
Craigavon Area	80.2	80.8
Daisy Hill	66.4	68.5
Downe	71.9	83.4

Hospital	2000-2001	2001-2002
Erne	62.0	69.8
Lagan Valley	89.9	87.8
Mater	83.0	87.0
Mid-Ulster	62.4	65.9
Musgrave	65.1	58.0
Route	51.5	45.0
RVH	84.3	85.7
South Tyrone <sup>2</sup>	63.2	N/A
Tyrone County	68.1	71.1
Ulster	88.9	89.6
Whiteabbey	84.8	84.8
<b>Total</b>	<b>78.3</b>	<b>81.5</b>

<sup>1</sup> Acute services transferred from Coleraine and Route hospitals to the new Causeway hospital in May 2001, therefore data for Causeway hospital for 2000-2001 is unavailable.

<sup>2</sup> The status of South Tyrone hospital changed between 2000-2001 and 2001-2002 with acute inpatient services no longer being provided.

(a) agus (b) Léirítear an t-eolas seo sna táblaí thíos. Foilsítear an t-eolas seo chomh maith i bhfoilseachán bliantúil Staitisticí na hOtharlainne, atá ar fáil i Leabharlann an Tionóil agus ar líonláithreán na Roinne s'agam.

#### (A) CÉADATÁN RÁTAÍ SEILBH LEAPACHA I SPEISIALTACHTAÍ MÍOCHAIINE I NGÉAROTHARLANNA

Otharlann	2000-2001	2001-2002
Otharlann Cheantar Alt na nGealbhan	76.3	76.8
Otharlann Aontroma	85.8	87.3
Otharlann Chathair Bhéal Feirste	87.7	87.2
Otharlann an Chlocháin <sup>1</sup>	N/A	85.5
Otharlann Chúil Raithin	85.1	85.1
Otharlann Cheantar Craigavon	83.4	86.0
Otharlann Daisy Hill	80.5	84.4
Otharlann Downe	88.2	89.6
Otharlann na hÉirne	67.2	65.4
Otharlann Ghleann an Lagáin	87.0	89.7
Otharlann an Mater	94.8	94.5
Otharlann Lár-Uladh	86.7	86.7
Otharlann Pháirc Musgrave	65.9	67.0
Otharlann Route	8.0	0.0
Otharlann Ríoga Vichteoiria	83.7	86.7

Otharlann	2000-2001	2001-2002
Otharlann Thír Eoghain Theas <sup>2</sup>	82.2	N/A
Otharlann Chontae Thír Eoghain	75.0	82.8
Otharlann Uladh	86.8	88.2
Otharlann na Mainistreach Finne	95.1	95.6
<b>Iomlán</b>	<b>83.8</b>	<b>85.4</b>

(B)

#### CÉADATÁN RÁTAÍ SEILBH LEAPACHA I SPEISIALTACHTAÍ MÁINLIACHTA I NGÉAROTHARLANNA

Otharlann	2000-2001	2001-2002
Otharlann Cheantar Alt na nGealbhan	77.6	78.2
Otharlann Aontroma	79.6	83.8
Otharlann Chathair Bhéal Feirste	81.3	78.6
Otharlann an Chlocháin <sup>1</sup>	N/A	79.9
Otharlann Chúil Raithin	64.2	71.0
Otharlann Cheantar Craigavon	80.2	80.8
Otharlann Daisy Hill	66.4	68.5
Otharlann Downe	71.9	83.4
Otharlann na hÉirne	62.0	69.8
Otharlann Ghleann an Lagáin	89.9	87.8
Otharlann an Mater	83.0	87.0
Otharlann Lár-Uladh	62.4	65.9
Otharlann Pháirc Musgrave	65.1	58.0
Otharlann Route	51.5	45.0
Otharlann Ríoga Victoioria	84.3	85.7
Otharlann Thír Eoghain Theas <sup>2</sup>	63.2	N/A
Otharlann Chontae Thír Eoghain	68.1	71.1
Otharlann Uladh	88.9	89.6
Otharlann na Mainistreach Finne	84.8	84.8
<b>Iomlán</b>	<b>78.3</b>	<b>81.5</b>

<sup>1</sup> D'aistrigh géarsheirbhísí ó otharlann Chúil Raithin agus ó otharlann Route chuig otharlann úr an Chlocháin i mBealtaine 2001, mar sin de níl sonraí d'otharlann an Chlocháin do 2000-2001 ar fáil.

<sup>2</sup> D'athraigh stádas otharlann Thír Eoghain Theas idir 2000-2001 agus 2001-2002, ní sholáthraítear géarsheirbhísí othar cónaitheach ansin a thuilleadh.

### School-Based Nurses

**Mr K Robinson** asked the Minister of Health, Social Services and Public Safety to investigate the provision of school-based nurses in special schools where school staff are currently responsible for administering drugs and carrying out other procedures; and to make a statement.

(AQW 291/02)

**Ms de Brún:** I refer the Member to my answer in AQO 1162/01.

Treoraím an Ball do mo fhreagra a thug mé ar AQO 1162/01.

### Whiteabbey Hospital

**Mr K Robinson** asked the Minister of Health, Social Services and Public Safety what role she envisages for Whiteabbey Hospital in (a) alleviating bed blocking problems at Antrim Area Hospital and (b) providing beds to meet the annual increased requirements due to winter related pressures.

(AQW 294/02)

**Ms de Brún:** I refer the Member to my answer to AQW 119/02.

Treoraím an Ball do mo fhreagra a thug mé ar AQW 119/02.

### Asbestos

**Mrs I Robinson** asked the Minister of Health, Social Services and Public Safety if she will undertake to complete a full audit of Government buildings which have asbestos as a component of their construction; and to make a statement.

(AQW 299/02)

**Ms de Brún:** Responsibility for this issue rests with the Minister of Finance and Personnel.

Is ar an Aire Airgeadais agus Pearsanra freagracht na ceiste seo.

### Homefirst Trust

**Mr Paisley Jnr** asked the Minister of Health, Social Services and Public Safety to confirm if Homefirst Trust continues to fund the salaries of the former Director of Mental Health and the former Nursing Manager from Holywell Hospital following their secondments to her Department.

(AQW 316/02)

**Ms de Brún:** I can confirm that Homefirst Trust is responsible for the payment of the salaries of the individuals concerned for the duration of their secondments to my Department.

Is féidir liom a dhearbhú go bhfuil Iontaobhas Homefirst freagrach as íocaíocht thuarastail na ndaoine atá i



gceist le linn tréimhse a bpost ar iasacht leis an Roinn s'agam.

### Rheumatologists

**Mr Beggs** asked the Minister of Health, Social Services and Public Safety to outline, within each Health Board, (a) the number of Consultant Rheumatologists employed; and (b) the size of the population they serve.

(AQW 317/02)

**Ms de Brún:** The information requested is detailed below.

Health & Social Services Board	No. of Rheumatologists <sup>1</sup> (whole time equivalent in brackets)	Population
Eastern	6 (4.5 wte) <sup>2</sup>	670,029
Northern	1 (1.0 wte)	428,134
Southern	2 (1.0 wte)	311,213
Western	2 (1.0 wte)	280,012

<sup>1</sup>Figures include 3 general physicians with a special interest in Rheumatology.

<sup>2</sup>Consultants provide certain regional services for service users from other Board areas.

Tá an t-eolas a iarradh léirithe thíos.

Bord Sláinte agus Seirbhísí Sóisialta	Líon na Réamaiteolaithe <sup>1</sup> (coibhéis lánaimseartha i lúibíní)	Daonra
An tOirthear	6 (4.5 cla) <sup>2</sup>	670,029
An Tuaisceart	1 (1.0 cla)	428,134
An Deisceart	2 (1.0 cla)	311,213
An tIarthar	2 (1.0 cla)	280,012

<sup>1</sup>Áirítear sna figiúirí 3 dochtúir ginearálta a bhfuil suim ar leith sa Réamaiteolaíocht acu.

<sup>2</sup>Soláthraíonn lianna comhairleacha seirbhísí réigiúnacha áirithe d'úsáideoirí seirbhíse ó Bhordcheantair eile.

### Firefighters

**Rev Dr William McCrea** asked the Minister of Health, Social Services and Public Safety to outline (a) any differences in the duties, including civil disturbance call-outs, of whole time and retained fire officers; and (b) whether the two categories enjoy the same rates of pay.

(AQW 320/02)

**Ms de Brún:** There are no differences in the duties carried out by Wholtime and Retained fire fighters. However, they do not receive the same rates of pay.

The pay and conditions of service of both Wholtime and Retained firefighters is determined by the National Joint Council (NJC) and the Fire Brigades Union has asked the NJC to consider giving retained staff parity on pay.

Níl difear ar bith idir na dualgais a dhéanann comhraiceoirí Dóiteáin Lánaimseartha agus comhraiceoirí Dóiteáin Choinnithe. Ní fhaigheann siad na rátaí céanna pá, áfach.

Is é an Chomh-Chomhairle Náisiúnta (NJC) a shocraíonn pá agus dálaí seirbhíse na gcomhraiceoirí Dóiteáin Lánaimseartha agus Choinnithe agus d'iarr an tAontas Briogáid Dóiteáin ar an Chomh-Chomhairle Náisiúnta machnamh a dhéanamh ar phaireacht phá a thabhairt don fhoireann choinnithe.

### Fire Safety

**Rev Dr William McCrea** asked the Minister of Health, Social Services and Public Safety to detail (a) the percentage of the departmental budget directed to fire safety work; and (b) how the Department intends to promote this work.

(AQW 321/02)

**Ms de Brún:** The cost of fire safety work is met out of the Fire Authority's annual budget allocation and it is a matter for the Fire Authority Board to determine the resources that are invested in this area of work.

My Department encourages and supports any work that highlights the dangers and risks associated with fires in both the home and workplace, and I am pleased to say that the Fire Authority has run very successful Fire Safety campaigns over recent years.

Tagann iocaíocht chostas obair na sábháilteachta dóiteáin amach as buiséad dáiliúcháin bliantúil an Údaráis Dóiteáin agus faoi Bhord an Údaráis Dóiteáin atá sé na hacmhainní a théann isteach sa réimse seo oibre a shocrú.

Spreagann agus tacaíonn an Roinn s'agam le hobair ar bith a thugann chun suntais na contúirtí agus na baoil a bhaineann le tinte sa teach agus san ionad oibre, agus tá mé sásta le rá gur reáchtáil an tÚdarás Dóiteáin feachtais iontach rathúil ar Shábháilteacht Dóiteáin le blianta beaga anuas.

### Ministerial Transport

**Mr K Robinson** asked the Minister of Health, Social Services and Public Safety to detail the arrangements she has made for her ministerial transport over the past 2 years in terms of (a) her use of the in-house chauffeur service or a contracted-in service; (b) if she used a contracted-in service, which firms or individuals were employed; (c) the recruitment and selection procedure undergone for selecting a ministerial driver; (d) the budget from which the driver is paid and (e) why she chose to supply her own driver outside normal ministerial practice.

(AQW 322/02)

**Ms de Brún:** I do not use either the DFP Centralised Transport Unit or a contracted-in service. Sinn Féin

provides me with a driver who can be called upon as required. I am aware that other Ministers have different arrangements but I consider this the most appropriate arrangement. My Department reimburses Sinn Féin from its administration budget at a rate equivalent to the scale for drivers employed in the DFP Centralised Transport Unit.

Ní bhainim úsáid as Aonad Iompair Lárnaithe na RAP (Roinne Airgeadais agus Pearsanra) ná an tseirbhís tugtha isteach faoi chonradh. Cuireann Sinn Féin tiománaí ar fáil dom ar féidir liom scairt a chur air nuair is gá. Is eol dom go bhfuil socruithe eile déanta ag Airí eile ach is dóigh liom gur seo an socrú is mó a fhóireann. Aisíocann an Roinn s'agam Sinn Féin óna buiséad riaracháin ag ráta cothrom leis an scála do thiománaí fostaithe ag Aonad Iompair Lárnaithe na RAP.

### Ministerial Transport

**Mr K Robinson** asked the Minister of Health, Social Services and Public Safety to outline (a) the tendering process for the purchase of her ministerial car; (b) if those who were unsuccessful in the tendering process were informed of the reasons why the successful tender was accepted; (c) if the accepted tender was the lowest in terms of price; and to make a statement on why she did not adopt normal ministerial practice for the selection of a car. (AQW 323/02)

**Ms de Brún:** Tenders for the supply of a car were invited in the normal way by the Department of Finance and Personnel Procurement Service (formerly the Government Purchasing Agency). The lowest tender in terms of price was accepted and those who were unsuccessful were advised accordingly by the Procurement Service and offered feedback on the reasons. I am aware that other Ministers have made other arrangements but I believe that this is the most appropriate arrangement.

D'iarr Seirbhís Soláthair na Roinne Airgeadais agus Pearsanra (Gníomhaireacht Cheannaigh an Rialtais mar a tugadh air roimhe seo) ar an ghnáthdhóigh faoi choinne tairiscintí chun carr a sholáthar. Glacadh leis an tairiscint is ísle maidir le praghas agus chuir an tSeirbhís Soláthair in iúl dóibh siúd nár éirigh leo gurb amhlaidh an cás agus d'ofráil sí aiseolas ar na fáthanna. Is eol dom go bhfuil socruithe eile déanta ag Airí eile ach creidim gur seo an socrú is mó a fhóireann.

### Rheumatologists

**Mr Beggs** asked the Minister of Health, Social Services and Public Safety to confirm that she is aware that the British Society of Rheumatologists recommends 1 Rheumatologist per 85,000 of population. (AQW 324/02)

**Ms de Brún:** I am aware of the recommendations of the British Society of Rheumatologists.

Staffing is the responsibility of Health and Social Services Trusts, taking into account the views of relevant professional bodies and other factors such as service needs and available resources.

I have been seeking to increase the overall number of Rheumatologists. Those currently in training have the potential to produce an increase of 10% in Rheumatologist provision in the next 2 years. The Consultant medical workforce, across all hospital-based specialties, is reviewed by my Department annually and this informs decisions on the numbers in training.

Is eol dom na moltaí de chuid Chumann Réamaiteolaíochta Shasana.

Is freagracht de chuid na nLontaobhas Sláinte agus Seirbhísí Sóisialta foireann a fhostú, ag cur tuairimí na gcomhlachtaí gairmiúla bainteacha agus fachtóirí eile san áireamh amhail riachtanais seirbhíse agus acmhainní atá ar fáil.

Bhí mé ag iarraidh líon iomlán na Réamaiteolaithe anseo a mhéadú. Tá acmhainneacht acu siúd atá faoi oiliúint méadú de 10% a chur le soláthar réamaiteolaíochta sa chéad 2 bhliain eile. Déanann an Roinn s'agam athbhreithniú bliantúil ar mheitheal oibre míochaine na gComhairleach ar fud na speisialtachtaí otharlannbhunaithe go léir agus cuireann seo an cinneadh s'agam ar an eolas faoin líon atá faoi oiliúint.

### Fire Authority for Northern Ireland: Quinquennial Review

**Rev Dr William McCrea** asked the Minister of Health, Social Services and Public Safety what assessment has been made of the quinquennial review of the Fire Authority for Northern Ireland; and to make a statement. (AQW 325/02)

**Ms de Brún:** The first stage of the Quinquennial Review of the Fire Authority is currently being finalised and when completed I will advise the Assembly.

Táthar ag cur an dlaoi mhullaigh faoi láthair ar an chéad chéim d'Athbhreithniú Cúigbhliantúil ar an Údarás Dóiteáin agus nuair a chuirtear i gcrích é cuirfidh mé comhairle ar an Tionól.

### Fire Cover

**Rev Dr William McCrea** asked the Minister of Health, Social Services and Public Safety to detail (a) what assessment she has made of fire cover in Northern Ireland; (b) any areas which would warrant further assessment on the basis of economic growth and population movement; and to make a statement. (AQW 326/02)

**Ms de Brún:** A comprehensive review of Fire Cover was recently completed by the Fire Brigade and the initial draft report of that assessment is being considered by my Department.

Once the Fire Cover Review Report has been finalised, and agreement reached on implementing its recommendations I will be in a position to provide a detailed account of the action to be taken.

Chuir an Bhriogáid Dóiteáin críoch le hathbhreithniú cuimsitheach ar Clúdach Dóiteáin agus tá an dréacht-thuarascáil tosaigh den mheasúnú sin á cur san áireamh ag an Roinn s'agam.

A luaithe is a bheidh an Tuarascáil Athbhreithnithe ar Chlúdach Dóiteáin curtha i gcrích, agus socrú tagtha ar chur i bhfeidhm na moltaí, beidh mé in ann mionchuntas a chur ar fáil don ghníomh atáthar le thabhairt faoi.

### Psychology/Psychiatric Services: NHSSB

**Rev Dr William McCrea** asked the Minister of Health, Social Services and Public Safety to outline (a) the clinical psychology/psychiatric service provided by the Northern Health and Social Services Board for children and young people of school age; and (b) the resources committed to this service. (AQW 327/02)

**Ms de Brún:** The Northern Health & Social Services Board commissions a specialist Board-wide Child and Adolescent Mental Health Service from Homefirst Community Trust. This currently consists of:

- An Assistant Director of the Trust
- 2 Consultant Child Psychiatrists
- 1 Higher Grade Child Psychologist
- 5 Lower Grade Child Psychologists (one current vacancy)
- A Head of Nursing
- 3 Nurse Specialists
- 2 Senior Social Workers
- 1 Basic Grade Social Worker
- 1 Administrative Support Staff

All above posts are full-time and permanent. In addition, the Board funds a post in general Psychiatry in Antrim, which deals with Child and Adolescent Mental Health Services as well as services for adults.

Funding has also been provided to Homefirst Community Trust to recruit an additional permanent Consultant Child Psychiatrist, a Family Therapist, Personal Secretary posts and a temporary Child and Adolescent Mental Health Service Senior House Officer post for 6 months. The Trust has been unable to fill any of these posts to date.

The Northern Health and Social Services Board currently spends £667,437 on Child and Adolescent Mental Health

Services. A further £123,677 has been committed for the additional permanent posts referred to above.

Coimisiúnaíonn Bord Sláinte agus Seirbhísí Sóisialta an Tuaiscirt Sainseirbhís Sláinte Meabhrach do Pháistí agus d'Ógánaigh ar fud an Bhoird ó Iontaobhas Pobail Homefirst. Is é atá sa tSeirbhís faoi láthair ná:

- Stiúrthóir Cúnta an Iontaobhais
- 2 Síciatraí Comhairleach Páistí
- 1 Síciatraí Páistí de Ghrád Níos Airde
- 5 Síciatraí Páistí de Ghrád Níos Ísle (folúntas amháin ann faoi láthair)
- Ceannaire Altranaís
- 3 Speisialtóir Altranaís
- 2 Oibrí Sóisialta Sinsearach
- 1 Oibrí Sóisialta den Bhunghrád
- 1 Ball Foirne Tacaíocht Riaracháin

Tá na poist thuasluaite go léir buan agus lánaimseartha. Chomh maith leis sin, maoiníonn an Bord post sa tSíciatracht Ghinearálta in Aontroim, a déileálann le Seirbhísí Sláinte Meabhrach Pháistí agus Ógánaigh chomh maith le seirbhísí d'aosaigh.

Soláthraíodh chomh maith maoiniú d'Iontaobhas Pobail Homefirst le Síciatraí Comhairleach Páistí buan breise, Teiripí Teaghlaigh, poist Rúnaí Phríobháidigh agus post sealadach 6 mhí mar Oifigeach Sinsearach Tí Sheirbhís Sláinte Meabhrach Pháistí agus Ógánaigh a earcú. Ní raibh an tIontaobhas ábalta ceann ar bith de na poist sin a líonadh go dtí seo.

Caitheann Bord Sláinte agus Seirbhísí Sóisialta an Tuaiscirt £667,437 faoi láthair ar Sheirbhísí Sláinte Meabhrach do Pháistí agus d'Ógánaigh. Tiomnaítear £123,677 de bhreis do na poist bhuana thuasluaite.

### Ambulance Service: Ards Peninsula

**Mr Shannon** asked the Minister of Health, Social Services and Public Safety when the new Ambulance Service out-station for Ards Peninsula will be completed. (AQW 328/02)

**Ms de Brún:** The Implementation of the Strategic Review of the Ambulance Service identified a number of areas, including the Ards Peninsula, where the establishment of additional ambulance locations would help to achieve improved response times. However, in light of the many competing pressures on the additional resources secured in recent years for the development of ambulance services, it has not yet been possible to identify the funding necessary for a new out-station on the Ards Peninsula.

Thug Cur i bhFeidhm an Athbhreithnithe Straitéisigh ar an Seirbhís Otharchairr le fios go bhfuil roinnt ceantar, Leithinis na hArda san áireamh, ina gcuideoidh bunú

suíomh breise otharchairr iontu le feabhas a chur ar na hamanna freagrachta. Ag cuimhneamh ar na mórán brúnna iomaíochta ar na hacmhainní breise a fuarthas sna blianta deireanacha d'fhorbairt seirbhísí otharchairr, áfach, ní féidir an maoiniú a bheadh riachtanach a aimsiú d'urstaísiún nua ar Leithinis na hArd.

### Statements of Special Needs

**Rev Dr William McCrea** asked the Minister of Health, Social Services and Public Safety to outline, in each of the last 3 years, the total number of children, with statements of special needs, that have received support from the Northern Health & Social Services Board.

(AQW 338/02)

**Ms de Brún:** Information is not available in the form requested.

Níl an t-eolas ar fáil ar an dóigh iarrtha.

### Fire Brigade: Aerial Appliances

**Rev Dr William McCrea** asked the Minister of Health, Social Services and Public Safety to outline (a) her assessment of the current provision of aerial appliances within the Fire Brigade; (b) the current location of these aerial appliances; and (c) what consideration she has given to the provision of additional aerial appliances.

(AQW 342/02)

**Ms de Brún:** There are currently four aerial appliances based at Springfield, Central, Knock and Northland Fire Stations.

A comprehensive review of Fire Cover was recently completed by the Fire Brigade and the initial draft assessment is being considered by my Department. The final document may have a bearing on the location and provision of the aerial appliances.

Tá ceithre gléas aerga bunaithe faoi láthair ag Stáisiúin Dóiteáin Springfield, Lámach, An Chnoic agus Northland.

Chuir an Bhriogáid Dóiteáin athbhreithniú cuimsitheach ar Chlúdach Dóiteáin i gcrích ar na mallaibh agus tá an Roinn s'agam ag déanamh machnaimh ar an dréacht-mheasúnú tosaigh. D'fhéadfadh an doiciméad deiridh dul i bhfeidhm ar shuíomh agus ar sholáthar gléasanna aerga.

### Asbestos

**Mrs I Robinson** asked the Minister of Health, Social Services and Public Safety to detail (a) the number of buildings owned by her Department which currently contain asbestos as a component of their construction;

(b) the number of staff employed in these buildings; and (c) any plans she has for the removal of asbestos.

(AQW 345/02)

**Ms de Brún:** From 52 buildings that my Department owns, 38 contain asbestos as a component of their construction. These buildings are occupied by 1295 staff. My Department is following Health and Safety Executive advice concerning the management of asbestos in that, where possible, the asbestos is left undisturbed and its presence managed until such time as it can be safely removed during refurbishment or demolition.

As measc na 52 foirgneamh ar leis an Roinn s'agam iad, tá aispeist i 38 acu mar chomhábhar den tógáil s'acu. Tá 1295 foireann oibre sna foirgnimh seo. Tá an Roinn s'agam ag leanúint chomhairle an Choiste Feidhmiúcháin Sláinte agus Sábháilteachta i dtaobh bainistiú aispeiste ionas nach gcorraítear an aispeist, nuair is féidir, agus go ndéanfar bainistiú ar an aispeist go dtí gur féidir á thógáil amach le linn athchóirithe nó treascartha.

### MMR Single Vaccines

**Mr Shannon** asked the Minister of Health, Social Services and Public Safety to outline (a) if she is aware that the manufacturing of the MMR single vaccines has ceased; and (b) if she has assessed whether any action is necessary to address a shortfall in supply. (AQW 355/02)

**Ms de Brún:** Yes, I am aware that the manufacture of single antigen vaccines for measles, mumps and rubella has ceased. I have no plans at present to seek a recommencement of production. My Department recommends MMR immunisation as the safest and most effective way to protect children against measles, mumps and rubella. There is no evidence to justify the use of single vaccines instead of the MMR.

Is ea, is eol dom gur cuireadh stop le déanamh na vacsaíní antaigine aonair don bhruitíneach, don leicneach agus don bhruitíneach dhearg. Níl pleananna ar bith agam faoi láthair atosú táirgthe a iarraidh. Molann an Roinn s'agam imdhíonta an MMR mar an dóigh is sábháilte agus is éifeachtaí le páistí a chosaint ar an bhruitíneach, ar an leicneach agus ar an bhruitíneach dhearg. Níl fianaise ar bith ann a chosnódh úsáid vacsaíní aonair in áit an MMR.

### MMR Single Vaccines

**Mr Shannon** asked the Minister of Health, Social Services and Public Safety to detail (a) the amount of single vaccine for MMR currently in stock; and (b) when she anticipates that this supply will run out. (AQW 356/02)

**Ms de Brún:** There are no supplies of licensed single antigen measles or single antigen mumps vaccine held in stock. The last batch of licensed single antigen rubella



vaccine was produced recently and there is enough to last for about 1 year.

Níl soláthair ar bith de vacsaín aonair antaigin na bruitíní nó vacsaín aonair antaigin na leicní ceadúnaithe coinnithe i stoc. Táirgeadh an dol deireanach do vacsaín aonair ceadúnaithe antaigin na Bruitíní Deirge ar na mallaibh agus tá go leor ann a mhairfidh tuairim is 1 bliain.

### Nurses In Special Schools

**Mrs E Bell** asked the Minister of Health, Social Services and Public Safety to give an update on the provision of nurses in special schools; and to make a statement (AQW 364/02)

**Ms de Brún:** I refer the member to my answer in AQO 1162/01.

Treoraím an Ball do mo fhreagra a thug mé ar AQO 1162/01.

### Special Educational Needs: Expenditure

**Rev Dr William McCrea** asked the Minister of Health, Social Services and Public Safety to detail, (a) the NHSSB expenditure, in each of the last 3 years, on assessing and meeting special education needs; and (b) the projected spend for 2002-2003. (AQW 365/02)

**Ms de Brún:** Expenditure by NHSSB on assessing and meeting special educational needs for the years 1999/2000, 2000/01 and 2001/02 is detailed below:

1999/2000	£42,000
2000/01	£142,000
2001/02	£263,000

Projected expenditure for 2002/03 is £319,000.

Tá caiteachas BSSS an Tuaiscirt ar riachtanais speisialta oideachaisiúla a mheas agus a chomhlíonadh do na blianta 1999/2000, 2000/01 agus 2001/02 léirithe thíos:

1999/2000	£42,000
2000/01	£142,000
2001/02	£263,000

Is é £319,000 an caiteachas tuartha do 2002/03.

### Pituitary Gland Malfunction

**Mr Shannon** asked the Minister of Health, Social Services and Public Safety how many people with pituitary gland malfunction are receiving hormone treatment. (AQW 368/02)

**Ms de Brún:** The information requested is not collected centrally.

Níl an t-eolas a iarradh a chruinniú go lárnach.

## REGIONAL DEVELOPMENT

### Upgrading of Sewage Works

**Mr Shannon** asked the Minister for Regional Development, pursuant to AQO 47/02, to outline funding needed to upgrade sewage works to EU standards in the following areas: (i) Newtownards, (ii) Comber, (iii) Donaghadee, (iv) Millisle, (v) Ballywalter, (vi) Ballyhalbert, (vii) Portavogie, (viii) Cloughey, (ix) Killinchy, (x) Ballygowan, (xi) Portaferry, (xii) Ballydrain, (xiii) Ballywhiskin, (xiv) Carrowdore. (AQW 232/02)

**The Minister for Regional Development (Mr P Robinson):** It will cost some £50 million to upgrade the wastewater treatment facilities which serve these areas to the required standards. The options for funding this work involve a combination of the use of Public Private Partnerships and public expenditure.

Preliminary studies indicate that there are seven major wastewater treatment projects that are suitable for progression under a Public Private Partnership programme of work. These projects include the upgrading of the Ballyrickard Wastewater Treatment Works and the construction of the new North Down Wastewater Treatment Works. The Ballyrickard Works serves the Newtownards and Comber areas and the upgrading is estimated to cost £6 million. The North Down Works, which will serve the Donaghadee and Millisle areas as well as Bangor, is estimated to cost £35 million.

It is proposed that the upgrading of the wastewater treatment works at the other ten locations, at a cost of £9 million, be funded by public expenditure.

### “Safe Routes” To Schools

**Mr Beggs** asked the Minister for Regional Development to outline ‘safe routes’ to school which have been developed in the East Antrim constituency. (AQW 241/02)

**Mr P Robinson:** Safer Routes to Schools is an experimental concept designed to tackle the issue of the school run with the aim of encouraging children to walk, cycle and use public transport to get to school.

It currently involves 6 schools willing to participate in pilot projects to develop the policy. While there is at least one pilot scheme in each Education and Library Board area there is none within the East Antrim Constituency area. However, following implementation and subsequent evaluation of the pilot projects over the next 12-18 months, consideration will be given to widening the program to incorporate other schools.

## Asbestos

**Mrs I Robinson** asked the Minister for Regional Development to detail (a) the number of buildings owned by his department which currently contain asbestos as a component of their construction; (b) the number of staff employed in these buildings and (c) what plans he has to remove any asbestos. (AQW 300/02)

**Mr P Robinson:** A total of 63 specialised buildings for which my Department has responsibility have been identified as currently containing asbestos as a component of their construction.

Approximately 1108 staff are employed within these premises.

I have no current plans to remove the asbestos from these buildings. Regular surveys of these buildings are undertaken, together with an assessment of risk.

## Charged Car Parks: Newtownards

**Mr Shannon** asked the Minister for Regional Development, in relation to charged car parks in Newtownards, to outline, in each of the last 2 years, (a) income generated; (b) total expenditure; and (c) the number of enforcement notices served. (AQW 329/02)

**Mr P Robinson:** The information requested in relation to charged car parks in Newtownards is as follows:

	2000/01	2001/02
Income	£358,710	£366,557
Expenditure *	£335,361	£462,663
Enforcement notices issued	805	1,030

\*Includes notional charges relating to capital value and depreciation

## SOCIAL DEVELOPMENT

### Housing Executive Waiting List

**Mr G Kelly** asked the Minister for Social Development to outline, in each of the last 5 years by constituency, (a) the number of people on the Housing Executive waiting list, and (b) the proportion of this list who are defined as (i) Catholic/Nationalist (ii) Protestant/Unionist. (AQW 243/02)

**The Minister for Social Development (Mr Dodds):** The number of applicants on the Housing Executive's waiting list in each of the last 5 financial years, by Council area, is set out in the table below.

### TOTAL NUMBER OF APPLICANTS ON THE HOUSING EXECUTIVE'S WAITING LIST BY COUNCIL AREA FOR THE LAST 5 FINANCIAL YEARS (APRIL TO MARCH OF EACH YEAR)

Council	Mar 98	Mar 99	Mar 00	Mar 01	Mar 02
	Applicants	Applicants	Applicants	Applicants	Applicants
Antrim	608	589	565	440	574
Armagh	451	426	366	322	479
Ballycastle	160	150	142	111	169
Ballymena	677	740	751	770	974
Ballymoney	254	282	240	241	263
Banbridge	307	286	286	270	367
Bangor	842	769	1,034	1,124	1,312
Belfast	5,607	5,914	7,127	6,548	7,750
Carrickfergus	614	602	694	702	848
Castlereagh	688	717	916	865	1,060
Coleraine	588	603	651	649	731
Cookstown	212	207	178	173	209
Craigavon	686	679	878	848	1,029
Derry	1,521	1,414	1,539	1,398	1,493
Downpatrick	729	792	891	787	930
Dungannon	422	333	368	384	408
Fermanagh	541	527	533	484	536
Larne	318	267	295	294	371
Limavady	337	337	319	280	303
Lisburn	1,353	1,342	1,467	1,435	1,761
Magherafelt	245	256	234	203	272
Newry	1,013	1,012	1,116	831	1,157
Newtown-abbey	915	892	997	1,021	1,323
Newtownards	751	725	805	822	1,008
Omagh	415	400	400	266	360
Strabane	396	381	66	404	416
<b>Total</b>	<b>20,650</b>	<b>20,642</b>	<b>22,858</b>	<b>21,672</b>	<b>26,103</b>

Information is not held by constituency, nor is it collected or dis-aggregated into Catholic/Nationalist or Protestant/Unionist categories. Under its Section 75 Equality duties, the Housing Executive is developing a comprehensive approach to record keeping and monitoring, but this relates only to religious affiliation. Housing is allocated on the basis of need and not religious affiliation. Information on political affiliation will not be collected.

## Housing Executive Maintenance Budget

**Mrs Nelis** asked the Minister for Social Development to detail, in the last 3 years, the increase in the unit cost of the Housing Executive's Maintenance budget.

(AQW 244/02)

**Mr Dodds:** Taking 1998/99 as the base year, increases in unit costs of Housing Executive maintenance budget are as follows:

1998/99 = baseline

1999/00 + 3.09%

2000/01 + 2.70%

2001/02 + 2.70%

## Income Support Benefit

**Rev Dr William McCrea** asked the Minister for Social Development what measures he is taking to encourage the take-up of Income Support Benefit particularly by female pensioners living alone in the Mid-Ulster constituency.

(AQW 249/02)

**Mr Dodds:** My Department is totally committed to ensuring that everyone claims and receives their proper benefit entitlement. To ensure this the Social Security Agency has undertaken regular publicity campaigns to signal the arrival of new benefits or to increase the awareness of existing ones. For example -

- A major publicity campaign and a free helpline have been used to promote Minimum Income Guarantee. A total of 75,665 pensioners now receive Minimum Income Guarantee. Included in this figure are 47,897 females, of which 2,682 female pensioners come from the Mid Ulster Area;
- Information days have been held recently in a number of towns across Northern Ireland;
- A-Z guides for pensioners have been widely circulated; and
- A Tele-claims service for new pensioners is now available to help pensioners complete application forms on the telephone.

## Asbestos

**Mrs I Robinson** asked the Minister for Social Development to detail (a) the number of buildings owned by his Department which currently contain asbestos as a component of their construction; (b) the number of staff employed in these buildings; and (c) any plans he has for the removal of asbestos. (AQW 318/02)

**Mr Dodds:** I can confirm that the Department for Social Development does not own any buildings containing asbestos as a component of their construction.

## Warm Homes Scheme

**Mrs Carson** asked the Minister for Social Development to detail the number of homes in the postal code areas of the Fermanagh and South Tyrone constituency that have benefited from the Warm Homes Scheme. (AQO 187/02)

**Mr Dodds:** I will provide the Member with a breakdown of these figures and I will place a copy in the library.

However, as of the week beginning 23rd September 2002, 548 homes in the postcodes broadly corresponding with the constituency of Fermanagh and South Tyrone had received energy efficiency measures under my Department's Warm Homes Scheme and 207 Warm Homes Plus Scheme recipients received heating installations.

## Social Housing

**Ms Ramsey** asked the Minister for Social Development to outline, in each of the last 4 years, the number of social housing properties (a) started (b) managed; and (c) improved by the Housing Executive. (AQO 215/02)

**Mr Dodds:** The figures in respect of the four-year period 1998/99 to 2001/02 are as follows. All relate solely to the Housing Executive.

- In 1998/1999, the Housing Executive started 102 new homes and at the end of that period had a total housing stock of 134,192. Capital improvements were carried out to 2,924 homes.
- In 1999/2000, 49 new homes were started, the stock at the end of that period was 128,051 and capital improvements were carried out to 2,219 homes.
- In 2000/2001, 42 new homes were started, the stock at the end of that period was 122,231 and capital improvements were carried out to 1,997 houses.
- In 2001/2002 the Housing Executive started no new houses, its programme by that time having transferred to housing associations. At the end of that year the Housing Executive stock was 117,938 and capital improvements were carried out to 2,099 houses.

## Housing Executive Replacement Grant Applications

**Mr Byrne** asked the Minister for Social Development to give his current assessment of the administration and processing of NIHE replacement grant applications; and to make a statement. (AQO 194/02)

**Mr Dodds:** The grants process, by nature, is not short. Prior to the formal application stage, an initial assessment of entitlement to grant is made, followed by a technical assessment of the house condition and drawing up of a schedule of works. There are a number of aspects that lie outside the control of the Housing Executive such as

planning and building control approvals and development of plans.

The Housing Executive sets targets and monitors performance on the grants process generally, and does not disaggregate the information to a specific grant such as replacement. These targets are published on its website. The main results for the end of March 2002, show that against a target of 90%, 87% of all Schedules of Grant Aided Works were issued within twelve weeks of inspection. Additionally, against a target of 100%, 97% of formal approvals were issued within six months of completed documentation being received. In respect of payments, against a target of 90%, 86% were issued within six weeks of the request for the final inspection to be carried out. Lastly, in 99% of cases, properties were inspected within 20 weeks of a preliminary enquiry being received.

The Housing Executive regularly monitors and seeks ways of improving performance.

### Housing Executive Maintenance Budget

**Mr M Murphy** asked the Minister for Social Development to detail increases in the unit cost of the Housing Executive maintenance budget. (AQO 217/02)

**Mr Dodds:** Taking 1997/98 as the base year, increases in unit costs of the Housing Executive maintenance budget are as follows:

1998/99 + 8.66%

1999/00 + 3.09%

2000/01 + 2.70%

2001/02 + 2.70%

### Housing Executive Waiting List

**Dr O'Hagan** asked the Minister for Social Development to outline, in each of the last 5 years, (a) the number of people on the Housing Executive waiting list; and (b) the proportion described as (i) Catholic/ Nationalist; and (ii) Protestant/Unionist. (AQO 219/02)

**Mr Dodds:** The number of applicants on the Housing Executive's waiting list in each of the last 5 financial years is 20,650 in 1997/98, 20,642 in 1998/99, 22,858 in 1999/00, 21,672 in 2000/01, 26,103 in 2001/02. Information is not collected in the format requested to break this down into Catholic/Nationalist or Protestant/Unionist categories. Under its Section 75 Equality duties, the Housing Executive is developing a comprehensive approach to record keeping and monitoring, but this relates only to religious affiliation. Housing is allocated on the basis of need and not religious affiliation. Information on political affiliation will not be collected.

### Grant Aid

**Mr McHugh** asked the Minister for Social Development to detail, in each of the last 4 years, the grant aid awarded to the privately owned housing sector for (a) improvement; (b) repair; and (c) adaptation. (AQO 216/02)

**Mr Dodds:** Due to the level of detail needed to answer this question I have provided the Member with a written statement setting out the information required and I have placed a copy in the Assembly Library.



# NORTHERN IRELAND ASSEMBLY

Friday 11 October 2002

## Written Answers to Questions

### ANSWERS OUTSTANDING FROM SESSION 2001/02

#### OFFICE OF THE FIRST MINISTER AND DEPUTY FIRST MINISTER

##### World Economics Forum

**Mr Weir** asked the Office of the First Minister and Deputy First Minister to detail the costs associated with the First Minister's and Deputy First Minister's most recent visit to the USA, including attendance at the World Economic Forum. (AQW 1845/01)

**Reply** [*holding answer 22 February 2002*]: The costs associated with our joint seven day visit to the USA in early February amount to £69,263.

##### Ministerial Visits Outside Northern Ireland

**Mr Weir** asked the Office of the First Minister and Deputy First Minister to detail the total amount spent on Ministerial visits outside Northern Ireland in each of the last 3 years. (AQW 2127/01)

**Reply:** The information is not readily available in the format requested. Information for the Offices of the First Minister and Deputy First Minister has been provided only in relation to Ministerial visits outside the United Kingdom, with the exception of visits to the USA on 16 March 2000 and 17 April 2000, and for visits made by the Junior Ministers only after May 2000.

The information available is listed below;

Financial Year	Cost
1999/00 (from 2 December 1999)	£12,055
2000 / 01	£74,074
2001 / 02 (to February 2002)	£157,933

#### Register of Sex Offenders

**Mr Weir** asked the Office of the First Minister and Deputy First Minister to detail any representations made through (i) the British-Irish Council; and (ii) the North-South Ministerial Council to create a common register of sex offenders throughout the British Isles. (AQW 2400/01)

**Reply:** We have not as yet jointly made representations through the British- Irish Council to create a register of sex offenders. However, we believe that this is an issue which should be raised now for consideration by the British-Irish Council.

At a North South Ministerial Council Education sectoral meeting on 28 November 2001 in Dublin, the North South Ministerial Council noted a report from the Child Protection Joint Working Group. It was agreed that there was a need to develop a confidential mechanism for the registration of teachers and other workers in the education field who are deemed unsafe to work with children and young people.

The meeting recognised that this was a complex issue and agreed that it was essential for all jurisdictions to continue to collaborate to achieve an effective solution and that appropriate legislation would be required. We understand that a further report from the Child Protection Joint Working Group will be made to the next Education sectoral meeting.

#### Community Relations: Portadown Area

**Mr Savage** asked the Office of the First Minister and Deputy First Minister to initiate similar action to that implemented in North Belfast to address the problems in the Portadown area. (AQW 3625/01)

**Reply:** In developing our proposal for a community relations framework, we wish to include measures to tackle the underlying causes of sectarianism, distrust and intolerance and to support efforts by local communities to resolve their differences, through engagement and dialogue, targeted on those areas where tension is greatest. In doing so, we will give careful consideration to the forthcoming report of the North Belfast Community Action Project. We will consider whether the approach taken by that Project provides lessons that can be applied in other areas, bearing in mind that different measures may be required for different areas, depending on local circumstances and needs.

We intend to consult on our proposals shortly.

#### Ministerial/Official Flights

**Mr Ford** asked the Office of the First Minister and Deputy First Minister to detail, for each of the last 3 financial years, (a) the number of flights made between

Northern Ireland and Great Britain by each Executive Minister and Official; and (b) the total number of flights made on each airline. (AQW 3689/01)

**Reply:** Information concerning flights made by Ministers and Officials in other departments is not held by our Department.

The attached table details the number of flights, invoiced to this office, made between Northern Ireland and Great Britain by Ministers and officials from the Office of the First Minister and Deputy First Minister for the financial years 2000/2001 and 2001/2002.

It has not been possible to identify individual journeys for 1999/2000.

### Interchange of Data between Administrations

**Mr Hussey** asked the Office of the First Minister and Deputy First Minister if any of the 70 projects within the interchange of data between administrations (IDA) workplan (IP/02/874) will be located or partially located in Northern Ireland; and to make a statement. (AQW 4259/01)

**Reply:** Responsibility for the 70 Interchange of Data between Administrations (IDA) Projects lies with the European Commission. The projects, along with the funding, have already been allocated to the appropriate Directorates within the Commission. Such projects are not located or partially located in Northern Ireland or any of the Member States but appropriate Government Departments participate in the projects.

By way of example, The Common Agricultural Policy Electronic Dictionary project has been allocated to The European Commission's Agriculture Directorate-General. On completion, the Dictionary will be available to all parties involved such as the Member States and the European Commission.

### British-Irish Council Meeting

**Mr Paisley Jnr** asked the Office of the First Minister and Deputy First Minister to detail (a) the Minister who attended the British-Irish Council summit meeting on 14th June 2002; (b) the costs of this meeting; and (c) the Departments who will meet this cost. (AQW 4308/01)

**Reply:** Details of attendance were given in our statement on 2 July. Each of the NI Departments will bear the travel and subsistence costs for their respective Minister(s) and officials who attended the meeting. The total travel and subsistence costs for this meeting which will be borne by the NI Administration are estimated to be £11,600.

### Community Relations Programmes

**Dr Birnie** asked the Office of the First Minister and Deputy First Minister to outline (a) the amount of money spent on community relation programmes in each of the last 3 years; and (b) what assessment it can make in relation to the effectiveness of such expenditure. (AQW 4332/01)

#### Reply:

(a) The amount of money spent on community relations programmes in each of the last three financial years was as follows:

1999/2000	£9,153,068
2000/01	£8,534,590
2001/02	£6,752,637

The totals include funding provided under the EU Special Support Programme for Peace and Reconciliation 1995-99 (Peace I), the EU Physical, Social and Environment Sectoral Programme 1994-99 and the interim funding arrangements pending the coming into operation of the Peace II Programme.

(b) It is the Department's practice to commission regular independent evaluations of its funding of community relations programmes. Within the last two years, two reports have been completed evaluating the funding provided to the Community Relations Council and the District Council Community Relations Programme which together amount to some £4.3m of the mainstream Community Relations Programme provision of just over £5m annually. These evaluations will feed into the current review of community relations policy which includes an assessment of the impacts and achievements of current policy.

### Equality Commission: Community Relations

**Dr Birnie** asked the Office of the First Minister and Deputy First Minister if the review of Community Relations has addressed the issue of the Equality Commission having responsibility for both Section 75(1) 'equality of opportunity' and Section 75(2) 'promoting good relations' of the Northern Ireland Act 1998. (AQW 4372/01)

**Reply:** The review has considered the responsibilities of the Equality Commission in relation to the statutory duties of public authorities to have regard of the need to promote equality of opportunity under Section 75 (1) and to have regard to the desirability of promoting good relations under Section 75 (2).

This is one of a number of matters on which comments will be sought in a forthcoming consultation paper on a new community relations strategy. Our aim is to publish the consultation paper this month.

## Malone Road RIR Barracks

**Dr Birnie** asked the Office of the First Minister and Deputy First Minister, in light of the Reform and Reinvestment Initiative, to outline (a) when will the Malone Road RIR barracks be transferred to the Executive; (b) any plans for its use; and (c) the timescale for implementing such plans. (AQW 4436/01)

**Reply:** We are not yet in a position to indicate when the Malone Road Barracks will be transferred as no firm date has been set. We will, however, be publicly announcing the transfer when the date is clear.

As yet there are no plans for its use. The transfer of all the significant security and military assets offers us many possibilities for economic and social regeneration. We will want to consider all the options carefully so that we achieve dynamic development, working in partnership with local communities.

## CULTURE, ARTS AND LEISURE

### Ulster-Scots Agency & Irish Language Agency: Staff

**Mr Weir** asked the Minister of Culture, Arts and Leisure to detail the total staff employed by (a) the Ulster-Scots Agency; and (b) the Irish Language Agency. (AQW 4369/01)

**The Minister of Culture, Arts and Leisure (Mr McGimpsey)** [*supplementary answer*]: The information in my letter was not correct in respect of Foras na Gaeilge (the Irish Language Agency). In July 2002 Foras na Gaeilge (the Irish Language Agency) employed 34 staff, rather than 45 as previously stated in my answer of 30 July 2002.

### Meetings of North/South Language Body

**Mr Watson** asked the Minister of Culture, Arts and Leisure to outline the dates the North/South Language Body has met since its establishment. (AQW 4501/01)

**Mr McGimpsey:** [*supplementary answer*]: My response of 24 July 2002 did not take account of a meeting of the Language Body on 30 June 2002.

## ENTERPRISE, TRADE AND INVESTMENT

### Average Wage Levels

**Mr Weir** asked the Minister of Enterprise, Trade and Investment to detail, in each of the last 10 years, the average wage levels in Northern Ireland and how they compare with the UK. (AQW 2965/01)

**The Minister of Enterprise, Trade and Investment (Sir Reg Empey):** [*supplementary answer*]: Unfortunately, the information contained in my previous answer to you in relation to (a) the number of credit cards in use in (i) my Department; (ii) Executive Agencies of my Department; (iii) NDPBs of my Department; and (iv) any other bodies funded by my Department; and (b) how much has been spent on each card in the financial year ended 31 March 2002 was incomplete. The corrected position is detailed below.

- (a) There are (i) no Departmental credit cards in use in my Department. There are however, two Government Procurement Cards. (ii) My Department does not have any Executive Agencies. (iii) My Department's NDPB's currently hold nineteen credit cards, one in the former Local Enterprise Development Unit (LEDU), one within the former Industrial Development Board, seven with the former Industrial Research & Technology Unit (IRTU) and four within the Northern Ireland Tourist Board (NITB). (iv) InterTradeIreland (ITI) which is one third funded by my Department and two thirds by the Department of Enterprise, Trade and Employment RoI, has one credit card. Tourism Ireland Ltd (TIL) which is one third funded by my Department and two thirds by the Department of Arts, Sports and Tourism RoI, has five cards.
- (b) In the financial year 2001/2002 expenditure on the two Government Procurement Cards was, card one £150,799.44 and card two £7,641.32. Expenditure on the LEDU card was £92,126.33 in 2001/02, whilst expenditure on the IDB card was £3,222.23. IRTU had seven specialist procurement cards with total spend of £5,719.74 in 2001/2002, whilst NITB had two credit cards in 2001/2002 with spend of £15,574.39. A further card, issued by the British Tourist Authority to the New York NITB office manager incurred spend of £12,680.68 – this card was cancelled in November 2001. In addition, NITB had two specialist procurement cards with total spend of £3,559.01 in 2001/02. Expenditure on the ITI card totalled £4,229.14 in 2001/02. Expenditure on TIL's five specialist procurement cards amounted to 14,745.24 euro in the calendar year ended 31 December 2001.

I apologise for any inconvenience.

## REGIONAL DEVELOPMENT

### **Derailment of Londonderry to Coleraine Train**

**Mr McClarty** asked the Minister for Regional Development to detail the completion date for the investigation into the derailment of the Londonderry to Coleraine train on 4 June 2002. (AQW 4347/01)

**The Minister for Regional Development (Mr P Robinson):** During the debate following my statement to the Assembly on the 10 June I advised members that my priority in this investigation was for thoroughness rather than speed. However, on the basis of his progress to date the inspector is on target to complete his enquiries and prepare his report by the autumn. I would hope to be in a position to make a further statement to the Assembly shortly after I receive the report.



## NORTHERN IRELAND ASSEMBLY

Friday 11 October 2002

### Written Answers to Questions

#### OFFICE OF THE FIRST MINISTER AND DEPUTY FIRST MINISTER

##### Transportation of Nuclear Material

**Mr Fee** asked the Office of the First Minister and Deputy First Minister to undertake to raise, at the next British-Irish Council meeting, the continued shipment of dangerous nuclear fuel to and from the Sellafield reprocessing plant. (AQO 258/02)

**Reply:** The next Ministerial meeting of the British-Irish Council Environment sector is scheduled to be held on Wednesday 23 October. The main focus of this meeting will be on the issue of Sellafield.

The meeting will be informed by a discussion paper prepared by the Irish and Isle of Man Governments. This deals with a number of issues arising from the operation of the Sellafield site, including the transportation of nuclear material by sea. We are sure that the nominated Executive Ministers will take the opportunity to reflect the concerns of the Northern Ireland public on Sellafield matters.

It is also worth noting that, following representations made by the former Minister of the Environment, Sam Foster, assurances were received from Whitehall Ministers that transportation of nuclear material by British Nuclear Fuel Ltd complies with all UK and international regulatory requirements, which are designed to minimise environmental safety and security risks and, specifically, that the safety arrangements for the transportation of nuclear material to and from Sellafield are adequate to protect public safety against consequences of a terrorist attack or sabotage.

##### Community Relations Funding: Young People

**Mr Hilditch** asked the Office of the First Minister and Deputy First Minister what community relations funding has been allocated to make young people aware of the dangers of interface violence. (AQO 246/02)

**Reply:** The main provider of community relations funding to young people is the Department of Education through its schools and youth community relations programmes.

Its annual budget of around £3.6million is used to promote and develop good community relations in the education and youth service sectors in the age range 4 to 25.

Funding targeted at making young people aware of the dangers of interface violence has however been provided by our Department in two ways:

- First, North Belfast - Special Intervention programme - £250,000 of which some £200,000 has already been allocated to consortia of groups in North Belfast to collaborate on the design and delivery of developmental activities for young people in the area. A further 4 proposals are under consideration;
- Secondly, the Community Relations Council has provided £220,000 to organisations working specifically with interface communities, including youth.

##### Review of Public Administration

**Mr Armstrong** asked the Office of the First Minister and Deputy First Minister when it is envisaged that the Review of Public Administration will be completed. (AQO 257/02)

**Reply:** We expect the Review Team to make its final recommendations to the Executive by the end of 2003.

The Review is being conducted in phases. The team is currently engaged in a process of pre-consultation to inform the development of a consultation document which will be published later this year. There will then be a formal 3-month consultation period, following which the Review team will present an interim Report to the Executive in the Spring of 2003.

The next stage will be the development of a range of different models of Public Administration, which will be the subject of a further round of consultation in the Autumn of 2003, leading to the identification of a preferred model.

Through this process we hope to build a consensus for a preferred option to be presented to the Executive by the end of next year.

## Departmental Decentralisation

**Mr McMenamin** asked the Office of the First Minister and Deputy First Minister what discussions there have been at the Executive of plans for Departmental decentralisation; and to make a statement. (AQO 265/02)

**Reply:** It is important for the good working of the Executive that issues to be raised with, and exchanges between, Ministers should remain confidential.

The Department of Finance and Personnel are currently carrying out a review of office accommodation and we look forward to seeing the Report.

## AGRICULTURE AND RURAL DEVELOPMENT

### Bureaucracy: Farmers

**Mrs I Robinson** asked the Minister of Agriculture and Rural Development if she will consider a 'root and branch' review into the bureaucracy and red tape which NI farmers face over a variety of issues. (AQW 469/02)

**The Minister of Agriculture and Rural Development (Ms Rodgers):** I am very aware of the concerns farmers have in relation to the level of bureaucracy that they face. I am also mindful of the various obligations I must meet arising out of EU legislation relating to, for example, the administration of various producer support regimes. I am similarly conscious of the need to account properly for the expenditure of taxpayers' money and to address societal concerns in areas such as environmental protection and food safety. In all of this, a balance must be struck which addresses these obligations and concerns without placing an unbearable bureaucratic burden on the industry. My Department is constantly striving to ensure that this balance is properly struck, to minimise the burden where feasible and to explain more fully to producers the nature of their obligations. As an example of this work, the Integrated Administration and Control System form, which is the basis of much of our direct producer support, was greatly reduced in size and complexity this year. In addition, livestock subsidy claims now make as much use as possible of data held on the Department's Animal and Public Health Information System database and this has simplified the operation of the Extensification and Slaughter Premium Schemes. Next year, we hope to simplify further the Slaughter Premium Scheme by availing of an EU derogation which allows us to work without claim forms. These are just some examples of our on-going efforts in this broad area and we will continue to make progress as and when opportunities arise.

## Environmental Legislation

**Mrs I Robinson** asked the Minister of Agriculture and Rural Development to outline any action she has taken to ensure that environmental legislation currently being considered, which impacts on the farming community, will be scientifically based, implemented pragmatically and that financial assistance will be provided to meet any resulting cost. (AQW 470/02)

**Ms Rodgers:** Responsibility for implementing EU environmental legislation lies with the Department of the Environment (DOE). However I fully appreciate that the implementation of anti-pollution and water quality legislation will have an effect on the agricultural industry as well as other economic sectors. To that end, officials from my Department and from the Department of the Environment have been working closely together to ensure that decisions on the scale and scope of implementation are based on scientific research and data. Officials have also considered the full range of practical issues associated with implementation, including the likely economic impacts on the farming community.

My Department continues to provide practical advice and training to farmers in relation to pollution prevention and good farming practice. Revised Codes of Good Agricultural Practice are being finalised to help farmers meet the requirements of impending legislation.

In addition I have secured £5.6 million from Executive Programme Funds for a targeted Farm Waste Management Scheme. The proposed Scheme is aimed at minimising farm source pollution, which is contributing to water quality problems. It will be targeted on those watercourses most severely impacted upon by agricultural pollution and will provide assistance towards the cost of building and improving waste handling and storage facilities.

I have also secured £0.9 million for a Nutrient Management Scheme. The proposed Scheme is aimed at encouraging farmers to plan the application of nutrients to their land in a systematic way with the particular objective of minimising the contribution of agriculture to the phosphate overload in soils, which is contributing to the eutrophication of fresh waters in Northern Ireland. It is likely that the Scheme will be targeted on farmers in parts of the Lough Neagh catchment.

Details of both Schemes will be announced as soon as State Aids approval from the EU Commission is obtained. Until then I am not able to give a definitive date for the opening of the Schemes or announce the first catchments to be targeted.

You should also be aware that as part of the action plan to implement the "Vision" report I have made bids for additional resources to extend the Farm Waste and

Nutrient Management Schemes to help address water quality problems caused by agriculture.

### Forest Service

**Ms Lewsley** asked the Minister of Agriculture and Rural Development to detail the performance targets set for the Forest Service for the financial year 2001/2002.

(AQW 503/02)

**Ms Rodgers:** The following Key Targets were set for the Forest Service for 2001/2002 and performance against each one was as follows:

- To achieve 700 hectares of new planting in public and private sectors combined – there were 686 hectares of new planting. The target was substantially achieved.
- To offer for sale 360,000m<sup>3</sup> of timber - 407,870 m<sup>3</sup> of timber was offered for sale. The target was achieved.
- To achieve 440,000 paying visitors in charged areas – there were 403,262 paying visitors. The target was not achieved. Note: No visitors were admitted to forest parks for several months during the height of the Foot and Mouth emergency.
- To maintain the area of forest under sustainable management – this was achieved.
- To approve (or reject) 90 % of applications under the Woodland Grant Scheme and Farm Woodland Premium Scheme within 8 weeks of receipt of a properly completed application form - 82% of approvals/rejections were issued within the target. The target was not achieved. Note: Absence of staff during the latter part of the year delayed processing.
- To pay, following planting, 90 % of grant claims within 8 weeks of receipt of a properly completed claim form - 96% of payments were made within the target. The target was achieved.
- To publish a NI Forestry Strategy – this target was not achieved. Note: progress was delayed due to the diversion of key staff to duties connected with the Foot and Mouth emergency.
- To achieve an outturn which meets the targeted net cost of the forestry programme – the target was achieved.
- To achieve 3% efficiency gains- performance in respect of this target could not be reported on due to the distorting influence of Foot and Mouth Disease.
- To control DRC and programme expenditure to within 1% shortfall of the final control totals – at 1.1%, the target was substantially achieved.

You may also be interested to note that the following Key Targets have been set for the Forest Service for 2002/2003:

- To establish 650 hectares of new plantations. Note: The PSA target figure of 700 hectares has been reduced to 650 hectares in the Business Plan for 2002/03 as

700 hectares can no longer be established from the resources available.

- To replant 700 hectares of land following harvesting.
- To pay out Woodland Grant Scheme grants of £2.1m to encourage the extension of the area of woodland.
- To pay 90% of Woodland Grant Scheme and Farm Woodland Premium Scheme claims within 8 weeks of receipt of a properly completed claim form.
- To retain certification under the UK Woodland Assurance Standard.
- To refertilise 1,900 hectares of nutrient deficient plantations.
- To produce 380,000 m<sup>3</sup> of timber for sale to the wood processing sector.
- To achieve 440,000 paying visitors to forests.

### Tendering Processes

**Mr Dallat** asked the Minister of Agriculture and Rural Development to (a) confirm that all legal, banking and professional services, both for her Department and all related agencies, are tendered for; and (b) outline the applicable tendering criteria currently being used.

(AQW 522/02)

**Ms Rodgers:** The Department relies upon the Departmental Solicitor's Office in respect of legal services. The procurement of other services by the Department and its Agencies are carried out either by the Procurement Service or in accordance with guidelines on tendering established by the Service which are incorporated in the Department's Financial and Accounting Procedures Manual.

The criteria used to determine that an offer is the most economically advantageous include the period for completion or delivery, quality, aesthetic and functional characteristics, technical merit, after sales services, technical assistance and price.

## CULTURE, ARTS AND LEISURE

### Regional/Minority Languages

**Mr Shannon** asked the Minister of Culture, Arts and Leisure to outline (a) when he expects the report by the Council of Europe on regional and minority languages to be published; and (b) what steps he will take to ensure parity for the Ulster-Scots language. (AQW 353/02)

**The Minister of Culture, Arts and Leisure (Mr McGimpsey):** The Committee of Experts, appointed by the Council of Europe, will consider the UK Government's report on the implementation of the Charter and will publish an opinion. Prior to publication the Com-

mittee of Experts will visit the UK to take evidence from a variety of sources. It is expected that the opinion will be published next year.

There will be equity of treatment for the Irish and Ulster-Scots languages. It is not, however, appropriate to use the treatment of one language as a benchmark for the treatment of another because one is not comparing like with like, in terms of actions required to sustain and celebrate individual languages.

### Cultural Promotion/Expenditure

**Mr Shannon** asked the Minister of Culture, Arts and Leisure to outline, in each of the last 3 years, the budget allocated for cultural promotion and expenditure.

(AQW 386/02)

**Mr McGimpsey:** In answering this question it is assumed that the information sought relates to the funding provided over the last three years for the cultural promotion of language.

The North/South Language Body came into operation at devolution in December 1999.

The funding provision and funding drawn down by the Language Body in the past two years and for the current year is as follows:

	Funding Available	DCAL Portion	Funding Drawn Down	DCAL Portion
2000	£ 7,879,000	£2,303,000	£ 6,889,244	£2,065,538
2001	£11,410,000	£3,500,000	£10,679,907	£2,739,116
2002	£11,970,000	£3,710,000	£ 8,117,507*	£2,362,077*

\*January to September 2002

Funding is also available from mainstream funding programmes, for objectives other than promotion, providing applicants meet the criteria.

### Museums/Galleries: Funding

**Mr M Robinson** asked the Minister of Culture, Arts and Leisure to detail how much funding was provided to museums and galleries in (a) 1999-2000; (b) 2000-2001; and (c) 2001-2002; and how these figures compare with other parts of the UK.

(AQW 413/02)

**Mr McGimpsey:** My Department provided funding of £9.22m in 1999/2000; £9.58m in 2000/2001; and, £10.74m in 2001/2002 to the National Museums and Galleries Northern Ireland (known as MAGNI). You may also wish to note that my Department provided funding of £0.18m in 1999/2000; £0.21m in 2000/2001; and, £0.25m in 2001/2002 to the Northern Ireland Museums Council (NIMC) to support the work of local museums.

For the purposes of comparison the funding provisions made by the Department of Culture, Media and Sport; the Arts and Creativity Industries Policy Unit of the Scottish Assembly; and, the Culture and Welsh Language Division of the National Assembly for Wales are set out in the table below.

Region	1999/2000 £m	2000/2001 £m	2001/2002 £m
Northern Ireland	9.40	9.80	10.99
Wales	14.51	14.51	17.03
Scotland	24.32	26.55	30.75
England	206.29	228.69	243.90

### Museums/Galleries

**Mr M Robinson** asked the Minister of Culture, Arts and Leisure if he has commissioned research into the economic, social or educational impact of museums and galleries; and if so what were the conclusions.

(AQW 437/02)

**Mr McGimpsey:** My Department has not commissioned any research of the nature that you suggest, and there are no plans to do so in the immediate future.

However, my Department fully recognises the importance of research in general as an aid to the development of policy. Indeed, the report of the Local Museum and Heritage Review Steering Group advocated more co-ordination and consistency in research for the museum and heritage sectors, so that a reliable pool of information may be created from which all in the sectors may draw. My Department accepts this, and will take the matter forward with the report's other recommendations.

It is therefore likely that my Department will commission research into the economic, social and educational impact of museums and galleries in the future.

### All-Ireland Football Championship

**Mr Fee** asked the Minister of Culture, Arts and Leisure what steps he will take to recognise Armagh's victory in the All-Ireland Football Championship.

(AQW 450/02)

**Mr McGimpsey:** I have already forwarded my congratulations to the Secretary of the Armagh County Committee of the GAA. I also intend to mark the occasion by hosting a reception in Parliament Buildings on 29 October for the Team. The Derry Team will also be invited to the reception to celebrate its victory in the Minor All Ireland Football Final.



## Athletic Grounds (Armagh)

**Mr Fee** asked the Minister of Culture, Arts and Leisure what funding is available for safety measures for spectators at the Athletic Grounds in Armagh. (AQW 451/02)

**Mr McGimpsey:** As a Main County Ground, the Athletic Grounds in Armagh was eligible to apply for funding as follows:

### Years 1 and 2.

- Major Works: 85% grant up to a maximum of £250,000
- Urgent Works: 85% grant up to a maximum of £25,000 per year
- Safety Management: 90% grant towards the cost
- Revenue funding: £18,000 per club

### Year 3

- Major Works: 85% grant up to a maximum of £100,000
- Safety Management: 90% grant of the cost.

Total funding awarded to the Athletic Grounds is £231,320, made up as follows:

	Year 1 £	Year 2 £	Year 3 £
Major Works	Nil	60,000	100,000
Urgent Works	25,000	25,000	N/A
Safety Management	960	1,240	1,120
Revenue Funding	15,000	2,500	N/A

## Asbestos

**Mrs I Robinson** asked the Minister of Culture, Arts and Leisure to detail (a) the number of buildings leased by his department that have asbestos as a component of their construction; (b) the number of staff employed in these buildings; and (c) what plans he has for the removal of asbestos. (AQW 457/02)

**Mr McGimpsey:** The Department of Culture, Arts and Leisure currently leases outright one of the buildings which it occupies, namely 43 Queens Avenue, Magherafelt which is occupied by five Ordnance Survey for Northern Ireland staff. These premises were surveyed for asbestos in 1996 and no asbestos based material was found.

All other buildings currently occupied by the Department, which are leased from a private landlord, are leased on our behalf by the Department of Finance and Personnel Office Accommodation Branch and they will reply to you in respect of these buildings.

## EDUCATION

### Schoolteachers: Vetting

**Mr Armstrong** asked the Minister of Education to outline the procedure used for vetting schoolteachers and to detail the number of teachers that have undergone and have yet to undergo this procedure. (AQW 425/02)

**The Minister of Education (Mr M McGuinness):** In the case of teachers employed by Education and Library Boards or the Council for Catholic Maintained Schools these bodies refer details of all new teachers to PSNI for a Criminal Records Check prior to appointment. In the case of other schools the school refers details of the teacher proposed for appointment to the Department who deal with PSNI. The turnaround time for these checks is normally 5-10 working days there is no backlog.

PSNI has completed 3,460 checks for teaching and non-teaching staff in the past year.

In addition, the Department checks all newly appointed teachers against the list of teachers prohibited from teaching anywhere in the UK (List 99). List 99 checks have been carried out on 1,846 teachers during the past year and checks on all teachers appointed up to and including September 2002 are complete.

## EMPLOYMENT AND LEARNING

### Undergraduates: Funding

**Mr McGrady** asked the Minister for Employment and Learning to outline (a) if she will review the policy whereby students, who leave an undergraduate course before completion and wish to embark on a second undergraduate degree, are excluded from the payment of fees and a means tested grant; and (b) if, in so doing, she will assess the needs of vocational students wishing to change from one aspect of the health profession to another. (AQW 350/02)

**The Minister for Employment and Learning (Ms Hanna):** Under the Education (Student Support) (Northern Ireland) Regulations, students who have previously attended a course of higher education will not generally be eligible for tuition fee support for a further course. However, there are exceptions to this rule and certain students may be entitled to support for all or part of their second course. It is a matter for the Education and Library Boards to determine students' eligibility for support taking account of individual circumstances.

Even if a student is not eligible for fee support for a second course he/she will be eligible for a student loan and any supplementary grants that are appropriate.

The second part of the question is a matter for my ministerial colleague in the Department of Health, Social Services and Public Safety to answer.

### Postgraduates: IT-Related Subjects

**Mr Tierney** asked the Minister for Employment and Learning to outline the number of (i) full-time; and (ii) part-time postgraduate students in IT related subjects, at each campus of the University of Ulster and at Queen's University. (AQW 361/02)

**Ms Hanna:** The number of full-time postgraduate students enrolled on Computer Science related subjects at each campus of the University of Ulster and at Queen's University in 2001/02<sup>1</sup> are outlined in the table below:

Institution	Campus	Number of students
University of Ulster	Jordanstown	150
	Coleraine	27
	Magee	66
Queen's University Belfast		140
<b>Total</b>		<b>383</b>

The number of part-time postgraduate students enrolled on Computer Science related subjects at each campus of the University of Ulster and at Queen's University in 2001/02<sup>1</sup> are outlined in the table below:

Institution	Campus	Number of students
University of Ulster	Jordanstown	212
	Coleraine	4
	Magee	109
Queen's University Belfast		54
<b>Total</b>		<b>379</b>

<sup>1</sup> 2001/02 figures are provisional

## ENTERPRISE, TRADE AND INVESTMENT

### Bombardier Shorts

**Mr Shannon** asked the Minister of Enterprise, Trade and Investment, in light of the recent job losses at Bombardier Shorts, particularly in its design department, what action he is taking to prevent its demise and the loss of the local aerospace knowledge base.

(AQW 376/02)

**The Minister of Enterprise, Trade and Investment (Sir Reg Empey):** I have impressed upon Bombardier senior management the importance of continuing investment in people skills and research and development in

Belfast. For its part Invest NI seeks to influence this through selective financial support for investment in research capability and training and development which will strengthen Shorts' position as a centre of excellence within the Bombardier group.

### Liability Insurance

**Mr Bradley** asked the Minister of Enterprise, Trade and Investment, pursuant to AWQ 4350/01, what progress has been made as a result of his representation to the Economic Secretary to the Treasury, The Association of British Insurers and The Secretary of State, in relation to the cost and difficulties of obtaining Public and Employers Liability Insurance; and to make a statement.

(AQW 426/02)

**Sir Reg Empey:** Both Government and the insurance industry have set up Working Groups to examine the scope for addressing present difficulties. My officials are closely involved in both; and I propose to discuss the issue again, very soon with the Economic Secretary to the Treasury.

My departmental research, which still continues, has identified a range of reasons for current difficulties, includes, inter alia, the combined impact of long-term unprofitability in the industry; the particular problems of insuring industrial diseases; the need for some level of cyclical market readjustment; the current stock market downturn and the difficulty of raising capital in these circumstances; problems with re insurance caused by September 11 disaster and increasing societal expectations and consequent litigation.

### Broadband

**Mr Fee** asked the Minister of Enterprise, Trade and Investment to detail (a) the areas where Broadband is available and (b) any plans, of which he is aware, to extend Broadband to all areas of Northern Ireland.

(AQW 449/02)

**Sir Reg Empey:** Broadband is the term used to describe a wide range of technologies that allow high-speed, always-on access to the Internet including: private circuit leased lines; asymmetric digital subscriber line (adsl); cable; satellite; and wireless. Broadband can be provided throughout Northern Ireland, albeit at a price. The provision of broadband telecommunications however is a commercial decision for telecommunication companies.

As indicated in my statement to the Assembly of 19 February 2002, to stimulate the rollout of affordable broadband services across Northern Ireland, my Department is taking forward a number of initiatives. These include support for broadband pilot actions, the development of broadband applications and services, assistance

to companies wishing to take up Satellite broadband, and a range of demand stimulation actions. In addition my officials are developing a call for proposals addressing local access to broadband.

### Grant Aid: Retail Shopping Centres

**Mrs Nelis** asked the Minister of Enterprise, Trade and Investment to detail the amount of grant aid provided to retail shopping centres in the Foyle Constituency in the last 20 years. (AQW 474/02)

**Sir Reg Empey:** My Department has not provided grant assistance to any retail shopping centres in the Foyle Constituency. One of the criteria to be met for Selective Financial Assistance is that of National and Regional Benefit (ie the efficiency criterion). Local consumer-type service activities such as retailing will generally not satisfy this criterion, particularly National Benefit, and therefore does not qualify for assistance.

## THE ENVIRONMENT

### Principal's House, Union Theological College

**Dr Birnie** asked the Minister of the Environment what assessment he has made of the current alterations of the Principal's House at the Union Theological College, specifically the lift shaft, to ensure they are compatible with Planning Policy Statement PPS6, which states, 'the roof is nearly always a dominant feature of a building and the retention of its original shape, pitch, cladding and ornament is important.' (AQW 228/02)

**The Minister of the Environment (Mr Nesbitt):** It should be noted that there is no lift shaft at the Principal's house. However, there is one at the left side of the rear courtyard associated with the main Union Theological College.

The approved work (ie the introduction of a lift shaft) accords with the internationally recognised principles as defined in the Burra Charter – ie

- Minimal intervention (in relation to the historic fabric)
- Maximum retention of the historic fabric
- Reversibility
- Clarity

And the overall 'package' is seen as a reasonable balance between preservation and the need for new investment and work to secure a sustainable long-term future for this important listed building which was seen as a 'Building at Risk'.

Planning Policy Statement, (PPS6) Planning, Archaeology and the Built Heritage, sets out the Department's planning policies for the protection and conservation of archaeological remains and features of the built heritage and advises on the treatment of these issues in development plans. These planning policies outline the main criteria that the Department will employ in assessing proposals that affect the archaeological or built heritage. These policies however should not be read as the only tests of acceptability for such development proposals. In making its decisions the Department will assess proposals against all planning policies and other material considerations that are relevant to it. It is generally recognised that occasionally there will be circumstances where other material considerations may outweigh these policies.

In assessing this application Planning Service consulted Environment and Heritage Service (EHS) who, after seeking and gaining improvements to the original application for works to the listed building, accepted the scheme. EHS acknowledges that the top of the new lift shaft at the college is visible above the roof level from the principle/front view of the building, and that it introduces an asymmetrical element into an otherwise symmetrical façade. It is preferable – though not always possible – that such 'intrusions' should be avoided. However, efforts have been made to reduce the visual impact of the shaft and associated roofing, and aspects of the design reflect other features of the building. The lift shaft is an essential requirement to comply with Art. 19 of the Disability and Discrimination Act 1995. Policy BH 8 subsection 6.18 of PPS6 - '*The needs of people with disabilities*' - also refers.

It is worth noting that the roof over the building remains a dominant feature and has retained its original shape, pitch, cladding and ornament. Other locations for the lift were considered but the actual location is by far the best to facilitate access for people with disabilities.

### Mobile Advertisements

**Mrs E Bell** asked the Minister of the Environment what progress has been made on countering the use of large mobile advertisements on land alongside public roads, given their environmental and road safety implications. (AQW 306/02)

**Mr Nesbitt:** Under the Planning (Control of Advertisements) Regulations (NI) 1992 the display of an advertisement irrespective of whether it is fixed or mobile, is an offence unless the express consent of the Department has been granted or is deemed to be granted. In assessing whether to grant consent for an advertisement, the Department is guided by considerations of amenity and/or public safety as outlined in Policy DES 9 of 'A Planning Strategy for Rural Northern Ireland'.

There is a general presumption against the display of advertisements in the open countryside, in order to protect the unique quality of the rural landscape.

Without express consent the display of an advertising hoarding on land alongside public roads is an offence and in assessing whether to initiate court action the Department will be guided by legal advice, the impact of the advertisement on visual amenity and any road safety issues identified by the Department for Regional Development's Roads Service.

When, after such assessment, the Department considers that the advertisement is unacceptable it will normally pursue court action. On summary conviction the landowner and others are liable to fines with the potential for further daily fines. On some occasions removal can be achieved by persuasion.

In recent years the Department has successfully taken action to have a number of such advertisements removed, either through persuasion or through direct summons action through the courts and the Department will continue to take such action against this type of advertisement where considered necessary.

### Cultural Activities: Funding

**Mr Shannon** asked the Minister of the Environment to outline, for each district council area, the budget allocated for cultural activities in each of the last three years.

(AQW 387/02)

**Mr Nesbitt:** The budget allocation of individual district councils for cultural facilities (including cultural activities) for the period 1999/2000 to 2001/2002, is set out in the Table below.

District Council	1999/2000 £	2000/2001 £	2001/2002 £
Antrim	251,965	240,713	284,633
Ards	292,905	206,878	336,739
Armagh	555,090	792,950	799,402
Ballymena	333,897	264,250	318,150
Ballymoney	132,748	148,180	162,637
Banbridge	46,463	45,487	43,562
Belfast	3,330,830	5,994,700	6,295,070
Carrickfergus	163,544	203,530	185,780
Castlereagh	40,000	20,000	10,000
Coleraine	187,209	217,918	271,621
Cookstown	230,000	439,281	423,007
Craigavon	230,880	291,924	382,044
Derry	911,500	951,000	941,000
Down	598,128	1,179,872	1,039,783
Dungannon	86,610	119,714	120,415

District Council	1999/2000 £	2000/2001 £	2001/2002 £
Fermanagh	452,034	599,206	608,160
Larne	43,358	82,282	69,540
Limavady	36,000	63,000	53,427
Lisburn	1,004,149	987,446	1,842,280
Magherafelt	12,000	15,000	15,000
Moyle	42,994	31,997	34,104
Newry & Mourne	807,684	749,040	784,260
Newtownabbey	289,276	442,083	340,957
North Down	356,672	344,905	362,644
Omagh	221,541	186,708	192,850
Strabane	110,803	133,070	136,170

### Vehicle Insurance Disc

**Mr Armstrong** asked the Minister of the Environment, pursuant to AQO 1602/00, to give an update on any plans to introduce a compulsory car insurance disc, similar to the vehicle excise disc.

(AQW 389/02)

**Mr Nesbitt:** My Department has taken up the question of requiring vehicles to show evidence of being insured, by means of a windscreen insurance disc, with the Association of British Insurers (ABI).

The ABI announced in May 2001 its intention to establish a central insurance database which would give on-line access to the police for enforcement purposes. The ABI believes that this offers the prospect of a more effective enforcement system than the display of insurance discs.

It has also to be borne in mind that a windscreen insurance disc would merely provide evidence that someone had insurance cover for the use of the vehicle at the time the disc was issued. However, UK law requires the driver to be insured, rather than the vehicle. A disc would not necessarily guarantee that the driver was insured to drive that particular vehicle or was complying with policy conditions. My officials will continue to keep all options under review, in consultation with the Department for Transport in Whitehall.

### Waste Dumping

**Mrs Carson** asked the Minister of the Environment to consider working in conjunction with other departments to ensure penalties for waste dumping are made more stringent.

(AQW 394/02)

**Mr Nesbitt:** The level of fines and penalties is a reserved matter under the Northern Ireland Act 1998. In addition, the setting of fine levels for individual offences is a matter for the courts. However, I believe that strong



enforcement, including the setting of appropriate fine levels has a vital part to play in getting across the message that breaches of environmental law are matters which are to be taken very seriously.

In the past, my officials have worked closely with the Northern Ireland Courts Service and the Resident Magistrates' Association to draw attention to the seriousness of pollution incidents and to ensure that this is a factor which is taken fully into account in setting fine levels. I shall wish to see this continue.

I am also keen, where possible, to ensure that penalties in new legislation are set at a level which will act as a strong deterrent to potential offenders. To that end, I have approached the Secretary of State for consent to raise from £20,000 to £30,000 the maximum fine payable on summary conviction of offences under the Pollution Prevention and Control Bill.

### **Somerton/Chichester Park: Conservation Area**

**Mr A Maginness** asked the Minister of the Environment to extend the conservation area of Somerton/ Chichester Park up to, and to include, Downview Avenue, Belfast. (AQW 404/02)

**Mr Nesbitt:** My Department is currently preparing the Belfast Metropolitan Area Plan (BMAP). Consultants have been engaged to advise the BMAP Team on Townscape Issues and review the boundaries of the existing Conservation Areas and consider if adjustments are required. The study will also make recommendations as to whether new Conservation Areas and Areas of Townscape Character should be designated.

The boundaries of the Somerton/Chichester Park Conservation Area are already being considered as part of the plan preparation process and the Draft Plan when published will provide a means by which public opinion can be expressed on any proposed designation should any alteration be proposed. I have noted your support for extension of the Conservation Area and this will be taken into account at the appropriate time.

Following consideration of any representations submitted in response to any proposals contained in the Draft Plan, my Department will consult the Historic Buildings Council, who advise them on such proposals, and will decide on the most appropriate way to proceed.

### **Greenhouse Gases**

**Mr McGrady** asked the Minister of the Environment to outline the contribution made by the Northern Ireland Executive to the reduction of greenhouse gases required

for the United Kingdom to meet its Kyoto targets and domestic goal of a 20% cut in carbon dioxide emissions. (AQW 406/02)

**Mr Nesbitt:** In order to achieve the targets commissioned to the UK, a Climate Change Programme was published in November 2000.

A Northern Ireland chapter is included in the Programme. This chapter confirms Northern Ireland's commitment to supporting the UK Climate Change Programme and outlines the measures that Northern Ireland has taken, and will continue to take, to ensure that we make as significant as possible a contribution to cutting greenhouse gas emissions.

Key measures include:

- Improving business use of energy – climate change levy, carbon trading,
- Stimulating new more efficient sources of power generation, such as renewable energy and combined heat and power plants,
- Cutting transport emissions through fuel efficiency and taxation incentives,
- Promoting better energy efficiency in the domestic sector,
- Reducing emissions from agriculture, especially by cuts in fertiliser usage, increased afforestation and energy efficiency,
- Encouraging the public sector to lead by example.

Some of these are fiscal measures applied by HM Treasury to the UK as a whole. There have also been a number of UK-wide initiatives to reduce greenhouse gas emissions and work is ongoing in the corresponding NI departments in areas such as energy efficiency, alternative energy etc.

Northern Ireland only produces about 3% of the UK's greenhouse gas emissions. Against such a low base, substantial savings have in the past been difficult to achieve particularly in view of Northern Ireland's unique energy profile with its traditional reliance on fossil fuels. However, the Executive's decision last September to provide financial support for the Bord Gais Eireann/ Questar proposal to develop Northern Ireland's gas infrastructure will also mean further savings in greenhouse gas emissions.

Work is planned by this Department to provide the basis for future-quantification of NI's greenhouse gas emissions and the effectiveness of the steps being taken to reduce them.

I am, of course, conscious that these issues cover a wide range of inter-departmental interests and am considering establishing an inter-departmental working group to ensure a co-ordinated approach and to facilitate the monitoring of agreed policies.

## Clean-up Campaign

**Mr Armstrong** asked the Minister of the Environment what plans he has to implement a clean-up campaign for the NI countryside. (AQW 423/02)

**Mr Nesbitt:** District Councils are responsible under the Litter (NI) Order 1994, for clearing litter in Northern Ireland towns and countryside. My Department has no powers directly to implement a clean-up campaign for the countryside. However my Department is contributing to the clean-up of our towns and countryside in various ways. For example, my Department's Environment and Heritage Service continues to fund Environmental Campaigns, (EnCams) a voluntary environmental body, which operates under the "Tidy Northern Ireland" logo. Its aim is to achieve a litter-free environment by working with community groups, schools, District Councils, businesses and other partners. EnCams has worked successfully with Councils in co-ordinating litter campaigns, including last years 'Spring clean-up' Campaign and the 'Just Bin It' Campaign. I have also recently supported a scheme whereby all the offices of my Department may sign up to a 'Lets Tidy Belfast' Charter by displaying pledge booklets and encouraging staff to sign up, or to pledge online.

My Department has also produced operational guidance on dealing with the problem of fly-tipping.

Proper waste management will also help us to address the litter problem. My Department is addressing this through the Waste Management Strategy and by assisting District Councils in the development of robust Waste Management Plans, the overall aim of which is to reduce the amount of waste produced and to manage more effectively that which is produced.

## Planning Moratorium

**Mrs Courtney** asked the Minister of the Environment to explain why the decision on the planning moratorium, expected on 19 September, did not materialise, and to say when the announcement will be made. (AQW 428/02)

**Mr Nesbitt:** As the Member will be aware, on 7 October 2002 I made a statement to the Assembly on water quality and planning, to explain why it was necessary to hold some planning applications and to explain the agreed way forward. Copies of my statement have been distributed to all Assembly Members and have been placed in the Assembly library.

## Burning of Tyres

**Mr O'Connor** asked the Minister of the Environment to outline (a) whether he is aware of recent news coverage that fumes given off by burning tyres may be carcinogenic;

(b) if he has any information regarding the pollution caused by the burning of tyres; and (c) any plans he has to prevent tyres being burnt in public; and to make a statement. (AQW 435/02)

**Mr Nesbitt:**

(a) There is no doubt that the burning of discarded tyres has the potential to impact adversely upon public and environmental health. Recent research conducted by the National Environmental Technology Centre in Didcot, England, has revealed that certain components produced during the uncontrolled combustion of waste tyres may have a carcinogenic characteristic.

In particular, Polyaromatic Hydrocarbons (PAHs), benzene and isocyanates are linked to cancer and are identified as by-products from open-air tyre burning.

(b) Waste tyres are extremely combustible and can cause atmospheric pollution through the release of thick clouds of sulphurous black smoke. The main constituents of this smoke are carbon, PAHs, benzene and metals. The relative concentrations of these can vary and are very site specific. In addition, I am aware that rainwater can carry potentially toxic material, produced in the burning process, into groundwater and nearby watercourses; this may have the potential to damage associated ecosystems.

(c) There is currently no legislation that specifically prevents the burning of tyres. However, District Councils have powers (under the Clean Air (NI) Order 1981) to take action against smoke emissions that are likely to be prejudicial to health or a smoke nuisance. Councils also have powers to control the illegal deposition of waste, including tyres, on land through the Pollution Control and Local Government (NI) Order 1978. In addition, the Duty of Care Regulations came into force on 1 October 2002. In enforcing these Regulations, my Department's Environment and Heritage Service will monitor the completion of Waste Transfer Notes to try to ensure that tyres are disposed of properly.

## Underground Cables

**Mr McGrady** asked the Minister of the Environment what legislative measures will be taken to ensure that Northern Ireland Electricity put cables underground in designated areas of special control. (AQW 447/02)

**Mr Nesbitt:** There are no current plans to introduce legislative measures to ensure that Northern Ireland Electricity put cables underground in 'designated areas of special control'.

In designated areas of high landscape or townscape value, for example Areas of Outstanding Natural Beauty or Conservation Areas, the Department may seek the

undergrounding of proposed overhead cables where considered appropriate, the main emphasis being on integration into the existing landscape/townscape

Planning Policy "Public Service & Utilities 11" of 'The Planning Strategy for Rural Northern Ireland' currently provides policy guidance for the control of overhead cables. The siting of electricity power lines and other overhead cables will be controlled in terms of the visual impact on the environment, with particular attention being given to designated areas of landscape or townscape value.

Such overhead lines should be planned to:

- (a) avoid areas of landscape sensitivity;
- (b) avoid sites and areas of nature conservation or archaeological interest;
- (c) minimise their visual intrusion;
- (d) make sure that they follow the natural features of the environment; and
- (e) ensure that wirescape in urban areas is kept to a minimum with preference being given to undergrounding services when appropriate.

In assessing specific proposals, advice is sought as required from specialist consultees, such as the Department's Environment and Heritage Service.

### **Omagh Divisional Planning Office**

**Mr Hussey** asked the Minister of the Environment to reconsider his decision to transfer responsibility for the Strabane District Council area of West Tyrone constituency, from the Omagh Divisional Planning Office to the Londonderry Planning Office. (AQW 448/02)

**Mr Nesbitt:** I have invited a joint delegation from Omagh and Strabane District Councils to meet me to discuss this matter. No formal decision will be made until after that meeting.

Your objection to the proposed transfer has been noted and I will write to you again after the meeting takes place on 23 October 2002.

### **Hares: Licences**

**Mr Ford** asked the Minister of the Environment (a) what licences to net hares for coursing have been issued since the Games Preservation (Amendment) Act was passed; (b) what conditions were attached to those licenses; (c) how many will be taken under those licenses; (d) how many were returned to the wild; and (e) if he is satisfied that the licenses were issued in compliance with the Games Preservation (Amendment) Act. (AQW 465/02)

### **Mr Nesbitt:**

- (a) Two permits to net hares have been issued by my Department's Environment and Heritage Service, one to the Ballymena Coursing Club and one to Dungannon and District Coursing Club.
- (b) The conditions applying to the two permits are listed at Annex 1.
- (c) Each permit allows the taking of up to 70 hares.
- (d) No hares have been returned to the wild as the meetings have not yet been held.
- (e) I am satisfied that the issue of the permits complied with the Game Preservation (Amendment) Act in that they require any hares caught to be returned to their place of capture after the coursing meetings and the population of hares in Northern Ireland, or any part thereof, would not be endangered.

### **Telecommunications Masts**

**Mr Shannon** asked the Minister of the Environment to outline (a) how his department monitors emissions from telecommunications masts; (b) who catalogues the information; and (c) if this information will be made available to the public. (AQW 475/02)

**Mr Nesbitt:** Responsibility for the monitoring of emissions from telecommunications masts and other apparatus does not rest with my Department. The regulation of the telecommunications industry in the United Kingdom is a matter for the Department of Trade and Industry (DTI). Operators of public telecommunications systems require a licence issued by the Secretary of State for Trade and Industry under the Telecommunications Act 1984.

Arising from a recommendation contained in the Stewart Report (May 2000), the Radiocommunications Agency (RA), an Agency of the DTI, undertook a random survey of mobile phone base stations throughout the UK during 2001. The aim of this audit programme was to ensure that emissions from mobile phone base stations were below the International Commission on Non-Ionising Radiation Protection (ICNIRP) public exposure guidelines. The initial focus of this audit was schools with base stations on their premises. Over 100 surveys have now been completed, including 6 school sites in Northern Ireland, with all measurements so far showing emissions typically to be many thousands of times below the ICNIRP guidelines. Full results are published on the RA website at [www.radio.gov.uk](http://www.radio.gov.uk)

The RA audit programme is to be continued during 2002 and will now focus on measuring emission levels at schools and hospitals located near to a mast.

While the monitoring of emissions from telecommunications masts and other base stations is a matter for the DTI, I would advise that PPS 10 'Telecommunications', requires operators to provide a statement, to accompany all planning applications for masts and other base stations declaring that when operational this will meet the ICNIRP public exposure guidelines.

### Coastal Erosion

**Mr Shannon** asked the Minister of the Environment whether he will include the issue of coastal erosion within the Areas of Special Scientific Interest designation legislation. (AQW 495/02)

**Mr Nesbitt:** I have no plans to include specific measures relating to coastal erosion within the legislation relating to Areas of Special Scientific Interest.

The Areas of Special Scientific Interest (ASSIs) Bill will apply to all ASSIs irrespective of location. It aims to provide for the better protection of ASSIs by a number of measures aimed at improving the declaration process for these valuable sites, safeguarding them from damage and ensuring their better management. This is important in coastal ASSIs where there can be instances when erosion threatens the special features of a site.

The Bill retains the existing legislative provisions that allow the Department to consider, where necessary, agreements with landowners in coastal ASSIs in order to secure the most effective management of the site, in the same way as it would for any ASSI.

### Craigmore Quarry, Randalstown

**Mr Dalton** asked the Minister of the Environment to outline (a) his assessment of the proposed planning application for a landfill site and materials recovery facility at Craigmore Quarry, Randalstown; and (b) what consideration he has given to the concerns of local residents about this proposed planning application. (AQO 231/02)

**Mr Nesbitt:** I have considered the issues involved in this case and declared the application to be a major one under Article 31 of the Planning (Northern Ireland) Order 1991. Consideration of the application is still at an early stage of the planning process.

The Department will be in a position to make an assessment of the proposal and to decide whether to proceed by public inquiry or by way of a Notice of Opinion (NOP) when the consultation associated with the planning and environmental impact assessment processes are complete and all the necessary information has been analysed and is available.

In taking the decision to apply Article 31, I have taken particular account of the nature and significant level of local concern expressed directly by the public in letters of objection and through locally elected representatives.

These concerns will be considered during the further processing of the application.

### Nuclear Waste

**Mr Neeson** asked the Minister of the Environment, pursuant to AQO 63/02, what representation he has made, or proposes to make, regarding the prevention of ships carrying nuclear waste on the Irish Sea to Sellafield. (AQO 255/02)

**Mr Nesbitt:** Sellafield is on the agenda for the meeting of the British-Irish Council (Environment Sector) to be held in Belfast on 23 October. The meeting will be informed by a discussion paper prepared by the Irish and Isle of Man Governments. This deals with a number of issues arising from the operation of the Sellafield site, including the transportation of nuclear material by sea. Subject to nomination by the First Minister and Deputy First Minister, I will take the opportunity to reflect the concerns of the Northern Ireland public on this and other Sellafield matters.

It is also worth noting that, following representations made by my predecessor, assurances were received from Whitehall Ministers that transportation of nuclear material by BNFL complies with all UK and international regulatory requirements, which are designed to minimise risks to environmental safety. Specifically, assurances were received that the safety arrangements for the transportation of nuclear material to and from Sellafield are adequate to protect public safety against any consequences of a terrorist attack or sabotage.

While I still have concerns, these are important assurances from the responsible Ministers, from which the Northern Ireland public can take some comfort.

### Vehicle Licensing/MOT Testing

**Dr McDonnell** asked the Minister of the Environment to outline (a) what progress has been made on introducing electronic methods for handling vehicle licensing and MOT testing; and (b) to comment on any problems which may have been encountered. (AQO 272/02)

**Mr Nesbitt:** My Department's Agency, Driver and Vehicle Licensing Northern Ireland, is currently operating a pilot service that enables some customers to renew their tax discs over the telephone, paying by debit card. It is hoped that about 8,000 customers will use the service this year. At present, the service is limited to customers whose vehicles do not require MOT certificates and are insured with the Cornhill Group, which has given the



Agency electronic access to its database. DVLNI is working to establish electronic links with a central database of all vehicle insurance, being developed by the Motor Insurance Information Centre, and with a database of vehicle test results being developed by my Department's Driver and Vehicle Testing Agency.

Once these links have been established next year the telephone service will be extended to cover all straight-forward renewals of tax discs. When the telephone service is fully available, the Agency plans to develop the system further to provide the service on-line through the internet.

DVTA is in the process of introducing a new computer system for booking MOT tests. The system is currently operating on a pilot basis in the Agency's Craigavon test centre and subject to evaluation will be extended to other centres over the next few months. The introduction of the new computer system has presented a number of challenges but none of these has been uncharacteristic of a major system development.

The new booking system will provide the infrastructure necessary to support the introduction of a telephone booking service. The Agency plans to introduce this service before the end of the year. An internet booking facility is planned within two years.

### Planned Sewage Works: Donaghadee

**Mr McFarland** asked the Minister of the Environment if he intends to consult Donaghadee residents regarding the planning application for a sewage works in the town. (AQO 260/02)

**Mr Nesbitt:** The planning process allows for full public consultation on development proposals. In the case of this Crown Development application by the Department for Regional Development for a Waste Water Treatment Works, the applicant held a pre-application public exhibition of the proposals during March 2002 in Donaghadee and provided further information on the "Clean Seas" website in May 2002. Following receipt of the planning application, the proposal was advertised by my Department in the local press on 20th June 2002 and neighbours were notified during July and August 2002.

The application was accompanied by an Environmental Statement which was re-advertised during the week ending 4th/5th July 2002 and deposited at Donaghadee and Bangor libraries, at DRD Water Service Offices, Conlig, at Planning Service HQ Special Studies Unit, Bedford House, Belfast and it can also be purchased from DRD Water Service Offices at College Street, Belfast. A total of 824 objections have been received to date. The Department will take into account all objections in the process of considering this application.

### Road Safety

**Mr Dallat** asked the Minister of the Environment what additional road safety proposals he will bring forward to deal with the present carnage on our roads; and to make a statement. (AQO 248/02)

**Mr Nesbitt:** My Department has now finalised, in conjunction with the Department for Regional Development and the Police Service of Northern Ireland, a new Northern Ireland Road Safety Strategy to 2012. Subject to the agreement of the Executive Committee, I intend to publish the new Strategy early next month. The Strategy represents an integrated approach to the planning, co-ordination and delivery of the Government's road safety activities over the next decade.

The strategy will set out the actions to be taken by the road safety agencies and will include challenging targets for reducing deaths and serious injuries on Northern Ireland's roads. These targets will be achieved by a combination of existing, enhanced and new measures.

The new measures include actions to increase seatbelt wearing rates; to use income from fixed penalties to fund the increased deployment of safety cameras to combat excess speed and red light running; and to increase traffic calming measures.

I also propose to launch a new pedestrian road safety education campaign in November and, later in the year, to introduce a children's traffic club for pre school children, free of charge.

As we all know, the key to reducing deaths and serious injuries on our roads lies in improved road user attitudes and behaviour. I would like to take this opportunity once again to ask all road users, but especially drivers, to act with greater care and responsibility.

### Telecommunications Masts

**Mr McGrady** asked the Minister of the Environment what further steps have been taken to re-locate the telecommunication mast to the rear of Castle Street, Rathfriland. (AQO 243/02)

**Mr Nesbitt:** As the Member will be aware, I have already attended a public meeting at which he was present, where I heard at first hand the concerns of local residents about T Mobile's intention to erect a mast at the rear of 20 Main Street, Rathfriland.

The development relates to the installation of 4 pole mounted radio antennae at roof level on an outbuilding at this location. In addition, 2 radio equipment housing units and an access ladder are installed at ground level.

This application was submitted to the Department on 20 June 2002, and was considered under the now defunct prior approval arrangements. Prior approval was

granted on 16 July 2002 within the 28 days required by the legislation in force at the time.

I am satisfied that the decision to grant prior approval was taken lawfully and I have no grounds to challenge the approval. However, because of the views expressed I have written to Crown Castle UK, agents for the operator, to urge them to continue to discuss the issues of concern with local residents.

### Telecommunications Masts

**Mr Close** asked the Minister of the Environment to confirm that he is adopting a precautionary approach to mobile telecommunications masts, and, if he is, to explain why he will not endorse exclusion zones around schools and similar buildings. (AQO 233/02)

**Mr Nesbitt:** Unlike the rest of the United Kingdom I can confirm that I have implemented the Precautionary Approach to mobile telecommunications masts in line with the recommendations of the Stewart Report.

The principal element of the precautionary approach recommended in the Stewart Report was the adoption of the much stricter International Commission on Non-Ionising Radiation (ICNIRP) public exposure guidelines in lieu of the guidelines of the National Radiological Protection Board (NRPB). In relation to planning controls Stewart recommended the abolition of the Prior Approval system and its replacement with a requirement for full planning permission. As you know, legislation giving effect to that recommendation was laid before the Assembly, and came into operation on 21 June 2002.

The Report does not recommend precautionary actions beyond those already implemented. It does not insist on minimum distances between new telecommunications development and existing development. Indeed, in a published clarification of issues discussed in the Report published on 13 June 2000, the Stewart Group recorded that it did not wish to recommend that there should be a particular minimum distance between a mobile phone base station and a school as there were no scientific grounds to support this approach. Nor have DHSSPS who advise me on the health implications of telecommunications development, advised such an approach.

### Pedestrian Crossings

**Mr McCarthy** asked the Minister of the Environment what discussions he has had with the Minister for Regional Development regarding the formula used to assess the need for pedestrian crossings. (AQO 240/02)

**Mr Nesbitt:** I have not had any discussions with the Minister for Regional Development regarding the formula used to assess the need for pedestrian crossings.

Responsibility for establishing crossings for pedestrians on public roads is vested in the Department for Regional Development under Article 59 of the Road Traffic Regulation (NI) Order 1996. The formula used to determine whether a crossing should be established on a particular road is an operational matter for that Department.

My responsibility, as Minister of the Environment, for co-ordinating the road safety strategy for Northern Ireland does not extend to the operational responsibilities of the departments and agencies involved in road safety.

### Capital and Service Contracts

**Mr Attwood** asked the Minister of the Environment, pursuant to AQO 59/02, to detail (a) the number and value of all capital and service contracts, respectively, awarded in the 2002/2003 financial year; (b) whether each contract in the 2002/2003 financial year has been or will be assessed for inclusion in pilot schemes to be determined by the Public Procurement Board; and (c) the reasons why any contracts in the current financial year have not been recommended as pilot projects. (AQO 235/02)

**Mr Nesbitt:** My Department has examined contracts that it has awarded in the 2002/2003 financial year which had a value of at least £1 million for capital contracts and £0.25 million for service contracts; these being the thresholds set by DFP Central Procurement Directorate for inclusion in the Pilot Study Programme to assist the unemployed back into work. Using these criteria, I can confirm that during the financial year 2002/2003 to date the Department's Environment & Heritage Service awarded one service contract for 3 years at a cost of £0.45 million. This relates to receptionist services. This contract was not assessed for inclusion in the pilot project because procurement action had already been completed when the pilot project exercise was circulated.

Driver & Vehicle Licensing Northern Ireland advised that during this period it awarded one capital IT contract of £1.54 million and a service contract for vehicle relicensing services of £0.27 million. Neither was assessed for inclusion in the pilot project. The IT contract was a change control or sub-contract of an existing IT contract awarded in 1999. The service contract was negotiated on a single tender basis in line with government policy to maintain post office services.

I would add that as already outlined in my answer to AQO 59/02, one contract within the Environment and Heritage Agency has been identified as meeting the criteria set for the pilot study by the Procurement Board. I expect the start date to be in November this year and the relevant details have been passed to the Procurement Project Board. I will ensure that my Department

continues to attempt to identify further contracts which may meet the criteria set for the pilot study.

## FINANCE AND PERSONNEL

### Asbestos

**Mrs I Robinson** asked the Minister of Finance and Personnel to detail (a) the number of buildings leased by his Department that have asbestos as a component of their construction; (b) the number of staff employed in these buildings; and (c) any plans he has for the removal of asbestos. (AQW 431/02)

**The Minister of Finance and Personnel (Dr Farren):** The information you requested is as follows:

- (a) There are 38 buildings leased by the Department of Finance and Personnel which currently contain asbestos as a component of their construction;
- (b) Approximately 3,250 NICS staff are employed in these buildings; and
- (c) The Department does not have a general plan to remove asbestos from its buildings.

## HEALTH, SOCIAL SERVICES AND PUBLIC SAFETY

### Legal Action Expenditure

**Mr Paisley Jnr** asked the Minister of Health, Social Services and Public Safety to outline, in the last 3 years, (a) the expenditure on any legal action taken and defended by her Department; and (b) the breakdown of those costs per case. (AQW 4/02)

**The Minister of Health, Social Services and Public Safety (Ms de Brún):** From December 1999 to March 2002, my Department has on 7 occasions initiated legal proceedings against third parties at a cost of £53,420.55 and has defended a further 25 cases at a cost of £194,356.92, giving a total expenditure of £247,777.47 (£58,381.10 in 1999/00; £52,933.87 in 2000/01 and £136,462.50 in 2001/02). The breakdown of these costs per case is as follows. Four personnel related cases were settled out of Court and hence the relevant identification has been removed.

#### CASES INITIATED BY THE DEPARTMENT

Case	Cost £'s	Description
Wilhelmina Anna Freeman	120.00	Overpayment recovery of premature retirement pension under the HPSS superannuation scheme.

Case	Cost £'s	Description
John Ward and others	1,470.00	Land dispute.
Office of the First Minister and Deputy First Minister	50,284.70	Judicial Review of the refusal of the First Minister to make the required nominations for the North South Ministerial Council Meeting.
Stephen Ross	248.00	Prosecution under the Medicines Act 1968 for selling illegal veterinary products.
Gerard Gabriel Corey	650.00	Prosecution under the Medicines Act 1968 for selling illegal veterinary products.
Denis McNaney	7.00	Prosecution under the Medicines Act 1968 for selling illegal medicinal products.
Brian Surgenor	640.85	Prosecution under the Medicines Act 1968 for selling illegal veterinary products.
<b>Total (7)</b>	<b>53,420.55</b>	

#### CASES DEFENDED BY THE DEPARTMENT JUDICIAL REVIEWS

Case	Cost £'s	Description
John Richard Sterling	1,390.00	Judicial Review of a decision by the Social Fund Inspector.
Kathryn Bell	2,242.00	Judicial Review of a decision by the National Appeal Panel concerning the refusal to grant a pharmacy licence.
Brenda McHugh	8,591.00	Judicial Review of the decision to close the Accident and Emergency Department at the South Tyrone Hospital.
Southern Health and Social Services Council	2,500.00	Judicial Review of the decision to close the Accident and Emergency Department at the South Tyrone Hospital.
Claire Angela Buick	53,672.60	Judicial Review of a decision of the Minister to adopt the recommendations of the Donaldson Committee in relation to the unification of maternity services presently provided at the Jubilee Maternity Hospital and the Royal Maternity Hospital.
Boots The Chemist Limited	7,435.62	Judicial Review of a decision by the National Appeal Panel concerning the refusal to grant a pharmacy licence.
Kathy Hinds	64,707.52	Judicial Review of a decision of the Minister to locate the new Belfast Maternity Hospital on the Royal Group of Hospitals Health and Social Services Trust site.

Case	Cost £'s	Description
Leslie Cahill	2,762.00	Judicial Review of a decision made by the Mental Health Review Tribunal on a detained patient who appealed on grounds of unreasonableness reached by an error in law and misapplication of Article 77 of the Mental Health (NI) Order 1986.
Stewart Patterson	5,060.70	Judicial Review of a decision by the Department of Health, Social Services and Public Safety to refuse the applicant the right to appeal to the Department pursuant to Article 62 of the Firemen's Pension Scheme Order (Northern Ireland) 1973.
Robert Boyd	500.00	Judicial Review of a decision by the Department to authorise his transfer from Northern Ireland to Scotland.
Sylvia O'Sullivan	4,570.00	Judicial Review of a decision by the Department to authorise her transfer from Northern Ireland to Scotland.
McGovern, Lilley and Crawford	9,663.00	Judicial Review of a decision by the National Appeal Panel concerning the refusal to grant a pharmacy licence.
Grosvenor Healthcare Limited	3,382.50	Judicial Review of a decision by the National Appeal Panel concerning the refusal to grant a pharmacy licence.
Laurence McGrady	2,689.00	Judicial Review of a decision made by the Mental Health Review Tribunal by a detained patient who considered that the decision was incompatible with the Human Rights Act 1998.
Family Planning Association	9.00	Judicial Review on abortion on the grounds that the Minister has failed to issue advice and/or guidance to women and to clinicians in Northern Ireland on the availability and provision of termination of pregnancy services in Northern Ireland.
<b>Total (15)</b>	<b>169,174.94</b>	

**PERSONNEL RELATED CASES**

Case	Cost £'s	Description
4 cases	15,481.42	Legal costs arising from out of Court settlements.

**OTHER CASES**

Case	Cost £'s	Description
Queen's University Belfast	6,090.00	Contractual dispute over nurse and midwifery education training.

Case	Cost £'s	Description
Trustees, Magherafelt Market	721.00	Land dispute.
Glenbrook Day Centre	182.00	Land dispute.
Wilhelmina Anna Freeman	501.56	Premature retirement pension dispute under the HPSS superannuation scheme.
Peter Brown v Northern Ireland Ambulance Service	1,600.00	Legal costs following an allegation of religious discrimination in seeking employment.
C Tennant & Co. v McLaughlin & Harvey plc & DHSS	606.00	Contractual dispute between the sub-contractor and the main contractor at Antrim Area Hospital.
<b>Total (6)</b>	<b>9,700.56</b>	
<b>Grand Total (32)</b>	<b>247,777.47</b>	

Thionscnaigh an Roinn s'agam imeachtaí dlí in aghaidh tríú páirtithe ag costas de £53,420.55 ar sheacht n-ócáid ó Nollag 1999 go Márta 2002 agus chosain sí 25 cás de bhreis ag costas de £194,356.92, ina bhfuil caiteachas iomlán de £247,777.47 ann (£58,381.10 i 1999/00; £52,933.87 i 2000/01 agus £136,462.50 i 2001/02). Seo a leanas leagan amach na gcostas de réir cáis. Socraíodh ceithre chás lasmuigh den Chúirt a bhí bainteach le pearsanra agus dá bhrí sin baineadh amach an t-ionannú bainteach.

**CÁSANNA A THIONSCNAIGH AN ROINN**

Cás	Costas £	Cur Síos
Wilhelmina Anna Freeman	120.00	Athghabháil íocaíochta de phinsean scoir roimh am de réir scéim aoisliúntais na SSSP.
John Ward agus daoine eile	1,470.00	Díospóid Talún.
Oifig an Chéad-Aire agus an LeasChéad-Aire	50,284.70	Athbhreithniú Breithiúnach ar dhiúltú an ChéadAire na hainmniúcháin a dhéanamh a iarradh do Chruinniú na Comhairle Aireachta Thuaidh/Theas.
Stephen Ross	248.00	Ionchúiseamh de réir Acht Leigheasanna 1968 maidir le táirgí neamhdhleathachta tréadliachta a dhíol.
Gerard Gabriel Corey	650.00	Ionchúiseamh de réir Acht Leigheasanna 1968 maidir le táirgí neamhdhleathachta tréadliachta a dhíol.
Denis McNaney	7.00	Ionchúiseamh de réir Acht Leigheasanna 1968 maidir le táirgí neamhdhleathachta míochaine a dhíol.



Cás	Costas £	Cur Síos
Brian Surgenor	640.85	Ionchúiseamh de réir Acht Leigheasanna 1968 maidir le táirgí neamhdhleathachta tréadliachta a dhíol.
<b>Iomlán (7)</b>	<b>53,420.55</b>	

**CÁSANNA A CHOSAIN AN ROINN****ATHBHREITHNITHE BREITHIÚNACHA**

Cás	Costas £	Cur Síos
John Richard Sterling	1,390.00	Athbhreithniú Breithiúnach ar chinneadh a rinne Cigire an Chiste Shóisialta.
Kathryn Bell	2,242.00	Athbhreithniú Breithiúnach ar chinneadh a rinne An Painéal Náisiúnta Achomhairc maidir le diúltú ceadúnas cogaisíochta a thabhairt.
Brenda McHugh	8,591.00	Athbhreithniú Breithiúnach ar chinneadh An Roinn Timpistí agus Éigeandála in Otharlann Thír Eoghain Theas a dhruidim.
Comhairle Seirbhísí Sóisialta agus Sláinte an Deiscirt	2,500.00	Athbhreithniú Breithiúnach ar chinneadh An Roinn Timpistí agus Éigeandála in Otharlann Thír Eoghain Theas a dhruidim.
Claire Angela Buick	53,672.60	Athbhreithniú Breithiúnach ar chinneadh a rinne an tAire le glacadh le moltaí Choiste Donaldson maidir le haontú seirbhísí máithreachais a sholáthraítear faoi láthair in Otharlann Mháithreachais Iubhaile agus in Otharlann Ríoga Mháithreachais.
Cógaslann Boots Teoranta	7,435.62	Athbhreithniú Breithiúnach ar chinneadh a rinne An Painéal Náisiúnta Achomhairc maidir le diúltú ceadúnas cogaisíochta a thabhairt.
Kathy Hinds	64,707.52	Athbhreithniú Breithiúnach ar chinneadh a rinne an tAire le hOtharlann úr Máithreachais Bhéal Feirste a bhunú ar shuíomh Iontaobhas Seirbhísí Sláinte agus Sóisialta an Ghrúpa Ríoga Otharlann.
Leslie Cahill	2,762.00	Athbhreithniú Breithiúnach ar chinneadh a rinne an Binse Athbhreithniú Sláinte Meabhrach maidir le hothar a coinníodh isteach a d'achomhairc ar fhoras na neamhréasúntachta tagtha air trí earráid sa dlí agus mífheidhmiú Airteagal 77 den Ordú Sláinte Meabhrach (TÉ) 1986.

Cás	Costas £	Cur Síos
Stewart Patterson	5,060.70	Athbhreithniú Breithiúnach ar chinneadh a rinne An Roinn Sláinte, Seirbhísí Sóisialta agus Sábháilteachta Poiblí leis an cheart achomhairc a dhiúltú don iarratasóir in éadan na Roinne de bhun Airteagal 62 d'Ordú Scéim Phinsean na bhFear Dóiteáin (Tuaisceart Éireann) 1973.
Robert Boyd	500.00	Athbhreithniú Breithiúnach ar chinneadh a rinne an Roinn lena aistriú ó Thuaisceart Éireann go hAlbain a údarú.
Sylvia O'Sullivan	4,570.00	Athbhreithniú Breithiúnach ar chinneadh a rinne an Roinn lena haistriú ó Thuaisceart Éireann go hAlbain a údarú.
McGovern, Lilley agus Crawford	9,663.00	Athbhreithniú Breithiúnach ar chinneadh a rinne An Painéal Náisiúnta Achomhairc maidir le diúltú ceadúnas cogaisíochta a thabhairt.
Cúram Sláinte Grosvenor Teoranta	3,382.50	Athbhreithniú Breithiúnach ar chinneadh a rinne An Painéal Náisiúnta Achomhairc maidir le diúltú ceadúnas cogaisíochta a thabhairt.
Laurence McGrady	2,689.00	Athbhreithniú Breithiúnach ar chinneadh a rinne an Binse Athbhreithniú Sláinte Meabhrach ar othar a coinníodh isteach a mheas nár chloígh an cinneadh leis an Acht Ceart Daonna 1998.
An Cumann Pleanála Teaghlaigh	9.00	Athbhreithniú Breithiúnach ar ghinmhilleadh ar an fhoras gur theip ar an Aire comhairle agus/nó treoir a eisiú do mhná agus do dhochtúirí i dTuaisceart Éireann ar infaighteacht agus ar sholáthar seirbhísí ginmhille i dTuaisceart Éireann.
<b>Iomlán (15)</b>	<b>169,174.94</b>	

**CÁSANNA A BHAIN LE PEARSANRA**

Cás	Costas £	Cur Síos
4 cás	15,481.42	Costais dhleathacha ag teacht as socrúithe lasmuigh den Chúirt.

**CÁSANNA EILE**

Cás	Costas £	Cur Síos
Ollscoil na Banríona Béal Feirste	6,090.00	Díospóid chonarthaigh in éadan oiliúint oideachas altranais agus cnáimhseachais.
Iontaobhaithe, Margadh Mhachaire Fiolta	721.00	Díospóid Talún.
Ionad Lae Glenbrook	182.00	Díospóid Talún.

Cás	Costas £	Cur Síos
Wilhelmina Anna Freeman	501.56	Diospóid pinsean scoir roimh am de réir scéim aoisliúntais na SSSP.
Peter Brown in éadan Seirbhís Otharchairr Thuaisceart Éireann	1,600.00	Costais dhleathacha i ndiaidh líomhain leatrom creidimh i gcuartú fostaíochta.
C Tennant & Co. in éadan McLaughlin & Harvey plc & RSSS	606.00	Diospóid chonarhach idir an fochonraitheoir agus an príomhchonraitheoir in Otharlann Cheantar Aontroma.
<b>Iomlán (6)</b>	<b>9,700.56</b>	
<b>Iomlán Ar Fad (32)</b>	<b>247,777.47</b>	

### Special Educational Needs

**Rev Dr William McCrea** asked the Minister of Health, Social Services and Public Safety to outline (a) the training given to social services staff regarding the special educational needs code of practice; and (b) the resources allocated to this training. (AQW 341/02)

#### Ms de Brún:

- Training on the special educational needs code of practice has been given to social services staff in 3 of the 4 Health and Social Services Boards. It was targeted to social workers and their managers in the family and child care and the disability programmes of care. The training identifies the social work responsibilities under the code and the required content of reports.
- Resources are allocated to H&SS Boards annually to commission training services linked to implementation of the Children (NI) Order. The training is going to address the assessed training needs of social services staff employed in HSS Trusts. Boards report that the resources allocated to this specific training mainly consisted of the trainers' time (funded from the Children Order training allocation – this amounts to £226,000 for 2002/03) and, in some instances additional input from other disciplines or Education and Library Boards. The costs of materials and outside speakers fees would also come from the Children (NI) Order training funds.
- Cuireadh oiliúint ar fhoireann oibre na seirbhísí sóisialta i dtír cinn de na ceithre Bhord Sláinte agus Seirbhísí Sóisialta ar chód cleachtais na riachtanas speisialta oideachais. Bhí sé dírithe ar oibrithe sóisialta agus a mbainisteoirí i gcláir teaghlaigh agus cúram leanaí agus i gcláir cúraim míchumais. Aimsíonn an oiliúint freagrachtaí na hoibre sóisialta de réir an chóid agus ábhar riachtanach na dtuairiscí.
- Dáiltear acmhainní ar Bhoird SS&S go bliantúil chun seirbhísí oiliúna a choimisíniú atá ceangailte le

cur i bhfeidhm an Ordaithe Páistí (TÉ). Rachaidh an oiliúint i ngleic le riachtanais oiliúna measúnaithe na foirne seirbhísí sóisialta atá fostaíthe in Iontaobhais SSS. Tuairiscíonn Boird gurb é atá sna hacmhainní a dáileadh ar an oiliúint ar leith seo ná am an oiliúnóra (maoinithe ó dháileachán oiliúna an Ordaithe Páistí – is e sin £226,000 do 2002/03 ar an iomlán) agus, i gcorrchás ionchur breise ó dhisciplíní eile nó ó Bhoird Oideachais agus Leabharlainne. Thiofadh costas na hábhair agus taillí cainteoirí seachtaracha ó chistí oiliúna an Ordaithe Páiste (TÉ).

### University Nursing Places

**Mr Tierney** asked the Minister of Health, Social Services and Public Safety to explain how the required number of university student nursing places is derived. (AQW 359/02)

**Ms de Brún:** The number of pre-registration nursing students is based on assessments of projected workforce requirements taking into account other factors such as recruitment and retention difficulties and the resources available for commissioning and student support.

The number of training places is reviewed annually.

Tá líon na mac léinn altranais réamhchláraithe bunaithe ar mheasúnuithe ar riachtanais an fhórsa saothair tuartha ag cur fachtóirí eile san áireamh amhail deacrachtaí earcaíochta agus coinneála agus na hacmhainní atá ar fáil don choimisíniú agus do thacaíocht mic léinn.

Déantar athbhreithniú ar líon na n-áiteanna oiliúna gach bliain.

### Armagh Fire Station: GAA Banners

**Mr Berry** asked the Minister of Health, Social Services and Public Safety what steps she has taken to remove GAA banners from Armagh Fire Station. (AQW 363/02)

**Ms de Brún:** I have taken no action to remove GAA banners from Armagh Fire Station.

Níor thug mé faoi ghníomh ar bith le bratacha CLG a bhaint de Stáisiún Dóiteáin Ard Mhacha.

### Fire Service: Malicious Calls

**Mr Berry** asked the Minister of Health, Social Services and Public Safety to outline, (a) the number of malicious calls made to the Fire Service in each of the last 10 years; (b) any assessment she has made in relation to the number of malicious calls; (c) her proposals to reduce the number of such calls; (d) the number of persons charged and/or prosecuted for making such calls; and (e) any public statements she has made in relation to these calls. (AQW 366/02)

**Ms de Brún:** Set out below are the number of malicious calls made to the Fire Service over the five year period from 1997-2001. Records are not available for calls received before 1997.

Year	Calls Received
1997	6,192
1998	4,911
1999	4,172
2000	5,879
2001	7,444

However the number of incidents actually attended as a result of these calls was significantly lower as Fire Brigade Control Room staff are trained in sophisticated call handling techniques to filter out hoax and malicious calls.

Although malicious calls to property fires to which appliances are mobilised are notified to the PSNI, there is no record of any prosecutions related to the making of these calls.

Research has indicated that the majority of malicious false alarm calls are made by males in the 10-13 age group and my Department has encouraged and supported the Fire Authority with their pioneering Fire Safety initiatives aimed at school children in this age bracket.

To date I have not made any public statements on the making of malicious calls but my officials are currently in discussions with the Fire Authority on ways that they could be reduced and hopefully eradicated.

Is é atá leagtha amach thíos ná líon na scairteanna mailiseacha a cuireadh ar an tSeirbhís Dóiteáin le linn tréimhse 5 bliain ó 1997-2001. Níl taifid ar fáil do na scairteanna a fuarthas roimh 1997.

Bliain	Scairteanna A Fuarthas
1997	6,192
1998	4,911
1999	4,172
2000	5,879
2001	7,444

B'isle i bhfad líon na dteagmhais ar freastalaíodh orthu go firinneach, áfach, mar thoradh ar na scairteanna seo de thairbhe go n-oiltear foireann Sheomra Stiúrach na Briogáide Dóiteáin i dteicníochtaí sofaisticiúla le scairteanna a láimhseáil chun scairteanna bréagacha agus mailiseacha a scagadh amach.

Cé go gcuirtear SPTÉ ar an eolas maidir le scairteanna mailiseacha amach chuig dóiteáin mhaoine ar slógadh gléasanna chucu, níl taifead ar bith ann d'ionchúiseamh ar bith a bhaineann leis na scairteanna seo.

Tugann an taighde le fios go gcuireann páistí fir san aoisghrúpa 10-13 tromlach na scairteanna bréagacha

mailiseacha agus thug an Roinn s'agam spreagadh agus tacaíocht don Údarás Dóiteáin lena dtionscnaimh cheannródaíochta ar Shábháilteacht Dóiteáin a dhíríonn ar pháistí scoile san aoisghrúpa seo.

Go dtí seo ní dhearna mé ráitis phoiblí ar bith ar scairteanna mailiseacha ach tá na hoifigigh s'agam faoi láthair ag caint leis an Údarás Dóiteáin ar bhealaí a d'fhéadfadh líon na scairteanna a laghdú agus, táthar ag súil, a dhíothú.

### Fire Service: False Alarm Calls

**Mr Berry** asked the Minister of Health, Social Services and Public Safety to outline, (a) the number of calls to the Fire Service as a result of defective equipment in each of the last 10 years; (b) any assessment she has made regarding this number, including any discernible pattern of calls; (c) any steps she is taking to reduce the number of such calls; and (d) whether any costs are levelled against the owners of defective equipment if more than one such call is made. (AQW 367/02)

**Ms de Brún:** Set out below are the number of false alarm calls made to the Fire Service by automatic alarm systems for the period 1999 – 2001. Records of calls received before this period are not available.

Year	Calls Received
1999	2395
2000	6657
2001	7587

Figures for the year 2000 onwards are categorised in line with revised criteria which groups together all false alarms resulting from the activation of automatic alarm systems and does not distinguish those caused by faulty equipment.

The Fire Brigade monitors all premises from which false alarm calls activated by apparatus are received, and issues the occupants with a formal warning notice.

No charge is made by the Fire Authority for attendance at this type of call.

My Officials are currently in discussions with the Fire Authority on ways that false alarm calls could be reduced and hopefully eradicated.

Tá líon na scairteanna bréagacha a chuir córais uathobríocha aláraim ar an tSeirbhís Dóiteáin don tréimhse 1999-2001 leagtha amach thíos. Níl taifid do scairteanna a fuarthas roimh an tréimhse seo ar fáil.

Bliain	Scairteanna A Fuarthas
1999	2395
2000	6657
2001	7587

Rangaítear staitisticí don bhliain 2000 ar aghaidh de réir chritéir athbhreithnithe a chuireann na scairteanna bréagacha go léir de thoradh ar ghníomhachtú córais uathoibriocha aláirim le chéile agus nach ndéanann idirdhealú eatarthu siúd a tharlaíonn mar gheall ar threalamh lochtach.

Déanann an Bhriogáid Dóiteáin monatóireacht ar na háitribh go léir óna bhfaightear scairteanna bréagacha a ghníomhachtaigh gleasanna, agus eisíonn siad na sealbhóirí le fógra foirmiúil rabhaidh. Ní ghearrann an tÚdarás Dóiteáin costas ar bith le freastal ar an chineál scairte seo.

Tá na hOifigigh s'agam ag plé faoi láthair leis an Údarás Dóiteáin faoi na bealaí ina bhféadfadh scairteanna bréagacha a laghdú agus, táthar ag súil, iad a dhíothú.

### Life Start Child Development Programme

**Mr Shannon** asked the Minister of Health, Social Services and Public Safety how much funding has been awarded to the Life Start Child Development Programme in the last 3 years. (AQW 370/02)

**Ms de Brún:** The Life Start Child Development Programme was awarded £442,000 Departmental funding in the last 3 years. This is comprised of £30,000 Departmental Project Funding, £72,000 through the Early Years Development Fund and £340,000 funding awarded to local Lifestart projects through the Sure Start initiative.

Bronnadh £442,000 de mhaoiniú na Roinne ar an Chlár Forbartha Páiste Tús Saoil le 3 bliain anuas. Is é a bhí ann £30,000 de Mhaoiniú Tionscadail na Roinne, £72,000 tríd an Chiste Forbartha Túsbhlianta agus £340,000 de mhaoiniú a bronnadh ar thionscadail áitiúla Tús Saoil tríd an tionscnamh Sure Start.

### Consultant Posts

**Mr M Robinson** asked the Minister of Health, Social Services and Public Safety to detail (a) the current number of vacant consultant posts in each acute hospital, expressed also as a percentage of the complement of each hospital; and (b) how long each post has been vacant.

(AQW 371/02)

**Ms de Brún:** The information requested is as follows:

#### DAISY HILL HOSPITAL – NEWRY & MOURNE HSS TRUST

Table below shows the vacant consultant posts by duration.

Post Vacant	WTE <sup>1</sup>	Duration vacant
Radiology	1.0	5 months
Radiology	0.5	6 months
Nephrology	1.0	6 months

3 vacant posts represent 8.1% of the complement of WTE<sup>1</sup> consultants.

#### ALTNAGELVIN HOSPITAL – ALTNAGELVIN HOSPITALS HSS TRUST

Table below shows the vacant consultant posts by duration.

Post Vacant	WTE <sup>1</sup>	Duration vacant
Anaesthetics	2.0	New Posts approved 14 <sup>th</sup> June 2002
Urology	1.0	12 Weeks
Accident and Emergency	1.0	New post approved 8 <sup>th</sup> May 2002
Medical Oncology	1.0	New post approved May 2001 (70 weeks)
Microbiology	1.0	37 weeks

6 vacant posts represent 6.7% of the complement of WTE<sup>1</sup> consultants.

#### MID ULSTER HOSPITAL – UNITED HOSPITALS HSS TRUST

Table below shows the vacant consultant posts by duration.

Post Vacant	WTE <sup>1</sup>	Duration vacant
Anaesthetics	1.0	18 months
General Medicine Physician	1.0	6 months

2 vacant posts represent 18.2% of the complement of WTE<sup>1</sup> consultants.

#### WHITEABBEY HOSPITAL – UNITED HOSPITALS HSS TRUST

Table below shows the vacant consultant posts by duration.

Post Vacant	WTE <sup>1</sup>	Duration vacant
Radiology	1.0	19 months
Anaesthetics	1.0	From September 2002

2 vacant posts represent 15.8% of the complement of WTE<sup>1</sup> consultants.

#### ANTRIM HOSPITAL – UNITED HOSPITALS HSS TRUST

Table below shows the vacant consultant posts by duration.

Post Vacant	WTE <sup>1</sup>	Duration vacant
Histopathology/ Cytopathology	1.0	18 months
Paediatrics (Neonatal Medicine)	1.0	5 months
Radiology (Breast Screening)	1.0	21 months
Radiology (MRI Scanner)	1.0	From September 2002

4 vacant posts represent 6.7% of the complement of WTE<sup>1</sup> consultants.

#### CAUSEWAY HOSPITAL – CAUSEWAY HSS TRUST

Table below shows the vacant consultant posts by duration.

Post Vacant	WTE <sup>1</sup>	Duration vacant
Surgery	1.0	4 years

1 vacant post represents 3.3% of the complement of WTE<sup>1</sup> consultants.



**MATER HOSPITAL – MATER HOSPITAL HSS TRUST**

Table below shows the vacant consultant posts by duration.

Post Vacant	WTE <sup>1</sup>	Duration vacant
Anaesthetics	1.0	New Post – Post approved August 2002
Cardiology	1.0	New Post – Post approved August 2002
Psychiatry	0.8	19 months
Surgery	1.0	New Post – Post approved August 2002

4 vacant posts represent 11.7% of the complement of WTE<sup>1</sup> consultants.

**CRAIGAVON AREA HOSPITAL – CRAIGAVON AREA HOSPITAL HSS TRUST**

Table below shows the vacant consultant posts by duration.

Post Vacant	WTE <sup>1</sup>	Duration vacant
Cardiology	1.0	14 months
Cardiology	1.0	11 months
Respiratory Medicine	1.0	1 month
Obstetrics & Gynaecology	0.7	12 months
Breast Surgery	1.0	29 Months
Geriatric	1.0	New Post – Post approved 31 <sup>st</sup> May 2002
Radiology	1.0	New Post – Post approved 30 <sup>th</sup> June 2002

7 vacant posts represent 8.5% of the complement of WTE<sup>1</sup> consultants.

**BELFAST CITY HOSPITAL – BELFAST CITY HOSPITAL HSS TRUST**

Table below shows the vacant consultant posts by duration.

Post Vacant	WTE <sup>1</sup>	Duration vacant
Accident and Emergency	1.0	New Post – Post approved April 2002
Radiology	1.0	New Post – Post approved September 2002
Medical Oncology	2.0	12 months
Clinical Oncology	1.0	2 weeks
General Surgery	1.0	New Post – Post approved January 2002

6 vacant posts represent 4.9% of the complement of WTE<sup>1</sup> consultants.

**ULSTER HOSPITAL – ULSTER COMMUNITY & HOSPITALS HSS TRUST**

Table below shows the vacant consultant posts by duration.

Post Vacant	WTE <sup>1</sup>	Duration vacant
Ear, Nose and Throat	1.0	3 months
Anaesthetics	1.0	New Post – Post approved April 2002
Urology	1.0	18 months
Rheumatology	1.0	18 months

4 vacant posts represent 5.3% of the complement of WTE<sup>1</sup> consultants.

**TYRONE COUNTY HOSPITAL AND ERNE HOSPITAL – SPERRIN LAKE LAND HSS TRUST**

Table below shows the vacant consultant posts by duration.

Post Vacant	WTE <sup>1</sup>	Duration vacant
Accident & Emergency Tyrone County Hospital & Erne	1.0	6 months
Paediatrics Tyrone County Hospital & Erne	3.0	Post 1 – 36 months Post 2&3 – 4 months
Respiratory Physician Erne	1.0	12 months
Radiology Tyrone County Hospital & Erne	2.0	Post 1 – 4 months Post 2 – 6 months
Anaesthetics Tyrone County Hospital	1.0	4 months

8 vacant posts represent 16.7% of the complement of WTE<sup>1</sup> consultants.

**DOWNE AND LAGAN VALLEY HOSPITALS – DOWN LISBURN HSS TRUST**

Table below shows the vacant consultant posts by duration.

Post Vacant	WTE <sup>1</sup>	Duration vacant
Endocrinology (Lagan Valley)	1.0	3 months
General Surgery (Lagan Valley)	1.0	New Post – in the process of being advertised
Cardiology (Downe Hospital)	1.0	New Post – in the process of being advertised
Accident and Emergency (Downe Hospital)	1.0	New Post – 1 month
Anaesthetics (Downe Hospital)	1.0	9 months
Radiology (Both Lagan Valley and Downe Hospital)	1.0	New Post – in the process of being advertised

6 vacant posts represent 16.2% of the complement of WTE<sup>1</sup> consultants.

**ROYAL GROUP OF HOSPITALS HSS TRUST**

Table below shows the vacant consultant posts by duration.

Post Vacant	WTE <sup>1</sup>	Duration vacant
Neuroradiology	1.0	36 months
Microbiology	1.0	New post (approved April 2002)
Oral Surgery	1.0	14 months
Dermatology	1.0	New post (approved May 2002)
Accident and Emergency	1.0	New post (approved May 2002)
Anaesthetics	2.0	1 for 4 months, 1 for 9 months
Cardiac Surgery	1.0	12 months
Histopathology	2.0	Approved March 2002
Neonatology	1.0	1 month
Genitry Urinary Medicine	1.0	2 months
Fractures	2.0	36 months
Paediatric Gastroenterology	1.0	New Post 6 months
General Surgery	1.0	1 month

16 vacant posts represent 8.1% of the complement of WTE<sup>1</sup> consultants.

<sup>1</sup>Whole Time Equivalent

Seo a leanas an t-eolas a iarradh:

**OTHARLANN DAISY HILL – IONTAOBHAS SSS AN IÚIR & MHÚRN**

Taispeánann an tábla thíos poist fholamha comhairleach de réir tréimhse ama.

Post Folamh	CLA <sup>1</sup>	Tréimhse a bhí sé Folamh
Raideolaíocht	1.0	5 mí
Raideolaíocht	0.5	6 mí
Neifreolaíocht	1.0	6 mí

Is é atá sa 3 post folamh 8.1% de líon na gcomhairleach CLA<sup>1</sup>.

**OTHARLANN ALT NA NGEALBHAN - IONTAOBHAS SSS OTHARLANNA ALT NA NGEALBHAN**

Taispeánann an tábla thíos poist fholamha comhairleach de réir tréimhse ama.

Post Folamh	CLA <sup>1</sup>	Tréimhse a bhí sé folamh
Ainéiséiseacht	2.0	Poist úra ceadaithe 14 Meitheamh 2002
Úireolaíocht	1.0	12 seachtain

Post Folamh	CLA <sup>1</sup>	Tréimhse a bhí sé folamh
Timpiste agus Éigeandáil	1.0	Post úr ceadaithe 8 <sup>ú</sup> Bealtaine 2002
Oinceolaíocht Míochaine	1.0	Post úr ceadaithe Bealtaine 2001 (70 seachtain)
Micribhitheolaíocht	1.0	37 seachtain

Is é atá sa 6 post folamh 6.7% de líon na gcomhairleach CLA<sup>1</sup>.

**OTHARLANN LÁR-ULADH – IONTAOBHAS SSS OTHARLANN AONTAITHE**

Taispeánann an tábla thíos poist fholamha comhairleach de réir tréimhse ama.

Post Folamh	CLA <sup>1</sup>	Tréimhse a bhí sé folamh
Ainéiséiseacht	1.0	18 mí
Lia Ginearálta Míochaine	1.0	6 mí

Is é atá sa 2 post folamh 18.2% de líon na gcomhairleach CLA<sup>1</sup>.

**OTHARLANN NA MAINISTREACH FIONNE - IONTAOBHAS SSS OTHARLANN AONTAITHE**

Taispeánann an tábla thíos poist fholamha comhairleach de réir tréimhse ama.

Post Folamh	CLA <sup>1</sup>	Tréimhse a bhí sé folamh
Raideolaíocht	1.0	19 mí
Ainéiséiseacht	1.0	Ó Mheán Fómhair 2002

Is é atá sa 2 post folamh 15.8% de líon na gcomhairleach CLA<sup>1</sup>.

**OTHARLANN AONTROMA - IONTAOBHAS SSS OTHARLANN AONTAITHE**

Taispeánann an tábla thíos poist fholamha comhairleach de réir tréimhse ama.

Post Folamh	CLA <sup>1</sup>	Tréimhse a bhí sé folamh
Histeapaiteolaíocht/Cíteapa iteolaíocht	1.0	18 mí
Péidiatraic(Míochaine Nua-naíche)	1.0	5 mí
Raideolaíocht (Scagadh Cíche)	1.0	21 mí
Raideolaíocht (Scanóir MRI)	1.0	Ó Mheán Fómhair 2002

Is é atá sa 4 post folamh 6.7% de líon na gcomhairleach CLA<sup>1</sup>.

**OTHARLANN AN CHLOCHÁIN – IONTAOBHAS SSS AN CHLOCHÁIN**

Taispeánann an tábla thíos poist fholamha comhairleach de réir tréimhse ama.

Post Folamh	CLA <sup>1</sup>	Tréimhse a bhí sé folamh
Máinliacht	1.0	4 bliain

Is é atá sa 1 post folamh 3.3% de líon na gcomhairleach CLA<sup>1</sup>.

**OTHARLANN AN MATER – IONTAObHAS SSS OTHARLANN AN MATER**

Taispeánann an tábla thíos poist fholamha comhairleach de réir tréimhse ama.

Post Folamh	CLA <sup>1</sup>	Tréimhse a bhí sé folamh
Ainéiseiseacht	1.0	Post Úr– Post ceadaithe Lúnasa 2002
Cairdeolaíocht	1.0	Post Úr– Post ceadaithe Lúnasa 2002
Siciatracht	0.8	19 mí
Máinliacht	1.0	Post Úr– Post ceadaithe Lúnasa 2002

Is é atá sa 4 post folamh 11.7% de líon na gcomhairleach CLA<sup>1</sup>.

**OTHARLANN CHEANTAR CRAIGAVON - IONTAObHAS OTHARLAINNE CHEANTAR CRAIGAVON**

Taispeánann an tábla thíos poist fholamha comhairleach de réir tréimhse ama.

Post Folamh	CLA <sup>1</sup>	Tréimhse a bhí sé Folamh
Cairdeolaíocht	1.0	14 mí
Cairdeolaíocht	1.0	11 mí
Míochaine Riospráide	1.0	1 mí
Cnáimhseachas & Gíniceolaíocht	0.7	12 mí
Máinliacht Chíche	1.0	29 mí
Geiriatric	1.0	Post Úr – post ceadaithe 31 <sup>ú</sup> Bealtaine 2002
Raideolaíocht	1.0	Post Úr – post ceadaithe 30 <sup>ú</sup> Meitheamh 2002

Is é atá sa 7 post folamh 8.5% de líon na gcomhairleach CLA<sup>1</sup>.

**OTHARLANN CHATHAIR BHÉAL FEIRSTE - IONTAObHAS SSS OTHARLANN CHATHAIR BHÉAL FEIRSTE**

Taispeánann an tábla thíos poist fholamha comhairleach de réir tréimhse ama.

Post Folamh	CLA <sup>1</sup>	Tréimhse Folamh
Timpiste agus Éigeandáil	1.0	Post Úr – post ceadaithe Aibreán 2002
Raideolaíocht	1.0	Post Úr – post ceadaithe Meán Fómhair 2002
Oinceolaíocht Míochaine	2.0	12 mí
Oinceolaíocht Chliniciúil	1.0	2 seachtain
Máinliacht Ghinearálta	1.0	Post Úr – post ceadaithe Eanáir 2002

Is é atá sa 6 post folamh 4.9% de líon na gcomhairleach CLA<sup>1</sup>.

**OTHARLANN ULADH – IONTAObHAS SSS OTHARLANNA POBAIL ULADH**

Taispeánann an tábla thíos poist fholamha comhairleach de réir tréimhse ama.

Post Folamh	CLA <sup>1</sup>	Tréimhse a bhí sé Folamh
Cluas, Srón agus Scornach	1.0	3 mí
Ainéiseiseacht	1.0	Post Úr – post ceadaithe Aibreán 2002
Úireolaíocht	1.0	18 mí
Réimeiteolaíocht	1.0	18 mí

Is é atá sa 4 post folamh 5.3% de líon na gcomhairleach CLA<sup>1</sup>.

**OTHARLANN CHONTAE THÍR EOGHAIN AGUS OTHARLANN NA HÉIRNE - IONTAObHAS SSS SPEIRÍN TÍR NA LOCHANNA**

Taispeánann an tábla thíos poist fholamha comhairleach de réir tréimhse ama.

Post Folamh	CLA <sup>1</sup>	Tréimhse a bhí sé Folamh
Timpiste & Éigeandáil Otharlann Chontae Thír Eoghain & na hÉirne	1.0	6 mí
Péidiatraic Otharlann Chontae Thír Eoghain & na hÉirne	3.0	Post 1 – 36 mí Post 2&3 – 4 mí
Lia Riospráide An Éirne	1.0	12 mí
Raideolaíocht Otharlann Chontae Thír Eoghain & na hÉirne	2.0	Post 1 – 4 mí Post 2 – 6 mí
Ainéiseiseacht Otharlann Chontae Thír Eoghain & na hÉirne	1.0	4 mí

Is é atá san 8 post folamh 16.7% de líon na gcomhairleach CLA<sup>1</sup>.

**OTHARLAINN AN DÚIN AGUS GHLEANN AN LAGÁIN – IONTAObHAS SSS AN DÚIN/ LIOS NA GCEARRBHACH**

Taispeánann an tábla thíos poist fholamha comhairleach de réir tréimhse ama.

Post Folamh	CLA <sup>1</sup>	Tréimhse Folamh
Inchrineolaíocht (Gleann an Lagáin)	1.0	3 mí
Máinliacht Ghinearálta (Gleann an Lagáin)	1.0	Post Úr – an fógra idir lámha
Cairdeolaíocht (Otharlann an Dúin)	1.0	Post Úr – an fógra idir lámha
Timpiste agus Éigeandáil (Otharlann an Dúin)	1.0	Post Úr – 1 mí
Ainéiseiseacht (Otharlann an Dúin)	1.0	9 mí
Raideolaíocht (Otharlann Ghleann na Lagáin agus Otharlann an Dúin beirt)	1.0	Post Úr – an fógra idir lámha

Is é atá sa 6 post folamh 16.2% de líon na gcomhairleach CLA<sup>1</sup>.

## IONTAOBHAS SSS AN GHRÚPA RÍOGA OTHARLANN

Taispeánann an tábla thíos poist fholamha comhairleach de réir tréimhse ama.

Post Folamh	CLA <sup>1</sup>	Tréimhse a bhí sé Folamh
Néar- Raideolaíocht	1.0	36 mí
Micribhitheolaíocht	1.0	Post úr (ceadatihe Aibreán 2002)
Béalmháinliacht	1.0	14 mí
Deirmeolaíocht	1.0	Post úr (ceadaithe Bealtaine 2002)
Timpiste agus Éigeandáil	1.0	Post úr (ceadaithe Bealtaine 2002)
Ainéiseiseacht	2.0	1 ar feadh 4 mí, 1 ar feadh 9 mí
Máinliacht Chairdiach	1.0	12 mí
Histeapaiteolaíocht	2.0	Ceadaithe Márta 2002
Nua-naícheolaíocht	1.0	1 mí
Míochaine Úraiginiúil	1.0	2 mí
Bristeacha	2.0	36 mí
Gastaireintreolaíocht Péidiatraic	1.0	Post Úr 6 mhí
Máinliacht Ghinearálta	1.0	1 mí

Is é atá sna 16 post folamh 8.1% de líon na gcomhairleach CLA<sup>1</sup>.

<sup>1</sup> Coibhéis Lánaimseartha

## Fire Service: False Alarm Calls

**Mr M Robinson** asked the Minister of Health, Social Services and Public Safety to state how many false alarms each fire service received in each of the last 3 years, and to express this number as a percentage of overall calls. (AQW 373/02)

**Ms de Brún:** Set out below are the number of false alarms each of the Fire Brigade's Area Commands has received in the three years up to 2001, and the total as a percentage of the overall calls for each year.

Is é atá leagtha amach thíos ná líon na scairteanna bréagacha a fuair gach Ceannas Ceantair na Briogáide Dóiteáin ar feadh trí bliana go dtí 2001, agus an t-iomlán mar chéatadán de na scairteanna san iomlán do gach bliain.

Command	1999 False Alarm due to		2000 False Alarm due to		2001 False Alarm due to	
	Malicious calls	Defective Apparatus	Malicious calls	Defective Apparatus	Malicious calls	Defective Apparatus
Northern	382	602	487	1508	518	1607
Southern	468	470	475	1355	566	1429
Eastern	697	686	802	2117	1074	2608
Western	398	593	398	1580	514	1622
<b>Total</b>	<b>1945</b>	<b>2351</b>	<b>2162</b>	<b>6560</b>	<b>2672</b>	<b>7266</b>
<b>Total calls for year</b>	<b>48,254</b>		<b>55,890</b>		<b>63,594</b>	
<b>As % of total Calls</b>	<b>4.03%</b>	<b>4.87%</b>	<b>3.87%</b>	<b>11.74%</b>	<b>4.20%</b>	<b>11.42%</b>

Ceannas	1999 Scairt Bhréagach mar gheall ar		2000 Scairt Bhréagach mar gheall ar		2001 Scairt Bhréagach mar gheall ar	
	Scairteanna Mailíseacha	Gléas Lochtach	Scairteanna Mailíseacha	Gléas Lochtach	Scairteanna Mailíseacha	Gléas Lochtach
An Tuaisceart	382	602	487	1508	518	1607
An Deisceart	468	470	475	1355	566	1429
An tOirthear	697	686	802	2117	1074	2608
An tIarthar	398	593	398	1580	514	1622
<b>Iomlán</b>	<b>1945</b>	<b>2351</b>	<b>2162</b>	<b>6560</b>	<b>2672</b>	<b>7266</b>
<b>Iomlán scairteanna don bhliain</b>	<b>48,254</b>		<b>55,890</b>		<b>63,594</b>	
<b>Mar % de na Scairteanna san iomlán</b>	<b>4.03%</b>	<b>4.87%</b>	<b>3.87%</b>	<b>11.74%</b>	<b>4.20%</b>	<b>11.42%</b>



## GP Appointments

**Mr M Robinson** asked the Minister of Health, Social Services and Public Safety to detail, in each of the last 3 years, (a) the percentage of GP appointments missed; and (b) the cost of such non-attendance, broken down by NHS Board area. (AQW 374/02)

**Ms de Brún:** Information is not available in the form requested.

Níl an t-eolas ar fáil ar an dóigh iarrtha.

## Rheumatoid Arthritis

**Mr M Robinson** asked the Minister of Health, Social Services and Public Safety how many people are currently affected by rheumatoid arthritis, broken down by Health Board area. (AQW 382/02)

**Ms de Brún:** The information requested is not available.

Níl fáil ar an eolas a iarradh.

## Asbestos

**Mrs I Robinson** asked the Minister of Health, Social Services and Public Safety to detail (a) the number of buildings leased by her Department that have asbestos as a component of their construction; (b) the number of staff employed in these buildings; and (c) any plans she has for the removal of asbestos. (AQW 400/02)

**Ms de Brún:** There are eight buildings leased by my Department. All eight contain asbestos as a component of their construction. These buildings are occupied by 114 staff. My Department is following Health and Safety Executive advice concerning the management of asbestos in that, where possible, the asbestos is left undisturbed and its presence managed until such time as it can be safely removed during refurbishment or demolition.

Tá ocht bhfoirgneamh léasaithe ag an Roinn s'agam. Tá aispeist san ochtar acu mar chomhpháirt dá dtógáil. Tá 114 ball foirne sna forgnimh seo. Tá an Roinn s'agam ag leanúint comhairle an Choiste Feidhmiúcháin Sláinte agus Sábháilteachta maidir le bainistíocht na haispeiste, is é sin, áit ar bith is féidir, fágтар an aispeist neamhchorraithe agus déantar a láithreacha a bhainistiú go dtí gur féidir í a bhaint amach go sábháilte le linn athchóirithe nó treascartha.

## Mencap Report

**Mr McGrady** asked the Minister of Health, Social Services and Public Safety to outline her response to the

recommendations contained in Mencap's report entitled 'The modernisation of day services for people with a learning disability.' (AQW 405/02)

**Ms de Brún:** The Mencap Report was produced in response to the English White Paper "Valuing People". My Department was neither consulted nor involved in the Report's production. However, my Department has considered the report and its findings will be used to inform future policy and service development for people with a learning disability.

Táirgeadh an Tuairisc Mencap mar fhreagairt ar Pháipéar Bhán Shasana "Valuing People". Ní dheachthas i gcomhairle leis an Roinn s'agam agus ní raibh baint ag an Roinn s'agam ach oiread le táirgeadh na Tuairisce. Rinne an Roinn s'agam machnamh ar an tuairisc, áfach, agus bainfear úsáid as a torthaí le forbairt polasaí agus seirbhíse amach anseo a chur ar an eolas i dtaca le daoine le míchumas foghlama de.

## Rheumatoid Arthritis

**Mr M Robinson** asked the Minister of Health, Social Services and Public Safety to outline any plans she may have to increase public awareness of rheumatoid arthritis, with the aim that symptoms may be recognised at an early stage. (AQW 412/02)

**Ms de Brún:** I recognise the importance of early diagnosis of rheumatoid arthritis and that it can be hard to make a definitive diagnosis at first as it often develops gradually. I think that this is a matter best dealt with by ensuring that health professionals, particularly general practitioners, have a high level of awareness of the symptoms and signs of the illness in its early stages so that they can undertake appropriate investigation.

My Department will write to the Post Graduate Council for Medical and Dental Education to ensure that diagnosis and management of the disease is properly covered in General Practitioner training and refresher programmes.

Aithním an tábhacht a shiúlann le diagnóis luath airtritis réamatóidigh agus go dtig leis a bheith deacair diagnóis chinnte a dhéanamh ar dtús mar is minic a fhorbraíonn sé de réir a chéile. Creidim gur fearr déileáil leis an cheist seo trí chinntiú go bhfuil leibhéal ard feasachta i measc gairmithe sláinte, gnáthdhochtúirí go háirithe, maidir le hairíonna agus le comharthaí an tinnis ina chéimeanna luatha le go dtig leo imscrúdú cuí a dhéanamh.

Scríobhfaidh an Roinn s'agam chuig an Chomhairle Iarchéime d'Oideachas Míochaine agus Fiaclóireachta le cinntiú go gclúdaítear mar is ceart diagnóis agus bainistíocht an ghalair in oiliúint Ghnáthdhochtúir agus i gcláir athnuachana.

## Rheumatoid Arthritis

**Mr M Robinson** asked the Minister of Health, Social Services and Public Safety to outline what action she is taking to ensure effective treatment of rheumatoid arthritis. (AQW 414/02)

**Ms de Brún:** I remain committed to securing effective treatment for all patients, including those who suffer from rheumatoid arthritis. I have recently allocated a further £3m to Health and Social Services Boards and Trusts for costly hospital drugs, including those specifically licensed for the treatment of this condition.

I also refer the Member to my answers to AQW 65/02 and to AQW 412/02.

Tá mé go fóill geallta le cóireáil éifeachtach do gach othar a dhaingniú, mar aon leo siúd a bhfuil airtiríteas réamhatóideach orthu. Dháil mé £3m breise ar Bhoird agus ar Iontaobhais Sláinte agus Seirbhísí Sóisialta do dhruaí otharlainne costasacha le gairid, mar aon leis na drúgaí úd atá ceadúnaithe go sainiúil le haghaidh cóireála ar an riocht seo.

Atreoraím an Comhalta chuig mo fhreagraí ar AQW 65/02 agus ar AQW 412/02.

## Firefighters: Injuries

**Mr O'Connor** asked the Minister of Health, Social Services and Public Safety how many fire-fighters were injured while dealing with fires related to 12th July bonfires in 2002. (AQW 417/02)

**Ms de Brún:** No fire-fighters were injured whilst attending calls related to 12th July bonfires.

Ní gortaíodh comhraiceoirí dóiteáin ar bith agus iad ag freastal ar scairteanna a bhain le tinte cnámh ar an 12<sup>ú</sup> Iúil.

## Abortifacient/Miscarriage-Inducing Drugs

**Mr O'Connor** asked the Minister of Health, Social Services and Public Safety to confirm (a) that abortifacient/miscarriage-inducing drugs are not available in Northern Ireland; and (b) that she has no plans to make them available. (AQW 421/02)

**Ms de Brún:** Since the Abortion Act 1967 does not extend here, the deliberate termination of a pregnancy is not permitted here except where continuation of the

pregnancy would put the life or health of the mother at serious risk.

The abortifacient drug mifepristone (sometimes referred to as RU486) is available, but its use is permitted here only for treatment when the fetus has died in the uterus. It is not used in the community and should only be prescribed by obstetricians for this licensed indication.

Cionn is nach mbaineann an tAcht Ginmhillte 1967 leis an áit seo, ní cheadaítear ginmhilleadh réamhbheartaithe anseo ach amháin nuair a d'fhéadfadh go gcuirfeadh leanúint an toirchis saol nó sláinte na máthar i mbaol tromchúiseach.

Tá an druga ginmhillteach mifipriostón (RU486 a thugtar air in amanna) ar fáil, ach ní cheadaítear anseo é ach don chóireáil nuair a fhaigheann an féatas bás sa bhroinn. Ní bhaintear úsáid as sa phobal agus níor chóir dó a bheith ordaithe ach ag lianna ban don chomhartha ceadúnaithe seo.

## Personality Disorders

**Mrs I Robinson** asked the Minister of Health, Social Services and Public Safety to outline the number of individuals who have been diagnosed with personality disorders in each of the last 10 years. (AQW 432/02)

**Ms de Brún:** Information is not available in the form requested.

Níl an t-eolas ar fáil ar an dóigh iarrtha.

## Nurses: Recruitment

**Mr M Robinson** asked the Minister of Health, Social Services and Public Safety to outline, by health board area, (a) the number of nurses recruited in each of the last 3 years and (b) the planned recruitment numbers for each of the next three years. (AQW 436/02)

**Ms de Brún:** Staff recruitment is the responsibility of individual Health and Social Services Trusts, taking into account the service needs and available resources, and detailed recruitment information is not available centrally.

Is freagracht de chuid na nIontaobhas Sláinte agus Seirbhísí Sóisialta earcaíocht foirne, ag cur riachtanais seirbhíse agus acmhainní atá ar fáil san áireamh, agus níl sonraí ar líon na ndaoine atá fostaithe nó atá beartaithe le bheith fostaithe ar fáil go lárnach.

## Sure Start

**Dr Birnie** asked the Minister of Health, Social Services and Public Safety whether a decision has been made on the future of the Surestart programme. (AQW 443/02)

**Ms de Brún:** Longer-term funding decisions are being taken by the Executive as part of the Comprehensive Spending Review process which will be completed in December of this year. Future plans for individual schemes, such as the Sure Start programme, will then be settled in the light of the overall budget allocated to my Department.

Tá an Coiste Feidhmiúcháin ag déanamh cinní maoinithe níos fadtéarmaí mar chuid den phróiseas Athbheithnithe Chuimsithigh ar Chaiteachas a bheidh curtha i gcrích i Nollaig na bliana seo. Socrófar ansin pleananna amach anseo do scéimeanna aonair, mar shampla an clár Sure Start, agus an buiséad iomlán dáilte ar an Roinn s'agam.

## Health Deprivation: Shaftesbury Ward

**Dr Birnie** asked the Minister of Health, Social Services and Public Safety to outline her assessment of the relative level of health deprivation suffered by the Shaftesbury Electoral Ward, and specifically, the level of early years childcare provision. (AQW 444/02)

**Ms de Brún:** The 'Health Deprivation and Disability Domain' of the Noble suite of deprivation indicators, published by the Statistics and Research Agency in July 2001, shows that Shaftesbury ward has the 6th highest level of health deprivation out of the 566 electoral wards here. This high relative level of need is confirmed by my Department's own research into health and social care needs for the purposes of resource allocation. This work shows that ranked on an overall index of need, Shaftesbury ward is ranked as the 13th most disadvantaged ward. The high level of need in Shaftesbury ward, and other similarly needy wards within the Eastern Board, is fully taken into account in my Department's main resource allocation formula.

Childcare provision in the Shaftesbury ward area for 0 – 3 year olds is provided through Inner City South Sure Start project in Sandy Row Community Forum, Donegal Pass Community Forum and Markets Community Forum. There are 2 Parent and Toddler groups provided in Friendship House and Markets. Nursery school provision is available in Blythe Field, Arellian and St Malachys and after school provision at Sandy Row Community Forum.

Léiríonn 'An Réimse Díothacht Sláinte agus Míchumais' den tsraith tascáirí díothacha de chuid Noble, a d'fhoilsigh an Ghníomhaireacht Staitisticí agus Taighde in Iúil 2001, go bhfuil an 6ú leibhéal is airde de dhíothacht sláinte ag

toghbharda Shaftesbury as 566 toghbharda anseo. Dearbhaíonn taighde na Roinne s'agam féin ar riachtanais sláinte agus cúraim shóisialta le haghaidh dáileadh acmhainne an leibhéal coibhéiseach ard riachtanais seo. Léiríonn an obair seo ar innéacs iomlán grádaithe riachtanas go bhfuil toghbarda Shaftesbury ar an 13ú barda is mó faoi mhíbhuntáiste. Tá an leibhéal ard riachtanas i dtoghbharda Shaftesbury, agus i dtoghbhardaí eile cosúil leis ar an ghannchuid laistigh de Bhord an Oirthir, curtha san áireamh i bpríomhfhoirmle dáilte acmhainne na Roinne s'agam.

Soláthraítear soláthar cúram páiste i dtoghcheantar Shaftesbury do pháistí 0-3 bliain d'aois trí thionscadal Sure Start Lár na Cathrach Theas i bhFóram Pobail Sandy Row, i bhFóram Pobail Donegal Pass agus i bhFóram Pobail na Margaí. Soláthraítear 2 grúpa Tuismitheoirí agus Tachráin i dTeach Cairdis agus sna Margaí. Tá soláthar náiscoile ar fáil in Blythe Field, in Arellian agus i scoil Naomh Maoileachlainn agus tá soláthar iarscoile i bhFóram Pobail Sandy Row.

## Nursing Staff: Secondment to Courses

**Mr Gibson** asked the Minister of Health, Social Services and Public Safety to outline, in each of the last four years, the breakdown, by religion, of nurses recommended for secondment for courses in the Tyrone and Fermanagh Hospital, Omagh. (AQW 452/02)

**Ms de Brún:** Within the last four years, no nursing staff at the Tyrone & Fermanagh Hospital have been on full time secondment to courses external to the Trust.

Le ceithre bliana anuas, ní raibh ball foirne altranais ar bith in Otharlann Thír Eoghain & Fhear Manach ar iasacht lánaimseartha chuig chúrsaí lasmuigh den laontaobhas

## Nursing Assistants

**Mr Gibson** asked the Minister of Health, Social Services and Public Safety what is the current breakdown, by religion, of nursing assistants employed in the Tyrone and Fermanagh Hospital, Omagh. (AQW 453/02)

**Ms de Brún:** The information requested is as follows:

### RELIGIOUS BREAKDOWN OF NURSING ASSISTANTS EMPLOYED IN THE TYRONE AND FERMANAGH HOSPITAL OMAGH

Protestant	22%
Roman Catholic	76%
Non Determined	2%
<b>Total</b>	<b>100%</b>

Is é a leanann ná an t-eolas a iarradh:

**MIONDEALÚ REILIGIÚNACH DE CHÚNTÓIRÍ ALTRANAIS  
FOSTAITHE IN OTHARLANN THÍR EOGHAIN & FHEAR  
MANACH, AN ÓMAIGH**

Protastúnach	22%
Caitliceach Rómhánach	76%
Neamhléirithe	2%
<b>Iomlán</b>	<b>100%</b>

**Lisnamallard Therapy Unit, Omagh**

**Mr Gibson** asked the Minister of Health, Social Services and Public Safety what is the current breakdown, by religion, of those employed in Lisnamallard Therapy Unit, Omagh. (AQW 454/02)

**Ms de Brún:** The information requested is as follows:

**RELIGIOUS BREAKDOWN OF ALL STAFF EMPLOYED IN  
LISNAMALLARD**

Protestant	30%
Roman Catholic	70%
<b>Total</b>	<b>100%</b>

Is é a leanann an t-eolas a iarradh:

**MIONDEALÚ REILIGIÚNACH AR AN FHOIREANN UILE  
FOSTAITHE I LIOS NA MALLACHT**

Protastúnach	30%
Caitliceach Rómhánach	70%
<b>Iomlán</b>	<b>100%</b>

**Nursing Administration Staff: Tyrone  
and Fermanagh Hospital, Omagh**

**Mr Gibson** asked the Minister of Health, Social Services and Public Safety what is the current breakdown, by religion, of the nursing administration staff employed in the Tyrone and Fermanagh Hospital, Omagh. (AQW 455/02)

**Ms de Brún:** The information requested is as follows:

**RELIGIOUS BREAKDOWN OF NURSING ADMINISTRATION  
STAFF EMPLOYED IN THE TYRONE AND FERMANAGH  
HOSPITAL, OMAGH**

Protestant	33%
Roman Catholic	56%
Non Determined	11%
<b>Total</b>	<b>100%</b>

Is é a leanann ná an t-eolas a iarradh:

**MIONDEALÚ REILIGIÚNACH DE BHAILL FHOIRNE  
RIARACHÁN ALTRANAIS FOSTAITHE IN OTHARLANN THÍR  
EOGHAIN & FHEAR MANACH, AN ÓMAIGH**

Protastúnach	33%
Caitliceach Rómhánach	56%
Neamhléirithe	11%
<b>Iomlán</b>	<b>100%</b>

**Nursing Staff: Tyrone  
and Fermanagh Hospital, Omagh**

**Mr Gibson** asked the Minister of Health, Social Services and Public Safety what is the breakdown, by religion, of the nursing staff employed in the Tyrone and Fermanagh Hospital, Omagh. (AQW 456/02)

**Ms de Brún:** The information requested is as follows:

**RELIGIOUS BREAKDOWN OF QUALIFIED NURSING STAFF  
EMPLOYED IN THE TYRONE AND FERMANAGH HOSPITAL,  
OMAGH**

Protestant	18%
Roman Catholic	80%
Non Determined	2%
<b>Total</b>	<b>100%</b>

Is é a leanann ná an t-eolas a iarradh:

**MIONDEALÚ REILIGIÚNACH DE BHAILL FHOIRNE  
ALTRANAIS CHÁILITHE FOSTAITHE IN OTHARLANN THÍR  
EOGHAIN & FHEAR MANACH, AN ÓMAIGH**

Protastúnach	18%
Caitliceach Rómhánach	80%
Neamhléirithe	2%
<b>Iomlán</b>	<b>100%</b>

**Maternity Services**

**Mrs I Robinson** asked the Minister of Health, Social Services and Public Safety to outline, in each of the last four years, the number of women from (a) Great Britain; and (b) the Republic of Ireland, who have given birth at (i) Royal Jubilee Maternity Hospital; and (ii) other hospitals in Northern Ireland. (AQW 459/02)

**Ms de Brún:**

(a) Number of Women from Great Britain who have given birth at hospitals here, 1998-2001

Hospital	Year			
	1998	1999	2000	2001
Royal Jubilee Maternity Hospital	21	24	26	36
Other Hospitals	6	4	4	7
<b>Total</b>	<b>27</b>	<b>28</b>	<b>30</b>	<b>43</b>

(b) Number of Women from the South of Ireland\* who have given birth at hospitals here, 1998-2001

Hospital	Year			
	1998	1999	2000	2001
Royal Jubilee Maternity Hospital	1	2	1	5
Other Hospitals	156	167	194	233
<b>Total</b>	<b>157</b>	<b>169</b>	<b>195</b>	<b>238</b>

Data supplied by EHSSB includes women from the South of Ireland and overseas.



- (a) Líon na mBan ón Bhreatain Mhór a rugadh naíonán dóibh in otharlanna anseo, 1998-2001.

Otharlann	Bliain			
	1998	1999	2000	2001
Otharlann Mháithreachais Iubhaile Ríoga	21	24	26	36
Otharlanna Eile	6	4	4	7
Iomlán	27	28	30	43

- (b) Líon na mBan ó Dheisceart na hÉireann\* a rugadh naíonán dóibh in otharlanna anseo, 1998-2001.

Otharlann	Bliain			
	1998	1999	2000	2001
Otharlann Mháithreachais Iubhaile Ríoga	1	2	1	5
Otharlanna Eile	156	167	194	233
Iomlán	157	169	195	238

\* Is é a chuirtear san áireamh le sonraí a sholáthraíonn BSSS an Oirthir mná ó Dheisceart na hÉireann agus ó thíortha thar lear.

### Paramilitary Attacks: Expenditure on Treatment

**Mrs I Robinson** asked the Minister of Health, Social Services and Public Safety to detail the total expenditure on the treatment of victims of paramilitary attacks, in each of the last five years. (AQW 460/02)

**Ms de Brún:** The information requested is not available.

Níl fáil ar an eolas a iarradh.

### Sporting/Youth Organisations: Funding

**Mr Shannon** asked the Minister of Health, Social Services and Public Safety whether she will make available, together with other departments, additional funding for sporting and youth organisations to meet the costs of implementing new accreditation arrangements for non-regulated childcare organisations. (AQW 462/02)

**Ms de Brún:** The Protection of Children and Vulnerable Adults Bill is currently before the Assembly for consideration. It is proposed at this stage that the detail of the system of accreditation proposed in the Bill, including costs, will be set out in guidance and regulations. These will be the subject of widespread public consultation and at this stage it is not possible to give an

undertaking as to additional funding to organisations to cover costs.

Tá an Bille um Chosaint Páistí agus Aosach Soghonta faoi bhráid an Tionóil faoi láthair lena mhachnamh a dhéanamh air. Moltar ag an phointe seo go leagfar amach mionsonraí an chórais chreidiúnaithe molta sa Bhille, costais curtha san áireamh, i dtreoir agus i rialacháin. Cuirfear iad seo faoi chomhairliúchán forleathan poiblí agus ag an phointe seo ní féidir gealltanais a thabhairt maidir le maoiniú breise d'eagraíochtaí le costais a chlúdach.

### Non-Regulated Childcare Organisations

**Mr Shannon** asked the Minister of Health, Social Services and Public Safety what outcome she expects from the new accreditation arrangements for non-regulated childcare organisations. (AQW 463/02)

**Ms de Brún:** It is intended that the system of accreditation proposed in the Protection of Children and Vulnerable Adults Bill, which is currently before the Assembly, will promote and encourage good child protection practice within organisations working with children. Organisations seeking accreditation will be required to demonstrate that arrangements are such that the protection of children in their care is maximised. This will include a requirement to carry out checks on those to whom they plan to offer posts and to refer those considered unsuitable to work with children for inclusion in the statutory list which will be held by my Department.

### Voluntary Childcare Organisations: Charges

**Mr Shannon** asked the Minister of Health, Social Services and Public Safety to give her assessment of possible charges to small voluntary organisations for childcare checking and accreditation. (AQW 464/02)

**Ms de Brún:** A decision on the charges which may be imposed both for carrying out checks against the statutory lists and for accreditation, has yet to be taken. Before the introduction charges of any kind related to the implementation of the Protection of Children and Vulnerable Adults Bill, I intend to consult widely.

Ní dhearna cinneadh go fóill ar na costais a d'fhéadfadh a bheith forchurtha ar sheiceáil a dhéanamh leis na liostaí reachtúla ná ar chreidiúnú. Sula dtugtar costais de chinéal ar bith isteach maidir le cur i bhfeidhm an Bhille um Chosaint Páistí agus Aosach Soghonta, tá sé beartaithe agam dul i gcomhairle go forleathan.

## Cancer Clusters

**Mr Shannon** asked the Minister of Health, Social Services and Public Safety to provide details of cancer clusters in each of the last 3 years. (AQW 466/02)

**Ms de Brún:** Since 1999, the Cancer Registry has investigated nine alleged cancer clusters, with another investigation currently ongoing. None of the nine alleged clusters were found to have significantly high levels of cancer. The details of the investigations are listed below.

### ALLEGED CLUSTERS INVESTIGATED SINCE 1999:

1. **Cancer in the workplace – April 1999.** Brought about by a company with a request to investigate high cancer mortality in the workplace. Findings were that there was no cause for undue concern, as the death patterns were not substantially different from the general population.
2. **Glynn Village, Co. Antrim – April 2000.** Brought about by a report in a local Sunday newspaper and a request by Councillors to investigate. Conclusions were that Glynn did not have statistically significant higher rates than the population as a whole, nor was there an apparent significant increasing trend in the rates.
3. **District Council – May 2000.** Local GP asked for information relating to cancer in his area. The levels of cancer were not significantly high.
4. **District Council – October 2000.** The Ulster Cancer Foundation asked if there were higher rates of cancer incidence in a particular district council. None were found.
5. **Kilroot/ Grangemouth oil refinery – March 2001.** Alleged in media that the refinery contributes to cancer incidence here. Findings indicated that there was no evidence of the reported “corridor” of higher cancer levels between Belfast and Newry, and that industrial air pollution is more likely to cause asthma and chronic pulmonary disease rather than cancer.
6. **Breast Cancer amongst teachers in a small school – August 2001.** Investigation raised through the Health and Social Services Board. No significant findings.
7. **Electoral Ward – March 2002.** Investigation of alleged high levels of cancer in the Newtownbutler area. Upon examination of both the cancer incidence and mortality rates, Newtownbutler did not appear to have statistically significant higher rates than the general population, nor was there an apparent significant increasing trend in the rates.
8. **District Council – May 2002.** Asked by a company to investigate if there were high levels of childhood cancer being registered in its surrounding area, as had been reported in local paper. The rates in the

surrounding district councils were not significantly higher than in the general population and there was no significant increasing trend in the rates with time.

9. **District Council – June 2002.** Raised by a member of the public through the Department to investigate if the levels of breast cancer were high in their district council. The rates were not significantly higher than in the general population.
10. **Cancer in the workplace – September 2002.** Investigation ongoing.

Ó 1999, d’imscrúdaigh an Chlárlann Ailse naoi mbraisle ailse líomhnaithe agus tá imscrúdú eile idir lámha faoi láthair. Níor thángthas ar leibhéal iontach ard ailse i ceann ar bith de na naoi mbraisle líomhnaithe. Tá sonraí na n-imscrúduithe liostaithe thíos.

### BRAISLÍ LÍOMHNAITHE IMSCRÚDAITHE Ó 1999:

1. **Ailse san áit oibre – Aibreán 1999.** Déanta mar gheall ar chuideachta le hiarratas chun bás ard ailse san áit oibre a imscrúdú. Fuarthas amach nach raibh ábhar buartha neamhriachtanach ann, mar ní raibh difear suntasach idir na patrúin báis sin agus sa phobal mhór.
2. **Sráidbhaile an Ghleanna, Co. Aontroma – Aibreán 2000.** Déanta mar gheall ar thuairisc i nuachtán áitiúil an Domhnaigh agus ar iarratas Comhairleoirí le himscrúdú a dhéanamh. Ba iad na torthaí nach raibh rátaí staitisticí níos airde ar bhonn suntasach ag an Ghleann ná ag an phobal san iomlán, níor léir go raibh méadú suntasach treochta ar bith sna rátaí ach oiread.
3. **Comhairle Ceantair – Bealtaine 2000.** D’iarr gnáthdhochtúir áitiúil eolas ag baint le hailse ina cheantar. Ní raibh leibhéil ailse iontach ard.
4. **Comhairle Ceantair – Deireadh Fómhair 2000.** D’fhiafraigh Foras Ailse Uladh an raibh rátaí níos airde de mhinicíocht ailse i gcomhairle ceantair ar leith. Níor thángthas ar cheann ar bith.
5. **Scaglann Ola Kilroot/Grangemouth – Márta 2001.** Bhí sé líomhnaithe sna meáin go gcuireann scaglann le minicíocht ailse anseo. Léirigh cinneadh nach raibh fianaise ar bith ann don “phasáiste” tuairiscithe de leibhéil níos airde ailse idir Béal Feirste agus an tIúr, agus gur dócha go mbeadh plúchadh nó galar ainsealach na scamhóg de thoradh ar thruailliú acir tionsclaíoch ná ailse.
6. **Ailse Chíche i measc múinteoirí i scoil bheag – Lúnasa 2001.** Cuireadh an t-imscrúdú i bhfeidhm tríd an Bhord Sláinte agus Seirbhísí Sóisialta. Níor thángthas ar chinneadh suntasach ar bith.
7. **Toghbharda – Márta 2002.** Imscrúdú ar leibhéil arda ailse líomhnaithe i gceantar An Bhaile Nua. Ar scrúdú minicíocht ailse agus rátaí báis, níor chósúil

go raibh rátaí staitisticí níos airde ar bhonn suntasach ag an Bhaile Nua ná mar a bhí sa phobal mhór, ná gur cosúil go raibh an treocht ag méadú sna rátaí ar bhonn suntasach.

8. **Comhairle Ceantair – Bealtaine 2002.** D'iarr cuideachta imscrúdú le fáil amach an raibh leibhéil arda aile leanaí á clárú sa timpeallacht máguaird, mar a bhí tuairiscithe sa pháipéar áitiúil. Ní raibh na rátaí sna comhairlí ceantair máguaird níos airde ar bhonn suntasach ná mar atá sa phobal mhór agus ní raibh an treocht sna rátaí ag méadú go suntasach le himeacht aimsire.
9. **Comhairle Ceantair – Meitheamh 2002.** D'iarr ball an phobail tríd an Roinn imscrúdú a dhéanamh ar cé acu a bhí leibhéil aile chéche ard ina gcomhairle ceantair. Ní raibh na rátaí níos airde ar bhonn suntasach ná mar a bhí sa phobal mhór.
10. **Ailse san áit oibre – Meán Fómhair 2002.** Imscrúdú idir lámha.

### Causeway Hospital Staff: Sick Leave

**Mr Kane** asked the Minister of Health, Social Services and Public Safety to detail, in terms of nursing, ancillary and domestic staff at the new Causeway Hospital, (a) the number who were on sick leave during July, August and September in (i) 2000 and (ii) 2002; and (b) in light of these statistics, what measures are being taken, by her department or the Causeway Health and Social Services Trust, to improve staff morale and conditions.

(AQW 534/02)

#### Ms de Brún:

(a)

- (i) As the new Causeway Hospital did not accept its first patient until May 2001, there is no record of sick leave absences for periods prior to this.
- (ii) The number of Causeway Hospital nursing, ancillary and domestic staff on sick leave during July, August and September 2002 is detailed in the following table.

Year 2002	Nursing Staff *	Ancillary Staff *
July	104	55 (includes 18 domestic staff)
August	124	58 (includes 20 domestic staff)
September	112	57 (includes 16 domestic staff)

\*These figures include staff on long-term sick leave and those with casual sick leave.

- (b) My Department has recently published a Human Resources Strategy, which aims to realise a future for the HPSS as an employer caring for both its staff and service users. This Strategy requires Trusts as

HPSS employers to set targets and implement measures to reduce sick absences.

The Trust is continually working towards reducing the high levels of sickness within these staffing groups. The Trust has an Occupational Health Department which provides support to managers and staff. It is about to tender for a confidential staff counselling service and a member of the Trust's Personnel Department has been seconded full time to support managers in the area of sickness counselling. In addition Senior Management Teams and Trust Board members are provided with monitoring reports and reports of progress made in the area of managing absence.

(a)

- (i) Cionn is nár ghlac Otharlann úr an Chlocháin lena céad othar go dtí Bealtaine 2001, níl taifead ar bith ar neamhláithreachtaí saoire bhreioiteachta do thréimhsí roimhe seo.
- (ii) Tá líon na foirne altranaís, coimhdí agus inmheánaí ar shaoire bhreioiteachta i Iúil, Lúnasa agus Meán Fómhair 2002 léirithe sa tábla seo a leanas.

Bliain 2002	Foireann Altranaís*	Foireann Choimhdeach*
Iúil	104	55 (18 foireann inmheánach san áireamh)
Lúnasa	124	58 (20 foireann inmheánach san áireamh)
Meán Fómhair	112	57 (16 foireann inmheánach san áireamh)

\*Cuireann na staitisticí seo an fhoireann ar shaoire bhreioiteachta fhadtéarmach agus iad sin ar shaoire bhreioiteachta fhánach san áireamh.

- (b) D'fhoilsigh an Roinn s'agam Straitéis Acmhainní Daonna ar na mallaibh a bhfuil sé mar aidhm aige todhchaí do na SSSP mar fhostóir a thugann aire dá mbaill fhoirne agus dá n-úsáideoirí seirbhíse araon a thabhairt i gcrann. Is é a theastaíonn ón Straitéis seo go leagfaidh na hIontaobhais mar fhostóirí SSSP spriocanna amach go gcuirfidh siad bearta i bhfeidhm le neamhláithreachtaí breioiteachta a laghdú.

Bíonn an tIontaobhas ag obair i gcónaí leis na leibhéil arda tinnis laistigh de na grúpaí foirne seo a laghdú. Tá Roinn Sláinte Ghairme ag an Iontaobhas a sholáthraíonn tacaíocht do bhainisteoirí agus do bhaill fhoirne. Tá sé ar tí tairiscint a chur isteach do sheirbhís rúnda comhairle foirne agus tugadh ball de Roinn Pearsanra an Iontaobhais ar iasacht go lánaimseartha le tacaíocht a thabhairt do bhainisteoirí i réimse comhairle tinnis. Ina theannta sin, cuirtear tuairiscí monatóireachta agus tuairiscí ar dhul chun cinn atá déanta i réimse neamhláithreachta a bhainistiú ar fáil do bhaill na bhFoirne Bainisteoireachta Sinsearaí agus na mBord Iontaobhais.

## Dentistry Services

**Mr Kennedy** asked the Minister of Health, Social Services and Public Safety to outline (a) the amount of expenditure on modernising dentistry services in the past three financial years; (b) how these figures compare with expenditure in England; (c) any future spending plans; and to make a statement. (AQW 540/02)

**Ms de Brún:** I am aware that a fund to modernise dentistry was established in England in 2000 but there are no plans at present to replicate this here. However, my officials are participating in a working group chaired by England's Chief Dental Officer which is looking at the options for change to modernise NHS dentistry in England in order to assess whether any of the options put forward are appropriate for our local needs.

I did submit a developmental bid in the recent Budget process to modernise dental practice premises and equipment but unfortunately this was unsuccessful. However, there is already a substantial amount spent providing dental services here. Overall expenditure on dentistry has risen from £54.4m in 1998-99 to £57.4m in 2000-01.

Is eol dom gur bunaíodh ciste i Sasana i 2000 le fiaclóireacht a thabhairt suas chun dáta ach níl pleananna ar bith lena mhacasamhail a dhéanamh anseo faoi láthair. Tá mo chuid feidhmeannach, áfach, ag glacadh páirte i ngrúpa oibre, a bhfuil Príomhfheidhmeannach Fiaclóireachta Shasana ina chathaoirleach air, atá ag smaoineadh ar na roghanna le haghaidh athraithe chun fiaclóireacht SNS i Sasana a thabhairt suas chun dáta ionas go ndéanfar measúnú ar cé acu atá ceann ar bith de na roghanna a cuireadh chun tosaigh fóirteanach dár riachtanais áitiúla.

Chuir mé tairiscint fhorásach isteach sa phróiseas Buiséid le gairid le haghaidh áitreabh agus trealamh cleachtas fiaclóireachta a thabhairt suas chun dáta ach ar an drochuair níor éirigh leis. Tá méid suntasach á chaitheamh cheana ar sholáthar seirbhísí fiaclóireachta anseo. D'ardaigh caiteachas iomláine ar an fhiaclóireacht ó £54.4m i 1998-99 go dtí £57.4m i 2000-01.

## Causeway Hospital

**Mr Campbell** asked the Minister of Health, Social Services and Public Safety to outline, since the opening of the new Causeway Hospital, how many patients waiting for treatment have spent in excess of 12 hours on trolleys in the Accident and Emergency Unit. (AQW 552/02)

**Ms de Brún:** Information is not available in the form requested.

Níl an t-eolas ar fáil ar an dóigh iarrtha.

## REGIONAL DEVELOPMENT

### Waste Water Treatment

**Mr Armstrong** asked the Minister for Regional Development what progress has been made on improving waste-water treatment in Mid-Ulster. (AQW 392/02)

**The Minister for Regional Development (Mr P Robinson):** In order to ensure compliance with the Urban Wastewater Treatment Regulations (NI) 1995, Water Service is implementing a programme of upgrading wastewater treatment works across Northern Ireland including the Mid Ulster constituency.

Water Service has recently completed the upgrading of 7 wastewater treatment works (ie Killygonlan/Mullanhoe, Upperlands, Ballinderry, Knockanroe, Drapersfield, Davagh and Killeen). The costs involved were £3 million.

In the 2003/4 financial year, Water Service proposes to start upgrading work at 6 Works (ie Cookstown, Clunto Richardson, Bellaghy, Creagh, Dunnamore and Killyneese) at a cost of £12 million. The construction of the Cookstown Works was originally programmed to start in June of this year. However, it was necessary to carry out a major reappraisal of the Works to take account of revised assessments of residential, commercial and industrial development in the area. The scheme is now programmed to start in June 2003.

In the 2004/5 and 2005/6 financial years it is proposed to upgrade 11 Works (ie Stewartstown, Draperstown, Maghera, Magherafelt, Coagh, Sandholes, Rock, Gulladuff, Pomeroy, Desertmartin and Castledawson). The total cost involved is £3.8 million.

Pending these major upgrading schemes, Water Service is currently carrying out interim improvements to 3 Works (ie Moneymore, Coagh and Stewartstown) at a cost of £151,000. It is also intended to carry out interim improvements to a further 9 Works at a cost of £350,000.

### Roadworks: Penalty Charges

**Mr Close** asked the Minister for Regional Development what plans he has to introduce fines or lane rentals when public utilities or companies exceed an agreed deadline for reinstatement or completion of road works.

(AQW 393/02)

**Mr P Robinson:** My Department's Roads Service is currently monitoring the situation in Great Britain regarding such measures and, in light of that, I will consider what course of action is best for Northern Ireland.

I should explain that, in England, many highway authorities now require undertakers executing street works to pay a penalty charge for exceeding the prescribed



duration of the works, or if the works are not completed within a reasonable period. In February 2001 the Government appointed consultants to monitor the effectiveness of such overstay charging in England. A report covering the first 12 months is expected shortly.

In addition, pilot studies of lane rental that started in GB in March 2002 will continue to March 2004. There are therefore no research findings available yet. However, I understand that, if it becomes apparent that overstay charges have failed to lead to a sufficient reduction in disruption, then the Government is prepared to make the lane rental charging powers available to highway authorities across England.

I can also advise that, in Scotland, the Scottish Executive has carried out public consultation on introducing similar charges and is presently analysing the responses. In Wales, I understand that the Welsh Assembly is awaiting the outcome of the consultants report on the effectiveness of overstay charging in England before deciding on the way forward.

### Noise Pollution: Airports

**Ms McWilliams** asked the Minister for Regional Development, pursuant to AQW 59/02, to outline the timetable for the DRD consultation on noise pollution from Northern Ireland's three commercial airports.

(AQW 395/02)

**Mr P Robinson:** The review of noise monitoring at Northern Ireland airports, which I announced recently, is a 2-part exercise. Part 1, which takes the form of a scoping study, has already commenced and involves a series of site visits and meetings with a number of people, including local residents, airport management and local authorities.

This initial fact-finding will determine the extent and thus the timetable for the further more detailed work which will be undertaken during Part 2 of the review. The Department would expect the initial phase of the review to be completed by the end of October 2002, however it is too early to put a date on the overall completion of the review.

### Waste Water Treatment Works: Larne

**Mr O'Connor** asked the Minister for Regional Development to outline the proposed starting date for the waste water treatment works in Larne.

(AQW 419/02)

**Mr P Robinson:** Subject to the completion of all statutory processes, including planning approval and environmental consent considerations, construction of the new wastewater treatment works for Larne is scheduled to commence in September 2003. It will take two years to complete at an estimated cost of around £10 million.

### Bunting/Street Lighting: Larne

**Mr O'Connor** asked the Minister for Regional Development if Larne Borough Council sought permission to erect bunting on street lamps in Larne town centre.

(AQW 420/02)

**Mr P Robinson:** My Department's Roads Service has no record of Larne Borough Council having sought permission to erect bunting from street lighting columns in Larne town centre.

### Traffic Volume: Ballykelly

**Mrs Courtney** asked the Minister for Regional Development if he has any plans to alleviate pressure on the main road between City of Derry Airport and Limavady, with special emphasis on the early morning traffic build-up approaching Ballykelly. (AQW 433/02)

**Mr P Robinson:** My Department's Roads Service is aware of the increasing traffic volume on the trunk route through Ballykelly and the delays at peak times on the approaches to the traffic signals in the centre of the village. The results of an ongoing review of these traffic signals should be available in November with any identified improvements implemented by early 2003.

Looking to the longer term, within the context of the Regional Transportation Strategy, Roads Service is preparing a Forward Planning Schedule of major road schemes, which it is expected could be started within the 10-year period of the Strategy.

Roads Service is currently carrying out appraisals on a number of schemes for possible inclusion in the Schedule. I can confirm that a bypass of Ballykelly is one of the schemes currently being appraised. However, you will appreciate that there are many competing pressures on the finite resources available for the roads programme and not all schemes will be successful.

Those schemes that are successful would have to be taken through the statutory procedures of Environmental Assessment, Planning Approval and Land Acquisition, but the most critical factor in delivering the Regional Transportation Strategy will be the acquisition of the necessary additional funds for such schemes.

### Asbestos

**Mrs I Robinson** asked the Minister for Regional Development to detail (a) the number of buildings leased by his department that have asbestos as a component of their construction; (b) the number of staff employed in these buildings; and (c) what plans he has for the removal of asbestos. (AQW 458/02)

**Mr P Robinson:** My Department leases one building which has been identified by the Department of Finance and Personnel's Construction Service as currently containing asbestos as a component of its construction. The building is Ballycastle Depot, Station Road, Ballycastle and, at present, 12 staff are employed within the premises.

There are no current plans to remove the asbestos from this building. Construction Service carry out regular surveys of the building together with an assessment of risk.

### Comber Bypass

**Mrs I Robinson** asked the Minister for Regional Development to outline the extent and cost of damage to the site offices used by Road Service and contractors of the Comber bypass, following the recent arson attack.

(AQW 461/02)

**Mr P Robinson:** There were 3 site offices associated with the construction of the Comber Bypass which were completely destroyed in an arson attack in the early hours of 24 September 2002. The estimated replacement cost of these offices and their contents is £40,000.

While it is not anticipated that this attack will have a significant impact on delivery of the project, I have to say that I am extremely concerned and saddened that the contractor's property should be damaged by an arson attack in this way. This act of mindless damage serves no purpose other than to impede this scheme which has been welcomed by the whole community.

The long awaited Comber Bypass scheme will provide relief to the traffic congestion problems in Comber, which have increased over the past 3 decades.

It is obvious that the vast majority of people in Comber want this scheme completed as soon as possible. I would appeal to the local community to make it clear to those responsible that this attack is totally unacceptable and support the contractor in ensuring the scheduled completion of the project.

### Traffic Control Scheme: Newry

**Mr Bradley** asked the Minister for Regional Development to give an update on the Traffic Control Scheme proposed for the Rathfriland Road/Damolly Road junction in Newry, and to make a statement on the anticipated date for the switching on of the traffic lights proposed for the junction.

(AQW 507/02)

**Mr P Robinson:** Further to my answer of 22 May 2002 in response to your Written Assembly Question AQW 3452/01, I am pleased to advise that the negotiations to acquire the land necessary to construct a left turn lane for traffic exiting from Upper Damolly Road onto Rathfriland

Road as part of the proposed signalised junction, are nearing a successful conclusion.

It is hoped that the relevant documents will be signed within the coming weeks to enable my Department's Roads Service to commence construction work on site before Christmas, with a view to bringing the new signals into operation early in the New Year.

### 'Free Fares' for the Elderly

**Mrs I Robinson** asked the Minister for Regional Development to detail, by constituency (a) the percentage of take-up of 'free fares' for the elderly and (b) what his Department is doing to encourage those who have not come forward.

(AQW 512/02)

**Mr P Robinson:** The attached table shows the take up of Senior Citizens Smartpass by Parliamentary Constituency. There is, in general, a very high take up demonstrating the success of my initiative to introduce free travel for older people. More than 142,000 people representing nearly 65% of over 65s in Northern Ireland have now applied for Senior Smartpasses. This is a huge increase in the approximately 60,000 old style Concessionary Passes in issue prior to the introduction of free travel.

As part of the launch of the Senior Smartpass, my Department arranged a direct mail shot to around 220,000 pensioners combined with an extensive publicity and information campaign. Ongoing procedures are in place to ensure that people newly turning 65 are invited to apply for the Senior Smartpass.

It may be that we have now reached a natural ceiling for the issue of Senior Smartpasses. A proportion of the population over 65 will not be interested in obtaining Passes, for example, those relatively affluent pensioners who prefer to use private cars, those who are too aged or infirm to benefit from the Scheme and those, particularly in rural areas, for whom public transport services are inaccessible. Further contact to encourage these people to come forward is unlikely to result in substantial additional public transport usage. In this regard, it is noteworthy that 69,000 or just under half of those who have applied for and received the Senior Smartpass since the 1 May have not yet used them on scheduled bus services.

Constituency	No of Smartpasses	Estimated Population Over 65	Percentage Take-Up Rate
Upper Bann	8,738	11,930	73.24
South Antrim	8,011	11,062	72.42
East Antrim	8,247	11,495	71.74
North Down	10,263	14,338	71.58
Belfast West	7,060	9,941	71.02

Constituency	No of Smartpasses	Estimated Population Over 65	Percentage Take-Up Rate
Strangford	8,816	12,649	69.70
Belfast North	10,325	15,143	68.18
Lagan Valley	9,164	13,558	67.59
Belfast East	10,947	16,392	66.78
Foyle	6,508	9,756	66.71
Belfast South	9,389	14,537	64.59
East Londonderry	6,741	11,119	60.63
Newry and Armagh	6,912	11,569	59.75
South Down	7,684	12,912	59.51
North Antrim	7,811	13,444	58.10
West Tyrone	5,249	9,641	54.44
Fermanagh and South Tyrone	6,014	11,946	50.34
Mid Ulster	4,670	9,645	48.42
<b>Totals</b>	<b>142,549</b>	<b>221,077</b>	<b>64.48</b>

### Capital and Service Contracts

**Mr Attwood** asked the Minister for Regional Development, pursuant to AQO 60/02, to detail (a) the number and value of all capital and service contracts, respectively, awarded in the 2002/2003 financial year; (b) whether each contract in the 2002/2003 financial year has been or will be assessed for inclusion in pilot schemes to be determined by the Public Procurement Board; and (c) the reasons why any contracts in the current financial year have not been recommended as pilot projects.

(AQO 237/02)

**Mr P Robinson:** As the Member's question relates to the use of procurement to assist the unemployed into work, I will restrict my answer to the number and value of capital and services contracts that meet the financial criteria specified by the Procurement Board for the pilot. These criteria specify that:

The contract value should ideally be £3.86 million or more for construction or £0.5 million per year for services. However construction contracts with a value of £1 million or more, and service contracts worth £0.25 million per annum or more will also be considered.

Dealing with part (a) of your question first.

To date, my Department has awarded 7 capital contracts with a total value of £30.7 million, and 11 services contracts with a total value of £19.5 million during the 2002/03 financial year.

Responding to part (b) of your question.

Each of these contracts, together with all contracts to be advertised in the EU Official Journal during the

period August to November 2002, was assessed for inclusion in the Procurement Board's pilot scheme.

Turning to part (c) of your question.

The Procurement Board has specified that the EU Official Journal Notice for all contracts to be included in the pilot must clearly state the requirement for the production of an Unemployment Utilisation Plan. With the exception of one Water Service contract for services, notices for all other eligible DRD contracts had already been placed in the EU Official Journal without reference to the Unemployment Utilisation Plan before the pilot scheme was launched. The Water Service contract, which has a total value of £900,000, has been nominated by my Department for inclusion in the pilot scheme.

### Water Quality

**Mr McGrady** asked the Minister for Regional Development what further discussions he has held with his ministerial colleague in Environment regarding the need to urgently resolve the problems surrounding water quality in respect of sewerage works and the processing of planning applications for single and multiple developments.

(AQO 242/02)

**Mr P Robinson:** I met the Minister of the Environment on a number of occasions to review officials' assessment of the complex legal, environmental and operational issues involved with water quality and planning in 56 areas across Northern Ireland. The statement that he made earlier today reflects a great deal of work by our Departments. We have agreed a sensible and pragmatic way forward which achieves a balance between Northern Ireland's development needs and protecting the environment. Development can proceed in each of the areas subject to the normal planning processes. I can assure you of Water Service's commitment to the programme of upgrading wastewater infrastructure at these and other locations across Northern Ireland.

### Westlink Upgrade

**Mr M Robinson** asked the Minister for Regional Development to give an update on progress of the West Link upgrade; and to make a statement. (AQO 264/02)

**Mr P Robinson:** My Department's proposals to improve the M1 and Westlink are currently at the statutory procedures stage.

Public Inquiries about the environmental aspects of the project were held in late 2000. The Inspector's report was generally favourable and my predecessor, Gregory Campbell, decided to proceed to the next stage with a modified scheme to take account of any points of concern upheld by the Inspector.

In May 2002 my Department published the draft Designation Order, which is broadly equivalent to a



planning application. Five letters of objection and 3 comments were received. Due to the nature of the objections I have decided to hold a further Public Inquiry which will commence on 22 November 2002. When I have considered the Inspector's report I will be in a position to make a decision and I will, of course, consult the Regional Development Committee.

Subject to this process, we should be able to start phase 1 of the works in mid 2003. This will widen the M1 to 3 lanes in each direction between Black's Road and Stockman's Lane. Funding for this phase has already been secured through the Reinvestment and Reform Initiative.

Phase 2 of the project will improve the M1 / Westlink from Stockman's Lane to Grosvenor Road. This requires some land to be acquired and funding has not yet been secured. One option currently being considered is the use of a Public Private Partnership.

### **Carrickfergus-Antrim Bus Service**

**Mr Hilditch** asked the Minister for Regional Development to detail (a) the current figures for passengers using the Carrickfergus-Antrim bus service; and (b) when he expects the Carrickfergus to Mallusk bus service to be introduced. (AQO 236/02)

**Mr P Robinson:**

- (a) Translink has advised that the current figures for passengers using the Carrickfergus – Antrim bus service is approximately 300 per month.
- (b) Translink has further advised that its plans to introduce a service from Carrickfergus to Mallusk were shelved when research confirmed that the service was not viable. However, given recent developments, such as the closure of the Nortel factory in Carrickfergus which may result in the relocation of some jobs to their Mallusk site, Translink will carry out further research and reconsider the introduction of a service from Carrickfergus to Mallusk.

### **Strangford Constituency: Funding**

**Mrs I Robinson** asked the Minister for Regional Development for his assessment of the prospects of the Strangford constituency benefiting, through his Department, from Executive Programme Funds or Reinvestment Reform Initiative funding in the next 3 years. (AQO 253/02)

**Mr P Robinson:** Total allocations to my Department from the Infrastructure EPF and RRI for 2002/03 and 2003/04 amount to £33 million and £64 million respectively. No allocations have yet been made in respect of 2004/05 and beyond.

Of the total allocations, £30 million is earmarked for four specific projects on the Regional Strategic Transportation Network including the Toome Bypass, part of the Belfast – Larne road and widening of the M1. However, the majority of the resources will be devoted to programmes of general benefit throughout Northern Ireland although plans for investment are not drawn up on a constituency basis.

The Water Service has been provided with £28 million for flood prevention, leakage reduction and watermain and sewer replacement. The list of specific schemes has not been finalised but current plans include two water main replacement projects in the Saintfield area. Additions of £34 million have been made to the roads structural maintenance programme. Plans developed so far include schemes at Belfast Road, Carryduff and Zion Place, Newtownards.

My Department has recently provided the Department of Finance and Personnel with a broad assessment of its infrastructure requirements and details of RRI opportunities totalling in excess of £200 million per annum. Any additional expenditure secured from RRI from 2004/05 onwards will, no doubt, benefit all areas of Northern Ireland, including the Strangford Constituency.

### **Road Widening: University Street/Ormeau Road**

**Dr McDonnell** asked the Minister for Regional Development when he plans to undertake the road widening scheme at the junction of University Street and Ormeau Road. (AQO 269/02)

**Mr P Robinson:** The need to improve the junction of University Street and Ormeau Road to facilitate traffic wishing to turn right into University Street was identified in the mid-1990's during the determination of the planning application in respect of the Gasworks development.

At that time, Laganside Corporation and 'Making Belfast Work', now part of the Department for Social Development's Belfast Regeneration Office, agreed to fund the work and purchase the land required for the scheme. My Department's Roads Service agreed to design the scheme and supervise the construction work.

The present position is that while funding has been made available by Laganside Corporation and Roads Service has prepared a suitable design, the purchase of the two small strips of land required for the scheme from the adjacent former petrol filling station and rugby ground has presented difficulties.

I understand that discussions are ongoing between the Regeneration Office and the owners of the former filling station, to acquire one part of the necessary land. The former rugby ground, having been sold to one developer, was recently re-sold to Clanmil Housing Association. I



understand the Regeneration Office is working with the Housing Association in order to co-ordinate the works for the junction improvement with those required to achieve a satisfactory entrance into the proposed housing development.

It is expected that a formal planning application and a traffic assessment for the Clanmil housing development will be submitted in due course. If and when planning approval is granted, both schemes can hopefully move forward together.

### Road Openings

**Mr Dallat** asked the Minister for Regional Development to outline the number of utilities which have been successfully prosecuted in the last 2 years for failing to reinstate road openings in the manner prescribed, and to detail the amount of money recovered. (AQO 249/02)

**Mr P Robinson:** In the last two years, my Department's Roads Service secured 5 successful prosecutions against two utility companies for failing to reinstate road openings in the manner prescribed. There were a further 7 successful prosecutions of utilities for other offences under the Street Works legislation.

Roads Service does not recover money from fines imposed on utilities by the courts. It does, however, ensure that defective reinstatements are properly repaired by the utility concerned, whether or not the defect is a prosecutable offence.

I am hopeful that the increasing emphasis being directed to the role and performance of the utilities and the tougher approach being adopted by Roads Service will result in improved standards of reinstatements across Northern Ireland.

### Ministerial Meetings

**Mr Weir** asked the Minister for Regional Development to detail any recent meetings he has had with his ministerial counterparts. (AQO 275/02)

**Mr P Robinson:** Since 1 July 2002 I have met Sean Farren, Minister for Finance and Personnel, on 2 occasions and Dermot Nesbitt, Minister for the Environment, on 3 occasions.

During my study visit to Australia in August I met John Brumby, State Treasurer and Minister for State and Regional Development in the State of Victoria, and Steve Bredhauer, Minister for Transport and Main Roads in the State of Queensland.

Most recently, on 20 September, I discussed cooperation on transport issues with Ian Gray and Sue Essex, transport ministers in the Scottish Executive and Welsh Assembly, respectively.

### Waste Water Treatment Works: Donaghadee

**Mr McFarland** asked the Minister for Regional Development when his Department is likely to begin construction of the proposed waste water treatment works in Donaghadee. (AQO 259/02)

**Mr P Robinson:** A planning application for the proposed North Down Wastewater Treatment Works, associated pumping stations and transfer pipelines was submitted to Planning Service in May of this year. It is currently being processed. The proposed site of the Works is currently in private ownership and initial land acquisition procedures will commence shortly. Consideration is also being given to procuring the Works using a Public Private Partnership approach.

As the Member will appreciate, these processes can be complex and lengthy, and many are outside the direct control of Water Service. It is, therefore, unlikely that the construction of the new wastewater treatment works can commence before 2005.

### Regional Transportation Strategy: Private Sector Funding

**Mr Armstrong** asked the Minister for Regional Development what progress he has made in identifying private monies which he has indicated are a very necessary ingredient of his 10-year Regional Transportation Strategy. (AQO 256/02)

**Mr P Robinson:** The Regional Transportation Strategy (RTS) has identified an additional funding requirement of £1370 million over the 10-year strategy period, of which, it is assumed, £400 million will be sourced from private sector contributions. My officials are currently considering how best to secure these private sector contributions to fund the strategy.

The RTS assumes that the use of Public Private Partnerships for the delivery of highways and public transport schemes will result in a net contribution of £300 million toward the strategy. The viability of a Public Private Partnership, or PPP, procurement solution is currently being investigated for roads and transportation schemes with a total value of £500 million. Value for money will be the key determinant in any decision to adopt a PPP solution to any road or transportation scheme.

My officials are also developing detailed policy proposals for developers' contributions toward roads and transportation infrastructure enhancement. The RTS assumes that £100 million additional funding will be made available from this source. I will be considering these proposals early in 2003.

### Sewage Pumping Station:Holywood

**Mrs Carson** asked the Minister for Regional Development in relation to correspondence received by his department concerning a sewage pumping station in The Coaches, Croft Road, Hollywood, to outline measures he has taken, and proposes to take, to address the issues raised.

(AQO 245/02)

**Mr P Robinson:** Water Service will adopt sewerage infrastructure constructed by private developers provided the infrastructure meets the specific requirements set out by Water Service under Article 17 of the Water and Sewerage Services (Northern Ireland) Order 1973. The sewage pumping station at The Coaches, Croft Road, Hollywood was constructed by Hagan Homes, who developed The Coaches housing site. Water Service has advised that the pumping station has not been adopted due to legal difficulties relating to the transfer of the land on which the pumping station is located. Water Service has been in contact with Hagan Homes and their legal advisers on many occasions about the issue, but regrettably despite these approaches, it has not yet been possible to bring the matter to a conclusion.

The ownership of the pumping station remains with Hagan Homes, who are therefore responsible for its inspection and maintenance. Water Service is aware, from

correspondence with one of the local residents, that there is an ongoing problem with discharges from the pumping station, but Water Service cannot take any action with regard to the operation of the pumping station.

Both Water Service and Hagan Homes are anxious to have the legal issues resolved, and Hagan Homes are pursuing this aspect. When the legal issues are resolved Water Service will inspect the pumping station and, subject to all of its requirements being met, will proceed with adoption. Water Service is confident that following adoption, and the implementation of its stringent inspection and maintenance procedures, there will be a significant reduction in the risk of future problems with the pumping station.

## SOCIAL DEVELOPMENT

### Warm Homes Scheme

**Mr Shannon** asked the Minister for Social Development to detail, per constituency, (a) the number of applications for the Warm Home Scheme; (b) the number of completed applications; and (c) the number of applications still to be processed.

(AQW 410/02)

Constituency	Constituency Post-codes (BT)	Referrals	Heating Jobs Complete	Insulation Jobs Complete	Total Jobs Completed	Total Jobs in progress/surveyed
East Antrim	38, 40.	355	62	234	296	86
East Belfast	3, 4, 5, 6, 16.	677	111	429	540	171
East Derry	49, 51, 52, 55, 56.	466	73	283	356	68
Fermanagh & South Tyrone	69, 70, 71, 74, 75, 76, 77, 92, 93, 94.	1,011	210	563	773	206
Foyle	47, 48.	735	101	405	508	133
Lagan Valley	24, 25, 26, 27, 28, 67.	693	92	382	474	171
Mid Ulster	45, 46, 80.	608	109	337	446	93
Newry & Armagh	35, 60, 61, 62.	845	136	460	596	171
North Antrim	42, 43, 44, 53, 54, 57.	567	100	341	441	111
North Belfast	1, 2, 14, 15.	719	105	432	537	178
North Down	18, 19, 20, 21.	452	68	255	323	111
South Antrim	29, 36, 37, 39, 41.	680	86	408	494	132
South Belfast	7, 8, 9, 10.	338	29	165	194	112
South Down	30, 31, 33, 34.	903	127	474	601	201
Strangford	22, 23.	328	53	189	242	82
Upper Bann	32, 63, 64, 65, 66.	636	92	390	482	102
West Belfast	11, 12, 13, 17.	1,344	171	810	981	311
West Tyrone	78, 79, 81, 82.	690	115	336	451	161
<b>Total</b>		<b>12,047</b>	<b>1,840</b>	<b>6,893</b>	<b>8,735</b>	<b>2,600</b>

**The Minister for Social Development (Mr Dodds):**

The information is not available in precisely the format requested, but the post-codes in the table below broadly correspond to constituency areas.

**Warm Homes Scheme**

**Mr Shannon** asked the Minister for Social Development to detail, per constituency, the amount of funding set aside for the Warm Homes Scheme. (AQW 411/02)

**Mr Dodds:** The Warm Homes Scheme is demand led and funding is not allocated on a constituency basis. However, the Department's scheme manager promotes and markets the scheme to ensure that vulnerable people in fuel poverty have access to it wherever they live. The funding for the Warm Homes Scheme in this financial year totals £7.98 million.

**Asbestos**

**Mrs I Robinson** asked the Minister for Social Development to detail (a) the number of buildings leased by his Department that have asbestos as a component of their construction; (b) the number of staff employed in these buildings; and (c) any plans he has for the removal of asbestos. (AQW 434/02)

**Mr Dodds:** I can confirm that the Department for Social Development does not lease any buildings containing asbestos as a component of their construction.

**Housing Benefit Discretionary Payments**

**Mr Shannon** asked the Minister for Social Development to outline, from April 2002 to date, any funding which has been transferred from one housing district to another, for housing benefit discretionary payments. (AQW 439/02)

**Mr Dodds:** Funding for Discretionary Housing Payments was allocated by the Northern Ireland Housing Executive on an indicative basis for 2002-03 as the scheme had only been introduced in July 2001. These allocations have subsequently been reviewed and changed to reflect actual demand. The budgets were also revised at an Area level to provide greater flexibility.

The table below lists, by Area, both the indicative budgets and the revised budgets.

**DISCRETIONARY HOUSING PAYMENTS - FUNDING ALLOCATIONS 2002/03**

District	Indicative Discretionary Budget 2002-2003	Revised Area Budget September 2002
Belfast Area Total	£261,823.00	£488,776.00
South East Area Total	£113,376.00	£182,720.00

District	Indicative Discretionary Budget 2002-2003	Revised Area Budget September 2002
South Area Total	£289,412.00	£222,690.00
North East Area Total	£134,947.00	£204,418.00
West Area Total	£342,442.00	£43,396.00
N Ireland Total	£1,142,000.00	£1,142,000.00

**Housing Benefit Discretionary Payments**

**Mr Shannon** asked the Minister for Social Development to outline the reasons for extra demand upon the housing benefit discretionary payments in the Ards Borough Council area and Ards Housing Districts. (AQW 440/02)

**Mr Dodds:** As the Discretionary Housing Payments were only introduced in July 2001, the Northern Ireland Housing Executive is not yet in a position to determine cause/effect at a local level by way of demand.

Demand for Discretionary Housing Payments can vary because of: -

- Different levels of private renting in each area;
- Growth in the sector being disproportionately spread across Northern Ireland;
- Supply/demand being more closely matched in some areas giving stability to market rents;
- Variations in the number and size of housing markets in an area of limited supply; and
- Rapid increases in demand.

**Housing Benefit Discretionary Payments**

**Mr Shannon** asked the Minister for Social Development what steps he is taking to address the shortfall of funding for housing benefit discretionary payments in the Ards Borough Council area and Ards Housing Districts. (AQW 441/02)

**Mr Dodds:** The Northern Ireland Housing Executive has increased the allocation of Discretionary Housing Payments for the South East Area, which includes the Ards Borough Council area and Ards Housing Districts, by £70,000 to address the increase in demand in 2002/03.

**Housing Benefit Discretionary Payments**

**Mr Shannon** asked the Minister for Social Development to outline, from April 2002 to date, the funding available per month, per housing district area, for housing benefit discretionary payments. (AQW 442/02)

**Mr Dodds:** The funding for Discretionary Housing Payments is allocated by the Northern Ireland Housing

Executive at an Area level on a yearly basis to provide greater flexibility. The allocations for 2002-03 are: -

Belfast Area	£488,776.00
South East Area	£182,720.00
South Area	£222,690.00
North East Area	£204,418.00
West Area	£43,396.00

### Means Testing: Adaptations

**Mrs Nelis** asked the Minister for Social Development if he can confirm that the current means testing of parents with disabled children seeking adaptations meets the Equality legislation as outlined in Section 75 of the Northern Ireland Act 1998. (AQW 471/02)

**Mr Dodds:** A basic principle underlying the allocation of scarce public resources is that resources should be targeted at those most in need. In pursuance of this principle, grants legislation provides for a means test to be applied to all applicants for grant aid (for renovation work or adaptations for the disabled) in order to assess the amount of public money required to assist them to meet their needs. Since the means test is applied to all grant applicants, regardless of Section 75 category, the provisions are not considered to be in contravention of equality legislation. In addition, in its response to the recent consultation exercise on the Housing Bill, carried out by the Social Development Committee, the Equality Commission did not seek to question the equality implications of the means test as it applies to applicants for Disabled Facilities grant.

### Means Testing: Adaptations

**Mrs Nelis** asked the Minister for Social Development to outline the remit of the review in respect of the means testing of parents of disabled children seeking adaptations. (AQW 472/02)

**Mr Dodds:** The terms of reference for the review and the final composition of the review group should be finalised shortly. I refer the Member to my written response to AQW 22/02 contained in the official report for 20 September 2002 which indicated the broad aims of the review.

### Heating Applications

**Mr McClarty** asked the Minister for Social Development, pursuant to AQW 4400/01, what is the proposed timetable for the completion of outstanding heating applications. (AQW 514/02)

**Mr Dodds:** Heating Installations in some 700 properties have been suspended due to potential safety issues affecting

some solid fuel room heaters and high output back boilers. Installations in homes without such appliances are continuing as normal. The Warm Homes Scheme is designed to assist vulnerable people who are most at risk from fuel poverty, and their health and safety is my paramount concern.

My officials are currently assessing the level of risk associated with these appliances, and they are exploring a number of possible solutions. Whilst it is not yet possible to say when this process will be complete, it is progressing as quickly as possible. The Eaga Partnership, which manages the Warm Homes Scheme on behalf of the Department, has assured me that they can resume installations immediately upon receiving instructions.

### Warm Homes Scheme

**Mr McClarty** asked the Minister for Social Development what action will be taken to ensure that difficulties regarding outstanding applications for the Warm Homes Scheme will be resolved before the onset of winter. (AQW 515/02)

**Mr Dodds:** Heating Installations in some 700 properties have been suspended due to potential safety issues affecting some solid fuel room heaters and high output back boilers. Installations in homes without such appliances are continuing as normal. The Warm Homes Scheme is designed to assist vulnerable people who are most at risk from fuel poverty, and their health and safety is my paramount concern.

My officials are currently assessing the level of risk associated with these appliances, and they are exploring a number of possible solutions. Whilst it is not yet possible to say when this process will be complete, it is progressing as quickly as possible. The Eaga Partnership, which manages the Warm Homes Scheme on behalf of the Department, has assured me that they can resume installations immediately upon receiving instructions.

### Dwelling Demolition

**Mr Hussey** asked the Minister for Social Development to outline the schedule for the proposed demolition of 16 dwellings at Leckpatrick Gardens, Artigarvan, Strabane, and subsequent restructuring of this location. (AQW 523/02)

**Mr Dodds:** My Department has given the Housing Executive the necessary approval to demolish the dwellings in question. The Housing Executive is currently preparing the relevant tender documentation and has opened negotiations to buy back one property from an owner-occupier. It is intended to have the work commenced by the end of January.



## Voluntary/Community Sectors: NIHE Funding

**Mr Hussey** asked the Minister for Social Development to detail recipient groups of financial support via (a) core funding; (b) project funding; and (c) service funding as a result of the NIHE's increased joint working with the voluntary and community sectors since February 1999, and the NIHE's approval of the paper entitled 'Relationship with the Voluntary and Community Sector in Northern Ireland'. (AQW 524/02)

**Mr Dodds:** I attach for your information a list of those voluntary and community bodies which receive core funding, project funding and service funding from the Northern Ireland Housing Executive (List A), and Voluntary Activity Unit (DSD) (List B).

### LIST A

**GROUPS FUNDED BY THE HOUSING EXECUTIVE BETWEEN FEB 1999 AND SEPT 2002.**

	Funding Type		
	Core	Project	Service
<b>Homeless</b>			
Strabane Association		X	
Lee Hestia Housing Association		X	
Council for the Homeless	X		
Extern		X	
Simon Community		X	
Womans Aid		X	
Lurgan Edward Street Hostel		X	
Open Door Housing Trust		X	
Foyle Homeless Service		X	
Foyle Haven Association		X	
Triangle Housing Association		X	
Cookstown & Western Shores		X	
North & West Housing Ltd.		X	
<b>Hostels</b>			
Moyard			X
Grosvenor Road			X
Grainne House			X
Laburum Walk			X
Community			
Area Community Advisory Groups	X		
Fold Housing Trust	X		
Shelter NI	X		
Grantfinder		X	
Estate Action Project Ltd	X		

	Funding Type		
	Core	Project	Service
Groundwork N.I.	X	X	
Heatsmart			X
Energy Advice Shops	X		
National Energy Action	X		
Foyle Regional Energy Agency	X		
Travellers Consultation		X	
Greencare		X	
Rural Community Projects		X	
Tudor Renewal		X	
Lenadoon Community Forum		X	
New Lodge Housing Forum		X	
Greater Shankill Community Council		X	
Lower North Belfast Concerned Residents		X	
Upper Springfield Residents Centre		X	
Ardoyne Association		X	
South Belfast Partnership Board		X	
Markets Development		X	
North Belfast Community Development		X	
Whiterock Residents Association		X	
Mersy Street Residents Association		X	

	Core	Project	Service
Twadell/Woodvale Residents Association		X	
Highfield Residents Association		X	
Ballysillan Development		X	
Ligoniel Integrated Plan		X	
Newry Consortium for Travellers		X	
Newry/Mourne Community Groups		X	
Newry Sev		X	
Belfast Healthy Cities		X	
Derry Healthy Cities		X	
Houseproud Services		X	
Woodland Trust		X	
Forests of Belfast	X		
Woodland Grant Scheme		X	
Lots Project		X	
Lisburn Development Ltd		X	
Homefirst Community Trust		X	
H.A.P.N.I.		X	
Art in Housing		X	
Tinderbox Theatre Company		X	

**LIST B**  
**VCU GRANTS**

Organisation	Funding Type		
	Core	Project	Service
Administration of Active Community Initiative			X
Age Concern Cookstown		X	
Age Concern NI		X	
Armagh and Dungannon Volunteer Bureau	X	X	
Arthritis Care		X	
Association of Chief Officer of Voluntary Organisations	X	X	
Association of Independent Advice Centres	X	X	
Ballymena & Larne Voluntary Bureau	X		
Belfast Central Mission		X	
Belfast Group of Citizens Advice Bureau		X	
Belfast Unemployed Resource Centre	X	X	
Belfast Women's Aid		X	
Blind Centre		X	
Business in the Community		X	
Bryson House		X	
Cathedral Community Services		X	
Causeway Volunteer Bureau	X	X	
Caw/Nelson Drive Action Group		X	
Churches Voluntary Work Bureau	X	X	
Community Evaluation Northern Ireland	X	X	
Community Change	X	X	
Community Dialogue		X	
Community Volunteer Scheme			X
Community Work Education Network	X	X	
Conservation Volunteers N.I.		X	
Cookstown & Magherafelt Vol. Bureau	X		
Craigavon and Banbridge Volunteer Bureau	X	X	
Dennett Interchange		X	
Derry Travellers Support Group		X	
Donemana and District Community Association Ltd		X	
Down and Armagh Rural Transport		X	
Down District Citizens Advice Bureau		X	
Down District Volunteer Bureau	X	X	
Drumcree Community Trust		X	
Dunlewey Substance Advice Centre		X	
Falls Women's Centre		X	
Fermanagh Volunteer Bureau	X	X	
Foyle Homeless Action and Advice Service		X	
Foyle Search and Rescue Service		X	

Organisation	Funding Type		
	Core	Project	Service
Foyle Women's Aid		X	
Greenway Women's Group		X	
Harmony Community Trust		X	
Home-Start Antrim District		X	
Home-Start Carrickfergus		X	
Home-Start West Tyrone		X	
Include Youth		X	
Law Centre	X	X	
Limavady Volunteer Bureau	X	X	
Mencap		X	
Mind Yourself		X	
Money and Relationship Counselling	X	X	
Newington Day Centre		X	
Newry Volunteer Bureau	X	X	
Newtownabbey Volunteer Bureau	X	X	
NI Association for the Care and Resettlement of Offenders		X	
Northern Ireland Association of Citizens Advice Bureaux	X	X	
Northern Ireland Council for Voluntary Action	X	X	
North Down Volunteer Bureau		X	
North West Community Network		X	
Nucleus Association		X	
Omagh Volunteer Bureau	X	X	
Parents Advice Centre (NI) Limited		X	
Phab Northern Ireland		X	
Poleglass Residents Association		X	
Prince's Trust Volunteers	X		
Rainbow Project		X	
Roden Street Community Development Group		X	
Rural Community Network		X	
Scottish Community Development Centre		X	
Scout Association (NI)		X	
Shankill Creative Arts Centre		X	
Shankill Lurgan Community Projects		X	
Share Discovery '80		X	
Springfield Charitable Association		X	
Standing Conference on Community Development		X	
Triangle Housing Association		X	
Volunteer Bureau Initiative			X
Volunteer Development Agency	X	X	X
Voluntary Service Belfast	X	X	
Voluntary Service Lisburn	X	X	

### **2001/2002 Continuous Tenant Omnibus Survey Interim Report**

**Mr Hussey** asked the Minister for Social Development, in light of the 2001/2002 Continuous Tenant Omnibus Survey Interim Report, to detail (a) those areas of service where satisfaction levels have fallen; and (b) those areas deemed worthy of further examination by the NI Housing Executive. (AQW 525/02)

**Mr Dodds:** The interim report published in July 2002 provided key findings for the year 2001/2002 and showed that satisfaction with Housing Executive services had not fallen in any instance in comparison to 2000/2001. The full report is due to be published in November 2002 and will be used, along with other performance information, to direct the Housing Executive to those services which might be reviewed.

### **Commissioner for Complaints Annual Report 2001/2002**

**Mr Hussey** asked the Minister for Social Development, pursuant to the Commissioner for Complaints Annual Report 2001/2002, to detail, of the 14 cases which were upheld or partially upheld by the Commissioner, how the 6 cited cases of maladministration were dealt with by the NIHE. (AQW 526/02)

**Mr Dodds:** In each case the Housing Executive issued a letter of apology, together with the agreed settlement, and is implementing changes to procedures as recommended by the Commissioner.

### **Homelessness Strategy & Services Review**

**Mr Hussey** asked the Minister for Social Development to detail membership of the Steering Group to monitor progress of the Homelessness Strategy and Services Review's recommendations. (AQW 527/02)

**Mr Dodds:** The Steering Group comprises:

Mr Colm McCaughley, Director of Housing & Regeneration, Northern Ireland Housing Executive (Chairperson)

Ms Ricky Rowledge, Director, Council for the Homeless

Ms Janet Hunter, Director, Housing Rights Service

Mr John McGeown, Assistant Director, North & West Health and Social Services Trust

Mr Norman Hagan, Assistant Principal Officer, Northern Ireland Housing Executive

Mr Maurice Rooney, Principal Officer, Northern Ireland Housing Executive

Mr Stephen Graham, Assistant Director, Northern Ireland Housing Executive

Mr Sam Kendall, Principal Officer, Northern Ireland Housing Executive

Ms Dolores Ferran, Assistant Director of Corporate Services, Northern Ireland Housing Executive

Mr Brendan Fulton, Assistant Chief Officer, Probation Board for Northern Ireland

Ms Carol O'Brien, Director, The Simon Community Northern Ireland.





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## NORTHERN IRELAND ASSEMBLY

Friday 18 October 2002

### Written Answers to Questions

#### AGRICULTURE AND RURAL DEVELOPMENT

##### Subsidy Schemes: Payments

**Mr Shannon** asked the Minister of Agriculture and Rural Development what steps she is taking to ensure all payments for grants and subsidies are paid within a timescale of 4 weeks, especially in light of the Ulster Farmer's Union campaign against rural exodus.

(AQW 584/02)

**The Minister of Agriculture and Rural Development (Ms Rodgers):** European Commission rules provide for payments on most subsidy schemes for the 2002 year to start after the commencement of the new EU funding year on 16 October. The Department of Agriculture and Rural Development's (DARD) Annual Profile of Premia Payments for 2002-3 was published on 9 October 2002 and sets out a detailed timetable for payments on each of the farm subsidy schemes. DARD will be taking advantage of the recent Commission decisions to allow 80% advances of bovine scheme payments and 50% advances of arable payments.

Claims will be eligible for payment when the verification checks required under EU rules are completed and scheme retention requirements are satisfied. Eligible claims will then be paid in the date order in which they are received. It is envisaged that the majority of eligible claims for sheep and beef premium received in the period up to the end of July 2002 will be paid by the end of November 2002. Beef subsidy claims received from August onwards will be paid from mid-November in accordance with the published timetable.

#### CULTURE, ARTS AND LEISURE

##### World Showjumping Champion

**Mr Bradley** asked the Minister of Culture, Arts and Leisure to outline his plans to recognise the achievement of Dermott Lennon on winning the World Showjumping Championship, and that of those associated with the breeding and financial sponsorship of his horse, Liscalgot.

(AQW 511/02)

**The Minister of Culture, Arts and Leisure (Mr McGimpsey):** I have already written to Mr Lennon to congratulate him on his achievement and I understand that Mrs Rodgers has also expressed her congratulations to Mr Lennon, the breeder, Mr Harvey and to the business consortium that owns Liscalgot.

In addition, I am considering hosting a reception for high achievers in major sporting events later in the year and it is hoped that this would include Mr Lennon and those associated with the breeding and sponsorship of his horse.

##### River Bush

**Mr Kane** asked the Minister of Culture, Arts and Leisure to outline the proposed timetable for the introduction of an electronic counter to determine wild salmon numbers on the River Bush, to replace the method of counting currently employed.

(AQW 589/02)

**Mr McGimpsey:** I have asked officials to progress a technical feasibility study of the options for upgrading the fish trapping facilities at Bushmills with a view to identifying practical solutions and the magnitude of costs.

It is difficult at this early stage to predict when final proposals and subsequent funding will be available. The Department will, however, make every effort to have improved counting facilities in place as soon as is practicable and hopefully for the main run of fish in 2004.

#### EDUCATION

##### Administration Costs

**Mr Gibson** asked the Minister of Education to detail the current costs of administration (a) per Education and Library Board and (b) in the Department. (AQW 213/02)

**The Minister of Education (Mr M McGuinness):** *[supplementary answer]*: I refer the member to my recent answer to the above question. I am now in a position to provide the information regarding the Education and Library Boards.

- (a) The most recent information available in respect of administration costs is from the 2001/2002 financial year as below:

Board	Administration Costs* £m
BELB	9.083
NEELB	7.654
SEELB	9.872
SELB	7.653
WELB	10.292

The above expenditure includes the following 5 Board services:

#### 5 BOARD SERVICES

BELB	£m
Regional Training Unit	2.300
Data Administrator	0.025
IS Strategy	0.060
Estates Management Project	0.120
Association of Education and Library Boards	0.024
<b>Total</b>	<b>2.529</b>

NEELB	
Teachers' Threshold Assessment/Regional Assessment Centre	0.875
Teachers' Salaries and Conditions of Services Committee	0.079
<b>Total</b>	<b>0.954</b>

SEELB	
Accruals Accounting Project	3.158
Joint Legal Service	0.289
<b>Total</b>	<b>3.447</b>

SELB	
Central Management Support Unit	0.193
<b>Total</b>	<b>0.193</b>

WELB	
Classroom 2000	4.155
<b>Total</b>	<b>4.155</b>

\* The administration costs include, aAQW 213/02, 214/02, 513/02 & 551/02 part from those relating to the Library Services, administration costs relating to the three funding Departments. They do not include the costs relating to non-industrial school based staff, professional staff or advisory staff.

### Employment Numbers

**Mr Gibson** asked the Minister of Education to detail the numbers employed in an administrative and advisory capacity by (a) each Education and Library Board and (b) his Department. (AQW 214/02)

**Mr M McGuinness** [supplementary answer]: I refer the Member to my recent answer to the above question. I am now in a position to provide the information regarding the Education and Library Board.

- (a) The most recent available information as supplied by the Education and Library Boards excludes staff in the library service, professional staff and non-industrial school based staff and is as follows:

	Administrative		Advisory	
	Full-time	Part-time	Full-time	Part-time
BELB	318	168	47	3
NEELB	376	145	47	-
SEELB	343	39	59	1
SELB	378	63	75	4
WELB	402	27	68	2

The above numbers of administrative staff include staff involved in joint Board services as shown below:

	Administrative	
	Full-time	Part-time
BELB	30	38
NEELB	4	67
SEELB	19	2
SELB	6	-
WELB	105	18

### Transfer Procedure

**Mrs I Robinson** asked the Minister of Education to make a statement on his department's current policy not to release Transfer Procedure Test results for individual schools, to include whether or not he proposes to change this policy. (AQW 513/02)

**Mr M McGuinness:** My Department's policy is not to release Transfer Procedure test results for individual schools as this could lead to the identification of individual pupils' test results. I have no plans to change this policy.

### Numeracy/Literacy Targets

**Mr Kennedy** asked the Minister of Education to make a statement on the downwards revision of numeracy and literacy targets contained in the draft Public Service Agreement within the draft Programme for Government published in September 2002. (AQW 539/02)

**Mr M McGuinness:** Whilst the recently published numeracy and literacy targets are by and large lower than those previously published, they envisage higher levels of achievement in all areas compared to the present position. The revised targets do not mean any lessening of commitment, rather, they take account of

recent trends and what can realistically be achieved within the resources available. The targets will be further considered in the light of the 2001/02 results and the final budgetary position.

### Castle Gardens Primary School

**Mrs I Robinson** asked the Minister of Education what is the current position regarding the future use of the building formerly used as Castle Gardens Primary School. (AQW 551/02)

**Mr M McGuinness:** I refer the Member to the answer given to the Member for Strangford on 20 September 2002, AQW 85/02.

The Chancery Court has yet to respond to the application made by the South-Eastern Education and Library Board.

### Home Economics

**Mr Paisley Jnr** asked the Minister of Education what the legal requirements are in relation to the number of pupils permitted in a Home Economics class. (AQW 571/02)

**Mr M McGuinness:** The number of pupils permitted in a Home Economics class should not exceed 20.

### Protection of Children

**Ms McWilliams** asked the Minister of Education what regulations are in place to ensure that children are protected from receiving pornographic material on the internet during school hours. (AQO 307/02)

**Mr M McGuinness:** While there are no 'regulations' as such a number of steps have been taken to ensure that children are protected from receiving pornographic material on the Internet during school hours. My Department has issued guidance to schools about the acceptable use of the Internet. This was issued in September 1999 under cover of a Departmental Circular and encourages schools to draw up a suitable policy. It also made it a pre-condition for a school to demonstrate that it had a suitable policy before staff had ICT training and the school received the Classroom 2000 managed service.

All schools in Northern Ireland have been provided with access to the Internet through NINE Connect. NINE Connect has installed filtering software which operates by blocking thousands of inappropriate web sites and by barring inappropriate items, terms and searches of the Internet.

### Allocation of Funds

**Mr C Murphy** asked the Minister of Education whether all his priority bids were met in the latest budget allocation. (AQO 320/02)

**Mr M McGuinness:** The resources available to the Executive are finite and we inevitably faced difficult decisions on the allocation of funds. This has meant that not all priority bids could be met, including some priority bids for Education.

### Transfer Test

**Mr J Kelly** asked the Minister of Education to outline his plans regarding the transfer test. (AQO 321/02)

**Mr M McGuinness:** The consultation on the Burns Report showed overwhelming support for the abolition of the Transfer Tests, which have blighted the lives of too many children for too long. I have therefore decided that the last Transfer Tests will be held in November 2004. My Department will be meeting with our education partners over the next few months to develop new arrangements which are fair and enable all our children to fulfil their potential, regardless of their background or circumstances. I am determined that the suspension of the Assembly will not delay this process or prolong the injustice of the Transfer Tests. Our children deserve no less.

### Incidents Against Teachers

**Mr Hussey** asked the Minister of Education to provide (a) the number of violent assaults and incidents against teachers, in the last year for which figures are available; and (b) his assessment of the trends in the occurrence of such incidents. (AQO 297/02)

**Mr M McGuinness:** My Department does have the information requested. From September of this year all schools have been asked to use a common form when notifying the Education and Library Boards about the suspension of a pupil. This form contains a standard of categories for suspension, which include physical and verbal attacks on teachers. An analysis of this information at the end of the 2002/03 school year will provide baseline information against which trends can be assessed. In the absence of good information about the scale and nature of the problem, I cannot give an assessment on the trends.

### School Teachers' Salaries

**Mr K Robinson** asked the Minister of Education, pursuant to AQO 89/02, when he will receive the interim report on salary differentials for Principals and Vice-

Principals from the Independent Inquiry Team and if he intends to publish it. (AQO 296/02)

**Mr M McGuinness:** The Inquiry Team expects its interim report to be ready at the end of this month, when I will send it to the School Teachers' Salaries and Conditions of Service Negotiating Committee for consideration. I will then consider the conclusions reached by both Sides.

I accepted this arrangement for handling the report when both Sides reached agreement on the Inquiry's terms of reference. It will help to promote good employment relations by allowing both Sides every opportunity to discuss the report's findings.

When they have completed their discussions, I will also take account of their views on the report's publication.

### Roddensvale Special Care School, Larne

**Mr Beggs** asked the Minister of Education to provide an up-date on the progress of plans to re-develop Roddensvale Special Care School in Larne. (AQO 311/02)

**Mr M McGuinness:** The North-Eastern Education and Library Board, who is responsible for the planning for the new school for Roddensvale, has advised that initial sketch plans have been prepared and will be submitted to the Department shortly.

### Transfer Test

**Ms Ramsey** asked the Minister of Education, in relation to the post-primary review and specifically in relation to the transfer test, to outline those areas of emerging consensus to which he has publicly referred on a number of occasions. (AQO 323/02)

**Mr M McGuinness:** As I outlined in my statement to the House on 8 October, the consultation has shown clearly that there is overwhelming support for the abolition of the Transfer Tests. There was also strong consensus on a number of the other Burns proposals including the Guiding Principles, the development of a Pupil Profile, the need for greater co-operation and collaboration among schools, a common curriculum to age 14 and for age 14 as a more appropriate age for parents and pupils to consider and make choices about the curricular options or pathways which best meet their needs. A majority (including those whose support was subject to certain conditions being met) favoured the ending of academic selection.

### Rural Proofing

**Mr Bradley** asked the Minister of Education what is the current position regarding the rural proofing of his Department. (AQO 308/02)

**Mr M McGuinness:** My Department is represented on the Rural Proofing Steering Group set up by DARD. The Group is currently considering how best to roll forward the training of all policy developers including those in my Department.

### Education System

**Mr Armstrong** asked the Minister of Education what assessment he has made of the standard of Northern Ireland's education system and how it is regarded by other regions within the United Kingdom. (AQO 282/02)

**Mr M McGuinness:** Our education system produces high levels of achievement for some pupils but does less well for others. We have the highest A level results and, along with Scotland, have the highest proportion of pupils achieving 5 high grade GCSEs. However, a smaller proportion of our pupils achieve at least 5 GCSE passes at grades A\* - G than in England and the recent PISA research showed that the variation between our highest and lowest achievement was greater than for England and among the widest in the 32 countries participating in the study.

### Capital and Service Contracts

**Mr Attwood** asked the Minister of Education, pursuant to AQO 122/02, to detail (a) the number and value of all capital and service contracts, respectively, awarded in the 2002/2003 financial year; (b) whether each contract in the 2002/2003 financial year has been or will be assessed for inclusion in pilot schemes to be determined by the Public Procurement Board; and (c) the reasons why any contracts in the current financial year have not been recommended as pilot projects. (AQO 305/02)

**Mr M McGuinness:** In the 2002/03 financial year to date my Department has awarded 6 contracts at a total value of just over £420,000. Four of these contracts were for academic research and one for statistical analysis. None of these contracts was considered appropriate for inclusion in the pilot schemes to be determined by the Public Procurement Board. The final contract was for the provision of training materials in electronic format but the procurement process had commenced in the previous financial year.

### Scrabo School, Newtownards

**Mr McCarthy** asked the Minister of Education what assessment has he made regarding disposal of the vacant site at Scrabo School Newtownards in light of anticipated education needs. (AQO 298/02)



**Mr M McGuinness:** Controlled school provision in the Newtownards area is a matter in the first instance for the South Eastern Education and Library Board. The Board has indicated to my Department that the site of the former Scrabo High School is surplus to the Board's requirements.

### Equality/Human Rights

**Dr O'Hagan** asked the Minister of Education what measures he has taken to ensure that equality and human rights are at the core of the work of his Department.

(AQO 319/02)

**Mr M McGuinness:** As Minister for Education I am fully committed to the implementation of the Good Friday Agreement of which equality and human rights are key tenets.

In delivering its aims and objectives and in pursuing the targets set out in the Programme for Government my Department is committed to promoting equality of opportunity and protecting human rights.

As part of this important work my Department has an extensive programme of equality impact assessments set out in the Department's Equality Scheme, as approved by the Equality Commission. These will be the key mechanisms through which my Department will fulfil its statutory Equality obligations.

In addition my Department has developed excellent working relationships with both the Human Rights Commission and the Equality Commission. Last year my Department co-hosted major conferences with both Commissions.

The conference reports were launched earlier this year and my officials are continuing to work with both Commissions on the recommendations flowing from the two conferences.

### Provision of Services: Learning Difficulties

**Ms Lewsley** asked the Minister of Education what improvements, if any, will be made in the provision of services and facilities for children and young people with learning disabilities.

(AQO 335/02)

**Mr M McGuinness:** I am currently engaged in the important process of making a number of improvements to the provision of services and facilities for children and young people with learning difficulties. These include:

- Legislation which will give children with special educational needs provision which is at least equal to that contained in the Special Education Needs and Disability Act 2001, which places a greater emphasis on inclusive education in a mainstream setting;

- With the Department of Education and Science in Dublin, the creation of an all-Ireland Centre of excellence for the education of children and young people with Autistic Spectrum Disorders (ASD);
- taking forward the recommendations of the Task Groups Reports on Autism and Dyslexia, which I believe will set the agenda for our work in these fields for the foreseeable future;
- the development of a DVD for teachers, and videos for parents, of children with ASD and dyslexia;
- the installation of state-of-the-art communications technology for children with severely limited motor control (Camera Mouse);
- through the Regional Strategy Group (RSG), the development of consistent assessment and diagnostic criteria for the identification of children with special educational needs, particularly ASD and dyslexia, which will ensure that all children with similar needs have access to similar levels of provision;
- also through RSG, guidance on the inclusion of children with special educational needs in mainstream education;
- guidance to schools, agreed by teachers' unions, on helping children who have particular medical needs.

I would add that this year, as an indication of our commitment to the needs of young people with learning difficulties, I have been able to announce the go ahead for 5 new Special Schools. Two of these were announced under my Department's capital programme in March and the other three under the Executive's Reinvestment and Reform Initiative.

### NSMC Meeting

**Mr McNamee** asked the Minister of Education to outline (a) when the next North/South Ministerial Council educational sector meeting will take place; and (b) the issues to be addressed at that meeting.

(AQO 322/02)

**Mr M McGuinness:** The next meeting of the North/South Ministerial Council in educational sector is scheduled for 6 November 2002. The agenda for the meeting has not yet been agreed.

## EMPLOYMENT AND LEARNING

### Asbestos

**Mrs I Robinson** asked the Minister for Employment and Learning to detail (a) the number of buildings owned by her Department which currently contain asbestos as a component of their construction; (b) the number of staff

employed in these buildings; and (c) any plans she has for the removal of asbestos. (AQW 344/02)

**The Minister for Employment and Learning (Ms Hanna):** DEL owns the Felden Training Centre, currently occupied by the East Antrim Institute of Further & Higher Education (EAIFHE). Asbestos has been used as a component in its construction.

There are 6 DEL staff, 25 Institute staff and 120 trainees in the Centre.

The Institute is preparing an economic appraisal of its accommodation needs and, as part of that appraisal, will determine the best option to address the asbestos issue.

### IT-Related Subjects

**Mr Tierney** asked the Minister for Employment and Learning to detail the number of undergraduate places for all academic years in IT-related subjects, at each campus of the University of Ulster and at Queen's University. (AQW 362/02)

**Ms Hanna:** The Department does not hold information on the overall number of undergraduate places available in specific subject areas in either Queen's University or the University of Ulster.

However, the number of undergraduate students enrolled on each year of Computer Science related courses at each campus of the University of Ulster and at Queen's University in 2001/02<sup>1</sup> are outlined in the table below:

Year of Programme	Queen's University Belfast	University of Ulster Jordanstown	Coleraine	Belfast	Magee
0	60				
1	437	349	105	1	86
2	298	234	123		71
3	145	185	90		46
4	113	75	56		50
Not specified <sup>2</sup>	180				
<b>Total</b>	<b>1,233</b>	<b>843</b>	<b>374</b>	<b>1</b>	<b>253</b>

<sup>1</sup> Figures for 2001/02 are provisional.

<sup>2</sup> Not specified may be used by the institutions if the programme structure does not enable Year of programme to be derived.

### Asbestos

**Mrs I Robinson** asked the Minister for Employment and Learning to detail (a) the number of buildings leased by her Department that have asbestos as a component of their construction; (b) the number of staff employed in these buildings; and (c) any plans she has for the removal of asbestos. (AQW 399/02)

**Ms Hanna:** My Department does not lease any buildings. DFP, as part of the general office estate, lease a number of buildings occupied by staff from my Department and they will be responding accordingly.

### Lifelong Learning: Over 60s

**Mr M Robinson** asked the Minister for Employment and Learning to outline progress being made in extending lifelong learning to all age groups, in particular the over 60s. (AQW 416/02)

**Ms Hanna:** I continue to encourage Colleges, universities and other providers to make lifelong learning opportunities widely available for people of all ages and interests, whether work related or otherwise. In particular the strategy for helping those with essential skills deficiencies will apply to all ages. However certain programmes, while available to older people, are primarily designed to improve the employability skills of those in work or seeking to re-enter the labour force.

### Springvale Educational Village

**Mr Adams** asked the Minister for Employment and Learning to outline the sources and amounts of funding committed to develop the Springvale Educational Village. (AQW 487/02)

**Ms Hanna:** The total capital cost of the Springvale Educational Village is £70.7m. The Executive has committed to provide £40m for the main campus by way of

a contribution, equivalent to that capital sum, towards the Private Finance Initiative unitary payment. The Institutions are to find the remaining £30.7 from a variety of sources and, as they indicated to the Department at March 2000, these sources are the Millenium Commission (£1.5m), the Northern Ireland Educational Foundation (£11.5m), the International Fund for Ireland (£8.2m) and themselves (£9.5m).

### Springvale Educational Village

**Mr Adams** asked the Minister for Employment and Learning to detail the total cost, to date, of technical assistance to develop the Springvale Educational Village.  
(AQW 488/02)

**Ms Hanna:** To date, total financial assistance provided by my Department for the development and service costs of Springvale amounts to £502,985. This includes £51,846 consultancy to prepare the Outline Business Case.

### Childcare Provision

**Mrs Carson** asked the Minister for Employment and Learning if she can provide evidence to support claims that significant numbers of parents are seeking employment but are prevented by a shortage of affordable childcare.  
(AQW 554/02)

**Ms Hanna:** There is a large body of survey evidence and significant anecdotal evidence that a shortage of available childcare is a barrier to employment for many parents, particularly mothers. It is worth noting that this issue was raised by participants at all 31 engagement meetings held by the Task Force on Employability and Long Term Unemployment. The Labour Force Survey shows that 40% of people who want a job but are not looking give 'family and home care' as the reason. The figure for women is over 70%. DEL has recently taken delivery of a draft final report of a piece of research, commissioned jointly by DEL, the Equality Commission and the four Childcare Partnerships, on the use of and demand for daycare in Northern Ireland. This showed an existing and growing gap between demand and supply. An article on this research will be published in this year's Labour Market Bulletin and the full report will be made available as soon as possible after it has been signed off by the commissioning partners.

### 'Employers for Childcare'

**Mrs Carson** asked the Minister for Employment and Learning to detail the amount of funding that the organisation 'Employers for Childcare' has received from the EU programme for building sustainable prosperity.  
(AQW 556/02)

**Ms Hanna:** The organisation 'Employers for Childcare' submitted an application under Measure 2.8- The Advancement of Women' of the Programme for Building Sustainable Prosperity. Following the selection process it was awarded European Social Fund assistance, for the period 01 June 2002 – 31 May 2004, of £753,971.

### Lap Dancing

**Dr Birnie** asked the Minister for Employment and Learning whether her department issued work permits in respect of Eastern European women performing at the Movie Star Café lap dancing club in South Belfast.  
(AQW 577/02)

**Ms Hanna:** An application for a work permit for a group of "Baltic Dancers" was received from the Movie Star Cafe in June 2002. The members of the group were all residents of Baltic State countries. A work permit was issued on 1 July 2002 for a period of twelve weeks from the group's date of entry to the United Kingdom.

## ENVIRONMENT

### Burning of Tyres

**Mr O'Connor** asked the Minister of the Environment to outline (a) whether he is aware of recent news coverage that fumes given off by burning tyres may be carcinogenic; (b) if he has any information regarding the pollution caused by the burning of tyres; and (c) any plans he has to prevent tyres being burnt in public; and to make a statement.  
(AQW 435/02)

**The Minister of the Environment (Mr Nesbitt)** [*supplementary answer*]: Unfortunately the information contained in my previous answer to you could have been misinterpreted and Section C should therefore read as follows:

- (c) While there is no legislation that specifically prevents the burning of tyres, other more general powers are available. For example District Councils have powers (under the Clean Air (NI) Order 1981) to take action against smoke emissions that are likely to be prejudicial to health or a smoke nuisance. Councils also have powers to control the illegal deposition of waste, including tyres, on land through the Pollution Control and Local Government (NI) Order 1978. In addition, the Duty of care Regulations came into force on 1 October 2002. In enforcing these Regulations, my Department's Environment and Heritage Service will monitor the completion of Waste Transfer Notes to try to ensure that tyres are disposed of properly.

I apologise for any inconvenience.

### ASSI: Strangford Lough

**The Lord Kilclooney** asked the Minister of the Environment how many years are needed to issue compensation to those land owners around the Strangford Lough area, who were refused permission to carry out

various works on their land due to the declaration of the Areas of Special Scientific Interest [ASSI] designation.  
(AQW 579/02)

**Mr Nesbitt:** The legislation requires my Department to notify each landowner and occupier within an Area of Special Scientific Interest (ASSI) and give them a list of activities which might damage its scientific interests. Owners and occupiers are required to give written notice to the Department before undertaking any such activity. Where my Department does not grant consent, it offers to enter into a management agreement in accordance with the legislation. This is an entirely voluntary arrangement and the landowner may choose to proceed with the activity once the statutory time limits for consideration of applications for consent, have been exceeded.

There is no time limit to the successful conclusion of a management agreement and delays may be caused by the need for landowners to establish proof of title.

Management agreements are usually accompanied by payments to the landowner to redress any resulting loss of income or loss in value of their property. Since January 2000, the Department has had to ensure that payments associated with agreements relating to agricultural production comply with EC State Aid rules and this has caused delays in concluding some agreements.

I am informed by my officials that there are currently two outstanding cases within Strangford Lough ASSI where there have been protracted negotiations about management agreements. In both cases the landowners will shortly be offered a revised management agreement in line with the Management Of Sensitive Sites (MOSS) scheme that I recently announced for the beneficial management of ASSIs.

### ASSI: Ards Area

**The Lord Kilclooney** asked the Minister of the Environment to outline (a) the number of residents who were consulted prior to the declaration of an Area of Special Scientific Interest [ASSI] for the Outer Ards area; (b) whether a scientific assessment was available prior to this declaration; and (c) whether he will consider amending the boundaries of this ASSI. (AQW 580/02)

**Mr Nesbitt:**

- (a) In exercising its function of designating Areas of Special Scientific Interest my Department has a duty to notify owners and occupiers of the lands and the relevant district councils. A total of 290 owners, occupiers and other interested parties were notified about the Outer Ards Area of Special Scientific Interest (ASSI).
- (b) Such designations only take place after appropriate scientific survey. Survey work commenced in 1985

on the Outer Ards with regular bird counts on the coastline. The area was also surveyed for earth science interests, coastal vegetation and intertidal species. A scientific assessment of the area was made by my Department's Environment and Heritage Service, and endorsed by the Council for Nature Conservation and the Countryside, prior to the designation.

- (c) My Department has a statutory obligation to consider any comments made by consultees following the declaration before confirming the ASSI. The Environment and Heritage Service is currently considering representations made in relation to specific scientific interests of the Outer Ards. This may result in some changes to the ASSI boundary at confirmation.

## FINANCE AND PERSONNEL

### Civil Servants

**Mrs Nelis** asked the Minister of Finance and Personnel to outline, in the last 2 years, the number of civil servants from the North West area and currently working in Belfast who (a) have applied for transfer; (b) have been transferred to the North West area; and (c) are currently awaiting transfer to the North West area. (AQW 280/02)

**The Minister of Finance and Personnel (Dr Farren):** Data is held only in relation to current applications, therefore details of the number of transfers already met are not available. Also, there is no precise or agreed definition of the North West area.

However, as at March 2001, 142 NICS staff working in the Belfast Travel to Work Area (TTWA) had outstanding requests to transfer to work locations in the Derry or Strabane TTWAs.

### Peace II

**Dr Birnie** asked the Minister of Finance and Personnel whether the Intermediary Funding Bodies for the European Peace II Programme use an allocation template to help decide the distribution of funding. (AQW 445/02)

**Dr Farren:** All project applications for PEACE II Funding are considered by a selection panel, which assesses the applications against the PEACE distinctiveness criteria, the Horizontal Principles and Measure specific criteria. Scores are awarded and recorded on a template against each of these to determine which projects are successful.

### Peace II

**Dr Birnie** asked the Minister of Finance and Personnel whether consideration is given, when allocating European



Peace II Funds, to the intended area of impact for the funding and not solely to the location of the applicant organisation's headquarters. (AQW 446/02)

**Dr Farren:** The PEACE II application form asks applicants to specify the intended area of impact for the funding requested and this is considered as part of the project selection process. All areas, groups and sectors will have equal access to PEACE II funding. Equality of opportunity and balanced intervention is one of a number of horizontal principles that govern the way the PEACE II Programme will be implemented. Furthermore, in accordance with Section 75 of the Northern Ireland Act 1988, the Special EU Programmes Body has a responsibility to promote equality of opportunity.

### Ground Rent

**Mr Shannon** asked the Minister of Finance and Personnel to outline (a) the current position regarding new legislation for ground rent; and (b) when he expects changes to be introduced to the Assembly.

(AQW 496/02)

**Dr Farren:** The voluntary redemption scheme provided for in the Ground Rents Act 2001 was brought into effect on 29 July 2002, and gives owners of residential property the option to redeem their ground rents. Further guidance and the relevant forms are available from Land Registers. The Act also provides for a compulsory scheme of redemption, and it is intended that this will be introduced following a review of the voluntary purchase scheme.

### Executive Programme Fund Allocations

**Ms McWilliams** asked the Minister of Finance and Personnel if there was consistent protocol applied across all Departments in terms of how all programme funds were included in the draft Budget figures released on 24 September 2002.

(AQO 317/02)

**Dr Farren:** The presentation of Executive Programme Fund allocations in the Draft Budget Document, which I presented to the Assembly on 24 September, was applied consistently across all departments.

### Barnett Formula

**Mr K Robinson** asked the Minister of Finance and Personnel if he has had any recent meetings with HM Treasury on the future operation of the Barnett formula.

(AQO 315/02)

**Dr Farren:** I met the Chief Secretary to the Treasury during his recent visit to Northern Ireland and discussed a range of issues, including the application of the Barnett Formula. I explained that the NI Executive is not convinced that the services for which we are responsible are

fairly funded, and expressed concern that the Treasury has not yet fully taken on board our concerns about the formula. I have separately written to Treasury, on behalf of the Executive, setting out our concerns. I have also invited the Treasury to consider our evidence more fully and establish a mechanism by which we can take work forward.

It would have been my intention to have pursued this matter forcibly.

### Peace II

**Dr Birnie** asked the Minister of Finance and Personnel what policies have been adopted to promote an equitable geographical distribution of the PEACE monies through the Intermediary Funding Bodies and Departments.

(AQO 332/02)

**Dr Farren:** All PEACE II Funds are targeted at areas, sectors, and or groups adversely affected by political unrest which demonstrate that they meet the distinctiveness criteria and the appropriate Measure specific criteria. Project selection processes must also take account of the degree to which projects meet the Programmes horizontal principles including New TSN and Balanced Intervention/ Equal Opportunities. With the exception of Priority 3, in which funds are allocated to Local Strategy Partnerships in each District Council area there are no geographical limitations on the distribution of funding under the Programme.

### Reform Plan

**Mr Gallagher** asked the Minister of Finance and Personnel to outline what he expects to receive from Departments in the Reform Reports to which he referred in his Budget statement.

(AQO 330/02)

**Dr Farren:** The general theme is that each Reform Plan should focus on a small number of strategically important reforms encompassing the major proportion of expenditure in each department. I expect them to describe how services to the public will be improved, and identify more efficient ways of working.

Each Reform Plan should set out the improvements in services which will be sought in each area, the timetable for the implementation of change and the outcomes, which are to be delivered. I will be looking for opportunities to free up resources to be re-deployed to other priorities and evidence of rigorous benchmarking of performance against best practice elsewhere. I also expect to see new approaches to management, the harnessing of better expertise in service delivery and the development of more effective partnerships between the public, the private and the community and voluntary sectors as a means of improving performance.

However, reform will require very different actions in different contexts. So we are not prescribing a rigid formula:

instead we are encouraging departments to be innovative in their approach and thinking. My officials recently met with those from all other departments to facilitate the development of plans, and further engagement of this nature will take place as necessary over the coming weeks.

### Ouseley Report

**Mr McCarthy** asked the Minister of Finance and Personnel to outline (a) when the findings of the Ouseley Report will be brought to the Executive; and (b) whether he will support the recommendation of flexibility in relation to the retirement age for Civil Servants.

(AQO 293/02)

**Dr Farren:** The findings of the Ouseley report were brought before the Executive in May and I made a statement to the Assembly on 11 June 2002. At present the report is subject to a public consultation that shall complete on 31 October 2002. I can confirm that revised arrangements for the retirement age of civil servants were introduced on 4 October. With effect from that date all civil servants have the option to remain in service beyond age 60 and up to a maximum of age 65, subject to continued satisfactory performance and attendance.

### Peace II

**Mr Beggs** asked the Minister of Finance and Personnel if, when determining the award of European Funding such as Peace II Funding, consideration will be given to significant changes in economic fortunes that have occurred in local areas since the development of the Noble indices. [R]

(AQO 340/02)

**Dr Farren:** The funding allocated under EU Programmes has been agreed by the Executive and the respective financial allocations for each Priority and Measure are specified in the Operational Programme which has been formally agreed with the European Commission. The first opportunity to make changes is after the Mid-Term Evaluation of PEACE II which will be undertaken between now and summer 2003. The Mid-Term Evaluation will take account of socio economic changes and where appropriate will make proposals on any necessary changes between Measures of the PEACE II Programme. It would have been my intention that any such changes would be subject to the agreement of the Monitoring Committee and the Executive.

### Age of Retirement

**Dr Hendron** asked the Minister of Finance and Personnel when a decision on the age of retirement will be implemented.

(AQO 331/02)

**Dr Farren:** I can confirm that the compulsory age of retirement for staff employed in the Northern Ireland Civil Service was raised to the age of 65 with effect from 4th October 2002.

This means that staff who reached age 60 on or after 4 October will no longer be retired automatically but will be given the option to remain in service beyond age 60 and up to a maximum of age 65, subject to continued satisfactory performance and attendance.

### Capital and Service Contracts

**Mr Attwood** asked the Minister of Finance and Personnel to detail (a) the number and value of all capital and service contracts, respectively, awarded in the 2002/2003 financial year; (b) whether each contract in the 2002/2003 financial year has been or will be assessed for inclusion in pilot schemes to be determined by the Public Procurement Board; and (c) the reasons why any contracts in the current financial year have not been recommended as pilot projects.

(AQO 304/02)

#### Dr Farren:

- (a) The number and value of contracts awarded, or potentially to be awarded by the Department of Finance and Personnel in the 2002/2003 financial year are as follows:

	Capital	Service
Number	35	247
Value (£m)	13.9	39.2

- (b) Contracts in 2002/03 year have not been, nor will they be, considered for inclusion in the pilot scheme to be determined by the Procurement Board.
- (c) Each Department was asked in July 2002 to put forward 2 contracts for inclusion in the pilot scheme for consideration by the Procurement Board. Only those contracts at pre-tender stage at the time could be considered because the tender documentation requires prospective bidders to include a plan for the unemployed.

### Review of Rating

**Mrs Carson** asked the Minister of Finance and Personnel to examine the possibility of rate reductions for small business owners in inner urban areas, giving the increasing number of out of town shopping centre complexes.

(AQO 285/02)

**Dr Farren:** As you are aware I announced the launch of the Executive's Consultation paper on the Review of Rating Policy in the Assembly on 27 May 2002. The question of urban regeneration is one of the policy matters being considered in the Review.

No decisions on any changes to the current rating system will be taken until all the responses have been analysed and considered by the Executive in the autumn.

As you may also be aware a Revaluation of Non-Domestic property is underway and a new valuation list will be introduced in April 2003. This will take into account economic and social changes that have taken place since the last revaluation in 1997 and will restore the link between rateable values and open market rental values thus ensuring a more equitable distribution of the rate burden. It is too early to make a judgment on its full impact until the exercise is complete and the precise effect on individual properties, business sectors and locations is known but it is quite possible that the revaluation will ease the rate burden on many businesses located in town centres that have been in decline.

## HEALTH, SOCIAL SERVICES AND PUBLIC SAFETY

### Hospital Acquired Infection

**Mr M Robinson** asked the Minister of Health, Social Services and Public Safety how many wards in Health Service hospitals have been closed for a period during the last 12 months due to outbreaks of hospital acquired infection. (AQW 372/02)

**The Minister of Health, Social Services and Public Safety (Ms de Brún):** The information requested is not available.

Níl fáil ar an eolas a iarradh.

### Hospital Acquired Infection

**Mr M Robinson** asked the Minister of Health, Social Services and Public Safety to detail, in each of the last 5 years, (a) the number of cases of hospital acquired infection reported at Belfast City Hospital; and (b) how this compares to other hospitals across Northern Ireland. (AQW 375/02)

**Ms de Brún:** The information requested is not available.

Níl fáil ar an eolas a iarradh.

### Strategic Management Structures

**Mr Tierney** asked the Minister of Health, Social Services and Public Safety to outline whether, at the time she took office, she assessed whether or not the strategic management structures were an efficient and effective

use of public money in the delivery of a health service, and to give her current assessment of these structures.

(AQW 380/02)

**Ms de Brún:** My priorities on taking up office were to tackle the pressing policy and resource issues which were impacting most directly on the delivery of care to service users. The current organisational structures were considered by the Acute Hospitals Review Group in their report published in June 2001. The Group's proposals and the result of the pre-consultation exercise on the Group's report have contributed to my proposals for the reform of organisational structures set out in my consultation paper '*Developing Better Services: Modernising Hospitals and Reforming Structures*'. I consider that the current organisational structures of the Health and Personal Social Services need to be reviewed to determine whether they are appropriate in the new environment of partnership and co-operation signalled in the Executive's Programme for Government.

Ar glacadh leis an oifig dom ba iad na tosaíochtaí a bhí agam ná dul i ngleic leis na ceistanna práinneacha polasaí agus acmhainne a bhí ag dul i bhfeidhm go díreach ar sholáthar cúraim d'úsáideoirí seirbhíse. Mheas an Grúpa Athbhreithnithe ar na Géarocharlanna na struchtúir eagraíochtúla faoi láthair ina dtuairisc a foilsíodh i Meitheamh 2001. Chuir moltaí an Ghrúpa agus toradh an chleachtaidh réamhchomhairliúcháin ar thuairisc an Ghrúpa leis na moltaí s'agam féin leis na struchtúir eagraíochtúla a leasú leagtha amach sa pháipéar comhairliúcháin s'agam '*Seirbhísí Is Fearr a Fhorbairt: Otharlanna a Nuachóiriú agus Struchtúir a Leasú*'. Measaim nach mór athbhreithniú a dhéanamh ar struchtúir eagraíochtúla faoi láthair sna Seirbhísí Sláinte agus Sóisialta Pearsanta le dearbhú má tá siad cui i ré úr na páirtíochta agus an chomhoibrithe léirithe i gClár an Choiste Fheidhmiúcháin um Rialtas.

### Fluoridation

**Mr Shannon** asked the Minister of Health, Social Services and Public Safety to outline any plans to introduce fluoride into the water supply anywhere in Northern Ireland. (AQW 467/02)

**Ms de Brún:** Health and Social Services Boards are responsible under the Water (Fluoridation) (Northern Ireland) Order 1987 for bringing forward schemes to introduce fluoride into the water supply here. I am not aware at present of plans in any Board area to do so.

Tá Boird Sláinte agus Seirbhísí Sóisialta freagrach de réir Ordú Uisce (Fluairíniú) (Tuaisceart Éireann) 1987 as scéimeanna a thabairt chun tosaigh leis an fhlúairíd a thabhairt isteach inár soláthar uisce anseo. Ní eol dom faoi láthair go bhfuil pleananna i mBordcheantar ar bith leis seo a dhéanamh.

## Cancer Clusters

**Mr Shannon** asked the Minister of Health, Social Services and Public Safety to provide any evidence gathered of cancer clusters in the Province and to state whether this evidence will be made available to the public.

(AQW 476/02)

**Ms de Brún:** I refer the Member to my answer to AQW 466/02.

Treoraím an Ball do mo fhreagra a thug mé ar AQW 466/02.

## Protection of Children and Vulnerable Adults Bill

**Mr Shannon** asked the Minister of Health, Social Services and Public Safety to outline what criteria are likely to be applied in making a decision to list an individual reported under proposals contained in the Protection of Children and Vulnerable Adults Bill.

(AQW 477/02)

**Ms de Brún:** The criteria which will be applied when making a decision to include an individual on either of the statutory lists have yet to be developed. Work in this area will be taken forward by my officials, in consultation with the relevant professionals. In general terms, a decision to list will be based on the assessment that the individual poses a threat to children and as a result is unsuitable for work with them.

Tá na critéir a chuirfear i bhfeidhm nuair a dhéanfar cinneadh ar cé acu duine a chur ar cheachtar de na liostaí reachtúla le bheith forbartha go fóill. Tabharfaidh na feidhmeannaigh s'agam an obair sa réimse seo chun tosaigh, i gcomhairle leis na gairmithe bainteacha. I dtéarmaí ginearálta, beidh an cinneadh le liostáil a dhéanamh bunaithe ar an mheasúnú gur féidir gur bagairt ar pháistí atá sa duine agus dá bharr sin ní bheidh an duine fóirsteanach le hobair leo.

## Accredited/ Childcare Organisations

**Mr Shannon** asked the Minister of Health, Social Services and Public Safety to outline the sanctions which may be placed on accreditation and childcare organisations if they fail to report or carry out suitability checks as required by Clause 2 of the Protection of Children and Vulnerable Adults Bill.

(AQW 478/02)

**Ms de Brún:** An accredited organisation which does not fulfil the terms of an accreditation agreement is likely to have its accredited status removed. In relation to child care organisations, as defined by the Protection of Children and Vulnerable Adults Bill, the issue of non-

compliance with the requirements placed on them by the Bill will be addressed by the relevant regulating authority.

Is dócha go mbainfí stádas creidiúnaithe d'eagraíocht creidiúnaithe nach gcomhlíonann téarmaí an chomhaontithe creidiúnaithe. I dtaca le heagraíochtaí cúram leanaí de, mar atá sainmhínithe ag an Bille um Chosaint Páistí agus Aosach Soghonta, rachaidh an t-údarás rialaitheach bainteach i ngleic le ceist an neamhghéillte do na riachtanais a chuireann an Bille orthu.

## Anorexia Nervosa

**Mr M Robinson** asked the Minister of Health, Social Services and Public Safety if she has any plans to address any disparities across NI in the availability of specialist services and community/family support for people suffering from anorexia nervosa.

(AQW 480/02)

**Ms de Brún:** A review of eating disorder services is ongoing and my Department is currently considering the comments received from a wide spectrum of people following the consultation of the Eating Disorder Services report. Decisions on services will be made taking these comments into account.

Tá athbhreithniú ar sheirbhísí neamhord iteacháin ag dul ar aghaidh faoi láthair agus tá an Roinn s'agam ag déanamh machnaimh san am i láthair ar na tuairimí a fuarthas ó raon leathan daoine i ndiaidh an comhairliúcháin ar thuairisc na Seirbhísí Neamhord Iteacháin. Déanfar cinn ar sheirbhísí ag cur na dtuairimí seo san áireamh.

## Adult Psychiatry

**Mr M Robinson** asked the Minister of Health, Social Services and Public Safety to detail the number of psychiatrists working in the field of adult psychiatry, in each of the last 10 years, broken down by Board area.

(AQW 481/02)

**Ms de Brún:** The information requested is detailed in the tables below.

PSYCHIATRISTS BROKEN DOWN BY HSS BOARD AREA AT MARCH<sup>1,2</sup>(HEADCOUNT)

Year	Eastern	Northern	Southern	Western	Total
1993 <sup>3</sup>	77	41	25	28	171
1994	76	40	16	29	161
1995	84	38	21	32	175
1996	77	46	22	29	174
1997	85	45	23	25	178
1998	93	44	23	34	194
1999	95	42	28	34	199
2000	96	43	27	34	200



Year	Eastern	Northern	Southern	Western	Total
2001	94	44	33	38	209
2002	96	47	29	33	205

<sup>1</sup> Includes Consultants, Registrars, Staff Grades, House Officers and other medical grades

<sup>2</sup> Figures include a small number of staff who provide adolescent psychiatric services but could not be separately identified

<sup>3</sup> 1993 Figures are at September

#### PSYCHIATRISTS BROKEN DOWN BY HSS BOARD AREA AT MARCH<sup>1,2</sup>(WHOLE TIME EQUIVALENT)

Year	Eastern	Northern	Southern	Western	Total
1993 <sup>3</sup>	69.1	39.9	23.3	26.5	158.8
1994	68.5	38.7	14.3	28.0	149.5
1995	76.7	34.4	21.0	29.3	161.4
1996	70.5	42.5	21.1	26.8	160.9
1997	77.9	41.5	22.0	23.1	164.5
1998	83.5	42.3	23.0	32.2	181.0
1999	85.8	40.1	25.8	31.4	183.0
2000	86.7	42.0	25.8	31.8	186.2
2001	87.4	41.0	30.6	36.0	194.1
2002	90.6	42.7	28.4	31.5	193.3

<sup>1</sup> Includes Consultants, Registrars, Staff Grades, House Officers and other medical grades

<sup>2</sup> Figures include a small number of staff who provide adolescent psychiatric services but could not be separately identified

<sup>3</sup> 1993 Figures are at September

Tá an t-eolas a iarradh léirithe sna táblaí thíos.

#### SÍCIATRAITHE MIONDEALAITHE DE RÉIR BORDCHEANTAR SSS I MÁRTA<sup>1,2</sup>(LÍON NA NDAOINE)

Bliain	An tOirthear	An Tuaisceart	An Deisceart	An tIarthar	Iomlán
1993 <sup>3</sup>	77	41	25	28	171
1994	76	40	16	29	161
1995	84	38	21	32	175
1996	77	46	22	29	174
1997	85	45	23	25	178
1998	93	44	23	34	194
1999	95	42	28	34	199
2000	96	43	27	34	200
2001	94	44	33	38	209
2002	96	47	29	33	205

<sup>1</sup> Comhairligh, Cláraitheoirí, Gráid Fhoirne, Oifigigh Tí agus gráid mhíochaine eile curtha san áireamh

<sup>2</sup> Curtha san áireamh sna staitisticí tá roinnt bheag ball foirne a sholáthraíonn seirbhísí síciatracha d'ógánaigh ach ní fhéadfaí iad a aithint ina nduine agus ina nduine

<sup>3</sup> Meán Fómhair na staitisticí i 1993

#### SÍCIATRAITHE MIONDEALAITHE DE RÉIR BORDCHEANTAR SSS I MÁRTA<sup>1,2</sup>(COIBHÉIS LÁNAIMSEARHA)

Bliain	An tOirthear	An Tuaisceart	An Deisceart	An tIarthar	Iomlán
1993 <sup>3</sup>	69.1	39.9	23.3	26.5	158.8
1994	68.5	38.7	14.3	28.0	149.5
1995	76.7	34.4	21.0	29.3	161.4
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<sup>2</sup> Curtha san áireamh sna staitisticí tá roinnt bheag ball foirne a sholáthraíonn seirbhísí síciatracha d'ógánaigh ach ní fhéadfaí iad a aithint ina nduine agus ina nduine

<sup>3</sup> Meán Fómhair na staitisticí i 1993

### New Hospital: Downpatrick

**Mr McGrady** asked the Minister of Health, Social Services and Public Safety to confirm that she will announce a new hospital for Downpatrick in December 2002. (AQW 559/02)

**Ms de Brún:** I am aiming to take final decisions towards the end of the year on the proposals I have published in my consultation document *Developing Better Services – Modernising Hospitals and Reforming Structures*. I will be making an announcement after that. This will include the way forward with redevelopment of the Downe Hospital.

Tá sé mar aidhm agam cinní deireanacha a dhéanamh i dtrátha dheireadh na bliana ar na moltaí a d'fhoilsigh mé sa doiciméad comhairliúcháin s'agam *Seirbhísí Is Fearr A Fhorbairt - Otharlanna A Nuachóiriú agus Struchtúir a Leasú*. Déanfaidh mé fógra ina dhiaidh sin. Beidh an bealach chun tosaigh le hathfhorbairt Otharlann an Dúin san áireamh leis seo.

### Down Lisburn Trust: Funding

**Mr McGrady** asked the Minister of Health, Social Services and Public Safety, pursuant to AQW 4020/01, what further and immediate steps will be taken to rectify the continued imbalance of funding to the Down Lisburn Trust by the Eastern Health and Social Services Board. (AQW 560/02)

**Ms de Brún:** Since my response to AQW 4020/01 on 14 June 2002, the Eastern Health and Social Services

Board has initiated action in a number of areas. Work has started to assess the implications of the recently published 2001 Census of Population estimates. The Board is also seeking to confirm the accuracy of the underlying statistical analysis and to examine the expenditure on Family Practitioner Services to confirm the validity of the position in respect of the population of Down Lisburn Area. The Board plans to develop proposals to address the matter, and, following a period of public consultation, the strategy produced should begin to be implemented from April 2003.

Ó bhí an fhreagairt s'agam ann ar AQW 4020/01 ar 14 Meitheamh 2002, chuir siad tús le Bord Sláinte agus Seirbhísí Sóisialta an Oirthir gníomh i roinnt réimsí. Thosaigh an obair ar impleachtaí mheastacháin an Daonáireamh Daonra 2001 a mheasúnú a foilsíodh le déanaí. Tá an Bord ag iarraidh chomh maith cruinneas na bunanailise staitistiúla a dhearbhu agus an caiteachas ar Sheirbhísí Dochtúirí Teaghlaigh a scrúdú le bailíocht an scéil a dhearbhu maidir le daonra Ceantar an Dúin Lios na gCearrbhach. Tá sé beartaithe ag an Bhord moltaí a fhorbairt le tabhairt faoin cheist, agus, i ndiaidh tréimhse chomhairliúcháin phoiblí, ba chóir, ó Aibreán 2003, tús a chur le cur i bhfeidhm na straitéise a táirgeadh.

### Causeway Hospital

**Mr Dallat** asked the Minister of Health, Social Services and Public Safety to confirm that surgical wards at the Causeway Hospital have been, and are currently, operating at full capacity; and to make a statement.

(AQO 325/02)

**Ms de Brún:** Staffing difficulties have resulted in the temporary unavailability of up to 8 beds in the surgical wards since 10 September. Steps are being taken to recruit additional nursing staff and those beds will be brought back into use over the next 2 months as staff are appointed.

Mar thoradh ar dheacrachtaí foirne bhí dofhaighteacht shealadach 8 leaba ar a mhéad i mbardaí máinliacha ó 10 Meán Fómhair. Táthar ag tabhairt céimeanna le baill foirne altranais breise a earcú agus bainfear athúsáid as na leapacha sin thar an chéad 2 mhí eile de réir mar a cheapfar baill fhoirne.

### Rape Crisis Centre: Funding

**Mr M Robinson** asked the Minister of Health, Social Services and Public Safety, following the recent disclosure that Northern Ireland's Rape Crisis Centre was forced to operate without phone lines due to lack of funding, if she will ensure that the necessary funding is made available to avert a similar crisis in the future. (AQO 286/02)

**Ms de Brún:** I am aware of the difficulties which the Belfast Rape Crisis and Sexual Abuse Centre faces and I can report that my Department has now received an

application for funding and a Business Plan from the organisation.

To assist my Department further in its consideration, the acting committee members of the Belfast Rape Crisis and Sexual Abuse Centre have been invited to meet urgently with my officials. It will only be possible to take appropriate funding decisions after that consideration has been completed.

Is eol domh na deacrachtaí atá ag an Ionad Éigeandála um Éigníú agus Mhí-úsáid Gnéis Bhéal Feirste agus thig liom a thuairisciú go bhfuil iarratas ar mhaoiniú agus Plean Gnó faighte ag mo Roinn ón eagraíocht anois.

Le cúnamh breise a thabhairt do mo Roinn agus í ag machnamh an scéil, tugadh cuireadh do bhaill choiste gníomhach an Ionaid Éigeandála um Éigníú agus Mhí-úsáid Gnéis Bhéal Feirste bualadh go práinneach le mo chuid feidhmeannach. Ní féidir cinneadh cuí maoinithe a dhéanamh go dtí go bhfuil an machnamh sin i gcrích.

### Merit Awards: Senior Medics

**Mrs Courtney** asked the Minister of Health, Social Services and Public Safety to outline the criteria used for distributing merit awards to senior medics.

(AQO 299/02)

**Ms de Brún:** Distinction awards are granted to medical and dental consultants in recognition of outstanding professional work. The criteria used to decide which consultants should receive awards cover the following six areas -

- Service to patients;
- Service development;
- Administrative or management activities;
- The achievement of service goals;
- Teaching and training; and
- Research, innovation and improvement of service.

The details of each of the six criteria are set out in the "Guide to the HPSS Consultants' Distinction Awards Scheme" and I will arrange for the Member to receive a copy of the Guide.

My Department will be carrying out a fundamental review of the scheme over the next few months with the aim of preparing a consultation paper setting out proposals on the way ahead.

Bronnadh duaiseanna Gradaim ar chomhairlaigh mhíochaine agus fhiacloireachta mar aitheantas ar sharobair ghairmiúil. Clúdaíonn na critéir a mbaintear úsáid astu le cinneadh a dhéanamh ar na comhairligh ar chóir duais a fháil na sé réimse seo a leanas—

- Séirbhís d'othair;
- Forbairt seirbhíse;
- Gníomhaíochtaí riaracháin nó bainistíochta;

- Baint amach aidhmeanna seirbhíse;
- Teagasc agus oiliúint; agus
- Taighde, nuálaíocht agus feabhsú seirbhíse.

Leagfar amach sonraí gach ceann de na sé chritéar seo i “Treoir do Scéim Duaiseanna Gradaim Comhairleach na SSSP” agus socróidh mé go bhfaighidh an Comhalta cóip den Treoir.

Beidh mo Roinn ag déanamh athbhreithniú bunúsach ar an scéim thar roinnt míonna le teacht leis an aidhm páipeár comhairliúcháin a réiteach le moltaí a leagan amach ar an bhealach chun tosaigh.

### Capital and Service Contracts

**Mr Attwood** asked the Minister of Health, Social Services and Public Safety, pursuant to AQO 123/02, to detail (a) the number and value of all capital and service contracts, respectively, awarded in the 2002/2003 financial year; (b) whether each contract in the 2002/2003 financial year has been or will be assessed for inclusion in pilot schemes to be determined by the Public Procurement Board; and (c) the reasons why any contracts in the current financial year have not been recommended as pilot projects.

(AQO 306/02)

**Ms de Brún:** I can advise that 384 capital contracts with a total value of £27,581,804 and 1,567 service contracts with a total value of £17,408,719 have been awarded by my Department and the public bodies for which it is responsible since the start of the current financial year.

Only contracts with values around the EC procurement thresholds to generate sufficient opportunity to help the unemployed are considered for inclusion in the pilot project.

My Department has asked the bodies for which it is responsible to review their procurement plans for the next six months to identify suitable contracts within this range for possible inclusion in the pilot project. The identification of suitable contracts will require careful consideration and I will want to be assured those nominated can accommodate the evaluation timescale for the pilot and that the award of vital contracts are not held back.

Is féidir liom a rá gur bhronn mo Roinn agus na comhlachtaí poiblí a bhfuil sí freagrach astu 384 chonradh caipitil a bhfuil luach iomlán de £27,581,804 phunt orthu agus 1,567 gconradh seirbhíse a bhfuil luach iomlán de £17,408,719 orthu ó thús na bliana airgeadais reatha.

Caithfidh conarthaí luachanna a bheith acu ar thairseacha soláthair an Aontais Eorpaigh le deis fostaíochta a chruthú do dhaoine difhostaithe sular féidir iad a chur isteach sa tionscadal píolóta.

D'iarr mo Roinn ar na comhlachtaí a bhfuil sí freagrach astu a gcuid pleananna soláthair don chéad sé mhí eile a

athbhreithniú le conarthaí oiriúnacha a aithint laistigh den réimse seo le gur féidir iad a chur sa tionscadal píolóta. Teastóidh machnamh cúramach le conarthaí oiriúnacha a aimsiú agus is maith liom a bheith cinnte gur féidir leo siúd a ainmnítear achar ama measúnaithe an tionscadail píolóta a chomhlíonadh agus nach gcoinnítear siar bronnadh conarthaí rithábhachtacha.

### Altnagelvin Hospital, Londonderry

**Mr Hay** asked the Minister of Health, Social Services and Public Safety to outline the current resources allocated to combating disorder at Altnagelvin Hospital, Londonderry.

(AQO 279/02)

**Ms de Brún:** The current level of resources allocated by the Trust to combating disorder at Altnagelvin Hospital for the 2002/2003 financial year is approximately £143,000.

Leithdháil an tIontaobhas £143,000 sa bhliain airgeadais 2002/2003 le dul i ngleic le neamhord ag Otharlann Alt na nGealbhan.

### Community Care: Funding

**Mrs Nelis** asked the Minister of Health, Social Services and Public Safety when the planned increase of 1,000 community care packages will take effect.

(AQO 329/02)

**Ms de Brún:** For the financial year 2002/2003 I allocated additional funding of £19.1m for community care services. Part of that money is being invested in utilising the appropriate range of HPSS skills to support an additional 1000 people in settings in the community which facilitate a return to independence and reduce the need for long-term residential and nursing home care. Each of the HSS Boards brought forward detailed proposals for achieving its share of the 1,000 target by the end of this financial year and these proposals have been approved.

Don bhliain airgeadais 2002/2003 leithdháil mé £19.1m de mhaoiniú breise ar sheirbhísí cúraim phobail. Tá cuid den airgead sin á infheistiú le raon fóirsteanach scileanna na SSSP a úsáid le tacú le 1,000 duine breise i suímh sa phobal a éascaíonn filleadh ar neamhspleáchas agus a laghdaíonn an gá le haghaidh cúraim chónaithe agus cúram theach altranaís atá fadtéarmach. Rinne gach ceann de na Boird SSS mionmholtaí lena scair den sprioc de 1,000 duine a bhaint amach roimh dheireadh na bliana airgeadais seo agus ceadaíodh na moltaí seo.

### Society of St Vincent de Paul

**Mr Molloy** asked the Minister of Health, Social Services and Public Safety to make a statement on the election of the National President of the Society of St

Vincent de Paul and on the contribution which the Society makes towards tackling poverty. (AQO 278/02)

**Ms de Brún:** The election of the National President of the Society of St Vincent de Paul, as with the election of officers to any voluntary organisation, is a matter for that organisation and not for the Department.

The Society is a registered charitable organisation, which provides a range of services to the more vulnerable members of society such as older people, the long-term unemployed and those in hospital or in prison. Services include nearly new clothing and furniture shops where goods are available at affordable prices; the provision of courses in education, home budgeting and confidence building; holidays for over 600 older people each year at Clare Lodge in Newcastle; visiting and offering friendship and help to over 3000 people every week in hospital, prison or in their own homes and, in limited circumstances, cash assistance.

In recognition of the work being done by the Society towards improving the lives of the less fortunate members of our society, my Department has contributed £68,905 to The Society of St Vincent de Paul for the 2002/03 financial year.

Baineann toghchán an Uachtaráin Náisiúnta ar Chumann Naomh Unseann de Pól leis an eagraíocht sin agus ní leis an Roinn; mar is amhlaidh do gach eagraíocht dheonach.

Is eagraíocht charthanachta chláráithe é an Cumann a sholáthraíonn raon seirbhísí do dhaoine leochaileacha amhail daoine scothaosta, iad sin atá difhostaithe go fadtéarmach agus daoine in otharlanna nó i bpríosún. Ar na seirbhísí a sholáthraíonn an Cumann tá siopaí éadaigh beagnach úr agus siopaí troscáin a bhfuil earraí ar fáil iontu ar phraghasanna réasúnta; soláthar cúrsaí san oideachas, sa bhuiséadacht bhaile agus i dtógáil muiníne; saoire do bhreis agus 600 duine scothaosta gach bliain ag Clare Lodge sa Chaisleán Nua; ag cuartaíocht, ag déanamh cairdis agus ag tabhairt cúnaimh do bhreis agus 3000 duine gach seachtain san otharlann, i bpríosún agus ina mbaile féin agus, i gcúinsí teoranta, cúnamh airgid.

Mar gheall ar an obair atá á déanamh ag an Chumann le saolta na ndaoine is lú ádh sa tsochaí a fheabhsú, thug mo Roinn £68,905 phunt do Chumann Naomh Unseann de Pól don bhliain airgeadais 2002/2003.

## Personal Care

**Mr McCarthy** asked the Minister of Health, Social Services and Public Safety to make a statement on the Inter-Departmental Working Group on Personal Care. (AQO 292/02)

**Ms de Brún:** On 27 February 2001, the Assembly debated the provision of long-term care for the elderly and resolved that the recommendations of the Royal

Commission on the Long Term Care for the Elderly be implemented in full.

The Executive at their meeting on 3 May 2001 agreed that an Inter-departmental Group of senior officials drawn from the Department of Health, Social Service and Public Safety, the Department of Finance and Personnel, the Office of the First Minister and Deputy First Minister and the Department for Social Development should be established to examine the costs and implications of introducing free personal care here and to report to the Executive.

The Group's Report on Free Personal Care was forwarded to the First Minister and Deputy First Minister on Thursday 8 August. Following discussion at the Executive on 12 August, Ministers asked for some further work to be undertaken.

Ar 27 Feabhra 2001, phléigh an Tionól soláthar cúraim fhadtéarmaigh do dhaoine scothaosta agus socraíodh go gcuirfí moltaí an Choimisiúin Ríoga ar Chúram Fadtéarmach do dhaoine scothaosta i bhfeidhm ina n-iomláine.

D'aontaigh an Coiste Feidhmiúcháin ag a gcuinniú ar 3 Bealtaine 2001 gur chóir Grúpa Idir-Rannach d'fheidhmeannaigh shinsearacha ón Roinn Sláinte, Seirbhísí Sóisialta agus Sábháilteachta Poiblí, ón Roinn Airgeadais agus Pearsanra, ó Oifig an Chéad-Aire agus an LeasChéad-Aire agus ón Roinn Forbartha Sóisialta a bhunú le himscrúdú a dhéanamh ar chostais agus ar impleachtaí cúraim phearsanta a thabhairt isteach saor in aisce anseo agus le tuairisciú don Choiste Feidhmiúcháin.

Cuireadh Tuairisc an Ghrúpa ar Chúram Pearsanta Saor in Aisce ar aghaidh chuig an Chéad-Aire agus chuig an LeasChéad-Aire Déardaoin 8 Lúnasa. I ndiaidh plé a dhéanamh sa Choiste Feidhmiúcháin ar 12 Lúnasa, d'iarr Airí go dtabharfaí faoi obair bhreise.

## Waiting List Targets

**Mr Byrne** asked the Minister of Health, Social Services and Public Safety why she has failed to meet her own waiting list targets. (AQO 301/02)

**Ms de Brún:** Waiting list targets for 2001/02 were based on significant additional investment becoming available to complement the improved management arrangements which were outlined in the Framework for Action on Waiting Lists, published in September 2000. In the event, however, only a limited amount of extra funding could be allocated and, as demand for hospital services continued to outstrip supply, it was inevitable that waiting list targets could not be achieved.

Bhí spriocanna do liostaí feithimh do 2001/02 bunaithe ar infheistíocht shuntasach bhreise a bheith ar fáil leis na socruithe feabhsaithe bainistíochta a chomhlánú a léiríodh in Creatlach le hAghaidh Gníomhaíochta ar Liostaí Feithimh, a foilsíodh i Meán Fómhair 2000. Sa chás sin,



áfach, níorbh fhéidir ach méid teoranta de mhaoiniú breise a dháileadh agus, as siocar gur mó t-éileamh ar sheirbhísí otharlainne ná a soláthar, ní raibh aon imeacht air nárbh fhéidir spriocanna do liostaí feithimh a bhaint amach.

### Heart Surgery: Waiting List

**Mr Poots** asked the Minister of Health, Social Services and Public Safety what steps have been taken to reduce the waiting list for heart surgery and to outline the results of these steps. (AQO 290/02)

**Ms de Brún:** In September 2000, I established the Cardiac Surgery Review to identify the significant factors contributing to the decreased throughput in surgery at the Royal and recommend measures that should be taken to improve services.

In line with the Action Plan developed, a number of measures have been taken to increase capacity and reduce the waiting times for cardiac surgery. In this regard, nurse staffing numbers have been enhanced, and theatres and cardiac surgery intensive care are now fully staffed in line with current capacity. In addition, over the past year a total of £1.95 million has been made available for the planned replacement of ageing equipment at the Cardiac Surgery Unit.

These measures have facilitated an increase in capacity at the Royal; the number of operations proposed for this year is 800 – an increase of 84 procedures on last year's figures. It is intended that by 2003/04 this throughput will increase to 1000 procedures.

I have also secured additional resources, which will be used to fund an additional 100-120 patients to receive treatment in facilities in Great Britain or the South of Ireland.

I Meán Fómhair 2000, bhunaigh mé an tAthbhreithniú ar Mháinliacht Chairdiach le fachtóirí suntasacha a aithint a chuireann leis an laghdú i luas othar tríd an chóras máinliachta in Otharlann Ríoga agus le bearta a mholadh a ba chóir cur i bhfeidhm le seirbhísí a fheabhsú.

Ag cloí leis an Phlean Gníomhaíochta a forbraíodh, glacadh le roinnt beart le hacmhainn a mhéadú agus le hamanna feithimh do mháinliacht chairdiach a laghdú. Maidir leis seo, cuireadh leis an líon foirne altranaís agus faoi láthair bíonn foireann iomlán in obrádlanna agus i ndianchúram máinliachta cairdiaiche de réir acmhainne reatha. Ina theannta sin, le bliain anuas cuireadh £1.95 san iomlán ar fáil don athsholáthar pleanáilte do threalamh as dáta san Aonad Máinliachta Cairdiaiche.

D'éascaigh na bearta seo méadú san acmhainn san Otharlann Ríoga; tá 800 obráid molta don bhliain seo – méadú de 84 ghnáthamh ar staitisticí na bliana seo caite. Tá sé beartaithe go mbeidh méadú roimh 2003/04 ar líon na ndaoine a théann tríd an chóras go 1000 gnáthamh.

D'aimsigh mé chomh maith acmhainní breise a mbainfear úsáid astu le 100-120 othar breise a mhaoiniú le cóireáil a fháil in áiseanna sa Bhreatain Mhór nó i nDeisceart na hÉireann.

### Protection of Children

**Mr Kane** asked the Minister of Health, Social Services and Public Safety, in light of the tragic death of Ainlee Walker, to outline (a) if she will scrutinise the procedures in place to protect children on the 'at risk register'; (b) the agencies involved in cases of child abuse; and (c) the scope of powers available to such agencies. (AQO 287/02)

**Ms de Brún:** I am aware of the tragic case of 2 year old Ainlee Walker who died in January this year. It is my understanding that Newham Council is currently conducting a case management review of the case. Officials in my Department will consider the review report, which is due to be published in November, to ascertain if it contains any lessons for our own procedures.

Is eol domh cáis tragóideach Ainlee Walker a bhí 2 bhliain d'aois agus a fuair bás i mí Eanáir na bliana seo. De réir mar a thuigim, tá Comhairle Newham ag stiúradh athbhreithniú ar bhainistíocht an cháis. Measfaidh feidhmeannaigh mo Roinne an tuairisc athbhreithnithe, atá le foilsiú i mí na Samhna, le fáil amach an bhfuil ceachtanna ann dár nósanna imeachta féin.

### Community Health Care Services

**Ms Ramsey** asked the Minister of Health, Social Services and Public Safety on the adequacy of community health care services currently being provided for people living in Short Strand, Belfast. (AQO 327/02)

**Ms de Brún:** The provision of community health care services for people living in Short Strand is the responsibility of South and East Belfast Health and Social Services Trust.

In recognition of the difficulties experienced in this area recently, the Trust's Family Trauma Centre team are providing community trauma services for children and adults. Individual counselling and group sessions are also being provided. The Trust's Crisis Support Team, Psychiatric Support Team and Community Development Team also remain involved within the local community, providing support and services as appropriate.

Tá freagracht ar Iontaobhas Sláinte agus Seirbhísí Sóisialta Bhéal Feirste Thoir agus Theas seirbhísí cúraim sláinte pobail a sholáthar do na daoine atá ina gcónaí ar an Trá Ghearr.

Mar gheall ar na deacrachtaí a bhí sa cheantar seo le déanaí, tá foireann Ionad Tráma Teaghlaigh an Iontaobhais

ag soláthar seirbhís tráma pobail do pháistí agus d'aosaigh. Tá comhairliúchán aonarach agus seisiún grúpaí á chur ar fáil chomh maith. Tá Foireann Tacaíochta Géarchéime an Iontaobhais, Foireann Tacaíochta Shíciatrach agus Foireann Forbartha Pobail bainteach go fóill laistigh den phobal áitiúil, ag tabhairt tacaíochta agus seirbhísí nuair is cuí.

### Private Finance Initiatives

**Mr Armstrong** asked the Minister of Health, Social Services and Public Safety what assessment she has made regarding suitability of Private Finance Initiatives as a tool for the provision of new hospitals. (AQO 337/02)

**Ms de Brún:** The Private Finance Initiative is one of a range of potential options for making use of scarce resources but it certainly does not substitute private funds for public investment in the long run, and it cannot provide a complete solution to our pressing need for more capital investment.

Tá an Tionscnamh Airgeadais Phríobháidigh ar cheann de réimse roghanna féideartha le húsáid a bhaint as acmhainní ganna, ach is cinnte nach gcuireann sé cistí príobháideacha in ionad infheistíochta poiblí san fhadtéarma, agus ní féidir leis réiteach iomlán a sholáthar ar ár riachtanas práinneach le haghaidh tuilleadh infheistíochta caipitiúla.

## REGIONAL DEVELOPMENT

### Cycle Network: Carrickfergus

**Mr Beggs** asked the Minister for Regional Development to outline any plans he has to extend the cycle network to Carrickfergus. (AQW 242/02)

**The Minister for Regional Development (Mr P Robinson):** My Department's Roads Service has no plans to extend to Carrickfergus the section of the National Cycle Network (NCN), which currently runs from Belfast to the University of Ulster at Jordanstown. However, Roads Service is keen to work with local Councils, cycle groups and other interested bodies in researching potential off-road routes for such an extension.

I should add that Roads Service is presently developing plans to improve cycling facilities at other locations within Carrickfergus. These include the provision of a cycle track between Trooperslane Industrial Estate and Trooperslane railway halt in partnership with Invest Northern Ireland and along Oakfield Drive to Oakfield Primary School. Roads Service is also committed to aiding Sustrans, the promoter of the NCN, in the development of a cycle route between Whiteabbey and Larne with a spur into Carrickfergus.

### Speed Restrictions: Douglas Bridge, West Tyrone

**Mr Hussey** asked the Minister for Regional Development if he will undertake to introduce speed restrictions in the village of Douglas Bridge, West Tyrone.

(AQW 270/02)

**Mr P Robinson:** My Department's Roads Service carefully assesses all applications for the introduction of new speed limits having regard to a number of factors. However, for any speed limit to be considered by Roads Service and supported by the Police, frontage development over a minimum of 800 metres of road is required.

In the case of Douglas Bridge, I understand that frontage development of any substance extends over a length of only 420 metres. As this is well short of the required 800 metres, the introduction of a speed limit lower than the national limit cannot be justified.

I should add that within the past two years, Roads Service has provided a road centre warning line, 'SLOW' markings on the carriageway and 'Junction Ahead' warning signs, all within the confines of the village and will continue to keep road safety in Douglas Bridge under review.

### Legal/Banking/Professional Services

**Mr Dallat** asked the Minister for Regional Development to outline (a) whether all legal, banking and professional services for his Department and all related agencies are tendered for; and (b) the tendering criteria currently being applied. (AQW 485/02)

**Mr P Robinson:** Legal Services for the Department are obtained through the Departmental Solicitor's Office (DSO) of the Department of Finance and Personnel (DFP).

With regard to banking, my Department is part of the pool of accounts controlled by DFP. The contract for banking services is subject to the open tender procedure and was awarded centrally by DFP following evaluation of a range of detailed criteria designed to ensure that the successful bidder would provide value for money while meeting the Department's business needs and professional banking standards. The tender documents and conditions for the current contract were compiled by the Government Procurement Agency (GPA), now Central Procurement Directorate (CPD) and the contract came into effect in April 2001.

Many Professional Services are tendered for on the Department's behalf by DFP's CPD, which awards contracts on the basis of the offer which is the most economically advantageous to the Department. Where the Department sources professional services independently, for example, specialist research which falls outside CPD framework arrangements, these are obtained in line with

the Department's Accounting Procedures and Guidance on the Use of Consultants.

This guidance requires tenders to be sought by public advertisement where expenditure exceeds £20,000 and by invited tenders from an approved list of suppliers for expenditure between £15,000 and £20,000. As permitted under the guidance, services are on occasion procured by way of a single tender.

In all cases, the criteria used to determine that an offer is the most economically advantageous, include the period for completion or delivery, quality, aesthetic and functional characteristics, technical merit, after sales services, technical assistance and price.

### **'Volume of Traffic'**

**Mr Bradley** asked the Minister for Regional Development if he will make it his policy to fund a gritting programme to benefit rural villages which do not meet the current 'volume of traffic' criteria. (AQW 533/02)

**Mr P Robinson:** I have no plans at present to amend the current winter service policy of my Department's Roads Service, which was subject to a detailed review only last year.

One of the key outcomes of the review, which was fully debated by the Assembly, was that the practice of targeting the limited resources available for this service on the busier roads should continue. However, the review also recognised that a modest increase in the salted network was justified, mainly for the benefit of the rural communities. It was therefore decided to:

- increase the weighting for buses in service so that, for example, a 40-seater bus is counted as 40 vehicles for the purpose of the criteria; and
- ensure that each small settlement, which has more than 100 dwellings within its Area Plan boundaries, has a salted link via the shortest route to the current salted network.

These new initiatives increased the salted network by approximately 4% and the application of the policy means that 28% of the total road network, carrying 80% of all traffic is now salted at an annual cost of approximately £5 million.

Northern Ireland is already top of the UK league in terms of the length of road salted per head of population and there is a fine balance to be drawn between putting even more funds into salting or to the many other

worthwhile demands on Roads Service, many of which are also safety related. Whilst I can understand the concerns of those who use the remaining more lightly trafficked roads that are not included in the salted network, it is simply not practical to salt all roads.

### **Pedestrian Crossings: Funding**

**Mr Shannon** asked the Minister for Regional Development, pursuant to AQO 241/02, to outline the anticipated timescale for the introduction of new criteria when considering funding for pedestrian crossings. (AQW 585/02)

**Mr P Robinson:** A review of the current criteria used by my Department's Roads Service to determine the need for controlled pedestrian crossings is underway. This is a complex issue and emerging proposals will be brought before the Regional Development Committee in due course. This is unlikely to happen, however, before the end of January 2003.

## **SOCIAL DEVELOPMENT**

### **Legal/Banking/Professional Services**

**Mr Dallat** asked the Minister for Social Development to outline (a) whether all legal, banking and professional services for his department and all related agencies are tendered for; and (b) the tendering criteria currently being applied. (AQW 484/02)

**The Minister for Social Development (Mr Dodds):** My Department and its Agencies use a mix of in-house and external sources for legal, banking and professional services. All legal services, are either provided or contracted by the Department of Finance and Personnel, through its Departmental Solicitors' Office. Professional staff within the DFP Construction Service, the DOE Planning Service and the Valuation and Lands Agency also provide advice across a range of specialist areas.

Where external professional services are required, these are normally procured through tender and contracts are awarded on the basis of the offer which is the most economically advantageous. The criteria used to determine this include the timescale for completion or delivery, quality, aesthetic and functional characteristics, technical merit, after sales service, technical assistance and price.





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