
Northern Ireland Assembly

Tuesday 21 June 2011

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

Members observed two minutes' silence.

Assembly Business

Mr A Maginness: On a point of order, Mr Speaker. I want to raise the issue of a priority written question on the Northern Ireland Memorial Fund. I lodged that question on Tuesday 13 June, and it was due to be answered on Thursday 16 June. I have still not received an answer to that question. It is an urgent matter, because the memorial fund, as you know, Mr Speaker, is very important to victims in our society. There are 1,700 applications awaiting payment, and money has still not been paid to the Northern Ireland Memorial Fund.

It is regrettable that this question has not yet been answered, and I ask you to ask the Office of the First Minister and deputy First Minister to urgently reply to this very important question.

Mr Speaker: I thank the Member for his point of order. He now has it on the record, and I will follow the situation up for him.

Matters of the Day

Attack on the Short Strand Area

Mr Speaker: Mr Alex Maskey has sought leave to make a statement on the attack on the Short Strand area, which fulfils the criteria set out in Standing Order 24. I will call Mr Maskey to speak for up to three minutes on the subject. I will then call representatives from the other parties, as agreed with the Whips. Those Members will also have up to three minutes in which to speak on the matter. Members know that the convention is that there is no opportunity for interventions or a vote on the matter. I will not take any points of order until this matter is dealt with. If that is clear, we shall proceed.

Mr A Maskey: Go raibh maith agat, a Cheann Comhairle. It was with great reluctance that I sought leave to raise this matter this morning, but I thought that, given the considerable media attention to it, it is important that we not only try to set the record straight, which I do not intend to take up a great amount of time in doing, but show a sign of leadership from this House to the people of the Short Strand and the surrounding area of the Newtownards Road and elsewhere in east Belfast.

I want to place it on the record that it is absolutely atrocious for any family's home in this city in this day and age to come under attack, no matter what side of the community they are from. We all know that east Belfast has been euphemistically described as an interface area over a long number of years. Communities there have suffered greatly over a long number of years. We had hoped that that was part of our history.

I want to place on record my commendation of those from the Short Strand and surrounding unionist and loyalist communities who have

worked tirelessly, especially in recent years — even more so in the past two years — and whose efforts have greatly reduced the problems at that interface location. I want to place on record my gratitude, and that of the communities in that area, to those people, for the most part from working-class communities, who have stood shoulder to shoulder, crossed the barriers and boundaries, and worked with each other to reduce the tensions in that area. They have very significantly reduced those tensions and built very strong and solid community relations, which we are all aspiring to achieve, sometimes against the odds.

It is probably fair to say that, although there is an ongoing problem for some residents in those communities, that problem has nevertheless been substantially reduced to perhaps more antisocial rioting or sectarian skirmishing, which has not been that serious in recent times. All credit is due to the people from those interface areas who have been working together and crossing boundaries to tackle that problem.

It is atrocious in this day and age that families are left to try to defend their homes. If you go to Strand Walk this morning, you will notice a number of pensioners' bungalows that have been repeatedly attacked over the years. Virtually all their windows are grilled, and those not grilled, because people had a little confidence instilled in the past couple of years, are smashed, paint-bombed and attacked. The place is like a war zone, as I think I heard someone say earlier.

My concern is that if people from any community, or any political or other sphere, try to present the problem that occurred last night as just six of one and half a dozen of the other, they are wrong. There was a UVF-related attack on the Short Strand community last night. All those with any authority or influence understand that. I am calling on everyone with influence in that area to bring it to bear, identify and tackle the problem, and bring it to an end for all the people who live in those communities.

Mr Douglas: Yesterday morning, like most in the House, I felt elated after witnessing the amazing feat of Rory McIlroy. What an ambassador for Northern Ireland, I thought. This morning, I feel sad and dejected after witnessing some of the most vicious rioting that I have seen for many years. I spoke to some residents this morning, and they said that some of the rioting was the worst it has been since 1969.

The sight of homes wrecked on both sides of the Newtownards Road and Short Strand, and people lying injured in hospital this morning, is a sad reminder of how fragile the peace is in east Belfast. We want to convey our thoughts and prayers to those lying in hospital.

I was down in the area last night after having been in the Assembly until 9.30 pm. I went to some of the homes that had been attacked in Duke Street and on the Newtownards Road. I was there this morning and, as the Member said, there were houses on Strand Walk that had been attacked. So both communities suffered.

It reminds me of the proverb, "Hope deferred maketh the heart sick". When I was there last night, I felt that all our hopes to get peace embedded in local communities had, in many ways, been placed on hold. I felt sick in the heart, and I feel sick this morning.

Today is not the time for recriminations or "whataboutery". It is a very tense situation down there, and we all need to take heed of our words because the danger is that we go on various shows and inflame the situation. We must all redouble our efforts to deal with the underlying issues that fester in those communities. I can honestly say that issues have been festering there for a number of weeks, and, although there was trouble the previous night, last night was the culmination of a number of underlying issues in the area.

As an Assembly, we need to ensure that we use our mandate effectively in the House and that we are careful not to take for granted the hard work that is going on at those interfaces. I concur with the Member; great work has been done there over the years. I was involved with the first interface group there many years ago, and that became a model of good practice right across Belfast. I think that it was one of the first interface groups. However, sadly, for one reason or another, relationships have broken down. We need to start rebuilding those relationships. There is an anger, a hurt and a seething in the area this morning, in both communities, and we need to take the lead, as the Member said.

Coming from a community background, I know all too well the importance of the hard work that goes on on the ground.

Mr Speaker: The Member's time is up.

Mr Douglas: We need to support the people who are building the peace in the area.

Mr Copeland: I thank Mr Maskey and Mr Douglas for their measured remarks. I, too, was in the Chamber until after 9.30 pm yesterday, in the company of Mr Douglas, Mr McCann and a number of others, discussing the issue of mortgage relief. Real issues for real people — what this place is supposed to be about. On leaving, I was advised by a member of the PSNI that there were difficulties at the bottom of the Newtownards Road, and my phone lit up like a Christmas tree as I left the Building. I travelled there and saw scenes that I had thought, hoped and prayed I would never have to see again.

I understand that there were two distinct incidents. One happened earlier on in the evening on the Albertbridge Road, which, at the time, I did not know about. The scenes at the bottom of the Newtownards Road descended from stone throwing and communal violence to petrol bombs going both ways and to gunfire, which went both ways. There is one community with two sections down there, and it is broken, hurt and damaged this morning. There is resentment, a silent cry for help and the belief that no one cares or that no one can actually do anything to change or prevent a course of events.

It is my intention to seek a meeting with the Lord Mayor of Belfast at the earliest possible moment to see what he and I can do together. I spoke to Conall McDevitt, who was on the opposite side of a fence yesterday evening. Our one community, which shares in equal measure exclusion, economic underachievement, failures in education and infrastructural difficulties, was evidencing ancient hatreds that have no honest and real place in the place that we wish to build for all of us in here.

There are raw memories. I spoke this morning with Mary McCurrie. Forty-one years ago this weekend, her husband was killed in events that were not that dissimilar to what we saw yesterday evening. There is a salutary lesson for everyone in here. We must watch what we say and do, lest it be misinterpreted. There are no two sides to this. There is only one side, and that is the side of right. The side of right will always be mirrored by the side of wrong.

I left the scene shortly before 2.30 am, and I was back there this morning, having witnessed the strength and resilience of our people in

the form of the Belfast City Council cleansing department, which had the Newtownards Road open for traffic and the side streets cleaned. I saw families moving back into homes that are seriously damaged. I apologise that I saw only homes on the Newtownards Road because I did not have access to Strand Walk. I spoke to representatives of housing associations, who did not know where they were going to find the money to fix the broken windows, and I thought to myself, “Where will we find the money to fix the broken children?” The children who saw the streets that they play in, were brought up in and live in, and with which they identify —

Mr Speaker: I remind the Member of the time.

Mr Copeland: I appreciate your forbearance, thank you.

Mr McDevitt: Like colleagues, I arrived in the Short Strand, in St Matthew’s Court, just before 10.00 pm last night. The scene that I was confronted with is not one that any of us in the House would have ever wished to see again. A very dangerous full-scale riot was happening, and in the front line of that riot was a row of pensioners’ cottages and a chapel, which had been turned into a buffer zone between an orchestrated — I agree that it was orchestrated — and serious attempt to attack a community in the Short Strand and the retaliation from within that community. It was a reminder of everything that we have worked so hard to try to put behind us. We must accept it as a collective failure. It is not good enough to try to reduce the issues at the heart of what is still happening in some communities to being the responsibility of a few. It is the responsibility of us all.

10.45 am

In the short term, we will have to hold the PSNI to a higher standard of protection. The sad reality of the situation as it unfolded last night was not one of preparedness but of unpreparedness on the PSNI side. A situation was able to develop because of a lack of resources in the area to try to contain it. However, we cannot police this problem out. We can build out of this problem only through the good work and relationships that still exist.

If there is an upside to all this, it is that people kept talking all night. Those people have been much more involved for much longer than I have been and have a much greater local connection with both sides of that community. The House

is going to have to start reflecting on the need to build respect and tolerance in order to build true reconciliation. We are going to have to start building a better future for the several hundred young people who saw an opportunity to engage in violence last night. I hope that they never get such an opportunity again.

Again in the short term, there is a great duty on us all to behave in a way that ensures that this particular episode goes down as an exception this summer; that it is not allowed to set the tone; that it does not become the norm; and that we resolve collectively and resolutely to understand that the responsibility goes all the way to the top. We must start to put the need for reconciliation and respect at the heart of everything that we do.

Mr Lyttle: Having stood here yesterday to celebrate all that is positive about Northern Ireland, I share the sadness and dejection of my colleagues at the events of last night. I commit myself and my party to working with and supporting Members in every way to ensure that the situation is resolved. I recall working with Members as a volunteer interface worker in the area in times gone by. I hoped that the situation had been improved.

I use this platform to ask those involved in last night's senseless violence to stop. Such organised and orchestrated violence is unjustifiable and unrepresentative. It is destroying the cross-community peace building and community development work that has happened in the area. It is completely wrong that people there should be living in fear and terror at the hands of a small minority at the moment.

I ask anyone with any information to help the police so that they can respond more effectively to what is a dangerous situation. I want especially to mention the council and emergency services personnel who had to deal with an extremely volatile situation. My thoughts and those of my party go out to those who were injured last night, and I call on political representatives to take a united stand against all forms of intimidation and violence in the area.

Ministerial Statement

North/South Ministerial Council: Plenary Format

Mr Speaker: I have received notice from the Office of the First Minister and deputy First Minister (OFMDFM) that the deputy First Minister wishes to make a statement.

Mr M McGuinness (The deputy First Minister): Go raibh maith agat, a Cheann Comhairle. Before I make the statement, I want to say that I have been notified by my office that a complaint was made in the Assembly by Assemblyman Campbell about my inadvertently walking across a Member as he was speaking, albeit at a lower level, so I apologise for that to the Assembly.

In compliance with section 52(c)(2) of the Northern Ireland Act 1998, we wish to make the following statement on the twelfth meeting of the North/South Ministerial Council (NSMC) in plenary format, which was held in Dublin on Friday 10 June 2011. The Ministers who attended the meeting have approved this report, and we make it on their behalf.

Our delegation was led by the First Minister, Peter Robinson MLA, and me. In addition, the following Ministers were in attendance: Minister Attwood, Minister Farry, Minister Kennedy, Minister McCausland, Minister Ní Chuilín, Minister O'Dowd, Minister O'Neill, Minister Wilson, junior Minister Anderson and junior Minister Bell.

The Irish Government delegation was led by the Taoiseach, Enda Kenny TD. The following Irish Ministers were also in attendance: Minister Bruton, Minister Burton, Minister Coveney, Minister Deenihan, Minister Fitzgerald, Minister Hogan, Minister Howlin, Minister Noonan, Minister Quinn, Minister Rabbitte, Minister Reilly and Minister Varadkar.

The meeting provided the new Irish Government and our new Executive with the opportunity to meet for the first time and exchange views on issues of mutual interest and concern. In their opening discussion Ministers discussed common challenges, and they shared views on the economy, fiscal issues, the banks and the National Asset Management Agency (NAMA). With constraints on budgets in both jurisdictions, the advantages of practical co-operation and the need to identify potential

cost savings through working together were recognised. Discussions between Finance Ministers will continue, and they will report to the next plenary meeting in November.

Ministers welcomed increasing collaboration in the field of innovation in the European Union and noted that a conference on innovation aimed at increasing collaboration in the European framework programmes will be held in Belfast on 30 June, attended by Ministers from both jurisdictions. They noted that such collaboration can lead to tangible mutual benefits. The Council welcomed the confirmation of support in both jurisdictions for the development of a satellite radiotherapy service at Altnagelvin.

Ministers noted the progress report on NSMC meetings since May 2007. They also noted the mutually beneficial co-operation of the North/South implementation bodies and Tourism Ireland, and in other NSMC areas, including the fact that, during 2010, over 150 companies initiated InterTradelreland trade or innovation projects, of which 22 companies are first-time exporters and 12 are first-time innovators. InterTradelreland's average return on investment across its portfolio of trade and innovation programmes was on target for 2010. Through InterTradelreland's activities, in 2010, 94 new jobs were reported by companies participating in the programmes.

Waterways Ireland will host a meeting in Enniskillen from 13 to 16 September for its 17 partners from 13 countries in an INTERREG IVc project entitled Waterways Forward. Tourism Ireland's aim in 2011 is to return to growth in overseas visitors to the island from all markets, with a particular focus on the GB market, which remains the most important overseas tourist market for the island of Ireland.

Co-operation on the implementation of rural development programmes and EU programmes has been a high priority. There has been increasing success in supporting access to EU funding for cross-border and cross-community rural development projects, such as the £1.3m INTERREG IVa project between Newry and Mourne District Council, Monaghan County Council and Monaghan County Enterprise Board to develop tourism and enterprise infrastructure across the Monaghan and south Armagh region.

An all-island freight forum has been established whose work is industry-led and issue-based; it is being taken forward by working groups

focusing on competitiveness and sustainability; safe, compliant and eco-efficient road freight transport; rail freight and other alternatives; international connectivity; and data and network management. An additional stop on the Enterprise train service at Lisburn and a new Newry to Dublin early-morning direct service have been introduced. The two railway companies are planning measures that will be taken forward over the coming 18 months to align with suggestions made in the Enterprise rail seminar report.

Ministers noted that the boards of the North/South implementation bodies and Tourism Ireland are due for renewal in December and that nominations for appointment will be brought forward for approval at the NSMC plenary meeting in November.

Ministers noted the progress on the A5 north-west gateway to Aghnacloy and the A8 Belfast to Larne projects and agreed that payment of £11 million will be made by the Minister for Transport, Tourism and Sport to the NI Consolidated Fund. The Council welcomed the continued commitment of the Irish Government to the funding of those projects and agreed to consider a further progress report at the next NSMC plenary meeting.

Ministers noted proposals relating to terms of reference one, which were prepared by the St Andrews Agreement review group arising from consultation on recommendations in a report that was prepared by expert advisers to the review group. They agreed that those will be forwarded, along with a copy of the report, for consideration by Ministers in the new Executive and in the Irish Government with responsibilities for North/South bodies, and by Finance Ministers. Taking account of those considerations, the NSMC joint secretariat will make recommendations to finalise that element of the review at the NSMC plenary meeting in November. Ministers further agreed that terms of reference two and three of the St Andrews review will also be discussed at that meeting.

Ministers noted the background and recent developments on the North/South consultative forum and agreed to finalise deliberations on this issue at the plenary meeting in November.

Ministers noted that, following a North/South parliamentary forum conference in Newcastle on 7 and 8 October 2010, the Ceann Comhairle of Dáil Éireann and the Speaker of the Assembly

asked the working groups that were established in each institution to take forward discussions on the North/South parliamentary forum. They also asked the working groups to discuss a further conference, an inaugural meeting and other ideas that were suggested at the conference and to work jointly, taking into account the valuable contribution that the conference has made to a better understanding of key issues of interest and concern to Members of our Assembly and the Houses of the Oireachtas. Ministers further noted the intention of the Ceann Comhairle and the Speaker to hold a joint meeting of the working groups in Dublin on 23 June.

Ministers noted that the NSMC joint secretariat has taken forward further work on cross-border mobility issues and that a bid for further funding will be made to INTERREG IVa for the Border People website. That bid, which has support in principle from the Social Security Agency, the Department of Social Protection and the NSMC joint secretariat, will include a bid for funding for a network of advisers from existing organisations to deal with complex cross-border welfare and taxation issues.

Ministers approved the appointment of Mr Ian Crozier to the post of chief executive of the Ulster-Scots Agency.

Ministers approved a schedule of NSMC meetings proposed by the joint secretariat, noting that the NSMC joint secretariat, in consultation with relevant Departments, will make arrangements for dates for each of those meetings. They noted that future NSMC plenary meetings will be held in the second week of June and the third week of November. Go raibh maith agat.

Mr Elliott (The Chairperson of the Committee for the Office of the First Minister and deputy First Minister): I thank the deputy First Minister for that report. I note that there is a small section on financial difficulties, particularly in the Republic of Ireland. I am conscious of recent speculation and reports about the consolidation of financial institutions. Was there discussion about consolidating financial institutions? What impact would that have on the Northern Ireland banking fraternity and those banks that are directly affected by those that may be consolidated in the Republic of Ireland?

Mr M McGuinness: A discussion on the economics of where we are all at ensued during the meeting. Yesterday, at the British-Irish

Council meeting, the Taoiseach, Enda Kenny, made it clear that banking was undergoing huge change in the South as a result of the recent crisis that has plunged many businesses and others in the South into very deep trouble. Our discussions mostly related to how the situation in the banks would affect banking North and South of the border and also NAMA, which is a big concern for us.

We highlighted our concerns about access to lending, especially to small and medium-sized enterprises (SMEs), and about the potential impact of bank restructuring on jobs in the North.

11.00 am

We raised concerns that decisions being taken on NAMA should not damage our business interests. It was very sad that, on the day that we were there, the death of Brian Lenihan was announced. Our Finance Minister had been involved in an ongoing engagement with Brian to try to ensure that any decisions that were taken on NAMA would not detrimentally affect our situation in the North, particularly in the context of some speculation that we could end up with a fire sale, which would be very destabilising for our economic circumstances. Brian Lenihan was always willing to reassure us that he would not allow that to happen.

We highlighted the impact on trading companies that are servicing their loans when companies and loans are taken into NAMA, and we also pressed for more effective input by us into decisions on NAMA. On the disposal of assets, we said that some developers, especially those who are close to assets that are in NAMA, are keen to get them but that the decision-making process is very slow.

Our Finance Minister, Sammy Wilson, also met separately the Irish Government Finance Minister, Michael Noonan, and their Minister for Public Expenditure and Reform, Brendan Howlin, immediately after the plenary to discuss those issues in more depth. I understand that officials from the two Finance Departments will meet again to explore those issues further. There is obviously big change coming in the South, and I am happy that the relationship between our Finance Department and that in the South is ongoing and very strong to ensure that whatever flows from the big decisions that have already been taken, and those that will be taken in the

time ahead, does not detrimentally affect our economy.

Mr Humphrey: I thank the deputy First Minister for his statement. Does he believe that North/South bodies provide value for money, and does he agree that, like Departments in Northern Ireland, they should be subject to efficiency savings?

Mr M McGuinness: I do believe that they provide value for money, and I agree with the Member that they should be subject to efficiency savings, and they are. Decisions on efficiency savings were taken at an earlier stage. The fact that we are meeting consistently at very well-attended meetings under the auspices of the North/South Ministerial Council suggests clearly that the Government in Dublin and our Administration in the North value that contact and the potential that exists in those bodies to ensure that we continually strive to achieve mutual benefit for the people who live on this island, whether they live in the North or in the South. The answer is very clear; we would not be meeting in this format if the institutions were not delivering for our people, North and South.

Ms Ruane: Cuirim fáilte roimh an ráiteas. I welcome the statement and the work that has been done, particularly on cross-border mobility issues, because we know that there is a lot of work to be done there. You spoke about the inter-parliamentary forum, and I was present at the previous meeting in Newcastle in County Down, which was very useful. Can we be given further information on plans for an inter-parliamentary forum?

Mr M McGuinness: At the NSMC, we noted that, following a North/South parliamentary forum conference that was held in October 2010, the Ceann Comhairle of Dáil Éireann and the Speaker of the Assembly asked the working groups that had been established in each institution to take forward discussions on the potential for a North/South parliamentary forum, which is envisaged in the Good Friday Agreement and the St Andrews Agreement. That included discussions on a further conference and an inaugural meeting, and other ideas were suggested at the conference. There were discussions on working jointly to take into account the valuable contribution that the conference has made to a better understanding of key issues of interest and concern to Members of the Assembly and the Houses of the Oireachtas.

I am pleased to see that work on that is progressing well and that the Ceann Comhairle, Seán Barrett, and our Speaker, Willie Hay, plan to hold a joint meeting of the working groups in Dublin this week. That work will help to create a better understanding of the common issues facing both legislatures.

That conference, which was held in the Slieve Donard Hotel in County Down, was very well attended by elected representatives North and South, and I recall that the present Taoiseach turned up to it as leader of the Opposition. That was a very clear statement of his intent to try to take that work forward. So, it is a work in progress, and we look forward to the outcome of our Speaker's deliberations with the new Ceann Comhairle on the work plan that they put in place in October to see that we expedite the matter as quickly as possible.

Mr Eastwood: I thank the deputy First Minister for his statement. I ask him to join me in welcoming the ongoing work of the north-west partnership board and ask him to work with the local MLAs and the partnership board to help them bring forward a paper on the north-west gateway initiative at an early meeting of the North/South Ministerial Council.

Mr M McGuinness: Absolutely. That issue has been widely discussed and is of great interest to people living in the north-west: in Derry, parts of Tyrone and County Donegal. I do not have any difficulty whatsoever in giving our commitment that that issue will be kept at the front line in our deliberations. At each meeting of the North/South Ministerial Council, that issue receives a very substantial airing, and we all recognise the great benefits that can be accrued for people on both sides of the border by pushing forward with those developments.

As we all know, attendant to all of that is the ongoing interest in the area in, for example, the building and construction of the new radiotherapy unit at Altnagelvin. There is also interest in the fact that the preferred routes for the A5 and the A8 have been outlined and that contractors have been appointed for three different stages of the A5. Infrastructure is vital for the north-west gateway, and I note from papers in the region that some concern has been expressed about whether or not the A5 project will go ahead. People need to be reminded that the A5 project is a very high-level agreement, as is the construction of

the radiotherapy unit at Altnagelvin Hospital. They involve high-level agreements between our Executive and the Irish Government, and substantial funds have been put into those projects. Most recently, £11 million was allocated following a joint decision a few days ago.

Anybody who is in any doubt about whether or not the A5 will go ahead needs to dispel those doubts. Obviously, we cannot pre-empt the outcome of the ongoing inquiry in the Omagh area, which will be completed over the next couple of weeks. We will see what that throws up for all of us. However, those two projects are very important to the north-west gateway. There are many other important projects of an educational nature and, indeed, if we see good cross-border co-operation, other projects can bring huge benefits to the people of that region.

Mr Lyttle: I thank the deputy First Minister for his statement and welcome his identification of the savings and collaboration possibilities through effective operation of the North/South bodies. Enhanced engagement with Europe to the benefit of local small and medium-sized enterprises is of particular interest to the OFMDFM Committee. I note that there will be a conference on innovation and collaboration through the European framework programmes on 30 June. How, exactly, will our small and medium-sized enterprises be involved in that conference? What additional outcomes does the deputy First Minister hope to see from it?

Mr M McGuinness: I trust and hope that they will all be ably represented at the conference. The First Minister and I went to Brussels to meet the Commissioner for Research, Innovation and Science, Máire Geoghegan-Quinn, and that was a big subject during our conversations. There was an acceptance from us that we had more to do and that the gap between where Europe is at and where our SMEs are at in relation to “joined-upness” left an awful lot to be desired.

When we came back from that meeting, we made it absolutely clear to all our Departments that it was important that all of us upped our game in Europe. It was also quite clear that, in Máire Geoghegan-Quinn, we were dealing with a sympathetic commissioner. As someone who understood the problems of small and medium-sized enterprises, she was more than willing to facilitate smoothing the way to accessing funds from her department. Therefore, the conference

is going to be important, and we encourage all those invited to turn up.

Its emphasis and focus are on SMEs and improving access to Europe. I hope that people will take what is a golden opportunity to increase our performance and, as a result, gain more support from Europe for our region.

Mr Spratt: I thank the deputy First Minister for his statement. He mentioned the A5 and A8 projects. Will he give further details of the discussions about those projects at that meeting?

Mr M McGuinness: The good progress on the A5 and A8 projects was noted at the plenary sitting, and the Irish Government reaffirmed their commitment to those projects and the related funding. As I said, we agreed that the payment of £11 million would be made by the Minister for Transport, Tourism and Sport to the NI Consolidated Fund in accordance with agreed procedures. The Council noted that development work was continuing on the A5 project and that a public inquiry commenced on 9 May 2011. That inquiry was expected to last some eight weeks and is due to complete shortly.

Similar progress has been made on the A8, with the third key milestone met, on target, by the publication of the draft Orders and environmental statement in January 2011. A public inquiry into that project is expected to commence later this month.

Those road projects, along with the progress already made in the overall motorway network in Ireland, will ensure greater road connectivity across the island. It is no secret to any Member that people west of the Bann have always felt neglected by Dublin and Belfast. In Donegal's case, that feeling relates to Dublin. People in parts of County Tyrone and County Derry have always felt that the good roads were in the east, not just in the North but in the South. In the west of Ireland — our focus is on the north-west at the moment — there is an infrastructure deficit. The region is of the strong view that the deficit of proper infrastructure works against the prospects of bringing new investment to the area.

Therefore, the A5 and A8 are critically important projects, and I understand that there are concerns about them. The ongoing inquiry is an opportunity for people to air those concerns and we will see what the judgement is at the end of that. However, these are high-level agreements

between our Administration and the Government in Dublin. They are road projects that will bring huge benefits to our people.

All the talk has been about the A5, but the A8 Belfast to Larne road is also a vital road to upgrade for the simple reason that, along the eastern seaboard of the island of Ireland, we have large juggernaut vehicles travelling back and forward to Europe. It is important that we provide a proper road infrastructure to ensure that those vehicles get to their destinations with road safety in mind as well as the speed with which they ferry their products to mainland Europe.

Mr Molloy: Go raibh maith agat, a Cheann Comhairle. I thank the deputy First Minister for his statement. Does he agree that the consistent commitment from the Dublin Government contradicts, in some way, the lack of a total commitment from the Assembly to upgrade the A5? Does he think that it is time for the Assembly to indicate clearly that it wants to build that road?

Mr M McGuinness: The commitment from the authorities in Dublin has been strong. As far as I am concerned, the commitment from the Assembly and our Executive is also strong.

We attended the meeting of the North/South Ministerial Council, at which we took very important decisions. We took a joint decision to allocate £11 million. That is not done if the project is not to go ahead. What would be the sense in that? It would make no sense whatsoever. The question is around the fact that there has been a public inquiry and that objections to the road have been raised. People have a right to have their say, and they are having that opportunity through the establishment of the public inquiry, which will consider its deliberations and make public its findings. We will then take it forward from there.

11.15 am

However, I have not heard anybody on the Executive say that the A5 project should not go ahead. In fact, the contrary is the case. It will come down to how it goes ahead and the quality of the road. Obviously, there is a strong view that a project of that size needs to be of very high quality. The question is how we can do that and, at the same time, save vital funds for our Administrations, North and South. There is no question about the road. However, questions

remain about the outcome of the inquiry, about whatever discussions officials will have in the aftermath of the inquiry and about how they take forward the project. The project is very far advanced. Contractors have been informed that they have the tenders for three stages of the road. I think that the project is unstoppable. It is now a matter of how it is taken forward to try to minimise the costs to our Administrations, North and South.

Mr G Robinson: Will the deputy First Minister undertake to ensure that value for money will be achieved when planning sectoral meetings and that, where possible, money will be saved by using government venues for meetings, as well as modern communication methods?

Mr M McGuinness: We are always very conscious of the need to ensure that costs be kept to a minimum, and we are satisfied that costs have been kept to a minimum. As many Members know, the NSMC building in Armagh was opened recently, and that has allowed us to plan ahead to minimise costs. The cost to OFMDFM of NSMC meetings that the Executive host is met by the joint secretariat in the North. Travel and subsistence costs for staff other than those from the NSMC and the joint secretariat are met by the responsible Departments. The approximate cost to date, for example, of the 81 NSMC meetings held since May 2007 is around £99,000. The approximate cost to OFMDFM of the 15 NSMC meetings held in the new NSMC joint secretariat building in Armagh since April 2010 is around £5,000, and the cost to OFMDFM of the 20 NSMC meetings held in 2010-11 was £7,000. People will accept that we are spending money on NSMC meetings very prudently.

Mrs Overend: I thank the deputy First Minister for his statement. I am sure that he will be aware of the EU directive on agency workers, and the associated discussion and debate by the unions; namely, the Northern Ireland Committee, Irish Congress of Trade Unions (NICICTU). Have any discussions taken place on the directive?

Mr M McGuinness: There were no discussions at the meeting. I have no doubt that, if it is an issue of major concern to any party in the Assembly, and if we are informed of the detail of the difficulties that exist, there will be no objection to our speaking to corresponding Ministers about how we are handling the issue,

North and South. I know that there is a debate out there on the matter.

Mr A Maskey: Although the deputy First Minister has addressed the issue of the St Andrews Agreement review, is it possible for him to elaborate on it?

Mr M McGuinness: We discussed the next steps on the St Andrews Agreement review at the plenary meeting. Work on the review has included consultation with Ministers on the former Executive and the former Irish Government on recommendations from a panel of experts on the first element of the review, which is the efficiency and value for money of the existing North/South bodies. Taking account of the responses received, the review group made a number of proposals. Those, along with a copy of the report prepared by experts, will be forwarded to Ministers in the new Executive and those in the new Irish Government responsible for North/South bodies and, of course, the Finance Ministers.

Taking account of any comments received, the NSMC joint secretariat will prepare recommendations for us to consider, so that we can finalise that element of the review at the next plenary sitting in November. At the November meeting, we will also discuss the other two terms of reference of the review, which include the case for additional bodies and the areas of co-operation within the NSMC.

It is important that our new Administration takes some time to consider the work done so far, including the proposals from the review group on the first element of the review. We also need time to consider the other elements, and, in my view, it is important that all elements of the review are progressed at the next plenary sitting. At the NSMC meeting, we agreed that that should be the case.

Ms Ritchie: I thank the deputy First Minister for his statement. Reference was made to the wider community facing difficulties in the banking sector. Was a decision taken to have joint North/South ministerial discussions with the banking sector to rectify its inability and unwillingness to provide credit facilities to the business, commerce and construction industries? Does the deputy First Minister agree that the lack of availability of credit facilities is having an adverse effect on the local economy, North and South? Will he ensure that every

effort is made to bring other North/South bodies into the review of the whole process?

Mr M McGuinness: I gave a detailed explanation of how we are taking forward the review of the North/South bodies in my previous answer. It is a work in progress. I agree with the Member about the difficulties being presented to businesses, north and south of the border, as a result of the failure of the banks to lend in a way that would sustain the opportunities to face the mighty challenges that all businesses face as a result of the economic downturn.

The Member also asked about joint representation. Earlier, I made it clear that officials from our Finance Department and the Finance Department in the South have pledged to meet regularly. No doubt, that will, as it should, form part of their discussion.

One important feature of the NSMC meeting was the openness with which the Taoiseach approached it. At the beginning of the meeting, he made it clear to all of his Ministers that they should exchange mobile numbers with our Ministers, and vice versa. I welcomed his positive suggestion, as it allows all sorts of opportunities for Ministers of various Departments to meet their counterparts. At the very least, his suggestion enables them to keep in touch so that they can deal with some of the huge challenges that we face in a way that does not compromise the work of the North/South Ministerial Council. We will get huge benefit from having close contact with our corresponding Ministers in the South.

The issue of credit for SMEs and businesses is as difficult in the South as it is in the North. If anything can be gained by applying further pressure to the banks through a joined-up approach, I have no doubt that officials from the two Finance Departments will consider that suggestion when they meet.

Mr T Clarke: Were there any discussions on child protection at that or any prior meeting of the NSMC? If so, what child protection plans have been taken forward in Northern Ireland and the Republic of Ireland?

Mr M McGuinness: That specific issue did not come up at this meeting, but it has come up at previous meetings of the North/South Ministerial Council. I know that our new Minister of Health, Social Services and Public Safety, Edwin Poots, is concerned about the issue.

He will work closely with the new Minister for Health in the South, Dr Reilly, to ensure that we deal with the issue in a way that gives the greatest possible protection to all our children. As I said, the issue did not come up at this meeting, but that does not mean to say that it is not regarded as a huge priority, because it is. That will be given further emphasis by the work in which Edwin Poots and Dr Reilly will engage in the time ahead.

Mr B McCrea: The deputy First Minister has already dealt with the matter of the banks on a number of occasions. However, I wonder if I could just press him further. Given that the economy is at the very centre of our thinking these days and the unavailability of credit is hampering us, does he anticipate any consolidation of the banking sector in the Republic of Ireland? Was that discussed with his colleagues at the North/South Ministerial Council meeting, and, if so, what are the implications for Northern Ireland?

Mr M McGuinness: The economic situation was discussed, and the plenary meeting provided us with an opportunity to meet and exchange views with the Taoiseach and Irish Government Ministers. Our common economic and budgetary challenges were a key topic of discussion. The Taoiseach outlined the steps being taken by his Government to bring the economy back on track, which includes the ongoing work on the restructuring of the banks. He said that they are heading in the right direction, and we outlined the challenges that we face and the efforts that we are making to address those, including some encouraging signs and plans to find further potential sources of additional revenue.

It will be no surprise to anybody that the issue of corporation tax came up during our discussions. I was encouraged that, during the press conference that the First Minister and I held with the Taoiseach after the meeting, the Taoiseach was supportive. When he was asked whether the Irish Government would support the work in which we have been involved to try to get a lower rate of corporation tax, without hesitation, he said that he would.

We know that huge changes are taking place in banking. We also know, because of the linkages between the banks in the South and in the North, that that will have implications for us. Our focus has to be on ensuring that jobs are protected and that whatever emerges from the

restructuring will move us all forward in a much stronger way with a more stable approach to banking than the one that previously brought us to the misery with which many Governments throughout the world are now dealing.

Mr Campbell: The deputy First Minister mentioned the advantages of practical co-operation in the NSMC meeting. Is he aware that 40,000 people who were born in the Irish Republic are living in Northern Ireland, many of whom have lived in Northern Ireland for many years? They are, therefore, UK residents, UK voters and UK taxpayers, but they do not have a right to a British passport. He is a UK resident, UK voter and UK taxpayer, and he has a right to an Irish passport. The Home Office, the Irish Republic's Government and the Northern Ireland Office are aware of the issue. Will the deputy First Minister ensure that, at a future NSMC meeting, or perhaps more relevantly, at a British-Irish Council (BIC) meeting, the matter is brought to the attention of the Home Office and a suitable accommodation arrived at to give those people the same right to a British passport that he has to an Irish one?

Mr M McGuinness: That issue has not come up, and, being very honest, I have to say that I am not that familiar with the subject. However, I understand the Member's point. Before we deal with it through the auspices of the NSMC, it might be a good idea for the Member and me to get together to discuss it. We will see then how we can take the matter forward.

Mr Dallat: I am pleased that we do not need passports between the North and the South.

I welcome the deputy First Minister's statement, particularly what he said about improvements to the Enterprise service between Belfast and Dublin. I have every belief that the entire delegation travelled by train.

In relation to rail freight, the deputy First Minister will be aware that virtually everything in the North, and between North and South, moves by road. With the establishment of the new all-island freight forum, can we have an assurance that freight trains in the North will begin moving again and that Northern Ireland Railways will be part of a campaign to move goods from roads to railways? It is shameful that it was discontinued years ago.

11.30 am

Mr M McGuinness: The joint secretaries' progress report included an update on the establishment of the freight forum in January 2010. The work of the forum is industry-led and issue-based and has been taken forward by working groups focusing on competitiveness and sustainability; safe, compliant and eco-efficient road freight transport; rail freight and other alternatives; international connectivity; and data and network management. Each priority area has a lead organisation and an overseeing Department. The lead organisations are the Freight Transport Association, the Department of the Environment, the Road Safety Authority, the Irish Exporters Association, the Irish Maritime Development Office, the central statistics and research branch of the Department for Regional Development (DRD), and the Central Statistics Office. A key aspect of the freight forum is co-operation between Government and the logistics sector to help the forum to take a strategic perspective and be relevant to the needs of industry.

I am very sympathetic to the points that the Member made, and the establishment of the freight forum provides an opportunity to deal with those very relevant issues. Finding solutions to those issues will bring huge benefits for us all.

Mr Beggs: In the statement the First Minister and the deputy First Minister acknowledged that there were constraints in the Budget in both jurisdictions and that there is a need to identify potential cost savings. Does the deputy First Minister accept that all North/South projects should be reassessed to ensure that they are proportionate and justifiable and that such investment will maximise the use of our limited funds so that the economy will reach the best possible outcome?

Mr M McGuinness: That was one of the purposes of the review. The budget for the North/South bodies and Tourism Ireland for 2010 was £146 million; the Executive's contribution was £37.6 million and the Irish Government's £108.4 million. Guidance to inform the preparation of corporate plans for 2011-13 and 2011 business plans for the North/South bodies was issued by the Department of Finance and Personnel (DFP) and the Department of Finance to sponsor Departments in July 2010.

The guidance specified that further minimum cash-releasing efficiency savings of 3% in 2011,

culminating in 9% over the period 2012-13, are required. It includes the proviso that there may be a review of those efficiency guidelines for 2012-13 to take account of the developing budget process in both jurisdictions. Therefore, we agreed that the North/South bodies, like all other public bodies, must ensure efficiency. However, it will be important that they have sufficient resources to deliver on their mandates.

Considerable work has been done on the preparation of budgets and business plans for 2011 and corporate plans for 2011-13 for the bodies. It is anticipated that those corporate and business plans will be approved by Ministers at NSMC meetings to be held between now and September.

Executive Committee Business

Damages (Asbestos-related Conditions) Bill: Royal Assent

Mr Speaker: I inform the House that the Damages (Asbestos-related Conditions) Bill has received Royal Assent. The Damages (Asbestos-related Conditions) Act (Northern Ireland) 2011 became law today.

Ministerial Statement

Intergovernmental Agreement on Criminal Justice Co-operation

Mr Speaker: I have received notice from the Minister of Justice that he wishes to make a statement to the House.

Mr Ford (The Minister of Justice): With your permission, Mr Speaker, I will make a statement regarding a meeting that I had with Alan Shatter TD, the Minister for Justice and Equality, under the auspices of the intergovernmental agreement (IGA) on co-operation on criminal justice matters, which was held in Armagh on Wednesday 8 June. It was the third formal ministerial meeting under the IGA since the devolution of justice matters on 12 April 2010 and the first since the recent Assembly and Dáil elections, although I have met Mr Shatter on a number of occasions since his appointment.

The intergovernmental agreement is an agreement between the UK and Irish Governments and provides a framework for co-operation on criminal justice matters. It supports at least one meeting each year between the Justice Ministers in the North and the South, as well as a working group of officials from both jurisdictions that meets at least twice a year. The working group is supported by ad hoc project advisory groups, of which there are currently six. The advisory groups are tasked with considering criminal justice-related work strands of mutual interest. We inherited those arrangements. Of course, it is open to the Executive and the Assembly to review them.

As I have said in previous statements to the House, I am committed to keeping the Assembly informed of meetings that are held under the auspices of the agreement, on the same lines as North/South Ministerial Council (NSMC) meetings. The meeting with Alan Shatter on 8 June was constructive and provided a good opportunity to discuss a number of criminal justice issues of mutual interest. We were updated on a range of cross-border issues, including supporting public protection; management of sex offenders; support for victims of crime; youth justice; forensic science; and promoting social diversity. We also discussed the progress of the ad hoc project advisory groups that cover those areas of mutual benefit and noted, in particular, the effective channels of communication between criminal justice organisations on both

sides of the border to ensure that the border is not exploited by criminals to escape justice.

Indeed, Members may be aware of media reports last week concerning the management and supervision of sex offenders in Northern Ireland, which are rightly acknowledged as being highly effective. Through the excellent working relationships and sharing of information between the two police services, and under the public protection arrangements Northern Ireland (PPANI), we already see instances in which the PSNI routinely invites its colleagues from an Garda Síochána to attend local area public protection panel (LAPPP) meetings in border areas. That degree of cross-border operational co-operation between the police and probation agencies on the ground should be supported and encouraged.

In addition, the meeting provided an opportunity to review the good progress that has been made against a work programme that I agreed in July 2010 with the then Irish Minister for Justice and Law Reform, Dermot Ahern. Flowing directly from that work programme, I am particularly pleased to report that Alan Shatter and I signed a memorandum of understanding between our forensic science services. The memorandum of understanding has been developed to provide for mutual support in the event of sudden loss or damage to facilities. It is an example of the excellent co-operation at an operational level among criminal justice organisations on the island of Ireland.

That practical co-operation will benefit both jurisdictions and further strengthen working relationships that are already in place between the two forensic services. I am pleased to report to Members that the heads of the forensic science services in the North and the South meet regularly with their Scottish counterpart and also have in place heads of agreement to provide mutual support, which is similar to the memorandum of understanding that I signed with Alan Shatter.

Other successes over the past 12 months include agreement on a joint proposal to evaluate the use of the stable and acute risk assessment tool for sex offenders, as well as the organisation of a joint seminar for the two probation services to showcase the extent of co-operation in public protection. I welcomed the opportunity to join Dermot Ahern in making a few closing remarks at that seminar.

At our recent meeting, Alan Shatter and I agreed a new work programme, setting out priorities for cross-border co-operation over the next 12 months. I have attached a copy of the work programme to my statement for Members' information. Planned actions to promote co-operation are captured under three areas: enhancing justice delivery; support for victims and witnesses of crime; and management of offenders. Some specific planned actions include exploring the use of fast-track and formatted probation reports in courts to speed up justice; considering the scope for a joint approach to implementing the proposed new EU directive on victims of crime; and exploring the potential of extending information-sharing to include related areas of public protection police work, such as child abuse, domestic abuse and missing persons.

Progress against all the actions in the 2011-12 work programme will be monitored by the working group of officials, who will report to Alan Shatter and me at our next ministerial meeting. It is my intention, Mr Speaker, with your continued agreement, to update the Assembly following that meeting. We are seeing that the devolution of justice powers provides real opportunities to enhance working relationships further between and across the criminal justice agencies. Operationally, criminal justice agencies in the North and the South are working closely together. I want to maximise that co-operation.

The IGA is an important framework for supporting co-operation among the various agencies. As we are all too well aware, crime does not stop at the border. I know that, by continuing to work together, we can help to make this island, North and South, a safer and a better place to live.

The meeting also provided an opportunity for me to update Mr Shatter on two key initiatives in my Department — the development of a reducing offending strategy and the youth justice review — while I received an update from him on the development of Ireland's White Paper on crime.

Finally, the intergovernmental agreement is not intended to provide for discussion of cross-border security issues. However, I have cause to discuss such matters regularly with Mr Shatter, and I used the opportunity of our being together to briefly discuss some general wider cross-border security-related issues.

Mr Givan (The Chairperson of the Committee for Justice): I thank the Minister for his statement to the House today. He touched on the management of sex offenders. First, I seek an assurance from the Minister that information under the notification requirements in both jurisdictions is, indeed, passed on to the relevant authority should there be any movement of offenders and that appropriate management of those offenders takes place.

Secondly, do disqualification orders for those sentenced for child sex offences apply equally in both jurisdictions? What is the Minister's view of the 278 cases where a disqualification order was not put in place in this jurisdiction even though there was a presumption that that would happen? Does he share my serious concern about that matter? What efforts are being made by the judiciary to urgently review all of those cases and to ensure that no risk is posed to the public?

Mr Ford: I thank the Committee Chairman for his couple of related questions. I have every confidence that the arrangements for the management of sex offenders North and South, which is particularly facilitated by the specialist group under the IGA, ensure that all appropriate information is passed between agencies, regardless of the border. The reality, of course, is that both jurisdictions have legislation in place that requires sex offenders to notify the police or the Garda Síochána of their details if they move across the border, so the primary onus is on the offender. However, it is clear that there is high-level co-operation between the agencies.

Mr Givan also asked about disqualification orders. I should make it clear that the issue of the 278 orders that he mentioned is one for the judiciary to follow up on at this stage and to address why there has not been a statement on why orders were not made in those cases. The examination of that arose because of action I took in the wake of the McDermott case last autumn. I am glad that the judiciary is now following through on those issues. I hope to be able to report to the Committee on the detailed position in a couple of days' time. The precise detail of how a disqualification order is applied on a cross-border basis will be part of the report that I give to the Committee.

Ms J McCann: Go raibh maith agat, a Cheann Comhairle. I thank the Minister for his statement. In terms of the work programme,

what discussion did the Minister have with the Justice Minister in the South about the management of offenders, given that there have been some very damning reports about prison conditions, particularly where vulnerable people are concerned? Did he have some discussion with the Minister about how the Departments could work together more to ensure that there are fewer lock-ups; more education facilities; better access to health facilities for prisoners, particularly vulnerable ones; and improved prison conditions?

Mr Ford: I thank Ms McCann for her question, although I fear that it is outside the precise scope of the IGA meeting. The management of the two prison services is not regularly covered in the operation of the IGA. However, she made a number of points that will clearly come through as we work on the strategic efficiency and effectiveness programme and when we see the final report on prisons from the Owers review team. She made some entirely valid points about the need to ensure that there are the highest possible standards of management in the Prison Service.

Mr B McCrea: I thank the Minister for his statement. I note a number of comments that he made about effective communication channels to make sure that criminals do not escape justice and the excellent co-operation on forensic science at an operational level on the island of Ireland. If there is to be enhanced co-operation, why must it be only at an operational level? Should we not be able to share information on DNA, fingerprinting and all the other good things that the forensic science services look at on a cross-border basis? Is there any reason why that information cannot also be shared with other police jurisdictions in Great Britain?

11.45 am

Mr Ford: I fear that Ms McCann is not the only person who is trying to drag me significantly away from the precise detail of the IGA. The reality is that questions of co-operation between jurisdictions on the sharing of information are beyond the scope of co-operation on criminal justice matters as currently dealt with through the IGA. There are perfectly reasonable questions to be asked about the level of co-operation, which, in some cases, can extend to European matters, as well as cross-jurisdictional issues in the UK and cross-border issues on this island.

I support the fullest possible sharing of information to deal with organised crime. That is why we see the positive work that is being done by organisations such as the Organised Crime Task Force and the strong co-operation between a number of different agencies, for example, between the two revenue and customs organisations and between the PSNI and the Garda Síochána. Those are examples of excellent co-operation, but no doubt there will always be occasions on which Members will suggest that we could further improve that co-operation.

Mr A Maginness: I welcome the Minister's statement and the meeting that took place between him and Mr Shatter, the Justice Minister in the South. I also commend the work programme that was agreed between the two Ministers and the two jurisdictions, although it could be further enhanced. On 23 March 2011, the previous Committee for Justice met representatives of the Serious Organised Crime Agency (SOCA), who indicated that there could be further co-operation in the collection of evidence, the interviewing of witnesses, etc, by Her Majesty's Revenue and Customs. I ask the Minister and his southern counterpart to consider seriously the initiation of a study that would see further co-operation and allow agencies on either side of the border to deal with issues such as fuel and money laundering. That would have good and practical implications, North and South, in dealing with organised crime.

Mr Ford: I thank Mr Maginness for his welcome for the statement and his support for the work that is being done under the IGA. The picture that I am getting at the moment from a variety of organisations, including the Organised Crime Task Force, in which SOCA fully participates, is that the highest possible level of co-operation is ongoing between the revenue and customs organisations in the North and the South. I am determined to have the highest level of co-operation.

If Mr Maginness is suggesting that investigations should be carried out on a cross-border basis, there would be issues as to how that might happen that would be of concern to people outside the Department of Justice. However, it is not something that I or any of my officials are opposed to. The issue is how to ensure that we get the best possible practical co-operation and the means for it without disrupting good working

relationships, if some were concerned about the precise methods that were used.

Mr Dickson: I also welcome the Minister's statement and his continued practice of keeping the Assembly up to date with the work that he does with his colleagues in the Republic. I also welcome the memorandum of understanding between the forensic science services, on which perhaps the Minister will give the House a little more detail. I particularly welcome that, as Forensic Science Northern Ireland is based in my constituency of East Antrim. Will the Minister tell the House whether he has any other plans for similar arrangements with the other forensic science services in the rest of the United Kingdom?

Mr Ford: I thank my colleague for his welcome for the continuing arrangements. As I said at the outset, the IGA, although it is something that I inherited from direct rule Ministers, is directly analogous to the NSMC. At some stage, the Assembly may decide that the IGA should be replaced by a justice strand of the NSMC, but, until that day, I will ensure that the Assembly is kept informed in the best possible way, through statements to the House and interaction with the Committee for Justice.

My colleague asked specifically about the forensic science memorandum of understanding and about co-operation elsewhere in the UK. We have the heads of agreement, which were signed by the heads of the agencies, including the head of the Scottish agency. However, because of changes to the governance arrangements in England and Wales and significant movement towards privatisation of forensic science services there, it has been much easier to co-operate with those agencies that are still part of the state set-up in Scotland and Ireland. If I see that there are benefits to be had from wider co-operation, I am open to that, but at the moment, we have made significant advances through the co-operation between the three jurisdictions where the state agencies are able to manage that level of co-operation through good working arrangements and memorandums of understanding.

Mr Weir: I thank the Minister for his statement. I refer him to the strengthening arrangements that are being put in place for the management and monitoring of sex offenders. I welcome strengthened relationships that ensure that

there is better monitoring of them on a cross-border basis.

Although it is useful to see that there are those good relationships between North and South, and in the full sharing of information between Northern Ireland and other jurisdictions in the United Kingdom, has the Minister either sought assurances or can he give the House any confidence that the same strong levels of linkage are there between the Republic of Ireland and other parts of the United Kingdom to ensure that, in this chain of monitoring of sex offenders, there is no weak link?

Mr Ford: I thank Mr Weir for his question. However, it now appears that I am responsible for the justice system in the Republic and the other two UK jurisdictions as well as in Northern Ireland. My empire knows no bounds.

The simple answer is that I can give no direct assurances as to arrangements for co-operation between jurisdictions for which I have no responsibility. However, I have no reason to believe that the co-operation is any less than would be the case where it involves us. There have been occasions recently when sex offenders have moved from England to the Republic and fairly speedy action has been taken on both sides of the Irish Sea to deal with that particular problem. The issues are in hand, but outwith my responsibilities.

Mr McCartney: Go raibh maith agat, a Cheann Comhairle. Gabhaim buíochas leis an Aire as an ráiteas sin.

I welcome the Minister's statement and his outline of the meeting with his colleague in Dublin. I am particularly interested in the section where he says that a part of the remit was dealing with public protection and:

"the effective channels of communication between criminal justice organisations on both sides of the border to ensure that the border is not exploited by criminals to escape justice."

With that in mind, has the Minister done any exploratory work on loopholes, particularly with regard to head shops and legal highs? Substances banned in Derry may be bought by nipping across to Letterkenny, and vice versa. Has the Minister plans to try to close such loopholes?

Last week at the Committee, the Minister's officials spoke of trying to enforce the law in the

North on ticket touting. It was pointed out that all you have to do is go to Donegal, where it is not illegal to sell tickets at above face value. Has any exploratory work been done on those issues?

Mr Ford: I thank Mr McCartney for his question. There is clearly a range of issues with regard to which the border can be somewhat permeable. Nonetheless, the specific issue that you make most of about head shops and so on is one on which significant efforts were made in the South last year to deal with, for example, the production of new illicit substances that are chemically marginally different from others. My understanding is that the matter is being followed up at a UK level. It is not something for which we have legislative responsibility. However, I will ensure that I get the detail as to exactly what progress is being made in London either to the Committee or to Mr McCartney.

Mr S Anderson: I also thank the Minister for his statement. Does he agree that criminal justice co-operation between Northern Ireland and the Irish Republic must be mutual, meaningful and genuine? Does he also therefore agree that the Smithwick tribunal must be given the time and resources necessary to complete its important task? Did he raise that issue at his meeting with Mr Shatter?

Mr Ford: I thank Mr Anderson for his question. The Smithwick tribunal did not feature specifically on the formal agenda, but I raised the issue privately with Mr Shatter before the meeting began officially. He assured me that the necessary arrangements are in place to ensure that the Smithwick tribunal will do its work within a reasonable timescale and that, if necessary, the timescale will be extended, as that had caused a certain amount of concern on this side of the border. He has received an assurance from Mr Justice Smithwick that he is capable of doing the work within the required timescale and will seek additional time if necessary. The PSNI and the Historical Enquiries Team (HET) have also given significant assistance to the Smithwick tribunal, so I believe that we are doing all that we can in this jurisdiction.

Mr Hussey: I also thank the Justice Minister for his statement. He will be aware of the recent report on the Kingsmills massacre. He referred to cross-border operational co-operation between the Police Service of Northern Ireland

and an Garda Síochána. Extradition procedures between North and South remain difficult due to Irish concerns over the British judicial process. To what extent does that mutual support extend to historical cases?

Mr Ford: Mr Hussey's question is entirely legitimate, but it is outside the responsibilities that I assumed on 12 April 2010. I am unaware of any difficulties regarding any extradition cases in either direction across the border, but if there are concerns, I will happily listen to what any Member has to say and see what the position is. The difficult issues as to how we deal with many incidents that happened in the past are beyond the current scope of the IGA, but I believe that the Assembly needs to start to take them seriously.

Mr Speaker: I remind Members that questions should relate to the statement.

Mr Eastwood: I thank the Minister for his statement and welcome the developments on information sharing. Does he agree that there should be no hiding place for child abusers or people engaged in domestic violence on the island of Ireland?

Mr Ford: I thank Mr Eastwood. He is absolutely right. There should be no hiding place for people engaged in any sort of criminal activity anywhere on the island. We need to ensure maximum possible co-operation among all relevant agencies. I am determined that crimes such as domestic violence and child abuse, which would not always have been regarded as the highest priorities for cross-border co-operation, come within the ambit of the current arrangements.

Mr McDevitt: I draw the Minister's attention to the original 2002 intergovernmental agreement between the then NIO and the Department of Justice in the Republic. I note that that agreement remains largely unimplemented, and there are gaps, specifically the absence of arrangements for lateral entry between the two police services and a real conflict over pension rights for PSNI officers and garda officers seeking to transfer to the other service. Will the Minister update the House on any progress on that issue? Does he intend to prioritise it in the months ahead as an area that must be implemented, particularly now that we have lost 50:50 direct recruitment to the PSNI?

Mr Ford: Mr McDevitt is being as creative as other Members have managed to be this

morning. The issue of lateral entry to the Police Service or to the Garda Síochána is a significant concern, but practical work is ongoing with the recruitment of 40 specialist officers by the Police Service.

The key problem with lateral entry is, as the Member correctly highlighted, the issue of pensions. That is an issue for every state institution in the United Kingdom relating to every state institution in the Republic of Ireland. It is not an issue for only the PSNI and an Garda Síochána; it is an issue that goes way beyond that, and it is beyond the ability of the Department of Justice to resolve. I wish the issue to be resolved, but other minds have supposedly been tackling it for many years, and we do not see easy movement for people in any part of the public sector, North/South or east-west. I do not think that we will be able to resolve the issue within the Department or the IGA, although I wish that it could be resolved so that we could maximise the opportunity for officers to move, North or South.

12.00 noon

Mr Dallat: I want to ask the Minister about the targets set for meetings between him and his counterpart in the Republic and their officials. I remind him that those targets are for one meeting a year between the Ministers and two meetings a year between officials. Given the millions of pounds that are earned by all kinds of criminals, does the Minister believe that those are serious targets? Would he forgive me for thinking that there must be more meetings between North and South Korea?

Mr Ford: I thank Mr Dallat for the question, although the term "target" is not entirely accurate. What he stated is, as I understand the IGA, the minimum requirement. I have ensured that we have got to the point where we have a formal ministerial meeting at least twice a year, the various project advisory groups are meeting frequently and officials are meeting somewhat more frequently than the twice a year specified in the agreement. That is an indication that the Department of Justice is taking the IGA seriously and implementing it.

To the best of my knowledge, I was the only Minister from the Executive who had a meeting with his counterpart from the South in the time between the Dáil election and the Assembly election. Admittedly, that was an informal meeting; nonetheless, it was a face-to-face

meeting between the two Justice Ministers. It was essential to ensure that we got off to a good start in our relationship with the new Justice Minister in Dublin. I had a good working relationship with Dermot Ahern, and I have already established a good working relationship with Alan Shatter. I assure Mr Dallat that if the agreement says one meeting a year, that is not the number that I am looking at.

Executive Committee Business

Budget (No. 2) Bill: Consideration Stage

Mr Speaker: I call the Minister of Finance and Personnel to move the Consideration Stage of the Budget (No. 2) Bill.

Moved. — [Mr Wilson (The Minister of Finance and Personnel).]

Mr Speaker: No amendments have been tabled to the Bill. I propose, therefore, by leave of the Assembly, to group the nine clauses of the Bill for the Question on stand part, followed by the five schedules and the long title.

Clauses 1 to 9 ordered to stand part of the Bill.

Schedules 1 to 5 agreed to.

Long title agreed to.

Mr Speaker: That concludes the Consideration Stage of the Budget (No.2) Bill. The Bill stands referred to the Speaker.

Committee Business

Agency Workers Directive

Mr Speaker: The Business Committee has agreed to allow up to two hours for this debate. The proposer will have 10 minutes to propose the motion and 10 minutes in which to make a winding-up speech. All other Members who are called to speak will have five minutes.

Mr B McCrea (The Chairperson of the Committee for Employment and Learning): I beg to move

That this Assembly notes the EU directive on conditions for temporary agency workers (directive 2008/104/EC); and calls on the Minister for Employment and Learning to ensure, in implementing the directive, that both the needs of workers and minimising the costs to business are taken into account.

I am pleased to bring this motion to the House to debate these important policy proposals and draft regulations, which will transpose the EU agency workers directive into Northern Ireland legislation.

This is an issue that is too important and significant to allow it to go through the Assembly merely by negative resolution in September without having a wider and fuller debate that allows Members to understand the Minister's position. The change does not merely represent an increase in certain costs by inflation: it is a major change to working and employment practices that will affect many people in Northern Ireland. That is why the Committee has agreed on the motion.

The agency workers directive ensures the protection of temporary agency workers by applying the principle of equal treatment. The directive provides that the basic working and employment conditions of temporary agency workers should be, for the duration of their assignment with a hirer, at least those that would apply had they been recruited directly by that hirer to occupy the same job.

The conditions to which the directive will apply include duration of working time, overtime, breaks, rest periods, night work, holidays, public holidays and pay. The directive must be in operation before 5 December 2011, which puts something of a pressure on us to conclude our business. The Department went out to

consultation on the policy proposals and draft regulations in December 2010, with a closing date of 11 March 2011.

On 1 June, the Committee was briefed by departmental officials on the 18 responses to the consultation that were received. The officials explained that a key issue in the directive was the default position that equal treatment rights should apply from day one of an assignment. However, article 5 of the directive provides for a qualifying period for equal treatment, on the basis of an agreement between the social partners at a national level.

In the United Kingdom, the Confederation of British Industry (CBI) and the Trades Union Congress (TUC) entered into discussions with the UK Government and agreed to a 12-week derogation before the temporary agency workers' entitlement to equal treatment would apply. However, here in Northern Ireland, since the Trades Union Congress does not represent Northern Ireland trade unions, the Department entered into discussions with the CBI and the Northern Ireland Committee of the Irish Congress of Trade Unions (ICTU). Unfortunately, they were not able to reach agreement. The Department took legal advice and concluded that the agreement made between the social partners at national level does indeed extend to Northern Ireland and that the Department would not be fulfilling its responsibilities in the transposition if it made an agreement at only regional level.

As a result of the directive, agency workers may benefit from enhanced conditions, while private and public sector hirers may face increased costs. Therefore, it is absolutely appropriate that the Assembly should be able to deliberate on what will be a significant issue for many people.

Departmental officials told the Committee that, if the directive was implemented from day one, it would result in estimated costs of £716 million, with benefits of £550 million over a 10-year period, resulting in net costs of £166 million over that same period. However, based on the 12-week qualifying period, the estimated costs would be reduced to £300 million and the benefits to £220 million over the 10-year period, resulting in net costs of £80 million over the same period. Private sector employers face an annual increased cost of some £27 million, while public sector employers face annual increased costs of around £6.5 million. The

main annual benefits run at £19.2 million for private sector employers and £6.4 million for public sector employers.

Under both options, agency workers and Her Majesty's Treasury would benefit financially, while private and public sector hirers would face increased costs. It was assumed that the employment businesses — that is, the temporary work agencies — would be able to pass on 85% to 100% of the higher wage and holiday costs to hirers.

Departmental officials explained that a number of issues were still being reviewed. Those include the definition of an agency worker, working time and holiday entitlement, the definition of pay, length of breaks between assignments, permanent contracts of employment, payment between assignments, and antenatal and maternity leave. I am sure that other members of the Committee will speak at some length on those issues.

At its meeting of 8 June, the Committee agreed to arrange for further briefings to gain an understanding of the viewpoints of unions and employers. On 15 June, the Committee was briefed by representatives from trade unions, the CBI, Diamond Recruitment Group, the Law Centre Northern Ireland and departmental officials. I will leave it for other members to raise the issues. We are grateful, given the shortage of time, that those who attended the consultations were able to get us additional information quickly.

In the time left available to me, I would like to speak — not as the Committee Chair, but just as an MLA — about why it is important that this is debated in the Assembly. We often hear the refrain from the business community that all that happens is that we introduce more bureaucracy and more red tape and that, when we get directives coming from Europe, they are somehow magicked out of the air, arrive with a cost burden and have nothing to do with us here. That is something that we really have to confront.

When we were having the debate in the Committee, I noticed that, when reasonable arguments were put forward, on whatever side, members of the Committee listened carefully and actually agreed with many of the points that were raised. There was not a knee-jerk reaction but a considered response. It is important that we give Members of the Assembly the opportunity to debate those

important issues in full Chamber, because that way we are able to inform and consult with the electorate.

One of the things that struck a chord with me is that there are issues to do with maternity leave. Whether employed by rogue traders or not, there are occasions when people who announce that they are pregnant suddenly find that, due to the economic downturn, there are no jobs available for them. That does not seem to be the correct way to go forward. We introduced laws to protect women who are pregnant for very good reasons, and we should not step away from them idly. Of course, there is other protection available under the law, and perhaps the implementation of the directive by the Minister will allow us to clarify exactly what is understood by the law, but it is a situation that many people think we have to deal with, even if it is only in a minority of cases.

I also have to say that I found it basically unfair that you could have employees who are agency workers doing the same job for many years — including, I am told, in the Assembly — perhaps for up to 15 years, yet they do not have the same rights as people whom they are working alongside. That just does not seem right to me.

Having said all that, I am also aware of the issues raised by employers about the need for flexibility and the need to ensure that our costs are maintained and that we provide a really good working environment for everybody, because you must have some form of job. The real challenge is to make sure that we get balance in those matters. I am also aware of the issue raised by the ICTU. There were some difficulties with getting some information forward, and I am grateful to the trade unions that supplied some notes to us. I have no doubt that other Members will bring up the issues, but it was apparent when we were talking about those matters that there was a complete lack of information on the total number of people that we were talking about. Of course, that makes setting policy difficult.

I want to conclude by thanking my long-suffering Committee Clerk — I am sorry if I have slipped back into being the Chair — my Committee and the officials for doing an awful lot of work very quickly. It is an important job that they have done. I am looking forward to hearing what people have to say. In my opinion, this is about real issues that have a real impact on the people of Northern Ireland.

Mr Speaker: Bring your remarks to a close.

Mr B McCrea: There will be real costs. This is real politics, and I look forward to the debate.

Mr Ross: I listened this morning to the media saying that we will be deciding on this issue. I do not think that that is entirely right. It is a European directive; therefore, we do not have a choice about whether we implement it. Our choice is on how we implement it. I understand the need for the directive. I have spoken to many people who have been working for an employer as agency staff for many years, and I have also heard some fairly horrific stories of agency workers being exploited by unscrupulous employers.

However, today it is not our business to be debating the European directive — its details and what it includes — as such. We have to recognise that the directive will be applied to all regions of the United Kingdom, so the debate that we have to focus on this afternoon is whether Northern Ireland is included in the national agreement that was arrived at between the TUC and the CBI in Great Britain in relation to the 12-week qualifying period. The Committee Chairperson has already said that, and I am sure that other Members will mention the need to strike a balance in this debate between workers' rights and the cost burdens that are placed on businesses.

12.15 pm

I argue that the fact that the unions and the CBI have managed to strike that balance and come to an agreement on the 12-week qualifying period should be welcomed. The directive should be implemented in Northern Ireland in the same way in which it is to be implemented in the rest of the United Kingdom. The unions, of course, argue that the TUC does not represent workers in Northern Ireland, has no remit here and was not part of the negotiating process. It is regrettable that the TUC was not part of the negotiating process and was not included in those discussions. Nonetheless, the fraternal relationship between the Irish Congress of Trade Unions and the TUC may be something that they can work on by themselves.

The position that has been adopted by the trade unions in Northern Ireland is that we should implement the directive from day one rather than allow for the 12-week qualifying period, and therefore have different implementation

in Northern Ireland to the rest of the UK. In principle, I am not opposed to Northern Ireland going a different way to the rest of the UK on certain issues. We already have regional variations, and that is what devolution is all about. After all, we vary on a range of issues, including having different licensing arrangements and different abortion laws.

For me, the debate comes down to two major issues. First, can we implement the directive differently from that which has been agreed at a national level? Secondly, would it be desirable for us to implement it differently from the rest of the United Kingdom? There is some disagreement on the first issue. The unions in Northern Ireland believe that we can allow for regional variations throughout the UK. However, my reading of the situation is that, as is stated in article 5 of the directive, the UK, as the member state of the European Union, can derogate from the directive if agreement can be met at a national level with social partners. That has been accomplished at a national level between the CBI and the TUC. As I said before, it is regrettable that trade unions from Northern Ireland were not involved in those negotiations, but perhaps that is an issue that they have to deal with. I ask the Minister for Employment and Learning, in his closing comments, to spell out the legal advice that he has received about whether the national agreement between the CBI and the unions applies to Northern Ireland. I believe that it does, and that we can opt into it.

The second issue is about whether it would be desirable to implement the directive differently from the rest of the United Kingdom. As I said, I am not opposed to regional variations, because that is what devolution is all about. In this case, however, it is clear that a regional variation would place businesses in Northern Ireland at a disadvantage compared with businesses in GB.

In the previous mandate, the Executive placed the economy at the heart of the Programme for Government. I am quite sure that, when the Programme for Government for this mandate comes forward, the economy will still be at the centre of all that we do. In recent weeks, I have been involved in a series of meetings with business and other leaders about getting the powers to reduce the rate of corporation tax. It is all about helping to attract foreign direct investment; helping businesses to expand; helping us to create a more vibrant and larger private sector; and helping us to create jobs.

Indeed, all the main parties in Northern Ireland have bought into that. I ask them why we would want to implement the directive in a way that would place local businesses at a disadvantage and create further costs for them.

The CBI has expressed its concerns about the increased administrative burden. Indeed, any Member who speaks to businesses in their constituencies will hear about the increased cost and administrative burdens that arise from regulations, most of which originate from Europe. The CBI has given us the figures that outline the cost of the directive. Earlier on, the Chairperson of the Committee for Employment and Learning spelled out the difference in costs between day one implementation and the 12-week qualifying period.

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

Mr Ross: The Assembly should be focusing on helping to create an environment in which businesses can create jobs, not on gold-plating legislation that could ultimately cost jobs —

Mr Speaker: The Member's time is up.

Mr Ross: — especially when the unions and business leaders have already come to an agreement at a national level.

Mr McElduff: Go raibh maith agat, a Cheann Comhairle. As an Assembly, we can seize this opportunity to take the lead on the equality agenda. That is precisely what the agency workers directive invites us to do. The directive establishes a general principle of equal treatment in working and employment conditions of agency workers and permanent members of staff in similar posts. The Department for Employment and Learning (DEL) public consultation on the directive invited the public to express their views on the policy proposals and the draft regulations that will implement the directive in the North. This is our opportunity, as an Assembly, to influence the outcome of the transposition of the directive by December 2011, as I understand it.

The directive, as outlined by the Chair of the Committee for Employment and Learning, Basil McCrea, does indeed have a broad scope. I draw attention to a quote that the Law Centre brought to the attention of the Committee for Employment and Learning. In the *James v Greenwich Council 2007* appeal ruling, the

president of the Employment Appeal Tribunal, Mr Justice Elias, stated:

"We should not leave this case without repeating the observations made by many courts in the past that many agency workers are highly vulnerable and need to be protected from the abuse of economic power by the end users. The common law can only tinker with the problem on the margins."

The Law Centre went on to speak to us about its experience, which was similar to that of the unions that came before us. Both used the same phrase. They said that every time an agency worker presents for advice on employment rights, their hearts sink. The Law Centre's experience reflects the view expressed by Mr Justice Elias:

"most agency workers are low-skilled and may accept work through an agency as a necessity because of want of an alternative. They are not looking to deprive themselves of employment rights."

It went on to say that, essentially, agency workers are:

"the second-class citizens of the employment sphere."

Furthermore, it said that agency workers do not deliberately exclude themselves:

"from the statutory protections that they would otherwise enjoy."

Some believe that the 12-week qualifying period in the North should be reduced significantly, to six weeks. Others argue for the removal of any such qualifying period. In the Committee, some members called it gold-plating. Indeed, Jim Allister was worried that it might form a patchwork of rights. Others referred to taking the lead on equality.

Sinn Féin has consistently championed the cause of agency workers on the basis of equal pay for equal work. In 2008, Mitchel McLaughlin tabled a motion calling on the then Minister for Employment and Learning, Sir Reg Empey, who, at the time, responded very progressively, to:

"take the necessary measures to protect agency workers, and to ensure that such workers are provided with the same statutory protections, regarding pay and conditions of employment, as the directly employed workforce." — [Official Report, Bound Volume 26, p245, col 2].

The motion was passed unanimously. At the time, Sinn Féin highlighted the loss of over

900 jobs at Seagate in Limavady, a significant number of which were the jobs of agency workers who were not entitled to redundancy pay. Elsewhere on the island, Sinn Féin tabled a joint motion with the Labour Party in the Dáil, and it submitted similar motions to county councils.

As the Chairman and Mr Ross said, in recent weeks, the Committee for Employment and Learning took some evidence — just some, given the limited time available. There is an evidence gap and an information gap. We are not sure exactly how many agency workers there are in the North. Some people say that there are 22,000. We took evidence from the unions, business and the Law Centre, and written evidence from ethnic minority groups.

I would suggest that what is called the agreement between the Department for Business, Innovation and Skills in Britain and the unions does not apply here, because at no stage was ICTU involved in those discussions. Therefore, in respect of the North, the social partner agreement is invalid, because ICTU did not have a proper role in it.

This is a unique opportunity for us to lead in the area of rights. The directive is a priority issue for Sinn Féin, and we should extend its provisions.

Mr P Ramsey: First, I thank all those who made a contribution to the Committee, both in person and through correspondence, over the past number of weeks. Those contributions have given all members a wider view of the issues that will arise as a result of implementing the directive, and I am grateful for the time put in by departmental officials.

In speaking to the motion, I stress that it is our duty in the House and in Committee to ensure that the provisions over which we have jurisdiction are implemented with a balance in mind of protecting workers and minimising the cost to the wider business community.

I will touch on a number of issues that arise as a result of the consultation. As Barry McElduff said, they go to the very heart of what the equality directive seeks to secure. I have written to the Minister for Employment and Learning to ask him to investigate the possibility of establishing a regional social partner agreement. I have some concerns, and I accept the point that was raised by the Northern Ireland Committee of ICTU about not being part of the formal consultation process. The national version of the agreement agreed the 12-week qualifying

period on behalf of the social partners, but there has to be scope, Minister, for regional disparities in the workforce, just as there are regional disparities among parts of Britain. We need a regional agreement to help to address issues that will come forward in future directives as well.

Central to many of the concerns of workers and their representatives was the 12-week qualifying period in which to ensure that equality is clearly in the workplace. That raised a number of concerns, primarily the provision that 12 weeks is valid in the consideration of each so-called assignment, rather than each hirer. That would give irresponsible hirers the opportunity to effectively opt out of giving workers equality of treatment by simply giving them assignments of a length that means that they do not qualify. The qualifying period should be included when calculating holiday entitlements for relevant workers.

We need to know exactly how the anti-avoidance mechanisms will be put in place. We received responses to the consultation from stakeholders who were concerned about how the £5,000 fine may be applied and the general scope of any punishments for offending hirers.

I agree, as have other Members, with the Law Centre's contention that any terms and conditions of workers should include rates of pay. The Department's employment agency inspects relevant agencies to ensure that they comply with general terms and conditions, but we should look for a more robust inspection programme from the employment agency to ensure that any potential offenders are stopped. Furthermore, the rest period guarantee should be valid from day one. If we truly want the spirit of the directive to work on the ground, equality has to be the number one principle. I see no real reason why businesses would not want to implement that.

I will talk briefly about the provision for pregnant women in the directive. That is clearly a fundamental issue. It seems only common sense for women who find that they are pregnant to inform their primary point of contact, which is usually the agency, which should then ensure that hirers are informed correctly of the situation. It should not be the responsibility of the worker to ensure that information is disseminated correctly. I do not see how that could be detrimental to business. It does not

require extra administration, and it will give a lot of peace of mind not only to the worker but to the small business concerned, as it would know that it has performed its duty responsibly.

I share the view of the many respondents to the consultation on the conditions of employment when a pregnant worker is moved to more suitable employment. Again, in the interests of transparency and equality, I see no reasons why her entitlements should not transfer with her to the new role, and, in particular, why her working conditions or pay should change. That goes back to trying to address the equality that is outlined clearly in the spirit of the measure. That is something that we should endeavour to implement on the ground from stage one.

My time is running out. Clearly, the directive comes from Europe, but I appeal to the Minister for some discretion to allow input from the local unions in Northern Ireland.

Mr Lyttle: I am grateful for the opportunity to speak on behalf of the Alliance Party on what is an issue of flexibility to the local economy and equality for our workers. I, too, welcome the engagement that the Committee for Employment and Learning has had with local business and workers on the issue and the public examination that this European policy, which will impact the everyday lives of people in Northern Ireland, is receiving.

12.30 pm

There seems to be a degree of agreement on many of the directive's provisions and on the view that they will be a positive enhancement of the rights of agency workers in Northern Ireland. However, the key issues appear to be the extent of the provisions, the fairness of the 12-week qualifying period and whether the UK Government's social partnership agreement with the TUC and CBI is applicable to Northern Ireland, given the disputed authority of the TUC in Northern Ireland vis-à-vis the ICTU. There is also the issue of the time pressure to transpose the directive before we incur costly infraction fines from Europe.

It is welcome that, as a result of the directive, the basic working and employment conditions of temporary agency workers will be the same as permanent employees for the duration of their assignment. It is also to be welcomed that the regulations will provide the same entitlement to rest time and leave as for the permanent

employee in lieu of entitlement for untaken holidays. I also understand that the directive will make particular provision for the protection of pregnant women and new mothers in the areas of health and safety at work, antenatal attendance and rights to alternative work if necessary, but I share the concern of some of my colleagues about how far the directive goes on maternity rights. I am open to hearing more on that.

There is a cost in the transposition of the directive to local employers, and that cost increases significantly in the absence of a qualifying period. The Minister must consider carefully how his decision in that respect will balance workers' rights and economic recovery in Northern Ireland.

I join my Assembly colleagues in thanking the ICTU, the Law Society, the CBI and everyone who submitted consultations to the Committee for Employment and Learning. I recognise that there is some disagreement around the fairness of the 12-week qualifying period for entitlement to those new provisions and about whom such an agreement should be struck with. I understand that the Department received clear legal advice that the agreement with the TUC and CBI permits that provision in Northern Ireland, but a wider debate appears to be required on the standing of ICTU in social partnership agreements in the region.

There are also wider concerns about the use of agency workers in general, and the Committee has clearly taken those matters on board. In particular, the issue of employees spending multiple years in temporary and agency arrangements has caused significant concern, as has the disproportionate number of women and ethnic minorities who find themselves in temporary employment. The general percentage of the UK workforce in temporary employment seems to be greater than in most other developed economies, particularly Germany and France. The Assembly may need to return to those issues, and I ask that the Minister consider all the issues that have been raised in the debate when applying the agency workers directive in Northern Ireland in as fair and timely a manner as possible.

Mr D McIlveen: I find myself in complete agreement with my party colleague Mr Ross. We have to accept that, although the debate is useful for airing the Committee's views on the

issue, we are powerless to do anything about the legislation. Whether we like it or not, the legislation will come into effect on 1 October 2011, unless further powers are given to the Assembly.

Mr McElduff: I ask the Member to rethink his comment that we are powerless in the matter, given that employment law is devolved to the Assembly.

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

Mr D McIlveen: I thank the Member for his intervention. I remind him that it is a European directive, so “powerless” is perhaps not too strong a word to use.

All Members will be united in wanting the rights of all workers to be protected, and I believe that it is the ethical responsibility of this House to do so. However, my concern about the legislation is twofold, and perhaps, if nothing else, we can impress on the Minister the need to at least make his feelings known to his counterpart in Westminster on behalf of the Committee. First, does the legislation send a consistent message to the business community? I believe that it does not. On one hand, the majority of Members believe that advancing the role of our private sector will be key in driving forward our economy, but, on the other hand, this legislation will lay yet more cost and bureaucracy on our private sector.

The Committee had a presentation from the Irish Congress of Trade Unions, and its representatives very flippantly described private business as crying wolf on the additional costs. I met representatives of a business from my constituency yesterday, and they showed me in black and white how, this year, they have already sustained a bill of £600,000 as a result of what was gauged to be a very small rise in the minimum wage. The same company's most modest projections show that the cost of implementing the new legislation will be in the region of £300,000 this year. That bill of nearly £1 million has been forced on a private company as a result of what is seen as relatively straightforward legislation. That sends out a very inconsistent message on how we feel the role of our private sector should change in coming days.

My second concern is that the timing of the legislation is inappropriate. Times are still very

difficult for businesses, and many firms have no guarantee of work next week, let alone next month or next year. So, for companies, the ability to employ and dismiss staff on a reasonably quick basis — I highlight the phrase “reasonably quick basis” — is crucial to their survival in these difficult economic times. This recession will not go on for ever; there is an end to it. Therefore, I feel that implementing the legislation at this stage is, perhaps, lacking a little in judgement. Therefore, I urge the Minister to express concern to his counterpart over the timing of the legislation.

The ICTU's view is that the legislation will deal with the issue of agency workers being the:

“second-class citizens of the employment sphere.”

We have to be careful that employed citizens do not go into the second-class citizen role in the employment sphere. Those employees have gone through a rigorous recruitment process, and employers have invested time, resources and experience in them. Agency staff would then be given virtually the same rights. We are talking not about an unfair environment for workers but about the resources that are invested in employees. A balance has to be struck to ensure that agency workers do not force full-time employees into a position of second-class citizenship.

Ms Gildernew: Go raibh míle maith agat, a Cheann Comhairle. I welcome the opportunity to debate this matter, and I welcome the Minister here today to hear about some of the discussions that we have had in the Committee for Employment and Learning.

When departmental officials came to the Committee to provide a briefing on the agency workers directive, we discovered that trade unions here had not managed to reach agreement with the Department. Alarm bells immediately went off in my head about that lack of agreement, and, with a bit of probing and questioning, it became clear that the trade union movement here had strong opinions on this but the 12-week arrangement that the TUC was bringing forward was out of kilter with what ICTU wanted to do.

A TUC report published in 2007 shows that more than half of agency staff would rather have a permanent job; a quarter of agency staff are in assignments of more than a year and are not just filling a temporary need; agency staff in post for more than a year do not gain the

enhanced employment rights that other workers enjoy after 12 months in a job, as they normally do not have the legal rights of an employee; agency workers have no security of tenure and can be made unemployed at any time; and agency staff are paid 80p for every pound paid to permanent staff doing a similar job, according to a TUC analysis of official statistics. Yet the TUC was party to the agreement reached on the other side of the water.

The TUC has no remit here. According to a letter from Eugene McGlone to Danny Kennedy in January, the TUC has had no remit here since 1893. Nevertheless, ICTU, which is the trade union organisation responsible for coming to this agreement, has been, if you like, frozen out. ICTU declined to sign up to the existing agreement because the introduction of a 12-week qualifying period would deny many temporary agency workers equal treatment. That means that serious questions remain about going down that route.

I was unable to attend the Employment and Learning Committee last week, when the Law Centre, ICTU and others gave presentations, but much in the papers that members received made sense. At a previous Committee meeting, one of the issues that I raised was the right to maternity leave and maternity pay for agency workers. I welcome the right of women to attend antenatal clinics and so on, but I am concerned that enhanced contractual maternity pay is not included in the directive and that the draft regulations do not provide for entitlement to maternity leave. Therefore, again, I am deeply concerned about the way we are going on this issue and the fact that we are not taking into consideration the rights of some of the most vulnerable people, such as elderly people, those with low educational attainment and migrant workers. It is incumbent on us to ensure that we protect the rights of such people.

I was in the Chamber on the day of Jim Allister's speech. He was also vocal on the issue in Committee, where his view was contrary to mine and that of my colleague Barry McElduff. Jim Allister — I paraphrase rather than directly quote him — stood in the Chamber and talked about the Assembly being judged by how it treats minorities. Well, I think that our society will be judged on how we treat our minorities. We have a situation here in which the most vulnerable could be exploited.

It is also worth mentioning that, given the current economic situation, people have been made redundant or have lost their job. Agency or temporary work might be all that is on offer, particularly for the many unemployed skilled workers, notably in manufacturing.

Mr Ross: The Member made a valid point about the economic situation and how many people are unemployed. There is an argument that many European directives that place additional costs and burdens on businesses, rather than allowing businesses to reinvest to expand and create more jobs, will result in jobs being lost. Does she not buy into the argument that some regulations cost jobs rather than resulting in desperately wanted new jobs in Northern Ireland?

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

Ms Gildernew: Go raibh maith agat, a Cheann Comhairle.

I do not buy that argument. As we work our way out of the current economic climate and look for workers, we will be judged on how well we look after those who best protect workers and encourage them back into the economy. We and the Agricultural Wages Board debated the fact that we cannot get agricultural workers to work at minimum wage levels. We need to ensure that their rights are protected and their skills recognised.

David McIlveen made the point that we were powerless, but we are not. Indeed, as Agriculture Minister, I went to Europe many times to argue that we should have regional variations and should seek derogations to get the best deal for the people whom we represent. Those are the people who vote us into the Assembly and look to us to enhance their protections. Therefore, I ask the Minister to look seriously at this issue again. Even at this late stage, try to find agreement with ICTU —

Mr Speaker: The Member must bring her remarks to a close.

Ms Gildernew: — and try to make a better fist of it than thus far.

Mr Speaker: The Business Committee has arranged to meet immediately upon the lunchtime suspension. I propose, therefore, by leave of the Assembly, to suspend the sitting until 2.00 pm.

The first item of business when we return will be Question Time.

The debate stood suspended.

The sitting was suspended at 12.44 pm.

On resuming (Mr Deputy Speaker [Mr Molloy] in the Chair) —

2.00 pm

Oral Answers to Questions

Justice

Mr Deputy Speaker: Question 11 has been withdrawn.

Legal Aid

1. **Mr Hamilton** asked the Minister of Justice for an update on the impact of his decision to reduce fees paid to lawyers in legal aid cases. (AQO 149/11-15)

4. **Mr McNarry** asked the Minister of Justice what action he is taking to resolve the dispute about legal aid fees. (AQO 152/11-15)

Mr Ford (The Minister of Justice): With permission, Mr Deputy Speaker, I will answer questions 1 and 4 together. The new remuneration arrangements came into effect on 13 April 2011. Since then and up to 24 June, 254 defendants have been left without representation in Crown Court cases due to the withdrawal of the solicitors' firms that had previously represented them. A further 19 defendants may be unrepresented in cases where 13 firms have not notified the court service that they may have withdrawn, but no defence certificate for legal aid in the Crown Court proceedings has been applied for.

My officials in the Courts and Tribunals Service have written to all solicitors' firms in Northern Ireland asking whether they are willing to take on Crown Court work under the new remuneration arrangements. They have compiled a list of firms willing to carry out legally aided Crown Court work. Eight firms are on the list. The list has been provided to all defendants who are unrepresented and to defendants who, it is thought, may not have representation. The Courts and Tribunals Service has also compiled a list of barristers who are willing to work at the new rates, including barristers from outside Northern Ireland. The list has been provided to any solicitor who is experiencing difficulty in instructing counsel. In addition, three firms of solicitors from England and Wales have

approached the Courts and Tribunals Service to ask about being included on the list. We are seeking to confirm whether the Law Society will allow them to take on work in Northern Ireland.

Mr Hamilton: I thank the Minister for his response. I assure him of my support and that of my colleagues on this side of the Chamber in his attempt to lower Northern Ireland's disgracefully large legal aid bill. In seeking an alternative way forward, has the Minister considered instigating a US-style public defender's office? In pursuing and examining that, has he considered how easy that might be to do?

Mr Ford: I thank Mr Hamilton for his supplementary question. I am considering all possible options to ensure that defendants have access to justice. It is my hope and my effort to date to ensure that defendants obtain solicitors and barristers under the usual arrangements who are prepared to work at the new legally enforced rates of remuneration. I could also invite solicitors and barristers from outside Northern Ireland to take on Crown Court work on the same basis as applies. As I said already, we have had indications of interest, without seeking them, from firms of solicitors in England and Wales that are keen to work here.

Another option would be for the Legal Services Commission to arrange for legal advice and representation to be provided directly to unrepresented defendants. Mr Hamilton referred to a US-style public defender's system. I suspect that that might create concerns about the quality of justice; however, it already operates successfully in part in England and Wales. The legislation is already in place under the Access to Justice (Northern Ireland) Order 2003 for the Legal Services Commission to engage directly should it wish and should it be necessary to ensure access to justice for defendants.

Mr McNarry: I thank the Minister for his answer to that very interesting question from my colleague Simon Hamilton. The Minister has said previously that, if we could not get a resolution to the current situation, he would take another look at the options. From the tone of what the Minister said, I gather that he is either being driven or is willingly looking outside the box on the issue. Does one of those options not include a compromise with local lawyers, or does he have options, other than those that he

stated, that would be a resolution? Does he see that forthcoming?

Mr Ford: I thank Mr McNarry for his supplementary question. He talked about the possibility of compromise. However, the House should be aware that the new rates of pay under the regulations are now in force. They are legally in place because the regulations were laid before the House and were accepted by the Committee and, by default, by the House as a whole. Therefore, there is no compromise on changing the rates. There is no way that David Ford, by the stroke of a pen, can give solicitors and barristers what they want. The compromise — *[Interruption.]* There is no legal process by which the Minister could make a compromise, if that is what is being talked about.

There is also no way in which, within budget, we could pay the rates that are sought by certain members of the legal profession. I have offered a significantly earlier than usual review of the new rates to see where there are anomalies and to see whether there are issues that need to be addressed in reforming the rates that are now in force. However, that requires solicitors and barristers to work normally so that we can ascertain what the facts of the case are. I believe that that is a compromise. That is what I have offered to the Bar Council and the Law Society, and my officials have written to them about the detail of it. I hope that we will see constructive engagement in order that we will see defendants being represented and victims of crime seeing their cases proceed speedily.

Mr Lynch: Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister for his answer. Can the Minister give an assurance that defendants' trials will not be unduly delayed as a result of this issue?

Mr Ford: I thank the Member for asking a question about what is clearly an important issue for defendants and victims. It is important for them to see that the cases are proceeded with. Given where we are and because most of these Crown Court cases are unlikely to proceed before September or October at the earliest, the reality is that there is no significant delay at the moment, although there is the potential that some people could be delayed in making a valid bail application, if they are not properly represented. As my first priority, I am seeking to get the existing system working properly, with Northern Ireland solicitors and

barristers carrying out the duties at the rates of remuneration that are now in force. If that does not turn out to be the case, I will certainly not shrink from other options to ensure that there is access to justice for defendants and justice being seen to be done for victims.

Mr A Maginness: It is unhelpful for the Minister to adopt an uncompromising approach to this problem. It would be better if the Minister reopened discussions with the Law Society and the Bar Council to see whether there is some basis for a compromise, as Mr McNarry suggested, on the basis of their proposals, which—

Mr Deputy Speaker: I ask the Member to come to a question.

Mr A Maginness: — were verified as being within budget.

Mr Ford: I fear that Mr Maginness has not appreciated the point that I have tried to make: the new regulations are in force, and the Assembly has accepted the new rates of remuneration. Therefore, the suggestion that I am uncompromising is completely off the mark. The simple position is that proposals were put forward by the Department, accepted by the Committee and not rejected by the Assembly and, therefore, have the force of law. No compromise can be made about those rates.

The compromise is that I have offered an early review. We will see how the arrangements work and whether there are anomalies. I have engaged with the Law Society and the Bar Council; I have offered them that. I have asked my officials to engage in detail with them, and that is the compromise. The compromise is not to suggest somehow that I should accept from the two professional bodies a proposal that was uncostered, could not be costed, would have significantly exceeded the budget available for legal aid and would have resulted in cost pressures being met from other aspects of public expenditure in Northern Ireland that, I believe, deserve equal priority. I suspect that few Members would wish to see us shifting funds from the budget for health and social services, for example, into the funding of legal aid, when Northern Ireland will still have the most generous system in western Europe.

Mr Allister: With regard to the unfortunate situation that has arisen, has the Minister any concern about the impact on the quality of

justice? I ask him to bear in mind the incident in Newry Crown Court on 9 June, when a novice solicitor made the schoolboy error of being willing to see someone returned on a charge where they could face 14 years' imprisonment, without ever having received or read the papers in the case. Is there not a live concern, therefore, about the impact on the quality of justice? Might that concern be intensified if —

Mr Deputy Speaker: One question please.

Mr Allister: — if, during this dispute, there are difficulties dealing with custody interviews?

Mr Ford: I am not quite sure precisely what Mr Allister meant by his last remark. Let me make it clear that I am not here to discuss any individual case. What is absolutely clear is that I am committed to ensuring access to justice and the best quality of justice, but it also has to be the best quality of justice that is affordable. The simple position is that it was not possible, with the budget that I am obliged to live within, to meet the rates of remuneration requested by certain solicitors and certain members of the Bar. I am seeking to provide the highest possible quality of justice within a budget, not on an open-ended expenditure list.

Craigavon: Rioting

2. **Mr Moutray** asked the Minister of Justice to outline the cost of the riotous behaviour over 12 July 2010 in the Craigavon area. (AQO 150/11-15)

Mr Ford: Regrettably, there were several incidents of disorder in the Craigavon area on 12 July 2010, principally in Lurgan. Those included attacks on police officers, using petrol bombs and other missiles, and the hijacking of vehicles, including a train carrying 55 passengers. The Police Service advised that the cost of officer hours for policing 12 July in Lurgan last year was approximately £41,000. That figure covers the total cost of the policing operation. In addition, there was the cost of the damage to the hijacked train, which amounted to over £20,000, and the cost of damage to the other vehicles that were hijacked. That is not to mention the cost in lost revenue for local businesses and the potential impact on tourism. However, there are wider costs than the financial ones. Those who suffer most are clearly the local community. There can be no doubt that that type of wanton and destructive violence has

an unwelcome and detrimental impact on those who live in the area. The perpetrators need to wake up to that.

In the past couple of days, Northern Ireland has occupied the headlines for our sporting excellence, bringing with it the prospect of continuing to improve our reputation internationally. Unfortunately, it is not just a matter of Craigavon on 12 July. Following the scenes of violence last night in east Belfast, that image has been replaced by one of rioting. Quite simply, those scenes were a disgrace, and I condemn those involved for the damage, fear and disruption that they created in their own community. There is no justification for the scenes we saw last night. I welcome the efforts of the police and community representatives who stepped forward to seek to restore order.

It is vital that the Executive and Members of the Assembly, with other agencies and community leaders, work together to build a shared future and to divert our young people from becoming involved in this criminal and destructive activity in Craigavon, Belfast or anywhere else.

Mr Moutray: Thank you, Minister, for that response. I concur with your remarks about last night's trouble. Given the significant financial resources spent in relation to riotous behaviour in Craigavon last July, will the Minister outline what effective measures will be put in place to circumvent such happenings this year and to allow the people of Craigavon a peaceful holiday period?

Mr Ford: I am sure that the Member does not expect me to go into the detail of any operational planning that the Police Service might be putting into place, which is a responsibility for the Chief Constable and not for me. The responsibility that we in the Department have is to do what we can to promote diversionary activity, to build on the community safety work being done by my officials and in conjunction with Craigavon Community Safety Partnership and to ensure that every possible effort is put forward in seeking to divert people from that kind of trouble. Unfortunately, however, because of what we have seen in Belfast over the past few days, I suspect that we may expect to face certain difficulties this summer, which I believe every Member of the House would wish to avoid.

Mr Dallat: Does the Minister agree that, where riots can be linked to or associated with

particular organisers, those organisers should get the bill for the damage caused to public property, in the same way as football clubs are heavily penalised when their overenthusiastic supporters run riot and rip up the seats?

Mr Ford: I suspect we probably all agree with Mr Dallat that, where people are responsible for organising riots, they should be made to pay for it. I am not sure, however, that that is a practical proposition, as opposed to something that would be an aspiration.

2.15 pm

Road Safety: Scramblers and Quad Bikes

3. **Mr P Maskey** asked the Minister of Justice what plans his Department has to introduce legislation in relation to scramblers and quad bikes. (AQO 151/11-15)

Mr Ford: Road safety matters are primarily the responsibility of the Department of the Environment (DOE), but related issues, such as criminal law and enforcement, clearly fall to my Department. Therefore, I work closely with the Environment Minister to address road traffic and safety matters, including problems with off-road vehicles.

On the justice side, the law against nuisance vehicles was strengthened in 2008. New police powers were put in place to seize and retain vehicles that were being used to alarm, distress or annoy. We all know how dangerous scramblers and off-road vehicles can be. That was exemplified by the recent tragic death in north Belfast of 12-year-old Daniel Mooney, who fell from the back of a scambler. I know that Members will join me in extending heartfelt sympathies to Daniel's parents, relations and friends on their bereavement.

Mr P Maskey: Go raibh maith agat, a LeasCheann Comhairle. I, too, extend my sympathies to Daniel's family and to everyone who has lost someone as a result of a tragic accident involving a quad or scambler throughout the years. It is a massive issue, and it was picked up in the recent canvassing campaign prior to the elections. Quads and scramblers are being used in some of our parks and fields and are destroying them. People are buying quad bikes or scramblers without having tax or insurance. I appreciate that some of the responsibility lies with the DOE, but there needs to be joint working between the Minister's

Department and the Department of the Environment. Hopefully, we will see some sort of legislation in the future.

Mr Ford: I am entirely open to appropriate further legislation. However, in the context of nuisance vehicles and issues relating to insurance, there is probably more of a case to be made for enforcing existing legislation than passing new legislation. However, if the Member or any other Member has specific suggestions, I will work with the Minister of the Environment to see what can be done.

Mr Campbell: In addition to the tragic death that the Minister and the Member opposite referred to, there are occasions when antisocial behaviour is linked to off-road vehicles. Will the Minister undertake to work in conjunction with the Department of the Environment to ensure that it will try to diminish the effects, particularly on elderly people, of young people driving those vehicles at weekends and accessing land and property illegally?

Mr Ford: The Member has highlighted the sort of issue that is raised by vehicles being used to annoy and create disturbance. The detail is to ensure that we work proactively to cut down on that. For example, a number of community safety partnerships have sought to educate people away from that kind of behaviour, as well as enforcing the law when it happens.

Mr Durkan: I agree with those who spoke about the seriousness of the issue. It causes a nuisance right across the North. Will the Minister tell us how many of those nuisance vehicles have been seized since the introduction of the law?

Mr Ford: I cannot give the Member the detail of how many vehicles have been seized since the introduction of the law, but I know that there have been only two vehicle seizures in the past six months. There may frequently be a safety issue with regard to dealing with the incidents where they actually occur. It can be difficult to safely stop and apprehend people who use those vehicles. Therefore, the police need the assistance of local communities to identify perpetrators so that they can be dealt with somewhere other than where the incident is actually happening.

Mr Deputy Speaker: Question 4 was grouped with question 1.

Community Safety

5. **Ms J McCann** asked the Minister of Justice what percentage of the policing and justice budget has been allocated for community safety in the current financial year. (AQO 153/11-15)

Mr Ford: I can confirm that approximately 15% of the core budget of the Department of Justice has been allocated to community safety in the current financial year. That figure excludes funding allocated to arm's-length bodies and agencies. In monetary terms, it means that just over £6.9 million has been allocated to community safety for this financial year. However, Members should note that, as well as allocating funding directly to community safety, my Department ensures that additional resources are available through the requirement to secure match funding. The net result is that significant funding has been allocated to community safety in the current year.

Ms J McCann: I thank the Minister for his answer. Given the success of many of the locally based community safety forums, such as the West Belfast Community Safety Forum, which works in partnership with organisations that have a responsibility for community safety, will the Minister give us an assurance that they will be resourced and financed in the way that they need to be to carry on and develop those initiatives?

Mr Ford: I appreciate the point that Ms McCann is raising. I cannot give her an absolute guarantee that the West Belfast Community Safety Forum will be funded indefinitely. However, I can confirm that funding for the facilitator post has been extended until 31 March 2012 so that time is taken to assess the most appropriate model for delivering local engagement on community safety in west Belfast. Clearly, there are community safety issues on which we would like to spend significantly more money. However, the fact is that budgetary pressures on the Department do not always make that easy. I am concerned to ensure that money that is allocated to community safety from limited resources is used in the best possible way and to assess the good work that is being done both by formal community safety partnerships and by informal local groups such as the one that the Member highlighted.

Mr Eastwood: Will the Minister ensure that the new policing and community safety partnerships act in accordance with the spirit of the Patten

report so that local neighbourhood policing is truly community policing?

Mr Ford: Certainly. I am happy to endorse Mr Eastwood's comment. It is certainly the Department's intention to put forward proposals for the new amalgamated or extended policing and community safety partnerships so that the spirit that has gone through the district policing partnerships (DPP) since the Patten report will be carried forward. Some Committee members were concerned that the consultation document did not reflect that fully. It has, therefore, been revised to take account of views that have been expressed by Members of the House.

Mr Lyttle: What is the Minister's assessment of how well the various Departments' interventions and initiatives on community safety are being joined up?

Mr Ford: The Member asks a question that applies to every aspect of public expenditure. There is absolutely no doubt that we have seen good work done in many community safety partnerships to join up the responsibilities of different bodies. The way in which the new policing and community safety partnerships will function will bring a number of statutory bodies into a wider role while preserving what Mr Eastwood has just referred to: the existing pattern of DPPs in the policing committees of those partnerships. It seems absolutely clear that, if we are really to make communities safer, we need to look at the role of a number of Departments, not simply the Department of Justice (DoJ) and its agencies, to ensure that we get maximum benefit. I am certainly keen to work with other Departments to ensure that that benefit is maximised and to get the best possible results for the entire community.

Police: Part-time Reserve Gratuity Scheme

6. **Mr Hussey** asked the Minister of Justice to outline the current situation regarding payments under the gratuity scheme for the police part-time Reserve. (AQO 154/11-15)

10. **Mr Buchanan** asked the Minister of Justice what discussions he has had with the Secretary of State, the Northern Ireland Office and Her Majesty's Revenue and Customs concerning the proposal to tax the £20m gratuity package for the police part-time Reserve. (AQO 158/11-15)

Mr Ford: With permission, I will answer questions 6 and 10 together. The current situation with regard to the part-time Reserve gratuity scheme is that 6,228 applications for the gratuity payment were received. They have all been put through the verification process. It is the Department's intention to make payment to verified applicants as soon as possible. We are, however, awaiting the view of the Chancellor of the Exchequer on the tax and National Insurance treatment of those payments. Officials from my Department have been in contact with Her Majesty's Revenue and Customs (HMRC) since the devolution of justice, when I was given responsibility for administering the police part-time Reserve gratuity scheme as set out by the Northern Ireland Office. HMRC advice has consistently been that, since those payments relate to an individual's employment and do not fall within any existing exemptions, they will be liable to tax and National Insurance. Liability will depend on the individual's tax status. The DOJ has always understood that HMRC is able to operate only within the parameters of existing tax law. However, I have raised the issue again with the Chancellor with a view to finding an equitable solution. I have also written previously to the Secretary of State with regard to tax and National Insurance issues. DOJ officials have been in contact with NIO officials on a number of occasions.

Mr Hussey: I declare an interest. Does the Minister agree that the attempt by Her Majesty's Revenue and Customs to take more than its pound of flesh — £7.5 million or £9 million, depending on whatever figure it uses — is totally unacceptable and that, perhaps, it should use the system that was used by the Ministry of Defence (MoD) for the Ulster Defence Regiment (UDR) and the Royal Irish Regiment (RIR)?

Mr Ford: I am afraid that I cannot agree with the Member's assessment that HMRC seeks more than its pound of flesh. As I understand it, the issues are different from those that were raised by the Ministry of Defence in connection with the UDR and RIR gratuity. All that my officials who seek to administer the scheme can do is to follow the advice that they are given.

Mr Spratt: Despite all Mr Hussey's blustering about the issue, will the Minister confirm that more than 50% of the initial applications had to be returned? Will he also confirm that whatever time is necessary will be taken to verify those

claims, so that everyone in the system is allowed to be included in the appeal process?

Mr Ford: I certainly confirm that a significant number of the original applications had to be returned in order to verify certain aspects. However, I cannot be sure whether it was exactly the proportion that Mr Spratt speaks of. Those who administer the scheme seek to do so as speedily as possible and in line with the law under which they are required to operate.

Mr Buchanan: Does the Minister agree that it is totally unacceptable that the package that was given as a gratuity is now being taxed? Will he do all in his power to ensure that the proposed tax on that gratuity is waived?

Mr Ford: All I can do is administer the scheme that was handed to me by the Northern Ireland Office in accordance with the law. As I said in my initial answer, given the concerns that were expressed, I took the opportunity to raise the issue again with the Chancellor of the Exchequer when I met him last week. It had been raised with the Prime Minister the previous week. The only way in which any change will be made to the scheme is if additional funding is granted. Other than that, I can work only within the legislation that I am required to work under and within the sum of money that was set aside by the Northern Ireland Office.

Mr Deputy Speaker: The Member is not in his place for question 7.

Rosemary Nelson Inquiry

8. **Mr McDevitt** asked the Minister of Justice what action he intends to take as a result of the Rosemary Nelson inquiry report. (AQO 156/11-15)

Mr Ford: I have read the inquiry report, and my assessment is that the findings of the inquiry relate to a policing and security environment that has been largely overtaken by fundamental reforms of the police. In addition, many of the issues relate to the Public Prosecution Service (PPS), the Security Service and the NIO, which are outside my area of responsibility. I have, however, taken actions that, I think, will be helpful. I have spoken to the Secretary of State for Northern Ireland and have been given assurances about the current limited home protection scheme, in particular assurances that adequate arrangements are in place to ensure that the problems that occurred in the

past will not happen again. I have also written to the PSNI and the PPS about the security of documentary material and to the Law Society to ascertain whether it has any remaining concerns about the protection of its members.

Mr McDevitt: I am sure that the Minister will agree that the report marks a seminal moment in the acid test of whether the Assembly is capable of taking the difficult decisions outworking themselves from the devolution of policing and justice. Does the Minister have any intention of weeding out of his Department the securocrats formerly attached to the NIO who were so severely criticised in the Rosemary Nelson report?

Mr Ford: I must say that I find that question interesting, particularly when I remember the comments made by Mr McDevitt as we finished the debate on the Justice Bill before the election. He referred to the Justice Bill as a sign that things had changed. He actually said that, when he looked down the Chamber and saw the people sitting in the Box, he could think of them as being from the DOJ and not the NIO. On that basis, it seems slightly surprising that, faced with a report dealing with events that happened 12 or more years ago, he is somehow keen to present officials of the Department of Justice as if they were NIO securocrats. I do not recognise that as a description of anyone who works in the Department of Justice. It is not what I see in the attitude of those who work for and with me on a daily basis. *[Interruption.]*

Mr Deputy Speaker: Order.

Mr Ford: I see people who are committed to working under a devolved system in entirely different circumstances and are keen to work in a different way.

I must say that I also find it funny that we seem to be in a position where those who were members of the RUC can be reformed as members of the PSNI and those who have backgrounds that include criminal records can be reformed as Members of the Assembly but anyone who has ever worked for the Northern Ireland Office is somehow tainted for life, meaning that it is impossible for them to be considered as having a new way of operating.

While we are on the topic, there are no officials in the Department of Justice who were members of the Senior Civil Service at the time that is covered by the Rosemary Nelson report.

2.30 pm

Mr Deputy Speaker: That concludes questions to the Minister of Justice.

Mr Givan: On a point of order, Mr Deputy Speaker.

A Member: You cannot take a point of order during Question Time.

Mr Deputy Speaker: It is a point of order that relates to this Question Time. I am taking the point of order.

Mr Givan: A number of Members asked supplementary questions to question 1. I do not know if some of those Members are still members of the Bar, but it may well have been necessary for them to declare an interest, and I do not recall that being done. I accept that Members do not declare interests on all occasions, and that is fine. However, I would like the Speaker's Office to rule on that issue and come back to the House.

Mr Deputy Speaker: It is correct that any Member speaking on any issue in which they have a particular interest should declare that interest. Under Standing Order 69(4), Members must declare any interest before they speak in any debate or proceedings.

Mr Allister: Further to that point of order, Mr Deputy Speaker. I apologise for neglecting to declare the fact that I have been and am a member of the Bar of Northern Ireland.

Mr A Maginness: Further to that point of order, Mr Deputy Speaker. I would also like to associate myself with that. *[Interruption.]*

Mr Deputy Speaker: Order.

Mr A Maginness: Mr Deputy Speaker, it has been well known for many years that I have been a practising member of the Northern Ireland Bar.

Regional Development

Mr Deputy Speaker: Question 4 has been withdrawn.

Railways: North-west

1. **Mr Sheehan** asked the Minister for Regional Development when the upgrade to the railway line in the north-west will commence and be completed. (AQO 164/11-15)

Mr Kennedy (The Minister for Regional Development): I thank the Member for his question. The original plans for the Coleraine to Londonderry track relay project would have resulted in the completion of the project by 2013, and that was to coincide with the introduction to service of all 20 new trains. However, the Budget that was approved by the Assembly and the Executive makes provision for the commencement of the track relay in 2014. That reflects the capital budget that is available — £20 million in year 4 of the Budget period. It is not possible to start the work on the main relay earlier than 2014 for that reason.

The project was originally envisaged to take two years to complete, and, on that basis, I hope that the project will be completed in the financial year 2015-16. A revision of the current approved economic appraisal will be required, and that will also be subject to funding in the next comprehensive spending review.

Translink has identified interim measures to be taken to ensure the continued running and safety of the line up to 2014. It is its intention to maintain services until the project is completed, and funding has been provided for that purpose over the next two years.

Mr Sheehan: Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister for his answer. In respect of the Derry to Coleraine line, can the Minister assure me that looping systems will be implemented as commutes to Derry city will terminate before 9.00 am?

Mr Kennedy: I am grateful to the Member for his supplementary question. Some changes are envisaged for the Coleraine to Londonderry stretch of the line, and I have no doubt that those will be appropriately managed by Translink.

Mr Dallat: I have enormous sympathy for the Minister. He inherited this wanton neglect, which should have been attended to during the last Assembly. Given that Derry will be the City of Culture in 2013, will the Minister make a serious case to the Executive to find the necessary funding for the project? I find it an absolute disgrace that an intercity service will have speed limits imposed on it at a time when the numbers of those who use it have doubled. I appeal to the Minister, and I attach no blame to him for the neglect of the past.

Mr Kennedy: I am grateful to the Member for the non-attachment of blame. I have ongoing concerns, but, in the current financial climate, particularly with respect to my departmental budget, I must be honest with the House and say that the earliest date that I am able to indicate is 2014. If things improve, we will seek to bring the project forward. I am aware of the Member's long-standing interest in the issue. It gives me no pleasure to relay that news to the House, but I have to be honest.

Mr Storey: I thank the Minister for that information. Had it not been for the Assembly, we would not have a Belfast to Londonderry line because Minister Spellar would have closed it.

Will the Minister take back to Translink an issue that has been unresolved for some time? I refer to an express service from Ballymena to Belfast. Given the important place that Ballymena plays in relation to the transport hub of the region, it is important that we have an improved service. With the introduction of new trains —

Mr Deputy Speaker: The question is about —

Mr Storey: In that case, this line will not be sacrificed.

Mr Deputy Speaker: I remind Members that questions should be short. There are many questions to go through, and statements are not required at this time.

Mr Kennedy: I will draw the Member's remarks to the attention of Translink.

Mr Swann: My question will be like myself — short. Work on the railway line is likely to be disruptive for passengers. Will the Minister advise how Translink will minimise disruption for passengers from Ballymena and Ballymoney during that work?

Mr Kennedy: I am grateful to the Member for his supplementary question. Unfortunately, there will be some inconvenience, and it will be Translink's responsibility to manage that. I have every confidence that it will do so professionally. I am happy to be kept updated on progress and will seek updates regularly if particular problems emerge.

Cullybackey Link Road

2. **Mr D McIlveen** asked the Minister for Regional Development what progress has been made on the planned link road around Cullybackey. (AQO 165/11-15)

Mr Kennedy: Roads Service has been involved in discussions with the potential housing developers as part of the planning application on the line of the Cullybackey throughpass. I can advise that an agreed housing layout, which includes the construction of the central portion of the throughpass, received planning approval in June 2007. A revised planning application was submitted in July 2008, which also included the throughpass element, and was being processed by the Planning Service but has now been withdrawn by the developer. However, the original approval remains live.

To date, the developer has not started work on the housing development, and there is no indication of when it might progress. The completion of the throughpass is not included in any current major works programme. However, Roads Service has stated its commitment to the completion of the remainder of the route and has progressed preliminary design of the throughpass.

Roads Service has considered how the scheme might be provided. It would probably be in two or more parts, following on from the section to be constructed by the developer. As with all proposed works, delivery of the throughpass will be subject to the programming of schemes on a priority basis, successful acquisition of lands and availability of funding. At present, the scheme is not high enough on our priority list to secure funding. However, I assure the Member that it remains part of Roads Service's plans, and the service intends to avail itself of any opportunities for progress by developers or other funding opportunities that may become available.

Mr D McIlveen: I thank the Minister for his answer. I am conscious that, for anyone outside North Antrim, this issue does not have a lot of relevance, but it is an important issue in the constituency. I have spoken to a number of my council colleagues in north Antrim, and some of them bear testimony to the fact that the issue has been discussed since the 1960s, so it has been on the agenda for some time. I am conscious that budgets are tight. The Minister mentioned that the issue is not a priority. When will it become a priority? When will it be our turn?

Mr Kennedy: I am grateful for the Member's supplementary question. It seems that almost every road that has not been completed was promised in the 1960s. I understand the

importance of the road to Cullybackey. It is a throughpass not a bypass. In the scheme of things, it does not represent a major investment, but there have been unfortunate hold-ups.

It was hoped that the scheme would run in conjunction with the planned development. As that development has not taken place, we will continue to monitor the situation to see whether earlier progress can be made.

Mr Nesbitt: Does the Minister agree that there is great disquiet, not just about the failure of the Cullybackey link, but about the many smaller road proposals that are on hold because of the cut in capital expenditure, while the A5 proposals seem to sail on impervious to the current downturn in economic conditions?

Mr Kennedy: I am grateful to the Member for his question, and I understand his point. There is increasing debate and reflection on whether we should be improving existing roads instead of attempting to build new ones. That comment does not relate to the current planning inquiry into the A5 and A8 schemes. I am anxious to await the outcome of those public inquiries and will give careful consideration to their findings. However, the question of improving or maintaining existing roads goes back to the current financial position that I find myself in as Minister. It is quite a challenge.

Mr Allister: I am disappointed that the Minister was unable to bring any timely good news about the Cullybackey throughpass. Is the essence of his answer that, by hitching that scheme to the planned development, several years have been lost? If that is so, does that not increase the need for Roads Service to treat the throughpass as a Roads Service scheme in its own right and, as such, to complete it?

Mr Kennedy: I am grateful to the Member for his contribution. All schemes have to be considered according to their importance and cost, but they must meet a number of priorities. Unfortunately, the Cullybackey throughpass does not appear to have made progress on that. That is not to say that Roads Service will not continue to consider the scheme's potential. However, it was hoped that the housing development project linked to the throughpass improvement would advance the scheme. Unfortunately, time and other factors, including the housing downturn, contributed to the lack of progress.

Roads: Ards Peninsula

3. **Mr McNarry** asked the Minister for Regional Development what action is being taken to reduce the number of public liability claims made against Roads Service as a result of poor road surfaces in the Ards Peninsula.
(AQO 166/11-15)

Mr Kennedy: I am grateful to the Member for his question, although given his success and prowess in the art competition, I half expected it to be in the form of a rhyming couplet.

I acknowledge that there is considerable room for improvement in Northern Ireland's road network. I remind the House that I inherited a budget and programme of improvement works that limit the finance available for structural maintenance and will result in further reductions in conditions during the next four years. However, given the limited funding that I have for road maintenance, I assure the Member that the Ards Peninsula is receiving its fair share of the available funds. That said, Roads Service has in place an ongoing roads maintenance regime, which means that all adopted roads and footways, including those in the Ards Peninsula, are inspected regularly, and any defects are noted for repair.

2.45 pm

Essentially, the safety standards and procedures currently in operation establish frequencies — I will have to speak to my officials — for road inspections that are dependent on traffic volumes and specify response times for the repair of defects. The safety standards were last reviewed in 2009, and they continue to provide a systematic approach to road maintenance management.

I reassure the Member that the maintenance of road and footway surfaces and their underlying structure continues to be a high priority for Roads Service. Throughout the current financial year, funds will continue to be directed to the maintenance and upgrading of roads services across the Ards Borough Council area. That investment is aimed at improving road conditions and therefore reducing the likelihood of public liability claims.

Mr McNarry: I thank the Minister for his answer. If he intends to do poetic justice to my question, perhaps I can remind him of the personal promises that he has made to me —

imaginary or otherwise — on what needs to be done in the Ards Peninsula. So, in light of the Audit Office's concerns about the proportion of resources used for patching and repairs and compensation, does the Minister acknowledge the necessity of maintaining our roads? Will he advise us on what schemes are planned for the Ards area and tell us whether they include very necessary repairs in Ballyhalbert?

Mr Kennedy: I am grateful to the Member for his supplementary question. The maintenance regime is important. Inspection frequencies vary from daily cycles for motorways to four-monthly cycles for carriageways that carry low volumes of traffic. There are safety standards that were last reviewed in 2006 and continue to provide a systematic approach to road maintenance management.

I assure him that all of the roads in the Ards Peninsula area are regularly reviewed and, where problems exist, we seek to take action to identify them. My officials are currently embarking on their regular tour of local district councils to present the divisional manager's report, which contains the more detailed schemes for Ards and the other council areas. I will ensure that the Member is provided with an early copy of the list of schemes that are planned for the Ards Borough Council area.

Mr Hamilton: Through the Minister, I congratulate the local section office in Ards for its resurfacing of a large stretch of the Kircubbin to Portaferry road recently. If and when resources permit, will he ensure that equal concentration is given to the other side of the Ards Peninsula and the A2, particularly around Ballywalter, Ballyhalbert and Portavogie?

Mr Kennedy: I hear the Member's plea and will refer it back to our local officials.

Mr McCarthy: I thank the Minister for his responses.

I do not know how long it has been since the Minister visited the Ards Peninsula, but I invite him to come down as soon as possible, as Ards Borough Council has invited him. I will show him the Ballyeasborough Road, the Gransha Road, the Ballygelagh Road and the Springfield Road.

Mr Deputy Speaker: Question.

Mr McCarthy: Those roads are abysmal, particularly after the Water Service has left them. That is a big problem: when the Water

Service leaves a road, the Roads Service does not want to come back.

Mr Deputy Speaker: Order. The Member knows well that this is Question Time.

Mr McCarthy: I am asking a question. When will the Roads Service come and tell the Water Service that roads of the type I describe need to be replaced and resurfaced?

Mr Kennedy: My sense is that the Member has run out of road. *[Laughter.]*

However, he does make an important point. I have the same representations made to me, as a Member, by constituents who are every bit as concerned about the condition, maintenance and structure of local roads. That gives rise to the debate that I mentioned earlier about whether it is better to maintain the roads that we have or simply build new roads. I am interested in the Member's views on that and the views of other Members, if they wish to relay them to me.

However, I pay tribute to all my staff in the section offices for their ability to identify road projects and improvements. They are working very hard with limited resources, and they deserve congratulations, not criticism.

Mr Deputy Speaker: Question 4 has been withdrawn.

Car Parking: Charges

5. **Mr Givan** asked the Minister for Regional Development for an update on the review of on-street car parking charges. (AQO 168/11-15)

10. **Mr B McCrea** asked the Minister for Regional Development for his assessment of the potential impact of on-street car parking charges on town centre regeneration. (AQO 173/11-15)

Mr Kennedy: I am grateful to the Member. He nearly got the answer for question 4. With the Deputy Speaker's permission, I will reply to questions 5 and 10 together.

I am currently carrying out a review of my Department's proposal to introduce on-street parking charges in 30 towns across Northern Ireland. I intend to make an announcement on the issue in due course. As part of the review, I met a number of local representatives and traders from across Northern Ireland and listened to their concerns. I will carefully

consider their views on the proposal before I make my decision.

Mr Givan: I thank the Minister for that response. Lisburn already has on-street car parking charging. A complaint often made to representatives is that if charging was brought in to ease traffic movement, why is charging starting at 8.00 am and continuing through to 6.00 pm? When the Minister is looking at the review, can it be considered that those times should change? If it is to do with traffic movement, charging could be from 10.00 am to 4.00 pm, as opposed to the current arrangements. Perhaps that can be brought into the wider review, not just in Lisburn but in other areas.

Mr Kennedy: The Member raises a fair and reasonable point, which I am prepared to look at as quickly as possible. A great deal of consultation was undertaken to agree a scheme acceptable to all parties prior to the introduction of charging for on-street parking in Lisburn and Newry a few years ago. The Member raised an issue about timings for waiting restrictions, and I will look at that as closely as I can.

Mr B McCrea: Since we are on the subject of Lisburn, is the Minister aware of the challenges facing traders there when they seek to compete with out-of-town shopping centres? The cost of parking, not to mention the attitude that people take when confronted with “redcoats”, is a material factor in economic development. Will he take that on board during his review?

Mr Kennedy: I am grateful to the Member for his supplementary question. As part of the review, I have met representatives of the Northern Ireland Independent Retail Trade Association (NIIRTA), and we had some discussion on the issue that the Member raised. I found that insightful as I begin to reflect and finalise my thinking on on-street charges.

A great many towns in Northern Ireland — traditional market towns and new cities such as Lisburn and Newry — have considerable concerns about out-of-town shopping and its impact on the local, indigenous retail trade. Those are slightly wider issues to the review on which I wanted to proceed on taking office, but they are worthy of serious consideration.

Mr A Maskey: Go raibh maith agat, a LeasCheann Comhairle. Will the review have any

impact on, for example, some of the potential residents-only parking schemes?

Mr Kennedy: The Member, I think, was not in his place for the question that he tabled. We had a prepared answer, so he might as well have it.

The Member will be aware that attempts by my Department’s Roads Service to introduce the first residents’ parking schemes in the inner city areas of Belfast were met with considerable local opposition. Initially, residents were concerned about the proposed cost of a permit. Other issues included the number of permits available, and where short-term parking would be available on a pay-and-display basis.

Although we have no immediate plans to re-engage with residents in the Donegall Pass area, for instance, we will add that neighbourhood to the list of areas for future consideration. We have sought to re-engage with the local community in the Markets area. Progress on the issue has been very slow, and at some point I will have to question whether it justifies the investment of time and money by my officials. Unless we can see early progress being made, my sense is that this will run into the sand.

Ms Lo: With your indulgence, Mr Deputy Speaker, I want to ask a question following on from the answer that the Minister just gave. I know that there have been difficulties with negotiations on the residents’ parking scheme for Donegall Pass and the Markets, but will the Minister consider extending it outwards? I know that residents in Stranmillis and the lower Ormeau Road are very interested in taking up that scheme.

Mr Kennedy: I am certainly aware that other areas have indicated interest in such a scheme, but putting together a scheme, in real terms, that is acceptable to residents has proved difficult so far. Therefore, at some point I will have to make a judgement as to whether serious progress is possible or whether we are simply going around in a rather circular argument.

Rathlin Island

6. **Mr Storey** asked the Minister for Regional Development what progress has been made in implementing the Rathlin Island policy and action plan. (AQO 169/11-15)

Mr Kennedy: The Rathlin Island policy was endorsed by the Executive in February 2010, and the action plan was agreed last September. Following an invitation from the Rathlin Development and Community Association, I hope to visit the island in July to meet not only the people but the puffins and to hear of progress that has been made on implementing the action plan to date. I will review that when I chair the third meeting of the Minister's forum with the islanders and senior officials from all Northern Ireland Departments in the early autumn.

Mr Storey: I welcome the fact that the Minister is to visit the island. He will see the puffins, and I am sure that, as a member of the Loyal Orders, he will be glad to know that it is the only place in Northern Ireland where orange feet walk without the requirement of an 11/1. When visiting the island, will the Minister ensure that progress is made? I have been concerned for some time that, although the model is admirable, his Department, along with other Departments, needs to show a greater commitment to delivering on specific issues that have been raised through the process to date.

Mr Kennedy: I am grateful for the supplementary question. I have no intention of forming a concerned residents' group for the puffins, which, I understand, largely fly off around the Twelfth. That might be something that others could consider.

I take the point that the Member makes. It is a realistic point. I am very pleased that my responsibilities as Minister for Regional Development include responsibility for Rathlin Island, and I am looking forward to the visit and to meeting the Rathlin Development and Community Association, discussing the issues of concern to it and carrying those forward, not only in my Department but in the other Departments in the Executive.

A5 Dual Carriageway: Public Inquiry

7. **Mr P Maskey** asked the Minister for Regional Development for an update on the public inquiry on the A5 dualling scheme. (AQO 170/11-15)

Mr Kennedy: The public inquiry for the A5 western transport corridor commenced on 9 May 2011 and will run for approximately eight weeks. The first two weeks of the inquiry dealt with strategic issues, with issues relating to section 1 of the scheme, which runs from north

of Newbuildings to south of Strabane, dealt with in weeks three and four. Hearings in relation to section 2 of the scheme, which runs from south of Strabane to south of Omagh, are currently being held at the Mellon Country Hotel in Omagh, and the hearings in relation to section 3, which runs from south of Omagh to the land frontier at Aughnacloy, started yesterday in Kelly's Inn, Garvaghy.

It is expected that the independent inspector's report of the public inquiry will be presented to the Department before the end of this year. I will give careful consideration to its recommendations and to the strategic roads programme when the process has been completed and the necessary reports are available.

3.00 pm

Mr P Maskey: Go raibh maith agat, a LeasCheann Comhairle. The Minister says that he will give careful consideration to the outcomes of the public inquiry. I would be grateful if he could put a time frame on that, because the inquiry will be beneficial to the people of the entire area. Obviously, there is support from the Irish Government. Will he impose a deadline on his consultation with his Department after the inquiry has reported?

Mr Kennedy: I have not been terribly impressed by the Irish Government's adherence to the deadlines that they have put on things recently, such as the Smithwick tribunal. Although the timings are not date-specific, my expectation is that I will have the report of the public inquiry in the early autumn. I want some time to give careful consideration to that report. It may be possible to outline things in or around October.

Roads: Donaghadee

8. **Mr Easton** asked the Minister for Regional Development how much his Department is planning to invest in the roads infrastructure in Donaghadee in the 2011-12 financial year. (AQO 171/11-15)

Mr Kennedy: Roads Service has advised that it does not draft its work programmes on a town-by-town basis but by council area. Roads Service is, at present, finalising its budget allocations for individual council areas. Details of the work programmes are presented to the respective councils in the spring of each year and are dependent on the amount of funding available. I know that the Member is still a member of

North Down Borough Council. The report to Ards Borough Council, which includes Donaghadee, can be accessed from the Department for Regional Development (DRD) Internet site and contains the indicative programme of work. Copies of the report can also be obtained by contacting the divisional roads manager for Roads Service's southern division.

Committee Business

Agency Workers Directive

Debate resumed on motion:

That this Assembly notes the EU directive on conditions for temporary agency workers (directive 2008/104/EC); and calls on the Minister for Employment and Learning to ensure, in implementing the directive, that both the needs of workers and minimising the costs to business are taken into account. — [Mr B McCrea (The Chairperson of the Committee for Employment and Learning).]

Mr Deputy Speaker: This is the first debate in which the Assembly will hear from Mr Sammy Douglas, so I remind the House that it is the convention that a maiden speech be made without interruption.

Mr Douglas: Thank you, Mr Deputy Speaker, for the opportunity to speak to the motion. *[Interruption.]*

Mr Deputy Speaker: Order. Members must leave the Chamber quietly when a Member is speaking.

Mr Douglas: First, I want to thank the electorate of East Belfast for putting their faith and trust in me to represent them in the House and in other places. I commit myself to working for the whole community of East Belfast. Secondly, I wish to pay tribute to Lord Wallace Browne, who did a sterling job as a Member of the Assembly in the previous mandate.

Earlier today, I mentioned some of the serious difficulties that we had last night. I hope and pray that those things are resolved for us all. Last night, there were gunmen on the streets of east Belfast for the first time in many years, and it is only by the grace and mercy of God that people were not killed. I hope that people stop, take a step back and analyse where we are, because none of us wants to go back to the bad old days.

In the 1970s, I met a young man from the lower Shankill estate in Belfast who had a passion and a vision for ordinary working-class people, and, in particular, low-income families. He became my role model for community regeneration, and I am grateful for his help, direction and support over the years. That young man was Jackie Redpath, who later became the chief executive of the Greater Shankill Partnership. He was the pioneer for early years

education, training and employment schemes and working with local communities. However, he also worked with local businesses. His was a broad approach to community regeneration on the Shankill Road.

I remember that, back in 1978, he sent me to a seminar at Magee College, in the north-west. A man known affectionately as “Paddy Bogside” was taking the seminar. In those days, there were no high-level presentations; it was a matter of using a blackboard and chalk. He talked about community regeneration, the social economy, community enterprise and many other things. He asked us how many Catholics were in the room, and, as I was running out the door — I am only joking — 19 or 20 people put their hands up. He then asked us how many Protestants were there. I was the only person there from the Protestant/unionist community. He wrote on the blackboard, “Where are all the Prods?” He was asking: on community development, community economic development and community regeneration issues, why do no self-help initiatives come out of disadvantaged Protestant areas?

All that set me on a search through which I got involved in a lot of community regeneration projects, where I made cross-community contacts and took part in cross-border co-operation. When I came away from cross-border and cross-community meetings, I was surprised to find that I was still a Protestant, still a unionist, and still a loyalist. I have a lot to thank Jackie Redpath for. He is a real man of vision from the Shankill Road.

Today’s debate on the agency workers directive is about parity with the UK, the 12-week qualification period for rights and ensuring equal treatment for agency workers. Mr Deputy Speaker, do I have five or 10 minutes?

Mr Deputy Speaker: Five.

Mr Douglas: Many of those workers are low-paid, low-skilled and from low-income families.

Mr B McCrea: I thank the Member for giving way. He might need an extra minute. *[Laughter.]*

Mr Douglas: I would be happy for the Member to ask me to give way again.

Although we have regional variations across the UK, it is difficult to argue for special treatment for Northern Ireland. The Committee took evidence from the Confederation of British

Industry (CBI), which raised issues about the cost to Northern Ireland companies. We also heard from the Irish Congress of Trade Unions (ICTU), but I was very disappointed because it did not realise that the Trades Union Congress (TUC) and CBI in the UK had reached an agreement on the directive.

For me, the directive is about ensuring the rights of low-paid, low-income families. I know some workers who have been in temporary employment for two, three or four years. In fact, I know of some people who have been temporary workers for 20 years. Surely that is not right in today’s society.

I understand that my time is nearly up, so I will jump forward. Mr Deputy Speaker, in my opinion, we need to accept the EU directive. I propose, therefore, that we support the motion.

Mrs Overend: I am grateful for the opportunity to participate in the debate, and I thank my colleague Basil McCrea, the Chairman of the Committee for Employment and Learning, for tabling the motion. This is what the Assembly is all about: bringing legislation to the Chamber and debating the various issues that are important not only to the people of Northern Ireland but to businesses in Northern Ireland. At this time of economic downturn, it is very important to get that balance correct.

The EU directive raises issues that are important to agency workers. Just the other day, as I was coming out of the Committee for Employment and Learning, I bumped into a guy with whom I had a casual conversation about the directive and what we would be doing today. Talking to him brought home to me how important the directive is. He told me that, although he had worked for an agency for 15 years, it was not by choice; he needed to take the job. He would have benefited from the extra rights that the EU directive will bring. That brings home to us how important those issues are.

Implementing the EU directive in Northern Ireland raises three big issues, the most important of which is the 12-week derogation. We received representation and information from the Recruitment and Employment Confederation. In its argument for ensuring that the qualifying period is implemented in Northern Ireland, it said that having the 12-week qualifying period would avoid creating significant bureaucracy. It also said that it is impossible to overestimate the damage that would be done

to the already fragile Northern Ireland labour market if new regulations were implemented without measures to limit the impact on businesses.

Earlier, my colleague Alastair Ross referred to our being powerless in Northern Ireland. However, article 5(4) of the directive makes it clear that the derogation can be utilised by member states only if an agreement to do so can be reached with social partners at a national level.

Mr Ross: Will the Member give way?

Mrs Overend: Just a wee second, if you do not mind. Article 5(4) goes on to state that such arrangements shall also be made without prejudice to agreements at national or regional level. Suffice it to say that we are certainly not powerless.

Mr Ross: I want to put the record straight: I did not say that we were powerless. I said that it is a European directive, so it is not a matter of whether we implement it; it is how we do so. That was my point.

Mrs Overend: Thank you for your intervention. It certainly is about how we implement it. Thank you for clarifying that.

The EU directive will give additional rights to pregnant women, who will have the right to go to antenatal appointments. Those rights are welcomed, but the Minister needs to consider whether those rights go far enough. Other issues that he needs to investigate further are the six-week period and the definition of “agency worker”.

The big issue for me, coming from Mid Ulster, which is a rural constituency, is that we have a large number of small and medium-sized enterprises. I really want to represent the concerns of those businesses in my constituency. I urge the Minister to make sure that we have a balanced approach in the implantation of the directive. I want to support businesses, especially during this economic downturn. I am reluctant to add a burden to those businesses with the implementation of the directive.

I welcome the opportunity to participate in the debate. I am a new Member, and it has been a steep learning curve. I have enjoyed the presentations in Committee from various organisations, trade unions, businesses and so

forth. Departmental officials said to us that they have picked up on various issues that had not been raised earlier. Hopefully, the debate will have raised additional issues that the Minister will take on board. I urge him to do so.

Mr Nesbitt: I thank the Chairman of the Committee for Employment and Learning for bringing the directive to the House. As he said, it is too important not to debate. I am somewhat conflicted in my support for the directive, but not because of the aim; I have no difficulty with the aim of equal treatment. What gives me pause is whether it is the correct vehicle — the right means to the end — and also the cost of the directive, which, as we heard, could be between £80 million and £166 million over the next 10 years to our private and public sectors, depending on whether the directive takes effect from day one or week 13 of when an individual is engaged by a hirer.

The CBI is quite explicit about the implications. It states:

“Where UK costs prove prohibitive businesses could fail or alternative approaches that are detrimental to the UK job market will be developed.”

We must beware that we are not introducing a directive that makes agency workers less attractive to employers than they are now. We must beware that the admirable goal of the equality agenda does not result in more people being equally unemployed and unemployable because of red tape.

It is not the role of politicians to create jobs. Rather, our role is to create the environment in which businesspeople can create jobs and wealth that will generate the taxes that will fund excellence in our public services. As I said, our role is to create the environment, not the jobs.

During the election campaign, I asked a businessman to name three measures that the Executive could take to help him to grow his business. His initial reaction was that there was nothing that we could do for him, but, on mature reflection, he said that one thing that we could do is to make it easier for him to get rid of unproductive employees. He is not a man who is out to exploit his workforce but someone who would rather see a fair day’s work in return for a fair day’s wage and some manner of redress when he does not get that balance from his employees. Therefore, we should beware and reflect on the wisdom of introducing more

red tape at a time when the Northern Ireland Chamber of Commerce estimates that red tape has cost local business £2.4 billion since 1998.

3.15 pm

I speak with the experience of having previously employed temporary workers when I ran a public relations company. We specialised in event management, which meant that, depending on the event, we had a short-term need for particular specialisms and expertise that were of no use to us for the rest of the year. We operated a flat fee arrangement, which was good for us and good for the contractors and was done without reference to the terms and conditions of my full-time staff.

I speak also as a former freelance journalist who was employed by BBC sport at weekends to cover games of association football, rugby union or Gaelic football. Some of my associates had spent over 20 years in that arrangement, working for a flat fee, and were more than happy that that was the only recompense that they got. I note that Ms Gildernew spoke about agency and temporary workers, and I also note that the directive contains no agreed definition of “agency worker”. The Minister needs to clarify that.

As the legislation is an EU directive, I understand that we have relatively little wriggle room. Mr McIlveen made that point earlier. However, I fear that this will be another squeeze on the application of common sense. It seems to me that the more we legislate, the further common sense is squeezed from the agenda. Indeed, if the earth were flat, common sense would be hanging on to the rim by its fingertips. We should do what we can to ensure that the directive does not loosen the grip of common sense any further, and we should ensure that, as far as possible, the directive continues to allow businesspeople to apply local solutions to local issues. I support the motion.

Mr Allister: There is something essentially academic about the debate, because the fundamental reality, unpalatable as it is to me, is that this is a piece of EU legislation. In consequence of the very substantial surrender by member states to the EU of the rights to control much of their own social policy and employment policy, Brussels now has the capacity to decree what we should think, do and implement in respect of our own particular employment laws and needs. That is not a healthy situation, and it curtails and stymies the

rights of an Assembly such as this to adjust its policies to meet its specific local needs.

Therefore, we are faced with the agency workers directive, which decrees what we shall and must do. All that is left to us is the mechanism of implementation, and that is within very confined and constrained circumstances. Therefore, it follows that there is much about this debate that, as I said, is academic.

Of course, it comes also in the context that the hand of Europe upon the control of our business and our employment laws has been a tremendously expensive operation. A total of £74 billion since 1998 has been the cost of implementing in the United Kingdom EU regulations pertaining to employment matters. This is but the latest dead hand that has been delivered upon us. Therefore, all we can do, and what we most certainly should do, is seek to diminish and restrain the impact and to do the minimum that is required, bearing in mind the very substantial burden that it places on business.

We are often told that the future economy and prosperity of Northern Ireland relies upon building our small and medium-sized businesses, and we all repeat the platitudes about that. However, as legislators, we are taking steps, whether by compulsion or otherwise, that, if we take the 12-week option, according to the Department, will burden our industry to the tune of £26 million a year. Yet we tell ourselves that we are in the business of flexible working arrangements, building our economy —

Mr B McCrea: Since we are having a debate, I want to ask the Member a question. Does he think that it is right that someone who has worked for an agency for 15 years alongside another person who has been employed does not have the same rights and can be dismissed without any compensation or any other legal rights? Is that an appropriate way to behave?

Mr Deputy Speaker: The Member has an extra minute.

Mr Allister: It is not right that, where a person continues, as they do under the agency workers directive, to be essentially an agency worker employed by an agency, the employer who takes them on to work in his business has all the obligations put upon him. It is a fact that there are still basic threshold periods in employment

law. For unfair dismissal, it is 12 months. It is a basic criterion of employment law that there are thresholds, and it is right, therefore, that this directive has the scope for a qualifying threshold.

In this case, I say that we do not have any option, because article 5 of the directive decrees that, where there is a national agreement, that sets the parameters. In this case, there is a national agreement between the two sides of industry in the UK, which sets the introductory period as 12 weeks. Therefore, as far as I am concerned, it is chasing a rainbow for others to say that we need to give this immediate implementation. I believe that it cannot be done and that, if it could be done, it should not be done, because it would add excessively to the burden upon industry and create a patchwork of rights across the United Kingdom. If we want to be an effective and functioning part of the sixth biggest economy in the world, rather than an appendage to the basket case that is the economy of the Irish Republic, we need to have —

Mr Deputy Speaker: Bring your remarks to a close.

Mr Allister: — not a patchwork of rights but a uniformity of rights. For those reasons, I take the de minimis approach to this directive.

Dr Farry (The Minister for Employment and Learning): I thank the Employment and Learning Committee for putting down this balanced motion, which I fully support. I entirely appreciate why the Committee saw the need for wider debate on the draft agency workers regulations. The underlying issue goes to the very heart of employment law, and we need to find a difficult balance between employment rights and the burden that those rights can place on business.

The scale and importance of the proposals in the agency workers directive are significant and fully merit the considered and balanced debate that has just taken place. I want to thank all Members who contributed to the debate. I fully acknowledge, as some Members argued, that the transposition of the directive will have a considerable impact on local business and that there is a need to minimise the inherited costs without compromising the rights of agency workers. However, I also recognise the equally cogent arguments made by other Members that these proposals are designed to provide greater protection for agency workers and that there is

an opportunity to go beyond what is proposed in the rest of the United Kingdom. Having heard the strength of the debate, I am sure that the people most affected will be assured that the Assembly is committed to the directive's transposition in a way that is fair to agency workers and companies.

I assure Members that the final proposals that I will take to the Executive will be informed by the two guiding principles established in the Employment and Learning Committee's motion. Members will be aware that the directive sets out the principle of equal treatment as follows:

"The basic working and employment conditions of temporary agency workers shall be, for the duration of their assignment ... at least those that would apply if they had been recruited directly ... to occupy the same job."

The directive was the culmination of a long history of lobbying for better protections for temporary agency workers for whom there were no robust deterrents to abuse and mistreatment by those few rogue agencies that engaged in such unacceptable practices. If an agency worker is doing the same work as a permanent employee in the same workplace, there can be little justification for that agency worker to receive inferior basic working and employment conditions. I am confident that the proposed transposition of the directive will address those long-standing inequalities in a measured way and ensure that agency workers receive the same basic entitlements as their permanent colleagues. In addition, I am convinced that the proposals will maintain the flexibility that characterises agency work and which is so critical to ensuring that that the Northern Ireland economy remains competitive.

The directive's default position is that equal treatment should apply from day one of an assignment. However, the directive allows member states some flexibility in how they apply that principle. That flexibility includes the establishment of a qualifying period before the right to equal treatment arises, provided that such an agreement is by social partners at a national level. Such an agreement was reached by the CBI and TUC in May 2008, with the support of the previous UK Government, and I have received legal advice that that agreement does, indeed, apply to Northern Ireland.

I fully appreciate the concerns of the local trade union movement, as represented by

the Northern Ireland Committee of the Irish Congress of Trade Unions. The Northern Ireland Committee has made strong representations to the Department and to the Employment and Learning Committee, arguing that the social partner agreement should have been between the regional partners.

I fully understand the points that were made by the trade unions and I put it on record that I recognise the key role that the Northern Ireland Committee plays in representing workers in Northern Ireland. I also reassure Members that my Department will continue to engage with the Northern Ireland Committee on the implementation of the directive and all other policy developments which impact on the rights of workers. However, be clear: we do not have the option of a regional agreement. The directive is clear that that can be only on the basis of a national agreement, so, in that respect, our hands are tied. The legal advice that I received sets that principle out clearly. In that context, the only possible agreement is between the national social partners, which, in a UK context are the CBI and the Trades Union Congress.

Mr McElduff: Does the Minister accept that, in the North, the Irish Congress of Trade Unions has the remit to represent the union view? Does he further accept that the TUC has not been imbued with that authority since 1893? That issue was raised in Committee by the unions, and I feel that it has not been answered.

Dr Farry: I am grateful to Mr McElduff for his intervention, and I will not disagree with what he said. However, equally, we must be clear that, irrespective of particular historical arrangements that have arisen in relation to Northern Ireland and Ireland, the terms of the European directive are clear: we can derogate only on the basis of a national agreement. This may well be the —

Mr B McCrea: Will the Minister give way?

Dr Farry: Yes, I will give way to the Committee Chair.

3.30 pm

Mr B McCrea: I thank the Minister for giving way. Obviously, I accept the timescale that he has to work within. However, the argument that was put to the Committee, and which was raised by my colleague Sandra Overend, is that article 5(4) of the directive makes it clear that the derogation can be utilised by member states

only if an agreement to do so can be reached with social partners at a national level. However, it goes on to state:

“Such arrangements shall also be without prejudice to agreements at national, regional, local or sectoral level that are no less favourable to workers.”

My reading is that there is some room for manoeuvre. That said, it may be that time is against us and we may not be able to do that. However, I ask the Minister to reflect on that when he considers his position.

Dr Farry: It is fair to say that we have some room for manoeuvre on the precise way in which the directive is put into effect in Northern Ireland. It is important to draw a distinction between that point and being clear that the derogation on the 12-week commencement period can be taken forward only at a national level. The Department has taken legal advice on that point, and the advice is incredibly clear and unambiguous.

Ms Gildernew: I support the position of colleagues from the Committee for Employment and Learning on that point: we need to see some flexibility for our particular circumstances. Although the 12-week period has been discussed, I am concerned that there are other issues, such as outstanding maternity entitlements where, again, the Minister has the capacity to add flexibility. It would be interesting to hear the legal opinion that the Minister sought. As colleagues in the House know, there is always more than one legal opinion. Has that pointed to any other flexibility that we could apply here?

Dr Farry: Those comments reflect the opportunity for us to do things differently locally as regards the precise detail and balance. Again, I repeat the point on the derogation regarding commencement: the legal opinion is incredibly clear that that can be taken forward only on the basis of a national agreement between the social partners. We are perhaps in danger of talking about two slightly different concepts of where we have room for manoeuvre. I will come to the point about maternity issues in a moment.

Another point worth stressing is that this episode points out the need for devolved Administrations, in particular our own, given where we are today, to be more actively involved

in the process of drawing up directives in Brussels. That points to the need for a strong representation in Brussels by the Northern Ireland Executive and the Assembly so that we can add our input to the policymaking process at a much earlier stage when there is much more room for debate, rather than at the eleventh hour, where we stand today. I am more than happy, via my Department, to write to my UK counterparts to stress those points and the need for Northern Ireland to be involved much earlier in the process.

Mr McLaughlin: I want to ask a question while you are dealing with the issue of application and interpretation. Much has been made of the strength of the public sector. Staff in the public sector have developed very significant protections, entitlements and benefits over a long time. However, it is not normally recognised that there is a significant cohort of agency workers working alongside them who have very different working conditions. Would it be helpful if the Minister were to consider that with regard to interpretation and legal advice? In this place, for example, a significant cohort of agency workers is working in entirely different circumstances to those of their colleagues, and we should attempt to address that anomaly.

Dr Farry: I will certainly listen to all the comments that have been made today. The final paper that goes to the Executive will reflect all of that. The general policy will capture all those situations across Northern Ireland. Of course, the policies on the employment of agency workers, whether in the public or private sector, are for those bodies to decide, rather than my Department. No doubt, the Assembly Commission will have listened to the Member's comments.

I am conscious of the need to progress through this very substantive issue.

The derogation would mean that there would be a 12-week qualification period in any job before equal treatment would apply. The 12-week period was arrived at to establish a compromise between the interests of agency workers and those of industry. The Department carried out a preliminary regulatory impact assessment of the directive's proposals based on the 12-week derogation. The impact assessment identified annual costs for private sector and public sector employers of up to £27 million and £6.5 million respectively. The main annual benefits of up to

£19.2 million and £6.4 million will fall to the agency workers most affected and Her Majesty's Treasury respectively.

The 12-week qualification period represents an almost 60% saving on the costs of implementation compared with equal treatment being applied from day one. Therefore, although the proposed legislation will undoubtedly place sizeable burdens on business in Northern Ireland, the 12-week qualification period significantly reduces the burden on business.

I want to restate the commitment of the Executive to rebalancing and growing the Northern Ireland economy. That requires us to take steps to develop a dynamic, flexible workforce that can respond quickly to new job opportunities and inward investment.

The role of agency workers in Northern Ireland ensures that companies can respond quickly and effectively to market demands. That cannot be underestimated. In that context, I firmly believe that any attempt to implement the directive on a day-one basis will only threaten those critical economic goals. Instead, the application of the qualification period is key to transposing the directive to minimise the burden on business while meeting the directive's equal treatment commitments for agency workers. It is critical that we strike a balance in that regard.

The Great Britain agency workers regulations have already been laid before Parliament and are due to come into effect in October of this year. The Republic of Ireland, as I understand it, does not yet have full agreement on how to proceed with the implementation of the directive.

Many businesses and employers in Northern Ireland will have interests in the Republic of Ireland and Great Britain. Although it would have been of benefit to benchmark our proposals against the UK's and the Republic of Ireland's approach, I am sure that Members will recognise the urgency of proceeding with a transposition of the directive in order to meet the December 2011 deadline. As Members will be aware, failure to transpose the directive before the deadline could leave my Department open to costly and embarrassing infraction proceedings. The Department had a consultation between December 2010 and March 2011, and I am grateful to the 18 organisations that took part, many of which provided substantive responses.

Mr Douglas: When the Committee was going through its deliberations, the figures presented to it were from the wider GB. Does the Minister agree that we were disarmed in many ways, because even if we wanted a regional variation we did not have the Northern Ireland figures? As a member of that Committee, I am saying that we need that information before we can make a major recommendation.

Dr Farry: The figures and information are available. It is important to stress that the Department's policy is robust and has been backed up by independent research that it commissioned. That fed through to the regulatory impact assessment. There would be no difficulty in providing that information again to the Committee for further consideration.

I do not intend to describe in detail all the proposals. However, I want to focus on some of the key issues that arose during the consultation, critical issues raised by the Committee and some of the points that were raised today. The proposed regulations set out the scope of the proposals and, specifically, which workers and agencies are affected and which are not, including the definition of an agency worker. Recently, concerns were expressed by some consultees and Members that the proposed definition is not sufficiently robust to protect agency workers fully. That is especially so in recent case law. I have considered the matter and taken further legal advice. In light of that, I propose to make a minor but important amendment to the definition of an agency worker to ensure that agency workers can avail themselves of the directive's intended additional rights and protections.

In line with other requirements of the directive, the definition of an agency worker in any related case law will continue to be reviewed. I trust that that will satisfy Members. I am sympathetic to the real concerns expressed on that point, and I am committed to keeping the matter under review.

It is also proposed that the equal treatment will apply in respect of the duration of working time and paid holiday entitlement. That means that agency workers who remain in a given job after a 12-week qualification period will have the same entitlements to rest time and leave as permanent employees. That will be the case even if those entitlements are

more generous than the statutory minimum requirements and also provides for payment in lieu of entitlement for untaken holidays over the statutory minimums. That proposal prompted considerable commentary during the consultation, because certain respondents felt that enhanced holiday entitlements as well as the entitlement to public and bank holidays went above and beyond what was intended in the directive.

Another key issue is the definition of pay. That is an issue that is, unfortunately, open to interpretation and, therefore, argument, as no definition was provided in the directive. The Department did not consider that basic pay alone would satisfy the equal treatment requirement. Therefore, in addition to basic pay, it has been proposed that pay should include holiday pay, payment of overtime, shift allowances, unsocial hours premiums and certain bonuses. However, and again in the interest of balance, we consider that only those bonuses that could be seen as directly attributable to the amount or quality of work done by the agency worker should be included.

We also considered that certain aspects of contractual remuneration are in place to reward the long-term nature of an employer's relationship with the employee. In that light, we came to the view that those should not be included in the definition. As a consequence, we propose to exclude financial participation schemes; occupational pensions; sick pay; pay-related rights; benefits in kind such as company cars, care allowances or health insurance; and maternity, paternity and adoption pay.

For understandable reasons, agencies and employers raised concerns about the inclusion of bonuses and their cost implications, as well as the administrative burden of calculating bonuses for temporary workers. On the other hand, some of our consultees, as well as certain Members who spoke today, felt that the definition of pay did not go far enough and should include maternity pay, pensions and expenses. I firmly believe that it would be impossible to exclude all bonuses from the definition of pay and still be confident of having properly transposed the directive. What has been proposed, therefore, is a compromise, as long-term bonuses have been excluded. Were all bonuses to be excluded, it is likely that we would receive a very strong challenge from the outset.

As we have heard today, a range of views has been expressed as to how the directive should be implemented. I see it as my role, therefore, to try to establish a pragmatic and sensible accommodation of the different perspectives, and I am content that the regulations should include only those bonuses that are directly related to work done or individual performance.

We sought views on a range of other proposals, including the criteria for establishing what constitutes a new qualifying period and a new assignment; anti-avoidance measures for regulations; what the key factors should be for establishing equal treatment; liability for compliance with obligations if things go wrong; as well as measures to deal with dispute regulation. A number of other proposals in respect of provisions intended to apply from day one of an assignment, such as access to employment vacancies and collective facilities at a hirer's premises, were also raised in the public consultation.

The proposed regulations make particular provision for the protection of pregnant women and new mothers, especially in regard to securing their health and safety at work, rights to attend antenatal appointments and the right to adjustments to be made of an offer of alternative work if risks have been identified on assignment.

We have also asked for reviews on proposed thresholds for bodies representing agency workers and provision of information on the use of agency workers to workers' representatives. Finally, we have consulted on the approach to take regarding the flexibility available under the directive that is known as the Swedish derogation. That derogation permits alternative arrangements for agency workers on permanent contracts of employment. Such workers are paid between assignments.

On the issue of maternity, I am still looking at whether we can allow for antenatal appointments from day one of a placement, rather than that kicking in at week 12. I certainly have listened very carefully and closely to those arguments.

My time is up, Mr Deputy Speaker, and I shall leave it there. Thank you very much.

Mr Buchanan (The Deputy Chairperson of the Committee for Employment and Learning): It is clear from the debate we have heard that there

was value in bringing the issue to the House. The debate has provided all Members, not just members of the Committee for Employment and Learning, with an opportunity to understand the potential impact of this EU directive on employers and agency workers.

The European Union has handed down the directive for transposition into the legislation of member states, and the Department is seeking to comply with a statutory duty to do so. It is the role of the Committee to scrutinise this legislation and to ensure that this is not a country where agency workers can be exploited or subjected to conditions that are prejudicial to their health and safety.

Equally, the Committee is mindful of imposing an additional burden on businesses at a time of real economic hardship. The Department has set out the projected costs of the two alternatives for the qualifying period, either from day one or after 12 weeks. Those alternatives will need to be carefully evaluated. There also appear to be a number of essential legal issues, such as the very definition of an agency worker and the definition of pay, which remain to be resolved. I expect the Minister to keep the Committee informed of the outcome of his review on those issues.

3.45 pm

I will refer briefly to some Members' contributions. The Committee Chairman mentioned problems with pregnant workers; for example, when an assignment is withdrawn when an employer learns that someone is pregnant. Obviously, it is an issue of concern, and the Minister touched on it during his speech. The Chairperson also mentioned the unfair situation of temporary agency workers doing the same job as permanent staff for up to 15 years but on lesser terms. That issue was raised by quite a lot of Members. He said that he was aware of the challenge to employers in that area, but there was a need for balance between the needs of workers and the needs of employers. That is another issue of concern. He also mentioned the lack of information on exactly how many workers are involved. There is little information on the number of agency workers in Northern Ireland, which is an issue that quite a lot of Members raised. Members also raised the short timescale for Committee scrutiny of the directive.

Alastair Ross said that there was no choice about whether we implement the directive. He said that it was a matter of how we implement it, not if we implement it. We have the directive before us, and it is something that we have to implement. He also said that there was a need for balance between business costs and workers' rights, and he mentioned the lack of union involvement in Northern Ireland. He said that the directive should not be implemented differently in Northern Ireland from the UK, and he asked the Minister to spell out the legal position on that. He said that he was not opposed to regional variation, but Northern Ireland businesses would be placed at a disadvantage. He said that the focus should be on job creation rather than adding another burden of cost and administration for businesses. That is one of the key factors in this debate.

Barry McElduff said that the Assembly should now take the lead to ensure equality on the directive, and he used the example of a Law Centre case, referring to the vulnerability of agency workers. He mentioned the union view that agency workers are often the low-skilled, second-class citizens of the employment world, and he said that there is a case for a reduction in the derogation period from 12 weeks to six weeks. He also identified the information gap on the number of agency workers in Northern Ireland and said that the agreement between the UK Department for Business, Innovation and Skills and the trade union side (TUS) was not valid because there was no input from the Irish Congress of Trade Unions.

Pat Ramsey asked the Minister to investigate the concerns regarding the inclusion of ICTU. He mentioned that the 12-week gap period allowed unscrupulous employers to opt out of provision of benefits. He asked what anti-avoidance mechanisms are to be put in place. He said that a more robust inspection programme is needed. I agree fully with the Member that there needs to be a much more robust inspection programme for employment agencies with regard to workers. He preferred the day-one approach to the 12-week derogation. Of course, Pat wants to see provisions brought in on day one rather than after 12 weeks. He was concerned that pregnant women should be moved to more suitable employment if it were at all available.

Chris Lyttle mentioned the time pressures to complete the transposition. He thanked the witnesses who briefed the Committee at short notice. He expressed wider concerns about the social framework. He discussed the wider issue of disproportionate representation among agency workers of long-term workers, ethnic minorities and women, which is worse in the UK than in Europe.

David McIlveen said that the Assembly is powerless because the directive is coming from Europe. Of course, that was challenged by Barry McElduff. Mr McIlveen expressed his concern that the Minister should raise those issues with his UK counterpart. He said that the introduction of the legislation does not send out a consistent message to businesses and that it will add to costs and bureaucracy. He said that although unions have disputed the additional burden, his constituency contacts have quoted substantial costs. He said that businesses in his area had contacted him about the additional costs that would be required to implement the directive. I think that he said that it would cost one business in his area £300,000 to implement it. We have to take that into account when we consider the directive. Mr McIlveen said that the timing of the legislation is difficult. He said that flexibility in recruitment is essential for the survival of businesses. He also said that there is a need to protect the interests of permanent staff who have undergone rigorous recruitment processes.

Michelle Gildernew highlighted the lack of agreement with unions. She quoted the TUC report that states that a large number of agency staff would prefer to have permanent employment. She was concerned that enhanced maternity pay and leave are not included in the directive and that temporary agency work may be the only work available to unemployed skilled workers. However, she did not mention the burden that that would have on businesses and its potential to put some small businesses to the wall through loss of employees simply because they cannot meet the extra financial burden that the directive may well place upon them. That is one issue that she failed to take into consideration during her deliberations.

Other Members, such as Sammy Douglas, said that the directive was about ensuring the rights of low-paid temporary staff. He spoke from personal experience in his constituency. Sandra Overend spoke of the value of bringing those

issues to the Assembly for further debate. She mentioned that working for an agency is not a positive choice. She said that recruitment agencies spelled out negative impact on businesses here. She challenged the view that Northern Ireland was powerless, saying that it was capable of implementing the directive in its own way.

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

Mr Buchanan: I have not got through other Members' remarks. As the consultation period on the directive comes to a close, the Committee calls for the Minister to take account of concerns that have been raised in the debate and to ensure that the legislation that he brings back to the Committee in due course reflects both workers' needs and businesses' costs in a fair and equitable way.

Question put and agreed to.

Resolved:

That this Assembly notes the EU directive on conditions for temporary agency workers (directive 2008/104/EC); and calls on the Minister for Employment and Learning to ensure, in implementing the directive, that both the needs of workers and minimising the costs to business are taken into account.

Mr Deputy Speaker: I ask Members to take their ease while there is a change in the Chair.

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

Motion made:

That the Assembly do now adjourn. — [Mr Deputy Speaker.]

Adjournment

Colin Worton

Mr Deputy Speaker: Before we begin, I caution the House that there are serious issues associated with this matter. Members should, therefore, exercise responsibility when making their contributions today. I remind Members that the proposer of the topic for debate will have 15 minutes. The Minister of Justice will have 10 minutes to respond. All other Members who wish to speak will have approximately six minutes.

Mr Elliott: Mr Deputy Speaker, I welcome your caution on the matter. There are obviously very serious issues involved, and I accept and appreciate that. I welcome the opportunity to speak on the issue today, and I hope that the House will give it the significance that it deserves. I will not speak for very long, because I want to hear from other Members about where they are coming from on the issue. In particular, I look forward to the comments of my party colleague Danny Kennedy. He has been working on the matter for quite a lot of years and obviously has the inside knowledge that many others do not.

I feel that it is important to lay the context for this debate. As I understand, Colin Worton was arrested on Thursday 1 December 1983 at 6.00 am and was taken to Castlereagh police station under suspicion of being involved in the murder of Adrian Carroll three weeks before that in Armagh. He was interviewed no fewer than 23 times and vigorously denied any complicity in the murder. However, during the twenty-fourth interview on the evening of 5 December, it is alleged that Mr Worton made a rather bizarre and surprising statement to police during which he confessed to having prior knowledge of the attack, to taking part in the mock arrest of Neil Latimer in Lonsdale Street and to subsequently travelling with him in the same Land Rover before seeing the gun being handed over.

It is not for the House to rule on the admissibility or inadmissibility of evidence that dates back almost 30 years. However, I feel that it is important just to note the words of

Mr Smyth QC when he commented that the statement:

“had been induced by the detectives at Castlereagh by a trick which embraced threats and dishonest promises and oppressive and unfair means.”

That point is crucial.

The sole evidence against Mr Worton on the charge of murder was the verbal and written confessions said to have been made by him to detectives at Castlereagh holding centre on 5 December 1983. However, Mr Worton has since claimed that the police informed him that he faced up to 20 years in jail unless he made a confession. He also claims that he was told that, if he admitted a role in events surrounding the murder, he would serve only five years.

Taking a step back from the interview during which it was claimed that a confession was made, it is clear that Mr Worton was under some immense emotional and psychological strain in the initial period of his detention. He refused food on 1 and 2 December. He then took a short reprieve, and subsequently went on a milk-only diet until lunch on 6 December, before reverting to his fast until the evening of 7 December.

Therefore, we must wonder what his mental state was on the evening of 5 December, when he was alleged to have made that confession. Mr Worton remained on remand for 30 months, until May 1986, when he was eventually released due to the inadmissibility of his evidence.

4.00 pm

This case is about much more than financial compensation. Colin Worton spent 30 months of his life in custody awaiting a trial that never happened. The prosecution case against him relied entirely on a single piece of verbal evidence, which was crudely rejected on the grounds of inadmissibility.

Until April 2006, an ex gratia scheme was operated by successive Home Secretaries and Secretaries of State for Northern Ireland for the payment of compensation to people who had been wrongly convicted but whose cases did not fall within section 133 of the Criminal Justice Act 1988. Although the scheme has now been discontinued, it is accepted that individuals such as Colin Worton who applied before April 2006 continue to be entitled to compensation if

they meet the requirements of the scheme. It is the opinion of the Ulster Unionist Party that Mr Worton deserves compensation similar to that which was awarded to Noel Bell, James Hagen, Winston Allen and many others who found themselves in similar situations. There is no doubt about the inadmissibility of the evidence against them, and there is no doubt about the inadmissibility of the evidence that supposedly implicated Mr Worton.

Mr Worton did not get so much as an apology, and he certainly did not get any compensation, financial or otherwise, for the years that he spent behind bars. Therefore, I urge the House, its Members, the Department of Justice (DOJ), the Minister of Justice and the Secretary of State to take on board this case. I further urge them to review the situation that Mr Worton found himself in and to look at the possibility of offering him an apology and compensation.

Mr Irwin: I very much welcome the opportunity to contribute to the debate, and I thank my colleagues for securing this adjournment debate. I attended an event in Bessbrook this morning with my colleague Jeffrey Donaldson MP. It was organised by the Kingsmills families, who gave their response to the Historical Enquires Team (HET) report on the massacre of 10 Protestant workmen. Colin's brother was cruelly murdered in that attack, and it has been a difficult and long day for him and his family. We recognise that and commend him for making the trip to Stormont today.

At the outset, I must state that Mr Worton has conducted one of the most rigorous and dignified campaigns to exonerate himself. Having met him on numerous occasions, I know that one cannot be left in any doubt as to his genuineness and utmost respectability. We in the Chamber fully recognise that Colin was acquitted and was not convicted of the murder of Adrian Carroll. We also recognise the difference between his situation and that of other individuals directly related to the case who were convicted and subsequently had their convictions quashed. In light of that, I fully support Mr Worton in his assertion that, given the stigma that is attached to the case and despite his acquittal and absolute innocence, the whole ordeal has had a detrimental effect on him and his family.

It must be remembered that Colin spent almost three years on remand and had a particularly

difficult time in the legal system. He was extremely vulnerable at that stage of his life, and the entire ordeal greatly upset him and his family. As a result of the case, Mr Worton lost his job with the Ulster Defence Regiment (UDR), and he believes that it prevented him from pursuing a full career with the Army and hindered many other employment opportunities throughout his life. I share the view that his co-accused, who later had their convictions quashed and were fairly compensated, were more clearly and unambiguously exonerated than he was.

Colin is firmly of the view that there were serious issues with the manner in which his interviews were conducted and believes that there was a serious default. In countless communications from various Secretaries of State and other members of the British Government, it is concluded that Colin does not meet the criteria for either the statutory compensation scheme or the ex gratia scheme, as he was not convicted but acquitted. However, under established ex gratia arrangements, compensation can be awarded in exceptional circumstances, including a situation in which the detention was the result of serious default on the part of the police or any other public body. Colin firmly believes that to have been the case. I must state that, although Colin's fight is not one in which compensation is the ultimate goal, the treatment of his co-accused, following the quashing of their convictions, is in stark contrast to Colin's post-acquittal treatment.

Colin has suffered tremendously since this ordeal. I welcome the fact that our own Justice Minister, Mr Ford, is present and is giving the case a fair wind. I urge him to look into this matter in the utmost detail for Mr Worton's sake and do all he can to address the obvious injustices visited against Mr Worton, which Mr Worton feels strongly aggrieved by.

In a recent meeting, Mr Ford, the Justice Minister, stated that he would be willing to make a statement to the House which would go some way to further highlighting Colin's innocence and non-involvement in the murder of Adrian Carroll. I trust that that will be the case today, as such a statement will be warmly welcomed by Colin.

I also urge the Minister to pursue the ex gratia issue in his Department and further investigate any avenue that may be open to Mr Worton for some financial recognition of his situation,

given the circumstances. I understand, from corresponding with the Historical Enquiries Team, that it is looking into the murder of Adrian Carroll within its investigative remit.

Given the timely nature of this debate, my thoughts are with the family of Mr Carroll at this time.

Mr D Bradley: Go raibh maith agat, a LeasCheann Comhairle.

Adrian Carroll was murdered in Armagh as he made his way home from work on 8 November 1983. He was shot three times in the head and neck by a lone gunman. The Carroll family had already suffered the loss of a son through murder. Adrian Carroll's murder is being investigated by the Historical Enquiries Team, and I sincerely hope that that investigation will bring justice for the Carroll family. I know from speaking to him that Colin Worton wants that family to have justice in the same way that he seeks justice and has done for the past 27 years.

Five members of the UDR, including Colin Worton, were subsequently arrested and charged with Mr Carroll's murder. The four others were convicted but three had their convictions quashed and were compensated for their time in custody. However, the fourth, Neil Latimer, had his conviction upheld and served 14 years in prison before being released under the terms of the Good Friday Agreement. Latimer unsuccessfully appealed against his conviction on two further occasions, the last being in 2004. That is the general background to the case.

Colin Worton was acquitted of the murder of Adrian Carroll on the basis that the only evidence against him was a statement made by him in Castlereagh police station. That statement was deemed inadmissible by the trial judge and Mr Worton was acquitted. Mr Worton set out thereafter to fight for justice for himself and, in the interim, he has been supported by the leaders of the four main Churches here, the British Irish Rights Watch, the victims' commissioners in Northern Ireland, the Irish Department of Foreign Affairs and the Northern Ireland Human Rights Commission, as well as by the majority of political leaders and public representatives from across the political divide in Northern Ireland.

Anyone who has met Colin Worton cannot help but be impressed by his honesty and desire for justice. He certainly impressed me, and that

is why I am prepared to stand here and speak in support of his attempts to find justice. He has asserted his innocence constantly over the 27 years of his campaign, and he maintains that his incriminating statement to police in Castlereagh was the result of his vulnerability and the constant pressure exerted on him over days of intense questioning. Police found the areas of vulnerability in Mr Worton, namely his family and his girlfriend, and applied pressure to exploit them. The fact that the resulting statement was deemed inadmissible by the trial judge is, I believe, a strong indication of serious police default in the manner in which they obtained that statement.

Mr Worton believes that, despite the dismissal of the case against him and the fact that he was never convicted of murder, he has been treated unfairly compared with those who were convicted of murder and later had their convictions overturned. His claim for compensation has been rejected, and he has never received any apology for what happened to him during that period.

A judicial review of the case in February 2010 failed. It rejected the view of serious police default in obtaining the statement from Mr Worton. Indeed, the methodology employed by the police in Castlereagh was not unusual at the time. Police often used a similar approach to obtain statements. A similar approach was used in the case of a constituent of mine, Lawrence O'Keeffe from Newry, to obtain a statement that led to his conviction for the mortar bombing of Newry police station and a five-year prison sentence. Mr O'Keeffe, like Mr Worton, is fighting for justice, and I am happy to support them both.

Mr Worton's case does not meet the criteria of either of the two compensation schemes, and he has been left in limbo to fight for justice over a long number of years. However, Mr Worton has constantly emphasised the fact that his fight is not fundamentally about compensation; it is about his exoneration and the clearing of his name. That has been his main aim.

Mr Wells: Does the honourable Member agree that it would be impossible to put a monetary value on the loss that Mr Worton has suffered over the past 27 years and that no amount of compensation could ever recompense him, but that a very public payment, no matter what it is, would be a clear indication that the security

forces treated him extremely badly all those years ago?

Mr D Bradley: I thank the Member for his intervention, and I agree with him. Mr Worton's life has been blighted by the experiences that he endured, and, as Mr Wells said, no amount of money could buy back what he lost or compensate him for what he suffered.

A mechanism is needed for the review of cases such as that of Mr Worton. I appeal to the Minister of Justice, whom I welcome here today, and to the Secretary of State to review in detail Colin Worton's case, with a view to his full exoneration and adequate compensation for his suffering, loss of career opportunity and disruption of family life through the years.

I express my admiration for the way in which Mr Worton has carried out his campaign for justice through the years. Many a lesser person would have given up by now, but it is an indication of Mr Worton's belief in his case that he has continued to this day.

Mr Deputy Speaker: Your time is up.

Mr D Bradley: I hope that his campaign soon comes to an end and that it does so having met with success.

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

4.15 pm

Mr Kennedy: I am grateful for the opportunity to speak from the Back Benches on this important issue. I thank my party leader, Tom Elliott, for tabling this topic for discussion and consideration by the Assembly. I also thank the other Members who contributed. I was impressed by the previous contribution from Mr Bradley. I note the non-attendance of Sinn Féin Members. However, if they are not present, they are not speaking against the debate, which, in itself, may be of some significance.

The 21 June is the longest day, and it has been a very long day. It has been a very long day for a number of reasons. As my honourable friend Mr Irwin said, the HET inquiry report on the Kingsmills massacre was discussed and effectively launched for public consideration earlier today in Bessbrook. That has been a difficult report not only to read but to come to terms with. The connection with Colin Worton is that his brother Kenneth was a victim in the Kingsmills massacre.

So, it has been a very long campaign for Colin Worton not only with regard to Kingsmills but for justice for himself. He has doggedly pursued, lobbied for and raised his case and refused to go away. He has brought his case to the attention of many individuals, elected representatives and campaign groups, and it is right that it is aired today in the Assembly. I pay tribute again to his persistence and welcome him here today with other members of his family, including, on a day such as today, his mother.

I do not want to go over the details that we have already heard; they have been well documented. However, it is clear that the only bit of evidence that implicated Colin in the murder of Adrian Carroll was the supposed confession. For the avoidance of doubt, let me place on record my opposition to murder, wherever it comes from. I condemn all murders.

The police acknowledged that during not one of the 23 interviews did Colin Worton ever indicate any culpability or guilt for the murder. So, it is important that we look at the circumstances in which it is alleged that he made his confession. Given that he was sleep-deprived and suffering, no doubt, emotional and mental disarray and compelled by the unjustified line of questioning from several RUC officers, one can only imagine the pressure that was being placed on Colin Worton. The police have formally acknowledged that they may have used somewhat irregular interrogation techniques.

The police were doing, or were attempting to do, a difficult job. In many ways, it was extremely challenging to get the truth from some compulsive liars. Even to this day, there are prominent public representatives who deny any involvement in incidents of the past or even a link with proscribed organisations. Nevertheless, the debate today is about whether a line was crossed during those interviews. There is a big difference between acceptable interview techniques and trickery or improper conduct.

The debate regarding compensation depends on whether there was a serious default on the part of the police in Castlereagh holding centre. Members who are aware of the details of the case will be aware that there has been significant discussion on the alleged will or last testament that was supposedly produced during the interview process and which contained significant passages, allegedly from Colin himself.

However, that claim gives significant credence to Mr Worton's allegation that detectives were telling him that, if he did not make a confession, he would be charged with murder and sent to prison for 15 to 20 years. The Ulster Unionist Party firmly believes that the Secretary of State made an error in law by persistently interpreting previous conclusions as identifying no serious police default.

Colin Worton spent 30 months of his life in custody waiting on a trial that never happened. He was wrongfully charged. There is no doubt about that. The only piece of evidence against him has been entirely discredited, and there is no doubt about that, either. Colin was improperly incarcerated. However, he has not received so much as an apology.

Legal precedents have been set over the past couple of decades in which people have successfully challenged their sentences.

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

Mr Kennedy: This has had a devastating impact on the life of Colin Worton. I welcome the presence of the Justice Minister. I hope that, when we hear from him shortly, he will be able to give comfort to Colin Worton and the Worton family. Whoever killed Adrian Carroll, it was not Colin Worton.

Mr Deputy Speaker: Time is up.

Mr Kennedy: This wrong needs to be righted, and we need an apology and subsequent compensation. This is the place to start.

Mr A Maginness: I support Mr Worton in his quest for justice in relation to the very difficult circumstances that he found himself in and the very long period that he was kept in custody awaiting trial and during the course of his trial. That amounted to 30 months, which, incidentally, would amount to a prison sentence of five years. So, effectively, this man served five years in an ordinary prison sentence. As a result, his life was blighted, and he has bravely tried to rebuild his life ever since.

It is important to remember that he was unjustly treated. Now, on top of that injustice, having been acquitted, he is not entitled to claim compensation under section 133 of the Criminal Justice Act 1988. As a result, he is thrown on to the discretion of the Secretary of State in relation to an *ex gratia* payment.

It seems extraordinary that a number of Secretaries of State have refused to give compensation on the grounds that there was no serious default on the part of the police. It seems to me, when I examine the remarks of the learned trial judge, that there is an inescapable conclusion that there was default on the part of the police and that, in the circumstances of the trial, this was serious default. That is a matter, I believe, of fact, and I am baffled by the attitude of successive Secretaries of State in relation to this matter.

They may argue that there was a court case in February of last year in which a judicial review of the Secretary of State's decision was brought by Mr Worton and that that judicial review rejected his claim that the Secretary of State had acted unlawfully. If you look at the judgement by the learned judge in that case, Mr Justice Treacy, you see that his evaluation of the case was that, in terms of irrationality, the Secretary of State did not err. In addition, there was no error in the procedure that he applied. However, if we examine the judgement, we can see that it is a fairly narrow one. One is not second-guessing what another judge would do or what a further court might do, but, nonetheless, the judge clearly stated, in fairly narrow legal terms, that the Secretary of State did not err. However, when one applies what I would have thought is a common-sense test to what the Secretary of State actually did when faced with the facts of the trial and the rejection by the learned trial judge of that man's confession statement, the inescapable conclusion reached is that, in fact, the Secretary of State erred.

The House, with its collective strength, should send a very strong message to the current Secretary of State that he should review the case, and review it positively by giving compensation on the basis of an *ex gratia* payment to that man, who, I believe, has been treated very shabbily. I say to the House that we should send out a very strong message today.

Lord Morrow: I thank the Member for giving way. I was impressed by the point that he made, which was that Mr Worton was held for 30 months. In real terms, that equates to a prison sentence of five years. A five-year sentence would be given for a very serious crime. Is it not significant that those who were convicted were subsequently released and compensated, yet here is a man for whom eventually the charge was not made to stick, and he is left to get on

with his life, having served — as Mr Maginness rightly said — a period of five years in prison. And there is no compensation for him at all? It has been mentioned on a number of occasions this afternoon that he does not qualify under section 133. Is the legislation adequate to deal with cases such as Mr Worton's? Surely that needs to be looked at.

Mr A Maginness: I can continue, Mr Deputy Speaker?

Mr Deputy Speaker: Yes.

Mr A Maginness: I agree that the law should be looked at. Of course, the *ex gratia* payment scheme is supposed to be a safety net to prevent anomalies such as the one that we are faced with today. I will go further, because those who were acquitted were acquitted on the basis that the police had interfered with the way in which they had recorded the statements and that they could well have been pre-written, and so on.

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

Mr A Maginness: The electrostatic deposition analysis (ESDA) tests indicated that there was some manipulation or interference. That was proven scientifically, and that certainly —

Mr Deputy Speaker: Your time is up.

Mr A Maginness: — amounts to serious default on the part of the police.

Mr Allister: I have been familiar with the Colin Worton case for many years, as, in a previous role as an MEP, I made representations for him and took issues relating to the case not just to the Secretary of State but to the Commissioner for Human Rights in the Council of Europe.

When we distil it down — this is the point that I want the Minister to focus on today — at the heart of the Colin Worton case is a gross inequity and injustice. Lord Morrow just referred to it in his intervention. Colin Worton found himself, having served 30 months on remand, acquitted of the offence on direction of the judge, yet those whom the same judge convicted and, in due course, were acquitted on appeal, qualified for compensation and got compensation under the statutory scheme. However, Colin Worton, who was acquitted at first instance because the evidence was utterly discredited, although he equally served

a period of time in prison, has been denied compensation.

Therein lies the basic inequity and injustice that survives to this day.

4.30 pm

Let us never forget that Colin Worton was acquitted by Lord Justice Kelly, who was one of the toughest judges who ever sat on the Bench in this land. He took no prisoners, as it were. He was no soft touch on anything, and he was prepared to convict others, but he faced the reality that, in this case, there was no basis on which to convict. In fact, he directed the acquittal of Colin Worton.

Let me remind the Minister of what Lord Justice Kelly said in that acquittal and direction. He said:

“At the end of the day I am left with the strong conviction that having regard to his make-up, to the situation in which he found himself, to all the circumstances of Castlereagh, to the length and persistence of his questioning ... I should exercise my discretion and exclude as inadmissible his confession ... I go further and say even if this statement was admitted I would have some difficulty in assessing what weight should be given to it having regard to all the circumstances and in particular Worton’s intellectual and emotional make-up. It has been said and I believe it to be appropriate here that the right to the assurance of a fair trial includes the right to be protected from evidence which might have an unreliable effect on the result of the trial.”

It could not be clearer. Lord Justice Kelly was saying that, by virtue of the manner in which Worton, being the person he was, with his capacity, was treated in police custody, no reliance could be placed on anything that was said and that he could not have a fair trial if his statement were admitted. If Lord Justice Kelly reached the conclusion that things were so bad that this man could not even have a fair trial if his statement were admitted, and for that reason directed his acquittal, what possible circumstance could there be to conclude that either there was not serious default on the part of the police in the conduct of that interrogation or that circumstances do not prevail which should entitle him to the ex gratia payment?

I come back to the nub of the matter. As it turned out, it would have been better for Colin Worton to have been convicted and, with those

who were co-accused with him, ultimately acquitted on appeal.

Mr A Maginness: I want to make a point about the co-accused. In a 15 May 2008 reply to my letter to the then Secretary of State, the Minister of State, Mr Paul Goggins MP, said:

“You also believe that the circumstances around the quashing of the convictions of three of Mr Worton’s co-accused in 1992 show that there was serious default in Mr Worton’s case. Serious default was not established against the police in the former cases; even if it had been, I believe it would be wrong to simply assume the same default in Mr Worton’s case.”

Is that not an extraordinary assertion by Mr Goggins about those who had been acquitted on appeal? Surely that also amounted to serious default, which, I believe, also strengthens Mr Worton’s case.

Mr Allister: I think that it is. It points up that we have got ourselves on a roundabout here, where successive Secretaries of State and Ministers of State have got themselves bound into defending a decision that really is indefensible. With the matter now devolved to the local Justice Minister, we have an opportunity to take a fresh look. I will make the point again: it is incredible, and it is the ultimate irony that it would have been better for Colin Worton, in compensation terms, to have been convicted and then had that conviction set aside, than to have been acquitted in the first instance.

That has to be wrong. Something there is so fundamentally offensive to the basic tenets of justice and the compensation process that it cannot be right to construct upon it an edifice that says that there is to be no compensation for Colin Worton because he was acquitted. It is preposterous, and the Minister has to address it. If that requires rewriting the guidelines, then rewrite them, because this inequity cannot be sustained. Whether it takes change to the legislation or to the guidelines on ex gratia payments, change must be made.

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

Mr Allister: The House should not and cannot tolerate that injustice.

Mrs D Kelly: I support Mr Worton’s bid to clear his name and to be compensated for his time on remand.

Mr Kennedy pointed out the timing of today's debate: we have just had the report of the Historical Enquiries Team into the Kingsmills massacre and the murder of Mr Worton's brother. In the briefing that I have on the history of Colin Worton's case is a 2004 'News Letter' article in which Mr Worton remarked that, coming out of court, Adrian Carroll's brother shook his hand and shook his head at what had happened to him. As I am sure Members will agree, the Carroll family need justice for their brother.

This is a time in which we are struggling to deal adequately with the past and with victims' needs, including miscarriages of justice. In any other democracy, the Kingsmills massacre would be deemed a war crime and those responsible would either have been held or pursued throughout the world and brought to justice for what they did. The families of those who lost loved ones must be remembered. It is telling that part of what drives Mr Worton is the fact that his father did not live to see his son's name cleared. His mother is still alive, so the Justice Minister has an opportunity to allow at least part of Mr Worton's family to gain closure on their sufferings.

I will not delay proceedings, because many of the legal points have been covered by colleagues to my right and left. Nonetheless, this is an auspicious day on which to recount the trials and tribulations of Colin Worton. When one reads his remarks, it is poignant to note that he continues to live in a mental prison because he has yet to break free from the chains of the past. By clearing his name and awarding compensation for his time spent on remand, he might be able to do that.

Mr Ford (The Minister of Justice): I thank Tom Elliott for initiating the debate on this important subject, and it would not be improper to associate Tom Elliott with the Back-Bench Member Mr Danny Kennedy for all his work on this case.

I listened with considerable interest to all the points made around the Chamber. Perhaps I should begin by acknowledging that — I am sure that Members would wish me to do so — another important factor at the heart of the discussion about Mr Colin Worton and the UDR four is not in dispute: Adrian Carroll was murdered on 8 November 1983. That is something that his relatives and friends have had to cope with for almost 30 years. The

controversy attached to Colin Worton's case must have made coping more difficult for the Carroll family.

The murder trial took place in May 1986. After exhausting the judicial appeals process, one man, Neil Latimer, remains formally convicted, though released on licence. Three others, Noel Bell, James Hagan and Winston Allen, were also convicted, but, in 1992, their convictions were quashed. In Mr Worton's case, the trial judge had first to decide whether to admit the only evidence presented against him: his confession.

After thorough consideration, with detailed evidence from Mr Worton, the police and expert witnesses, the judge concluded that the confession should not be admitted. Unlike his four co-accused, therefore, Mr Worton was not convicted but acquitted. He was released immediately and returned to service in the Ulster Defence Regiment for the remainder of his contract.

At the beginning of the debate, Tom Elliott outlined Colin Worton's case regarding his treatment and the interrogation process. I must respond to one point, because I think it is crucial. William Irwin said that, in some senses, he believed that the co-accused had been more clearly demonstrated as being innocent because of the way in which they were subsequently treated and the fact that they received compensation. That point was followed up by Lord Morrow. However, I do not believe that that is the case. Mr Allister pointed out that Colin Worton was acquitted at first instance. I shall not go into the discussion about Lord Justice Kelly's demeanour, but the fact is clear: Colin Worton was acquitted at first instance.

I am very conscious that the Historical Enquiries Team has still to report on its review into the investigation of Adrian Carroll's murder.

Mr Allister: Does the Minister take the point that, because Colin Worton was, quite properly, acquitted at first instance, he has in fact been prejudiced in compensation terms because he has fallen between the two stools of the statutory scheme and the ex gratia scheme, and that it is that lacuna that the Minister needs to close?

Mr Ford: I entirely take Mr Allister's point. I was coming to it later. In simple terms, the court, in the first instance, established Mr Colin Worton's innocence. As we have heard, however, he was held in custody for two-and-a-half years awaiting

that trial. It is certainly a case that concerns us this year. It is fundamental that those who are charged with crimes should be held in custody only when necessary, that continuing remand should be periodically tested and reviewed and that they should be brought to trial without undue delay. That is why I am committed to ensuring that we speed up the justice process.

Members have referred to the various representations that have been made. As Dominic Bradley in particular pointed out, representations that are in support of compensation for Mr Worton have been made from very many different sources. As has been said by many, he has conducted his case in an extremely dignified way. However, Members are also aware that, under the previous Administration, several Secretaries of State, on a number of different occasions, concluded that Mr Worton did not meet the criteria for either of the compensation schemes that were then in place. Let me spell them out: the statutory criteria, which are in section 133, required a conviction to have taken place, and the *ex gratia* scheme was based on the premise of serious default on the part of police or others. That is clearly a point of debate today, and I have listened carefully to the points that have been made as to what exactly that serious default meant in the case of Colin Worton.

Last year, the Secretary of State's decision was upheld by judicial review, although Alban Maginness has given his opinion of the narrowness of that judgement. I met Colin Worton about his application last October. He was accompanied to that meeting by the three Newry and Armagh MLAs who have spoken today.

Mr A Maginness: I am obliged to the Minister for giving way. The judgement of Mr Justice Treacy is fairly narrow in so far as he was dealing primarily with whether there was irrationality in the decision-making of the Secretary of State, or, alternatively or in addition, that the procedures had been properly adhered to. His examination was that those matters had been complied with. He was not, in essence, examining the substance of whether there was serious default on the part of the police. In that sense, it was a narrow judgement. I submit that it was really on the basis of procedure more than anything else.

Mr Ford: I take Mr Maginness's point. Having given way to two barristers, I shall now attempt

to proceed or else, Mr Deputy Speaker, you will be hauling me up for time.

When I met Colin Worton last October with the three local MLAs who have spoken — Danny Kennedy, Dominic Bradley and William Irwin — I explained the factors that lay behind the previous decision and explained that I would have to have regard to the same eligibility criteria that would have had to have been considered by previous Secretaries of State. However, I said that I would certainly look at the decision in light of any new material that might emerge.

There is a suggestion that I might simply make a goodwill payment to Mr Worton. However, the legal effect of that would be to establish a completely new compensation scheme. I could not establish a precedent by making a payment to him without serious implications elsewhere.

The position is that I remain open to important new information that might affect the previous decision that Mr Worton is not eligible for compensation and, indeed, that was the statement that was made by Peter Hain as Secretary of State when he closed the *ex gratia* scheme in 2006. When I met Mr Worton last autumn, the current HET review was getting under way. It may be unlikely that the review would reveal any new information, but, if any such information were to emerge, I would take full account of it in considering Mr Worton's case.

4.45 pm

In addition, I have noted the detailed points that Members made during the debate, and I will take those into account as I ask officials to re-examine the judgement. The case is absolutely still under review, and, in particular, we will need to examine the detailed judgements that have been referred to, initially that of Lord Justice Kelly and then the judicial review of Mr Justice Treacy, to ensure that all factors are taken into account.

At the start of his contribution, Danny Kennedy reminded us all of the significance of today, as it is the day of the publication of the Kingsmill report from the HET and all that that means for the Worton family in their own loss. Dolores Kelly made a telling contribution when she reminded us all that we have serious issues to deal with as we seek to deal with the past in a collective and inclusive way, not in a piecemeal way. I welcome the sensitivity that has been shown by Members from all of the parties who

have contributed to the debate. I hope that my contribution in response has recognised that sensitivity and sought to see how the process can be moved on constructively.

In concluding the debate, let me make it absolutely clear to Members, to Colin Worton, to all those who support him, to the wider public and to the Worton family circle that there is one clear fact: Colin Worton was found by the proper authorities of the law to be not guilty of any crime associated with the death of Adrian Carroll. As I said in a similar debate in this place, as Justice Minister this year, I bear no responsibility for what happened nearly 30 years ago, but I do have the authority of being Minister of Justice today to repeat that statement: Colin Worton is and always has been completely innocent of any implication in the death of Adrian Carroll. The court made that absolutely clear, and it is my opportunity as Minister to repeat that, so I hope that, although the issue of compensation may still be unresolved, a clear statement to that effect from the Minister of Justice will be some comfort to Colin and his friends.

There is no reason for his character to be stained, and there is no reason why a charge should have been anything other than an erroneous charge that was cleared by the courts at the first instance. I am grateful for the opportunity to make that point. I will continue to examine the information that is there, and I will take full account of all of the constructive contributions made in the Chamber this afternoon.

Adjourned at 4.49 pm.